



New Albany Planning Commission Agenda
Monday, November 21, 2022 7:00pm

Members of the public must attend the meeting in-person to participate and provide comment at New Albany Village Hall at 99 West Main Street. The meeting will be streamed for viewing purposes only via the city website at <https://newalbanyohio.org/answers/streaming-meetings/>

I. Call To Order

II. Roll Call

III. Action of Minutes: October 17, 2022 and November 7, 2022

IV. Additions or Corrections to Agenda

Swear in All Witnesses/Applicants/Staff whom plan to speak regarding an application on tonight's agenda. "Do you swear to tell the truth and nothing but the truth".

V. Hearing of Visitors for Items Not on Tonight's Agenda

VII. Cases:

VAR-103-2022 Variance Reconsideration

Reconsideration request for a variance request to allow the installation of a fence within a drainage easement at 6988 Hanby's Loop (PID: 222-00483600).

Applicant: Ryan and Ashely Deal

Motion of Acceptance of staff reports and related documents into the record for VAR-103-2022.

Motion to hear reconsideration of application VAR-103-2022 based on the findings in the staff report and applicant letter.

VAR-128-2022 Variance

Variance request to allow installation of a fence and landscaping within a drainage easement located at 6972 Hanby's Loop (PID: 222-004832).

Applicant: Daniel Martin

Motion of Acceptance of staff reports and related documents into the record for VAR-128-2022.

Motion of approval for application VAR-128-2022 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VAR-129-2022 Variance

Variance request to allow installation of a fence and landscaping within a drainage easement located at 6976 Hanby's Loop (PID: 222-004833).

Applicant: Jay Holladay

Motion of Acceptance of staff reports and related documents into the record for VAR-129-2022.

Motion of approval for application VAR-129-2022 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VIII. Other Business

Review and recommendation to City Council regarding updates to C.O. Section 1113.11 (regarding waiver criteria).

IX. Poll members for comment

X. Adjournment


New Albany Planning Commission
October 17, 2022 DRAFT Minutes

Planning Commission met in regular session in the Council Chambers at Village Hall, 99 W. Main Street and was called to order by Planning Commission Chair Mr. Neil Kirby at 7:01 p.m.

Those answering roll call:

Mr. Neil Kirby, Chair	Present
Mr. David Wallace	Present
Mr. Hans Schell	Present
Ms. Sarah Briggs	Present
Mr. Bruce Larsen	Absent
Mr. Matt Shull (Council liaison)	Present

Staff members present: Stephen Mayer, Development Services Coordinator; Chris Christian, Planner; Chelsea Nichols, Planner; Jay Herskowitz, City Engineer for Mr. Ferris; Benjamin Albrecht, Interim City Attorney; and Josie Taylor, Clerk.

Moved by Mr. Wallace to approve the September 19, 2022 meeting minutes, seconded by Ms. Briggs. Upon roll call: Mr. Wallace, yea; Ms. Briggs, yea; Mr. Schell, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Mr. Kirby asked if there were any additions or corrections to the Agenda.

Ms. Nichols stated no.

Mr. Kirby swore all who would be speaking before the Planning Commission (hereafter, "PC") this evening to tell the truth and nothing but the truth.

Mr. Kirby asked if there were any persons wishing to speak to the PC on items not on tonight's Agenda. (No response.)

FDP-115-2022 Final Development Plan

Final development plan modification to allow for construction of a 2,394square foot carry out food and beverage establishment with drive-through facility on approximately2+/-acres located immediately north of Johnstown Road and generally south of the intersection at Bevelhymer Road and Walton Parkway (PID: 222-004463).

Applicant: Prime AE Group, c/o Steve Fox

Ms. Nichols presented the staff report.

Mr. Kirby asked if there were any Engineering comments.

Mr. Herskowitz stated Engineering had reviewed this and the correct signature block needed to be added to the final development plan. Mr. Herskowitz said Engineering needed to see boundary monuments at the corners and changes of direction along the parcel lines. Mr. Herskowitz stated they also liked to ask for sight distance triangles at curb cuts to ensure motorists' views were not obstructed.

Mr. Kirby asked if the applicant had any comments.

Mr. Steve Fox, Prime AE Group, stated they would adhere to any conditions requested. Mr. Fox stated that signage had been changed to conform and the applicant would continue to work with City staff on that.

Mr. Kirby asked if anyone had any questions.

Mr. Gregory Munster, 9835 Johnstown Road, The Wealth Center, said he was in the building next to the applicant. Mr. Munster stated he had met with the developer on August 30th and they said they would follow up with him but have not done so. Mr. Munster stated he was worried about ingress and egress between his property and the applicant's. Mr. Munster stated he and the applicant shared the private road shown. Mr. Munster stated he had about four (4) cars daily and the private road had to be accessed to get up to Johnstown Road, so this applicant, in addition to the construction traffic, would also greatly increase traffic and maintenance costs due to their use. Mr. Munster stated he was also worried about tree shielding between the properties.

Mr. Fox stated they were not proposing any access to Mr. Munster's property at this time. Mr. Fox said they had offered some landscaping on the east side near Mr. Munster but noted nothing had been determined about the private drive. Mr. Fox said that if anything was determined then Mr. Munster would have another opportunity to discuss this with the PC and staff.

Mr. Munster stated he wanted to get ahead of this and was concerned about traffic and the use of his parking lot. Mr. Munster said he wanted to protect what he had built.

Mr. Fox stated Mr. Munster should continue the dialogue with the developer.

Mr. Munster stated that on August 30th he had reached out to the developer but he had not responded. Mr. Munster stated he wanted to talk but did not know how reliable the developer would be.

Mr. Schell asked Mr. Munster if this was his private drive he was asking about.

Mr. Munster stated it was half his and half belonged to the applicant.

Mr. Schell asked if Mr. Munster was responsible for maintaining his half.

Mr. Munster stated he was responsible for half of it.

Mr. Schell stated he understood the concern about the parking lot, but said the applicant had indicated this location was more of a drive-thru location than a sit down and eat location and asked for more information on this.

Mr. Fox stated the business was more pick up at this time. Mr. Fox stated there was a cross access easement with all of these private access drives and all were meant to maintain it.

Mr. Schell asked if Mr. Fox foresaw a lot of people going through there to access the restaurant.

Mr. Fox stated it would depend on where they were coming from and there were many ways to get in and out of this.

Ms. Briggs asked if people were coming from US-62 would that likely be the main access point to the restaurant.

Mr. Fox stated yes, or they could go into the next one to the left.

Mr. Munster stated that if people were heading south on US-62 that would increase the flow of traffic.

Mr. Schell stated he strongly urged Mr. Munster to get something in writing as to what maintenance, based on traffic volume, they would be willing to pay.

Mr. Munster stated he could try again.

Mr. Kirby asked if this connected to Bevelhymer classic, the old part of Bevelhymer.

Mr. Mayer stated no.

Mr. Kirby asked if there was access in that direction.

Mr. Munster stated it did not continue and drivers would have to go to the right.

Mr. Kirby stated okay and asked the applicant where they were expecting most of their exit traffic to be.

Mr. Fox stated it would depend as there were multiple ways to get to Bevelhymer. Mr. Fox stated he thought most of the traffic going south on US-62 would go out the south exit.

Mr. Kirby stated either there or there and demonstrated on the presentation screen.

Mr. Schell asked if the Giant Eagle Chipotle would be extinct once this one opened.

Mr. Fox stated he doubted it.

Mr. Shull stated it would have a high cannibalization.

Mr. Kirby asked the applicant if they were fine without there being a menu board sign and would not expect one in the future.

Mr. Fox stated the applicant would meet the Code and if a variance were needed they understood they would need to return for that.

Mr. Kirby stated he wanted to say that variances were not a given.

Mr. Fox stated he understood.

Mr. Kirby asked if members of the public had any questions or comments.

Mr. Wallace asked Mr. Albrecht how the allocation of the financial responsibility for these private roads was typically handled.

Mr. Albrecht said it was generally an issue between the landowners.

Mr. Wallace stated this might be why Cities did not like them.

Mr. Mayer stated that was right and they encouraged public roads.

Mr. Munster stated he had tried to work this out, but here he was.

Mr. Wallace stated that page 7 of the staff report mentioned the applicant would provide details of the announce sign. Mr. Wallace asked Mr. Fox if he could provide information on the details he knew about this sign as of today.

Mr. Fox stated he thought the sign package would be provided separately and they agreed they would comply with all requirements. Mr. Fox noted they would return with the sign package later.

Mr. Wallace stated okay, so no details are available now.

Mr. Fox stated he had no idea.

Mr. Kirby stated other than the commitment to meet Code without needing a variance.

Mr. Fox stated no, they may need to request a variance and understand they would need to return for that.

Mr. Mayer stated this was why the staff conditions indicated all signage would be subject to staff approval and would go to the Board of Zoning Appeals, not the PC, if it did not meet Code.

Mr. Wallace stated the applicant should know it would be harder to get a variance rather than to provide it with the initial plan. Mr. Wallace stated the applicant should review the Duncan factors for sign reviews by the Board of Zoning Appeals.

Mr. Fox stated it was more of a formality.

Mr. Wallace stated he had thought Mr. Fox had said the sign situation was in flux and there were several requirements that needed to be met.

Ms. Briggs asked about the history of this access road, why it was private, when it was first there, etc.

Mr. Mayer stated it had been installed by the developer. Mr. Mayer stated connectivity was important which was why they supported public roads normally, but there was good connectivity here.

Mr. Munster stated his earlier discussion with the developer had indicated they were considering putting in an access road on other side if they developed the other lot. Mr. Munster stated he was not trying to stop development but did want to maintain what was there and keep it beautiful.

Mr. Wallace asked how people coming from the south would access this.

Mr. Mayer stated those coming from the south would have to make a left to enter and then loop around.

Mr. Wallace stated he thought he had read that the southwestern entrance was more of an out from the drive-thru.

Mr. Mayer stated there were four (4) connections to the private shared drives. Mr. Mayer indicated the drives and their use on the presentation.

Mr. Wallace asked if the southwest entrance was then both in and out.

Mr. Mayer showed where the ingress and egress was on the site.

Mr. Wallace asked if the private road was both ingress and egress.

Mr. Mayer stated yes.

Mr. Munster stated that if traffic had to come in and loop around from a single entrance, as the drive-thru traffic tried to leave, this seemed a set up for accidents.

Mr. Mayer stated that today a left could be made but with two-way traffic they did not see any internal conflicts.

Mr. Munster stated that was the only way in or out then they would be crossing with those coming in.

Mr. Mayer stated only in that direction.

Mr. Wallace asked how traffic would get onto US-62 going north.

Mr. Mayer stated they would use private drives to access Walton and then get to the intersection of Walton and US-62.

Mr. Wallace asked if there would be signage there for those who needed to get back to US-62 and would not be able to see how to do so.

Mr. Mayer stated internal circulation signage had not yet been received but they anticipated horse fence signs would be requested and there would be some directional signage from the public streets

Mr. Kirby stated a sign indicating US-62 north would be helpful.

Ms. Briggs asked who owned the private access drives on the left.

Ms. Nichols stated she believed the Chipotle property owner also owned this and the private road was shared with those on the left.

Ms. Briggs asked if it was the Blue Agave parcel.

Ms. Nichols stated yes.

Ms. Briggs asked if that was half owned by them and the applicant.

Ms. Nichols stated she did not know the details on the private access agreement.

Mr. Mayer stated that per the Franklin County Auditor's website the owner of the private drive was the New Albany Company.

Mr. Wallace asked if the PC could put in a condition of approval for internal signage to indicate how to access US-62 to help avoid traffic circulation issues.

Mr. Munster stated the beautification process would be hurtful to him and the applicant.

Ms. Briggs stated it would probably be better overall for traffic.

Mr. Mayer stated yes, the PC could place a condition on onsite directional signage to US-62.

Mr. Wallace asked if the applicant would agree to such a condition that was subject to staff approval.

Mr. Fox stated that sounded good.

Ms. Briggs asked Ms. Nichols to flip to a prior picture of the map and noted the private road she had asked about was adjacent to Blue Agave and stated that was owned and maintained by the New Albany Company.

Mr. Kirby asked staff if perhaps, when cross access easements were being conducted, they should look ahead to potential language for shared or cross maintenance.

Mr. Mayer stated he would defer to Mr. Albrecht and they could ask about maintenance, but as it was private he did not know how much the City could do about maintenance.

Mr. Kirby asked if they could require the applicant to bring language to the City as part of the package.

Mr. Albrecht stated he thought they could have the discussion and ask them to put language in there, but did not know if they could make any requirements about how they would maintain the private road.

Mr. Kirby stated good enough.

Mr. Munster asked if there was a process through which the City could take it over.

Mr. Mayer stated yes, the City could take it over if the owner asked the City to take the road as a public right of way and then the City would maintain it once it became public.

Mr. Kirby noted that if private roads were approved they should be sure they would not become a problem.

Moved by Mr. Kirby to accept the staff reports and related documents into the record for FDP-115-2022, seconded by Mr. Schell. Upon roll call: Mr. Kirby, yea; Mr. Schell, yea; Ms. Briggs, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Moved by Mr. Kirby to approve FDP-115-2022 based on the findings in the staff report with the conditions listed in the staff report and the following additional condition:

5. Applicant agrees to put in way-finding signs, subject to staff approval. seconded by Mr. Wallace. Upon roll call: Mr. Kirby, yea; Mr. Wallace, yea; Mr. Schell, yea; Ms. Briggs, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

FDP-116-2022 Final Development Plan

Final development plan modification to allow for construction of a 4,154 square foot car service use on 1.25 acres located generally near the southeast corner of US-62 and Forest Drive (PID: 222-005179-00).

Applicant: Valvoline LLC

Ms. Nichols presented the staff report for FDP-116-2022 and CU-118-2022.

Mr. Wallace asked if it would be the whole site between Popeye's and Dairy Queen.

Ms. Nichols stated yes, it was all of the green space between Popeye's and Dairy Queen.

Mr. Kirby asked if there were any Engineering comments.

Mr. Herskowitz stated the signature block needed to be added per Code and the monuments needed to be shown per Code. Mr. Herskowitz stated the text indicated that stormwater management would be through an existing regional basin in the area but the plans referred to detention ponds, so that needed to be cleaned up at final engineering.

Mr. Kirby asked if the applicant had any comments.

Ms. Robin Peck, Pre-Construction Manager with Valvoline, stated she could answer any questions.

Mr. Kirby asked staff if the DGRs applied here and whether four-sided architecture applied here.

Ms. Nichols stated yes and the applicant did meet this requirement. Ms. Nichols stated the side facing Dairy Queen was exempt.

Mr. Kirby stated okay.

Mr. Kirby asked the applicant if there were any conflicts with the Engineering and PC conditions.

Ms. Peck stated no.

Mr. Wallace asked if, for the conditions related to the landscape, they should include language that it be 'subject to staff approval.' Mr. Wallace stated he noticed it was in the Staff report conditions subsection (a) but not subsections (b) or (c).

Ms. Nichols stated yes, if that was not clear then it could be added.

Mr. Wallace stated he would do that for both subsections (b) and (c).

Ms. Briggs asked Ms. Nichols to review the traffic flow again.

Ms. Nichols stated there was a two way access on Woodcrest.

Ms. Briggs asked if Woodcrest was privately owned.

Ms. Nichols stated yes.

Mr. Mayer stated the properties went to the centerline of the road and they did not know the maintenance obligations but they were shared among private properties.

Ms. Briggs asked if Valvoline would have some maintenance of the road, just as Dairy Queen, Popeye's, and whoever the other owner was.

Ms. Peck stated she believed there was an agreement in their lease that defined those parameters.

Ms. Briggs said okay.

Ms. Nichols continued to note the access on the sites on the presentation.

Ms. Briggs discussed the pattern people who were traveling north or east on US-62 would use to access and leave the Valvoline site. Ms. Briggs asked if one location on the presentation was also an access point.

Ms. Nichols stated yes and noted there was also an access point to Forest Drive that could also be used.

Ms. Briggs asked if Forest Drive was where the light was.

Mr. Mayer agreed.

Ms. Briggs asked if drivers had to go through Popeye's to use Forest Drive.

Ms. Nichols stated they must go Popeye's to use Forest Drive.

Ms. Briggs asked if that was only in one direction.

Ms. Nichols stated they could go around Forest Drive.

Ms. Briggs asked if there was an access drive between the Dairy Queen and Valvoline.

Ms. Peck stated yes.

Ms. Briggs stated thank you.

Ms. Nichols stated she had been wrong, the access point was onto Woodcrest to get onto Forest Drive.

Ms. Briggs described a traffic flow people who wanted to travel south or west on US-62 would follow.

Ms. Nichols stated there were two points on there.

Mr. Mayer stated there was strong connectivity both internally and to the adjacent sites.

Ms. Briggs asked if it would be clear for drivers to see how to get out of these sites.

Mr. Mayer stated he thought people should be able to find their way and, even if people make an error, the interconnectivity should help people find their way.

Mr. Kirby stated he agreed.

Ms. Briggs asked if staff could confirm the locations of the Moo Moo car wash, Turkey Hill, and other locations near the Valvoline site and asked what was next to the Moo Moo car wash.

Mr. Mayer stated he was not aware of anything going in to that site but noted they would ask for the same cross access easement on that site.

Mr. Shull asked if stacking at Dairy Queen had improved.

Mr. Mayer stated he believed so since the escape lane had been added and stated he believed the Valvoline addition might also help.

Mr. Wallace asked if this was another internal signage issue or were there enough alternatives here.

Mr. Mayer stated staff had not had feedback from businesses there about any issues, but they could monitor that and, if needed, add such signage.

Mr. Kirby stated this one seemed easier to get it right and it was reasonably obvious here.

Ms. Briggs asked if the PC or the City could revisit this later.

Mr. Mayer stated correct.

Mr. Kirby asked if there were any comments or questions on the conditional use application.

Mr. Wallace stated he wanted to add a condition that the applicant, if the City requested, would work with the City on internal directional signage. Mr. Wallace asked Ms. Peck if she could agree to that.

Ms. Peck stated yes.

Mr. Shull stated Dairy Queen was an example where traffic flow had not been optimal and stated they appreciated the applicant's help with this.

Ms. Peck stated this flow worked for them.

Moved by Mr. Kirby to accept the staff reports and related documents into the record for FDP-116-2022, seconded by Mr. Wallace. Upon roll call: Mr. Kirby, yea; Mr. Wallace, yea; Ms. Briggs, yea; Mr. Schell, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Moved by Ms. Briggs to approve FDP-116-2022 based on the findings in the staff report with the six (6) conditions listed in the staff report and the following additional conditions:

7. If needed, way-finding signage on the property would be provided, subject to staff approval;

8. Subections 7 (b) and 7(c) (on the staff report conditions) will include the phrase "subject to staff approval,"
seconded by Mr. Schell. Upon roll call: Ms. Briggs, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

CU-118-2022 Conditional Use

Request for a conditional use permit to operate a car service use located generally near the southeast corner of US-62 and Forest Drive (PID:222-005179-00).

Applicant: Valvoline LLC

Moved by Mr. Kirby to accept the staff reports and related documents into the record for CU-118-2022, seconded by Ms. Briggs. Upon roll call: Mr. Kirby, yea; Ms. Briggs, yea; Mr. Schell, yea; Mr. Wallace, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Moved by Ms. Briggs to approve CU-118-2022 based on the findings in the staff report with the conditions listed in the staff report, seconded by Mr. Schell. Upon roll call: Ms. Briggs, yea; Mr. Schell, yea; Mr. Wallace, yea; Mr. Kirby, yea. Yea, 4; Nay, 0; Abstain, 0. Motion passed by a 4-0 vote.

Other Business

Mr. Kirby asked if there was any other Business.

Mr. Christian stated there will be a meeting on November 7th.

Ms. Briggs asked if there would not be a meeting on October 31st.

Mr. Christian stated correct.

Poll Members for Comment

(No response.)

Mr. Kirby adjourned the meeting at 8:18 p.m.

Submitted by Josie Taylor.

APPENDIX



Planning Commission Staff Report October 17, 2022 Meeting

CHIPOTLE FINAL DEVELOPMENT PLAN

LOCATION: Located immediately north of Johnstown Road and generally south of the intersection at Bevelhymer Road and Walton Parkway (PID: 222-004463).

APPLICANT: Prime AE Group, c/o Steve Fox

REQUEST: Final Development Plan

ZONING: Infill Planned Unit Development (IPUD), Subarea 7D-Section 2: Business Park (South Oak Grove – Retail)

STRATEGIC PLAN: Retail

APPLICATION: FDP-115-2022

Review based on: Application materials received September 16, 2022 and October 3, 2022.

Staff report prepared by Chelsea Nichols, Planner

I. REQUEST AND BACKGROUND

The application is for a final development plan for a proposed Chipotle located immediately north of Johnstown Road and generally south of the intersection at Bevelhymer Road and Walton Parkway within Subarea 7D-Section 2: Business Park (South Oak Grove – Retail). The development includes a carry-out food and beverage establishment with drive-thru on approximately 2 acres.

The zoning text allows commercial buildings and the permitted uses contained in the Codified Ordinances of the Village of New Albany, C-3 Highway Business District, Section 1149.02, which includes carry-out food and beverage establishments with a drive-thru.

II. SITE DESCRIPTION & USE

The site is located immediately north of Johnstown Road and generally south of the intersection at Bevelhymer Road and Walton Parkway. The lot is currently undeveloped and is approximately 2 acres in size. This lot could accommodate two separate developments. The proposed Chipotle is located on the southern portion of the lot and a separate future development could be located on the northern portion of the lot. Currently, there are no plans to split the lot into two. However, the current proposal does contemplate theoretical property lines for when the larger 2-acre lot is split into two. Once that lot split happens in the future, the Chipotle site would become approximately 1 acre at that time. The review of this application, including the proposed lot coverage, is based on the potential future lot split and a site size of 1 acre.

III. EVALUATION

Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text. Planning Commission's review authority is found under Chapter 1159.

The Commission should consider, at a minimum, the following (per Section 1159.08):

- (a) *That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;*
- (b) *That the proposed development is in general conformity with the Strategic Plan/Rocky Fork-Blacklick Accord or portion thereof as it may apply;*
- (c) *That the proposed development advances the general welfare of the Municipality;*
- (d) *That the benefits, improved arrangement and design of the proposed development justify the deviation from standard development requirements included in the Zoning Ordinance;*
- (e) *Various types of land or building proposed in the project;*
- (f) *Where applicable, the relationship of buildings and structures to each other and to such other facilities as are appropriate with regard to land area; proposed density may not violate any contractual agreement contained in any utility contract then in effect;*
- (g) *Traffic and circulation systems within the proposed project as well as its appropriateness to existing facilities in the surrounding area;*
- (h) *Building heights of all structures with regard to their visual impact on adjacent facilities;*
- (i) *Front, side and rear yard definitions and uses where they occur at the development periphery;*
- (j) *Gross commercial building area;*
- (k) *Area ratios and designation of the land surfaces to which they apply;*
- (l) *Spaces between buildings and open areas;*
- (m) *Width of streets in the project;*
- (n) *Setbacks from streets;*
- (o) *Off-street parking and loading standards;*
- (p) *The order in which development will likely proceed in complex, multi-use, multi-phase developments;*
- (q) *The potential impact of the proposed plan on the student population of the local school district(s);*
- (r) *The Ohio Environmental Protection Agency's 401 permit, and/or isolated wetland permit (if required);*
- (s) *The U.S. Army Corps of Engineers 404 permit, or nationwide permit (if required).*

It is also important to evaluate the PUD portion based on the purpose and intent. Per Section 1159.02, PUD's are intended to:

- a. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- b. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- c. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*
- d. *Result in a desirable environment with more amenities than would be possible through the strict application of the minimum commitment to standards of a standard zoning district;*
- e. *Provide for an efficient use of land, and public resources, resulting in co-location of harmonious uses to share facilities and services and a logical network of utilities and streets, thereby lowering public and private development costs;*
- f. *Foster the safe, efficient and economic use of land, transportation, public facilities and services;*
- g. *Encourage concentrated land use patterns which decrease the length of automobile travel, encourage public transportation, allow trip consolidation and encourage pedestrian circulation between land uses;*
- h. *Enhance the appearance of the land through preservation of natural features, the provision of underground utilities, where possible, and the provision of recreation areas and open space in excess of existing standards;*

- i. *Avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;*
- j. *Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;*
- k. *Provide an environment of stable character compatible with surrounding areas; and*
- l. *Provide for innovations in land development, especially for affordable housing and infill development.*

Engage New Albany Strategic Plan Recommendations

The Engage New Albany Strategic Plan lists the following development standards for the Neighborhood Retail future land use category:

- 1. Parking areas should promote pedestrians by including walkways and landscaping to enhance visual aspects of the development.
- 2. Combined curb cuts and cross access easements are encouraged.
- 3. Curb cuts on primary streets should be minimized and well-organized connections should be created within and between all retail establishments.
- 4. Retail building entrances should connect with the pedestrian network and promote connectivity through the site.
- 5. Integrate outdoor spaces for food related businesses.

A. Use, Site and Layout

- 1. The applicant proposes to develop a 2,394 sq. ft. Chipotle restaurant with a drive-thru on approximately 1 acre. The Chipotle will have a dine-in option but will focus primarily on to-go orders. The drive-thru lane will be pick-up only and not a conventional, full-service drive-thru with a menu or order board. A carry-out food and beverage establishment with a drive-thru is a permitted use.
- 2. As mentioned above, the entire lot is approximately 2 acres of land that could accommodate two separate developments. The proposed Chipotle is located on the southern portion of the lot, and a future development could be located on the northern portion of the lot. Currently, there are no plans to split the lot into two. However, the current proposal does contemplate theoretical property lines should the one large lot ever split into two. Once the lots are split into two in the future, the Chipotle site would be approximately 1 acre in size. The review of this application, including the proposed lot coverage, is based on the potential future lot split and a site size of 1 acre.
- 3. The proposed use is appropriate given the proximity of this site to US-62 and the commercial development surrounding this site. Some of the surrounding uses include the Wealth Center (bank use) to the east and a multi-tenant commercial building to the west which is home to the Blue Agave restaurant, “New Nails” nail salon, Knockouts Haircuts barber shop, and a Tim Hortons restaurant.
- 4. Zoning text section 7d-S2.01(6) requires that the total lot coverage, which includes areas of pavement and building, to not exceed 80%. Should the lot be split happen in the future, the site would still meet this requirement as the new lot coverage at that time is anticipated to be 69%.
- 5. The zoning text section 7d-S2.01 requires the following setbacks:

Road	Requirement	Proposed
US-62 (southern property line)	100-foot building and pavement setback	155+/- foot pavement [meets code] 182+/- building [meets code]
*Northern Boundary (adjacent to future development site)	0-foot building and pavement setback	5-foot pavement [meets code] Building setback exceeds code

*Eastern Boundary	0-foot building and pavement setback	Building and pavement setbacks exceed code
Western Boundary	10-foot pavement setback 30-foot building setback	10-foot pavement [meets code] 33.03+/- foot building [meets code]

*Setbacks along all other internal property boundaries between adjoining privately held parcels within this subarea is permitted to be zero for all buildings and pavement area.

B. Access, Loading, Parking

1. The zoning text encourages shared access drives between sites by allowing for zero pavement setbacks and by including a provision stating that cross access easements between developments within Section 2 shall be provided. Historically the city staff and Planning Commission have encouraged shared curb cuts and connecting drive aisles between commercial sites. The proposed development utilizes shared access from three private drives that surround the site. Access to the site from the east will include access from the private drive shared with the Wealth Center. Access to the site from the west will be from the private drive shared with the multi-tenant commercial building that houses Blue Agave.
2. There are three private drives that surround the site. The site will have four access points off of the private drives. Two points of ingress and egress are along the southern portion of the lot from the private drive to the south. One right-out and left-out access point is located along the southern portion of the lot, also onto the private drive to the south would allow vehicles existing the drive-thru to leave the site. A fourth access point is located in the northwest corner of the site and is a right-out only and will empty out onto the private drive to the west.
3. The building is surrounded by the parking lot, a drive-thru lane, internal drive aisles, and private access drives. The drive-thru appears to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public and/or private roads.
4. Codified Ordinance 1167.05(d)(4) requires a minimum of one parking space for every 75 square feet of restaurant floor area space. The building is 2,394 square feet in size, therefore 33 parking spaces are required, and the applicant is meeting code requirement. Additionally, the city parking code requires a minimum number of stacking spaces in the drive-thru lane must be provided. The required number of drive-thru stacking spaces must equal 25% of the total required parking spaces for the drive-thru tenant space. Based on this calculation, 9 stacking spaces must be provided and the applicant is meeting this requirement.
5. Per C.O. 1167.03(a) the minimum parking space dimensions required are 9 feet wide and 19 feet long and the applicant is meeting this requirement.
6. Per C.O. 1167.03(a) the minimum maneuvering lane width size is 22 feet for this development type and this is requirement is met.

C. Architectural Standards

1. The purpose of the New Albany Design Guidelines and Requirements is to help ensure that the New Albany community enjoys the highest possible quality of architectural design.
2. The zoning text contains architectural standards and regulated by Section 6 of the Design Guidelines and Requirements (Commercial outside the Village Center).
3. The zoning text states that the maximum building height within this zoning district shall not exceed 65 feet. The proposed building height is approximately 20+/- feet, therefore this requirement is being met.
4. The applicant is proposing to use brick and metal as building materials. The zoning text permits the use of these materials such as brick, pre-cast stone, wood, and glass. Metal is allowed as an accent feature. Tinted glass is permitted, and reflective or mirrored glass is prohibited. The design

- of the building and use of materials is appropriate and consistent with other buildings in the immediate area.
5. Zoning text section 7d-S2.03(1) states that buildings shall be designed to be seen from 360 degrees with the same caliber of finish on all facades/elevations. The applicant is accomplishing this requirement.
 6. Section 7d-S2.03(3) states earth tones, muted hues and natural tones are permitted as structures basic color. The applicant is accomplishing this requirement.
 7. Section 7d-S2.03(4) states pitched, flat or mansard roofs shall be permitted. All flat roofs shall be required to have a parapet and/or a means of screening all rooftop mechanical equipment. A roof plan was submitted and all rooftop mechanical equipment will be fully screened from all public roads.
 8. DGR Section 6(I)(A)(12) states that buildings shall have operable and active front doors along all public and private roads. The applicant is accomplishing this requirement.
 9. C.O. 1171.05(b) states that all trash and garbage container systems must be screened. The applicant proposes to install a dumpster enclosure thereby meeting this requirement.

D. Parkland, Buffering, Landscaping, Open Space, Screening

1. Codified Ordinance 1171.06(a)(3) requires one tree per 10 parking spaces. The applicant is providing 33 parking spaces thereby requiring 4 trees. The applicant is meeting this requirement.
2. Zoning text section 7d-S2.04(1)(a) requires that street trees must be planted along US-62 at a rate of one tree for every 30 feet. The applicant is required to install 8 trees along US-62. The plan shows 5 trees along Johnstown Road in front of the existing trail and 3 trees behind the existing trail for a total of 8 trees.
3. Section 7d-S2.04(1)(c) requires any surface parking areas adjacent to US-62 be screened from the respective right-of-way with a minimum of 30" contiguous planting hedge, fence, wall or earth mound or any configuration thereof. Throughout the setback area there shall be a minimum of six trees per 100 lineal feet. While the applicant does meet this requirement by proving the contiguous planting hedge, they do not meet the requirement because there are only 13 trees within the setback area. Should the Planning Commission approve the application, staff recommends a condition of approval that the applicant include one more tree, for a total of 14, on the landscape plans at the time of engineering permits to meet code requirements.
4. The zoning text requires a minimum of 8% interior parking lot landscaping on the site. The applicant meets this requirement.
5. Zoning text section 7d-S2.03(3) requires parking lots up to 20,000 square feet to have a minimum of one tree per 5,000 square feet of ground coverage and a total tree planting equal to one inch in tree trunk size for every 2,000 square feet of ground coverage. Based on this, the applicant is required to provide 4 trees to meet this standard, and they exceed this standard by providing 8 trees.
6. The City Landscape Architect has reviewed the referenced plan in accordance with the landscaping requirements found in the New Albany Codified Ordinances and zoning text and provides the following comments. Staff recommends all the City Landscape Architect's comments are met, subject to staff approval.
 - A. Site Plan:
 - i. Remove one parallel parking space along eastern edge to provide additional, appropriate room for landscape. See Diagram B. **(Staff Note: This item has been addressed)**
 - B. Planting Plan:
 - i. Provide landscape improvements in the reclaimed parking space. See Diagram B.
 - ii. To match Johnstown Road's rural character, please plant random massing of large, deciduous shade trees along Johnstown Road frontage. Consider species such as Acer, Ulmus, Quercus and Gleditsia. See Diagram A and B.

E. Lighting & Signage

1. The applicant has submitted a photometric plan which meets code.
2. Zoning text section 7d-S2.05(3)(d) - (f) requires all parking lot lighting shall be of standard light source type and style and shall not exceed 20' in height. Building, pedestrian and landscape lighting may be incandescent or metal halide. All external lighting shall be decorative or cut-off type fixtures and down cast to reduce "spillage". Luminaires should have a minimum cut-off of 45 degrees, so as to provide glare control to pedestrian and vehicular traffic, as well as a distinct beam cut-off on the outer perimeter of the setback areas. Light pole locations should be set back from the outer edges of the Perimeter and side lot areas at a distance that would allow the 45-degree cut-off angle of the luminaire to terminate at the base of the earth mounds. All light poles and standards shall be black or New Albany Green and constructed of metal.
 - o The applicant states the proposed height of the light poles will be 18' and this meets the required height maximum.
 - o The proposed poles are to match the lights on the adjacent sites. This includes the fixture and base of the lighting used for the Shops at Walton Parkway.
 - o All other aspects of the lighting standards and being met.
3. As part of this final development plan application, the applicant has submitted a partial sign plan for the site. Details for the proposed monument sign were not provided. Staff recommends a condition of approval that this sign and all other sign details be subject to staff approval and must meet code requirements. Any additional variances needed for future signs will be heard by the Board of Zoning Appeals in the future.

Wall Signs

Zoning text section 7d-S2.06 permits one wall-mounted sign and one ground-mounted sign along each public road right-of-way and building fronts. One square foot of sign face is permitted per each lineal foot of the building, not to exceed 80 square feet in size. The applicant proposes the following wall signs to include the company logo with "CHIPOTLE".

Southern US-62 Elevation Wall Sign

- a. Area: 36.72 sq. ft. [does not meet code; max of 35 sq. ft. permitted based on frontage] Should the Planning Commission approve this application, staff recommends a condition of approval that the sign be revised to meet code requirements or a variance be submitted for review by the Board of Zoning Appeals.
- b. Lettering height: 14 inches [meets code]
- c. Location: one on the US-62 building elevation [meets code]
- d. Lighting: halo [meets code]
- e. Relief: 1-inch relief [meets code]
- f. Color: brown, red, and white (total 3) [meets code as 4 permitted]
- g. Materials: aluminum [meets code]

Eastern Elevation Wall Sign

- a. Area: 36.72 sq. ft. [meets code and well under code]
- b. Lettering height: 14 inches [meets code]
- c. Location: one on the US-62 building elevation [meets code]
- d. Lighting: halo [meets code]
- e. Relief: 1-inch relief [meets code]
- f. Color: brown, red, and white (total 3) [meets code as 4 permitted]
- g. Materials: aluminum [meets code]

Western Elevation Wall Sign

- a. Area: 36.72 sq. ft. [meets code and well under code]
- b. Lettering height: 14 inches [meets code]

- c. Location: one on the US-62 building elevation [meets code]
 - d. Lighting: halo [meets code]
 - e. Relief: 1-inch relief [meets code]
 - f. Color: brown, red, and white (total 3) [meets code as 4 permitted]
 - g. Materials: aluminum [meets code]
4. Other Signage:
- o The applicant does not propose a menu board sign. The drive-thru lane will be pick-up only and not a full-service drive-thru with a menu or order board.
 - o The applicant proposes to install one 9' tall "clearance" bar near the drive-thru. The clearance bar does not contain any signage or a company logo.
 - o The applicant proposes one "announce sign" in the typical location where a menu board sign would be located. Details on this announce sign have not been provided. Should the Planning Commission approve this application, staff recommends a condition of approval that the applicant provide details on the announce sign and that the sign meet code at the time of permits.
 - o The applicant proposes a number of ground signs on site that will read "digital pick-up". The proposed signs do meet code with regard to height. However, the number of these signs and exact location of the signs need to be finalized. The signs will be placed at the head of parking spaces indicating where people should park when they arrive to pick up their "digital" online food orders. Currently, the site plan sheet provided by Broadway National sign company does not match the site plan provided by the applicant, Prime AE engineering firm, in terms of the signage location and information. The sign key needs to be revised to match the proposed site plan at the time of permits. Should the Planning Commission approve this application, staff recommends a condition of approval that the applicant provide details on the digital pick-up signs and that these signs meet code at the time of permits.

IV. ENGINEER'S COMMENTS

The City Engineer has reviewed the application and provided the following comments. These comments can also be found in a separate memo attached to this staff report. Staff recommends a condition of approval that the comments of the city engineer are addressed, subject to staff approval.

1. Update the FDP signature block to match that shown on Exhibit A.
2. Update the Site Data table shown on sheet C-1 of the submittal to include ADA Parking Stall Required and ADA Parking Stalls provided.
3. Have a Professional Surveyor sign off on the ALTA survey included with the submittal.
4. In accordance with Code Section 1159.07 (3) Parts A. and D., please revise the cover sheet to show accurate distances and bearings from an established monument on the project to the three nearest established street lines or official monuments and show the location of boundary monuments (concrete 6"x6"x30" with an iron pipe cast in the center) at each corner, at each change of direction, at each intersection and at the beginning and end of curves.
5. Provide site distance triangles at the curb cuts and ensure that proposed landscaping does not obstruct motorist view.
6. We will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.

V. SUMMARY

The proposal meets many of the goals of the Engage New Albany Strategic Plan such as providing pedestrian access along roadways and into the site and utilizing high quality building materials by incorporating four-sided architecture. The proposed development is in an appropriate location given the

context of the surrounding area and will serve as an amenity for the New Albany Business Park. The proposed building is well designed and is consistent with other retail buildings in the immediate area.

VI. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve final development plan application **FDP-115-2022**, subject to the following conditions:

1. The City Landscape Architect's comments must be addressed at the time of engineering permits, subject to staff approval.
2. The applicant shall include one more tree, for a total of 14 trees within the setback along US-62 as require per Section 7d-S2.04(1)(c), on the landscape plan at the time of engineering permits.
3. The monument sign, all wall signs, the announce sign, digital pick-up signs, and all other sign details are subject to staff approval and must meet code requirements.
4. The City Engineer's comments must be addressed, subject to staff approval.

Approximate Site Location:



Source: nearmap



**Planning Commission Staff Report
October 17, 2022 Meeting**

**VALVOLINE
FINAL DEVELOPMENT PLAN**

LOCATION: Located generally near the southeast corner of US-62 and Forest Drive, and north of Woodcrest Way (PID: 222-005179-00)
APPLICANT: Valvoline LLC, c/o Robin Peck
REQUEST: Final Development Plan
ZONING: Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a
STRATEGIC PLAN: Retail
APPLICATION: FDP-116-2022

Review based on: Application materials received September 16, 2022 and October 6, 2022.

Staff report prepared by Chelsea Nichols, Planner

III. REQUEST AND BACKGROUND

The applicant requests a final development plan for a Valvoline to be located near the southeast corner of US-62 and Forest Drive, and north of Woodcrest Way within the Canini Trust Corp. The site is situated between the Dairy Queen and Popeye's sites. The development includes a 4,154 square foot oil change facility/car service use on a 1.25-acre site.

The zoning text allows office buildings and the permitted uses contained in the Codified Ordinances of the Village of New Albany, OCD Office Campus District, Section 1144.02 and C-2, Commercial District, Section 1147.02, and the conditional uses contained in Section 1147.02, which includes a car service uses. The applicant has applied for a conditional use to be heard by the Planning Commission at tonight's meeting under case CU-118-2022.

IV. SITE DESCRIPTION & USE

The site is located on the southeast corner of US-62 and Forest Drive, and north of Woodcrest Way within the Canini Trust Corp site. The site is 1.25 acres and is currently undeveloped.

III. EVALUATION

Staff's review is based on New Albany plans and studies, zoning text, zoning regulations. Primary concerns and issues have been indicated below, with needed action or recommended action in underlined text. Planning Commission's review authority is found under Chapter 1159.

The Commission should consider, at a minimum, the following (per Section 1159.08):

- (a) *That the proposed development is consistent in all respects with the purpose, intent and applicable standards of the Zoning Code;*
- (b) *That the proposed development is in general conformity with the Strategic Plan/Rocky Fork-Blacklick Accord or portion thereof as it may apply;*
- (c) *That the proposed development advances the general welfare of the Municipality;*

- (d) *That the benefits, improved arrangement and design of the proposed development justify the deviation from standard development requirements included in the Zoning Ordinance;*
- (e) *Various types of land or building proposed in the project;*
- (f) *Where applicable, the relationship of buildings and structures to each other and to such other facilities as are appropriate with regard to land area; proposed density may not violate any contractual agreement contained in any utility contract then in effect;*
- (g) *Traffic and circulation systems within the proposed project as well as its appropriateness to existing facilities in the surrounding area;*
- (h) *Building heights of all structures with regard to their visual impact on adjacent facilities;*
- (i) *Front, side and rear yard definitions and uses where they occur at the development periphery;*
- (j) *Gross commercial building area;*
- (k) *Area ratios and designation of the land surfaces to which they apply;*
- (l) *Spaces between buildings and open areas;*
- (m) *Width of streets in the project;*
- (n) *Setbacks from streets;*
- (o) *Off-street parking and loading standards;*
- (p) *The order in which development will likely proceed in complex, multi-use, multi-phase developments;*
- (q) *The potential impact of the proposed plan on the student population of the local school district(s);*
- (r) *The Ohio Environmental Protection Agency's 401 permit, and/or isolated wetland permit (if required);*
- (s) *The U.S. Army Corps of Engineers 404 permit, or nationwide permit (if required).*

It is also important to evaluate the PUD portion based on the purpose and intent. Per Section 1159.02, PUD's are intended to:

- m. *Ensure that future growth and development occurs in general accordance with the Strategic Plan;*
- n. *Minimize adverse impacts of development on the environment by preserving native vegetation, wetlands and protected animal species to the greatest extent possible*
- o. *Increase and promote the use of pedestrian paths, bicycle routes and other non-vehicular modes of transportation;*
- p. *Result in a desirable environment with more amenities than would be possible through the strict application of the minimum commitment to standards of a standard zoning district;*
- q. *Provide for an efficient use of land, and public resources, resulting in co-location of harmonious uses to share facilities and services and a logical network of utilities and streets, thereby lowering public and private development costs;*
- r. *Foster the safe, efficient and economic use of land, transportation, public facilities and services;*
- s. *Encourage concentrated land use patterns which decrease the length of automobile travel, encourage public transportation, allow trip consolidation and encourage pedestrian circulation between land uses;*
- t. *Enhance the appearance of the land through preservation of natural features, the provision of underground utilities, where possible, and the provision of recreation areas and open space in excess of existing standards;*
- u. *Avoid the inappropriate development of lands and provide for adequate drainage and reduction of flood damage;*
- v. *Ensure a more rational and compatible relationship between residential and non-residential uses for the mutual benefit of all;*
- w. *Provide an environment of stable character compatible with surrounding areas; and*
- x. *Provide for innovations in land development, especially for affordable housing and infill development.*

Engage New Albany Strategic Plan Recommendations

The Engage New Albany Strategic Plan lists the following development standards for the Neighborhood Retail future land use category:

6. Parking areas should promote pedestrians by including walkways and landscaping to enhance visual aspects of the development.
7. Combined curb cuts and cross access easements are encouraged.
8. Curb cuts on primary streets should be minimized and well-organized connections should be created within and between all retail establishments.
9. Retail building entrances should connect with the pedestrian network and promote connectivity through the site.
10. Integrate outdoor spaces for food related businesses.

F. Use, Site and Layout

6. The applicant proposes to develop a 4,154 square foot oil change facility/car service use on a 1.25-acre site. Car services are a conditional use within this zoning district and the applicant has applied for this conditional use to be heard by the Planning Commission at tonight’s meeting under case CU-118-2022.
7. The building footprint is 2,087 square feet. With the basement, the building’s total gross square footage is 4,154 square feet.
8. The proposed use is appropriate given the proximity of this site to State Route 161 and the commercial development surrounding this site. The site is situated between the Dairy Queen and Popeye’s sites. Some of the other surrounding uses include Home2Suites, Turkey Hill, Sheetz, and Aldi super market.
9. Zoning text section 8a.01(7) requires that the total lot coverage, which includes areas of pavement and building, to not exceed 80%. The applicant is meeting this requirement with 45% total lot coverage.
10. The zoning text section 8a.01 requires the following setbacks:

Road	Requirement	Proposed
US-62	50-foot building and pavement setback minimum	65.84+/- foot pavement [meets code] <u>114.84+/- foot building [meets code]</u>
Northeastern side yard setback (Adjacent to Popeye’s site)	0-foot building and pavement setback minimum	14.53+/- foot pavement [meets code] 60.36+/- foot building [meets code]
Southwestern side yard setback (Adjacent to Dairy Queen site)	0-foot building and pavement setback minimum	30.27+/- foot pavement [meets code] 60.27+/- foot building [meets code]
Woodcrest Way private drive	20-foot building and pavement minimum	29.1+/- foot pavement [meets code] 132.10+/- foot building [meets code]

11. The City Landscape Architect has reviewed the site plan in accordance with the New Albany Codified Ordinances and zoning text and provides the following comments. Staff recommends all the City Landscape Architect’s comments are met at the time of engineering permits, subject to staff approval.

- Site Plan:
 - Align shared drive with existing curb cut established at Popeyes. See diagram.

G. Access, Loading, Parking

1. The site will be accessed from one full access curb cut along Woodcrest Way, which is a private road. The site will also be accessed from a shared right-in, right out curb cut that was constructed as part of the Dairy Queen (DQ) development. There is a shared access between this site and the (DQ) site. The two lots share this right-in, right out onto Johnstown Rd.
2. The zoning text encourages shared access drives between sites by allowing for zero pavement setbacks and by including a provision stating that where appropriate shared access and joint parking agreements between adjacent parcels maybe required by the Village Development Director. Historically, the city staff and Planning Commission have encouraged shared curb cuts and connecting drive aisles between sites. The Dairy Queen site to the southwest established a curb cut to this proposed Valvoline site. The proposed Valvoline site plan will tie into that connection and also includes shared access to the Dairy Queen and Popeye's sites so that this pattern of development can be continued to and from this subject site.
3. The building is surrounded by the parking lot, internal drive aisles, and the queuing lanes for cars waiting to enter the building for an oil change. The three drive-through queuing lanes appear to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.
4. Codified Ordinance 1167.05(d)(10) requires a minimum of one parking space for every 400 square feet of gross floor area space. The building is 4,154 square feet in size, therefore 11 parking spaces are required. The applicant is providing 11 parking spaces. Additionally, while the city parking code does not require a minimum number of stacking spaces for this use, it does require a minimum number of stacking spaces for other uses with a drive-through. For those uses, the required number of stacking spaces must equal 25% of the total required parking spaces for the drive-through tenant space. Based on this calculation, 3 stacking spaces/queuing spaces must be provided and the applicant is exceeding this by providing 9.
5. Per C.O. 1167.03(a), the minimum parking space dimensions required are 9 feet wide and 19 feet long. The applicant is meeting this requirement.
6. Per C.O. 1167.03(a), the required minimum maneuvering lane width size is 22 feet for this development type. The applicant exceeds this requirement with a width size of 24 feet.
7. Per the approved final development plan for the Canini Trust Corp's Woodcrest Way private road network, the applicant is required to install a 5-foot sidewalk along Woodcrest Way and this requirement is met.

H. Architectural Standards

1. The purpose of the New Albany Design Guidelines and Requirements is to help ensure that the New Albany community enjoys the highest possible quality of architectural design.
2. The zoning text contains architectural standards and regulated by Section 6 of the Design Guidelines and Requirements (Commercial outside the Village Center).
3. The zoning text states that the maximum building height within this zoning district shall not exceed 35 feet. The proposed building height is approximately 24+/- feet, therefore this requirement is being met.
4. The applicant is proposing to use brick, custom cast stone, and metal as building materials. The zoning text permits the use of these materials such as brick, pre-cast stone, wood, glass and other synthetic materials are permitted as long as they are used appropriately. The design of the building and use of materials is appropriate and consistent with other buildings in the immediate area.
5. DGR Section 6(I)(A)(12) states that buildings shall have operable and active front doors along all public and private roads. The applicant is providing an active and operable door along both building elevations that face Johnstown Road and Woodcrest Way.
6. Zoning text section 8a.03(3)(b) states that if a flat roof is used, strong cornice lines must be integrated and the applicant is meeting this.
7. C.O. 1171.05(b) states that all trash and garbage container systems must be screened. The applicant proposes to install a dumpster enclosure thereby meeting this requirement.

8. It appears as though all rooftop mechanical equipment will be fully screened from all public roads. Should the Planning Commission approve the application, staff recommends a condition of approval be that all rooftop mechanical equipment shall be fully screened from all public roads.

I. Parkland, Buffering, Landscaping, Open Space, Screening

2. Codified Ordinance 1171.06(a)(3) requires one tree per 10 parking spaces. The applicant is providing 11 parking spaces thereby requiring 2 trees. The plan meets this requirement.
3. Codified Ordinance 1171(5)(e) requires parking lots over 20,000 square feet to have a minimum of one tree per 5,000 square feet of ground coverage and a total tree planting equal to 10.5 in tree trunk size for every 2,000 square feet of ground coverage. Based on this, the applicant meets this requirement by providing 5 trees.
4. The zoning text section 8a.04(2) requires that street trees must be planted along US-62 at a rate of one tree for every 30 feet. There are 2 existing street trees along US-62 and the applicant will add 4 additional trees to meet this requirement. The trees do not appear to be located in the correct location. Should the Planning Commission approve the application, staff recommends a condition of approval that the street trees are installed in a random pattern subject to staff approval.
5. The applicant is also required to install 6 trees along Woodcrest Way per the approved Woodcrest Way final development plan (FDP-69-2014). The plan currently shows 5 trees along Woodcrest Way. Should the Planning Commission approve this application, the applicant shall amend the landscape plan to include one more additional tree for a total of 6 along Woodcrest Way. The trees do not appear to be located in the correct location. Should the Planning Commission approve the application, staff recommends a condition of approval that the street trees must be installed in the tree lawn between the road and the sidewalk.
6. Zoning text section 8a.04(5) requires that there be a minimum of eight (8) deciduous or ornamental trees per 100 lineal feet planted throughout the setback areas along US-62. The proposed site has approximately 189 feet of frontage along US-62, requiring 15 trees to be installed. The plan currently meets this requirement.
7. Per zoning text 8a.04(4)(a), parking lots shall be screened from rights-of-way with a minimum 36-inch-high evergreen landscape hedge or wall. The landscape plan meets this requirement by showing shrubs to screen the parking lot from US-62. This will also be required along Woodcrest Way. Should the Planning Commission approve this application, the applicant shall amend the landscape plan to include screening from Woodcrest Way with a minimum 36-inch-high evergreen landscape hedge or wall.
8. The zoning text requires a minimum of 8% interior parking lot landscaping on the site. The application meets this requirement.
9. Zoning text section 8a.05(3) requires that trash receptacles and exterior storage areas be fully screened from public roads. The applicant is meeting this requirement by providing a dumpster enclosure and landscaping around three sides of the enclosure.
10. The City Landscape Architect has reviewed the referenced plan in accordance with the landscaping requirements found in the New Albany Codified Ordinances and zoning text and provides the following comments. Staff recommends all the City Landscape Architect's comments are met at the time of engineering permits, subject to staff approval.
 - Planting Plan:
 - To match adjacent business planting, please provide an evergreen hedge of 36" ht. Juniperus pfitzeriana 'Sea Green' Juniper. See diagram.
 - To match adjacent business planting, please plant random massing of large, deciduous shade trees along Johnstown Road. Consider species such as Acer, Ulmus, Quercus and Gleditsia. See diagram.
 - Provide side yard planting of random massing of large, deciduous shade trees. Consider species such as Acer, Ulmus, Quercus and Gleditsia. See diagram

- Replace all Malus x moerlandsii “Profusion” with Amelanchier x grandifolra ‘Autumn Brilliance’ clump form.
- Continue planting of Acer rubrum along Woodcrest Way to match precedent. See diagram.
- Consider adjusting plant list to include a wider variety of native, large deciduous shade trees. Please revise and resubmit planting plan and plant list.

J. Lighting & Signage

5. The applicant has submitted a photometric plan that meets code.
6. Zoning text section 8a.05(e) and (f) requires all parking lot and private driveway light poles to be cut-off and downcast, not to exceed 20 feet in height, painted New Albany Green, and the use of the same fixture that has been used at Dairy Queen and throughout the Canini Trust Corp. The application meets these standards.
7. As part of this final development plan application, the applicant has not submitted sign details for the site. Details for the proposed monument sign were not provided, in addition to other sign details still needed for a full evaluation. Staff recommends a condition of approval that these signs and all other sign details be subject to staff approval and must meet code requirements and the 2013 Trust Corp Signage Recommendations Plan. Any additional variances needed for signage will be heard by the Planning Commission in the future as part of a separate application.

Wall Signs

Zoning text section 8a.06(3)(i) permits one wall mounted sign per retail tenant on each elevation of the building that fronts or sides on a public or private road. One square foot of sign face is permitted per each lineal foot of the building, not to exceed 80 square feet in size. Per the architectural elevations, it appears as though the applicant proposes the following wall signs:

US-62 Elevation Wall Sign

- h. Area: information not provided
- i. Lettering height: information not provided
- j. Location: one on the US-62 building elevation [meets code as shown on architectural elevation sheet]
- k. Lighting: information not provided [external and halo permitted]
- l. Relief: information not provided [code minimum of 1-inch relief]
- m. Color: As shown on architectural elevations sheet; red, white, blue, and black
- n. Materials: not provided [must meet requirements of C.O. 1169.12(g)]

Woodcrest Way Elevation Wall Sign

- h. Area: information not provided
- i. Lettering height: information not provided
- o. Location: one on the Woodcrest Way building elevation [meets code as shown on architectural elevation sheet]
- j. Lighting: information not provided [external and halo permitted]
- k. Relief: information not provided [code minimum of 1-inch relief]
- l. Color: As shown on architectural rendering sheet; red, white, blue, and black
- m. Materials: not provided [must meet requirements of C.O. 1169.12(g)]

IV. ENGINEER’S COMMENTS

The City Engineer has reviewed the application and provided the following comments. These comments can also be found in a separate memo attached to this staff report. Staff recommends a condition of approval that the comments of the city engineer are addressed at the time of engineering permits, subject to staff approval.

7. Update the Site Data table shown on sheet C-1 of the submittal to include ADA Parking Stalls Required and ADA Parking Stalls provided.
8. Add a signature block to the FDP that matches Exhibit A.
9. Provide site distance triangles at the curb cuts and ensure that proposed landscaping does not obstruct motorist view.
10. Refer to note 26 on sheet C 3.0. Provide more information about the detention pond and how stormwater management will be provided.
11. Provide status of cross access easements with adjacent parcels.
12. In accordance with Code Section 1159.07 (3) Parts A. and D., please revise the cover sheet to show accurate distances and bearings from an established monument on the project to the three nearest established street lines or official monuments and show the location of boundary monuments (concrete 6"x6"x30" with an iron pipe cast in the center) at each corner, at each change of direction, at each intersection and at the beginning and end of curves.
13. We will evaluate storm water management, water distribution, sanitary sewer collection and roadway construction related details once construction plans become available.

V. SUMMARY

The proposal meets many of the goals of the Engage New Albany Strategic Plan such as providing pedestrian access along roadways and into the site, as well as utilizing high quality building materials that are consistent with other buildings in the immediate area. The proposed development is in an appropriate location given the context of the surrounding area and will serve as an amenity for the New Albany Business Park.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve final development plan application **FDP-116-2022**, subject to the following conditions:

5. Conditional use application CU-118-2022 must be approved;
6. All rooftop mechanical equipment shall be fully screened from all public roads;
7. The applicant shall amend the landscape plan to include the following:
 - a. Street trees along US 62 are installed in a random pattern subject to staff approval;
 - b. Street trees along Woodcrest Way shall be installed in the tree lawn between the road and the sidewalk;
 - c. One more additional street tree shall be added to the plan for a total of 6 street trees along Woodcrest Way;
 - d. Screening from Woodcrest Way shall be included with a minimum 36-inch-high evergreen landscape hedge or wall;
8. The City Landscape Architect's comments must be addressed at the time of engineering permits, subject to staff approval;
9. The monument sign, all wall signs, and all other sign details are subject to staff approval and must meet code requirements and the 2013 Trust Corp Signage Recommendations Plan; and
10. The City Engineer's comments must be addressed at the time of engineering permits, subject to staff approval.

Approximate Site Location:



Source: Google Earth



**Planning Commission Staff Report
October 17, 2022 Meeting**

**VALVOLINE
CONDITIONAL USE**

LOCATION: Located generally near the southeast corner of US-62 and Forest Drive, and north of Woodcrest Way (PID: 222-005179-00)
APPLICANT: Valvoline LLC, c/o Robin Peck
REQUEST: Conditional Use
ZONING: Infill Planned Unit Development (I-PUD): Canini Trust Corp, subarea 8a
STRATEGIC PLAN: Retail
APPLICATION: CU-118-2022

Review based on: Application materials received September 16, 2022 and October 6, 2022.

Staff report prepared by Chelsea Nichols, Planner

V. REQUEST AND BACKGROUND

The applicant requests approval of a conditional use to allow a car service use (oil change facility). The Canini Trust Corp (I-PUD) zoning text allows office buildings and the permitted uses contained in the Codified Ordinances of the Village of New Albany, OCD Office Campus District, Section 1144.02 and C-2, Commercial District, Section 1147.02, and the conditional uses contained in Section 1147.02, which includes a car service uses.

This request is in conjunction with a final development plan for the proposed Valvoline (FDP-116-2022).

VI. SITE DESCRIPTION & USE

The site is located on the southeast corner of US-62 and Forest Drive, and north of Woodcrest Way within the Canini Trust Corp site. The site is 1.25 acres and is currently undeveloped. The site is situated between the Dairy Queen and Popeye's sites.

III. EVALUATION

The general standards for Conditional Uses are contained in Codified Ordinance Section 1115.03. The Planning Commission shall not approve a conditional use unless it shall in each specific case, make specific findings of fact directly based on the particular evidence presented to it, that support conclusions that such use at the proposed location meets all of the following requirements:

- (a) *The proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Ordinance.*

Uses:

- The applicant proposes to develop a 4,154 square foot instant oil change facility/car service use on a 1.25-acre site. The site will be accessed from one full access curb cut along Woodcrest Way, which is a private road. The site will also be accessed from a shared right-in, right out curb cut that was constructed as part of the Dairy Queen development. There is

a shared access between this site and the Dairy Queen site. The two lots share this right-in, right out onto Johnstown Rd.

- This site is located within the Canini Trust Corp which envisions this type of use. Additionally, the proposed use is appropriate due to its proximity to the State Route 161 interchange and the New Albany Business Park. The site is situated between the Dairy Queen and Popeye's sites. Some of the other surrounding uses include Home2Suites, the Turkey Hill, Sheetz, and Aldi super market.
- The building is surrounded by the parking lot, internal drive aisles, and the queuing lanes for cars waiting to enter the building for an oil change. The three drive-through queuing lanes appear to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.
- It does not appear that the proposed use will alter the character of the surrounding area. The Engage New Albany Strategic Plan identifies this area as the retail future land use area. The proposed use is appropriate based on its proximity to State Route 161, the New Albany Business Park and the surrounding uses. The site is located within the Canini Trust Corp which envisions this type of use.

Architecture:

- The commercial building is well designed using high quality building materials with strong cornice lines along all sides of the building and incorporates large, appropriately designed windows along the primary facades of the building.
- The overall height of the building is 24 feet which meets the 35-foot maximum height allowed by the zoning text.
- It appears as though all of the mechanical equipment shall be located on the roof of the building and be fully screened from the public rights-of-way as well as private roads. This is a recommended condition of approval for the applications Final Development Plan application.

Parking & Circulation:

- Codified Ordinance 1167.05(d)(10) requires a minimum of one parking space for every 400 square feet of gross floor area space. The building is 4,154 square feet in size, therefore 11 parking spaces are required. The applicant is providing 11 parking spaces.
- Additionally, the city parking code does not require a minimum number of stacking spaces for this use, it does require a minimum number of stacking spaces for other uses with a drive-through. For those uses, the required number of stacking spaces must equal 25% of the total required parking spaces for the drive-through tenant space. Based on this calculation, 3 stacking spaces/queuing spaces must be provided and the applicant is exceeding this by providing 9.
- The Trust Corp site has a strong internal roadway network that supports car-oriented developments. The lot is located north of a private road that allows traffic to and from the site to be dispersed. The private road network consisting of Woodcrest Way and Forest Drive provides multiple connections to public streets.
- The zoning text encourages shared access drives between sites by allowing for zero pavement setbacks and by including a provision stating that where appropriate shared access agreements between adjacent parcels maybe required by the Village Development Director. Historically, the city staff and Planning Commission have encouraged shared curb cuts and connecting drive aisles between sites. The Dairy Queen site to the southwest established a curb cut to this proposed Valvoline site. The proposed Valvoline site plan will tie into that connection and also includes shared access to the Popeye's site so that this pattern of development can be continued to and from this subject site.

Landscaping:

- A landscape plan has been submitted with the final development plan application for this site. The City Landscape Architect's comments can be found in the final development plan staff report.
- (b) *The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*
- The proposed use is harmonious with the existing and intended character for the general vicinity and will not change the essential character of the area.
- (c) *The use will not be hazardous to existing or future neighboring uses.*
- The use does not appear it will be hazardous to the existing or future neighboring uses. It appears that this is an appropriate location for an instant oil change facility/car service use. All of the oil changing services will be contained inside the building.
- (d) *The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*
- Sewer and water service are available in this location.
 - There is a planned city project for roadway improvements along US-62. These improvements include extending the leisure trail from the Windsor subdivision under the State Route 161 overpass all the way to the Smith's Mill Road and US-62 intersection which will encourage multi-modal transportation at this site.
 - The proposed commercial development will produce no new students for the school district.
- (e) *The proposed use will not be detrimental to the economic welfare of the community.*
- The proposed use will not be detrimental to the economic welfare in the city due to creation of jobs which generate income taxes and provide amenities for the business park.
- (f) *The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*
- It does not appear the site will involve an operation that will be detrimental to adjacent uses. This area of the city is auto-oriented and is in close proximity to the State Route 161. US-62 is currently heavily traveled therefore it is reasonable to assume that this development will be frequently visited and serve as an important asset to those in the surrounding area.
- (g) *Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*
- The site is proposed to be accessed via an existing curb cut along US-62 and a new curb cut along Woodcrest Way which is a private road.
 - The building is surrounded by the parking lot, internal drive aisles, and the queuing lanes for cars waiting to enter the building for an oil change. The three drive-through queuing lanes appear to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.

VII. SUMMARY

The overall proposal appears to be consistent with the code requirements for conditional uses. The proposed use appears appropriate for the site based on the current zoning and the Engage New Albany Strategic Plan. Retail has historically been approached in a thoughtful and prescribed way that promotes a planned amount of land being dedicated to this use. Due to the close proximity of this site to State Route 161 and this portion of the business park, this appears to be an appropriate use in this location. This

application is appropriate and is strategically located to provide auto oriented services due to its proximity to the interchange and to serve this end of the business park. The proposed use will not change the character of the US-62 corridor as there are existing auto oriented uses with drive-thru facilities within the Canini Trust Corp site, and the Sheetz drive-thru development located across the street. The three drive-through queuing lanes for the Valvoline appear to be appropriately positioned on the site where it does not interfere with traffic on the rest of the site and will not cause traffic to back up onto public roads.

VIII. ACTION

The Commission shall approve, approve with supplementary conditions, or disapprove the application as presented. If the application is approved with supplementary conditions, the Planning Commission shall direct staff to issue a zoning permit listing the specific conditions listed by the Planning Commission for approval.

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve application CU-118-2022 to allow a car service uses at this parcel (conditions of approval may be added).

Approximate Site Location:



Source: Google Earth



**Planning Commission Staff Report
November 21, 2022 Meeting**

**6988 HANBY'S LOOP
FENCE LOCATION VARIANCE RECONSIDERATION REQUEST**

LOCATION: 6988 Hanby's Loop (PID: 222-004836-00)
APPLICANT: Ryan & Ashley Deal
REQUEST: Reconsider Variance to Ebrington Recorded Plat Easement
ZONING: Comprehensive Planned Unit Development: West Nine 2 Subarea C
STRATEGIC PLAN: Residential
APPLICATION: VAR-103-2022

Review based on: Application materials received August 25, 2022 and October 28, 2022.

Staff report completed by Sierra Cratic-Smith, Planner

I. REQUEST AND BACKGROUND

The applicant requests a reconsideration of a variance application the Planning Commission reviewed and denied on September 19, 2022. The variance request was to allow for the construction of a fence within the entire 12-foot-wide drainage easement. The fence was proposed be constructed along the side and rear property lines and within the drainage easement. There are no other easements on the property. The subdivision plat established a drainage easement along the rear property for the conveyance of stormwater.

The applicant cites crime, and fencing and landscaping being installed within the drainage easement at 7029 Hanby's Loop as reasons for reconsideration. The applicant's submittal can be found in a separate letter attached to this staff report.

The property at 7029 Hanby's Loop is one of the other homes in this vicinity with fences or other improvements within the drainage easement that are currently in code enforcement and was documented in the original September 19, 2022 staff report.

Per Codified Ordinance 159.06(c) (Reconsideration of Commission/Board Action) the Planning Commission may reconsider any action it has taken upon its own motion for good cause shown. Any action denying or disapproving an application, other than one involving an incomplete application, may be reconsidered no later than the second regular meeting after the original action from which reconsideration is being requested was taken, only if the applicant or its designee clearly demonstrates one of the following:

1. Circumstances affecting the subject property or item under consideration have substantially changed; or
2. New information is available that could not with reasonable diligence have been presented at a previous hearing.

Should the Planning Commission find that the reconsideration request has sufficient basis for approval, the following motion would be appropriate:

1. Move to reconsider variance application VAR-103-2022 pursuant to Codified Ordinance 159.

If the motion passes, staff recommends that the board immediately table the application until the next regularly scheduled meeting date so that the surrounding neighbors can be notified of the hearing and staff can prepare staff report containing a full evaluation of the proposal.

II. SITE DESCRIPTION & USE

The property is 0.38 acres in size and contains a single-family home. The lot is located in the New Albany Country Club Ebrington subdivision. The surrounding properties are located within the same subdivision and contain residential uses.

III. ASSESSMENT

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Commission must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*
3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

Approximate Site Location:



Source: Google Maps

New Albany Planning Commission,

It is after living in the home for a month that I have realized that there are circumstances that have become realized and changed since the planning committee hearing on September 19, 2022.

Since that meeting I have realized that there are multiple reasons why it should be reconsidered by this commission to allow myself and the residence of Hanby's Loop to build fences and allow plantings within the drainage easement. The reasoning is that it is apparent that the city is restricting building within 13 feet on both sides of the property line, that will require a 26 foot alleyway between all of our homes when residence install their fences.

Since living in the home it has become apparent that crime is actually an issue in this neighborhood. With police presence within mere feet of my backyard with trespassing recorded on police record, I have come to realize that allowing an alleyway of 26 feet (the street of Hanbys loop is 24 feet wide) it is allowing an alleyway for potential unwanted foot traffic. Also, it is actually wider than the street of Hanbys loop. It is apparent that it needs to be revisited to lessen this easement and allow fences to be built within the current constraints.

It has also come to my attention that it has clearly been allowed for other neighbors to have approval to build in the easement. At 7029 Hanbys loop. In my last meeting it was shared by the city that the error was on the home owner. This is not entirely accurate. It is clear to me when reviewing the approval by the city that the residence at 7029 Hanbys loop were given approval by the city. If this was shared accurately in my hearing then I may have received a different answer.

I want to make no troubles with the city, I just want the ability to realize all or the majority of my property. It is also clear that I am not the only one who feels this way as I have every current resident and some future residence in approval and wanting to have the opportunity to build fences to realize their full property.

I hope the city can work with the residence of Hanbys loop to come up with a solution so we can all have fences to protect our families and property lines while not having a 26 foot wide alleyway in our backyards. This will look odd and to be quite honest it makes all of us scratch our heads why such a requirement was not better advertised in such a high end community.

I am willing to work with the city to come up with a solution to not lose 13 feet of my backyard and create a dangerous and unsightly 26 yard alleyway in my backyard that can introduce unwanted trespassers and unsightly greenspace that will be difficult and most likely not as well maintained.

I appreciate the city and committee and their efforts but I hope we can direct this towards working with the hardworking taxpayers who are residence of New Albany.

Regards,

Ryan and Ashely Deal

6988 Hanbys loop

New Albany, OH 43054

614.549.0243





**Planning Commission Staff Report
November 21, 2022 Meeting**

**6972 HANBY'S LOOP
FENCE AND LANDSCAPING LOCATION VARIANCE**

LOCATION: 6972 Hanby's Loop (PID: 222-004832-00)
APPLICANT: Daniel & Chelsea Martin
REQUEST: Variance to Ebrington Recorded Plat Drainage Easement
ZONING: Comprehensive Planned Unit Development: West Nine 2 Subarea C
STRATEGIC PLAN: Residential
APPLICATION: VAR-128-2022

Review based on: Application materials received on October 21, 2022.

Staff report prepared by Sierra Cratic-Smith, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to allow a fence and landscaping to be constructed within a platted drainage easement. The subdivision plat established a drainage easement along the rear property line for the conveyance of above and below surface stormwater.

The Ebrington subdivision recorded plat states:

"Within those areas designated, "Drainage Easement" on this plat, an additional easement is hereby reserved for the purpose of constructing, operating, and maintaining major storm water drainage swales and/or other above ground storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas as delineated on this plat unless approved by the New Albany Municipal Engineer. No building shall be constructed in any area over which easements are hereby reserved."

The city (municipal) engineer reviewed and denied the request to encroach into the easement. The city engineer denied the request because the drainage easement contains a major flood route. Since the city engineer did not approve the request, the homeowner is seeking a variance.

The application is a result of a zoning code violation. City staff visited the site and determined the landscaping and fence were constructed without a permit. The homeowner is requesting a variance in order to allow the landscaping and fencing to remain as built.

II. SITE DESCRIPTION & USE

The property is lot 44 on the recorded plat, 0.29 acres in size and contains a single-family home. The lot is located in the New Albany Country Club's Ebrington subdivision. The surrounding properties are located within the same subdivision and contain residential uses.

III. ASSESSMENT

PC 22 1121 6972 Hanby's Loop Drainage Easement Encroachment VAR-128-2022

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. In accordance with C.O. 1113.05(b), all property owners within 200 feet of the subject property in question have been notified of the request via mail.

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*
3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

IV. EVALUATION

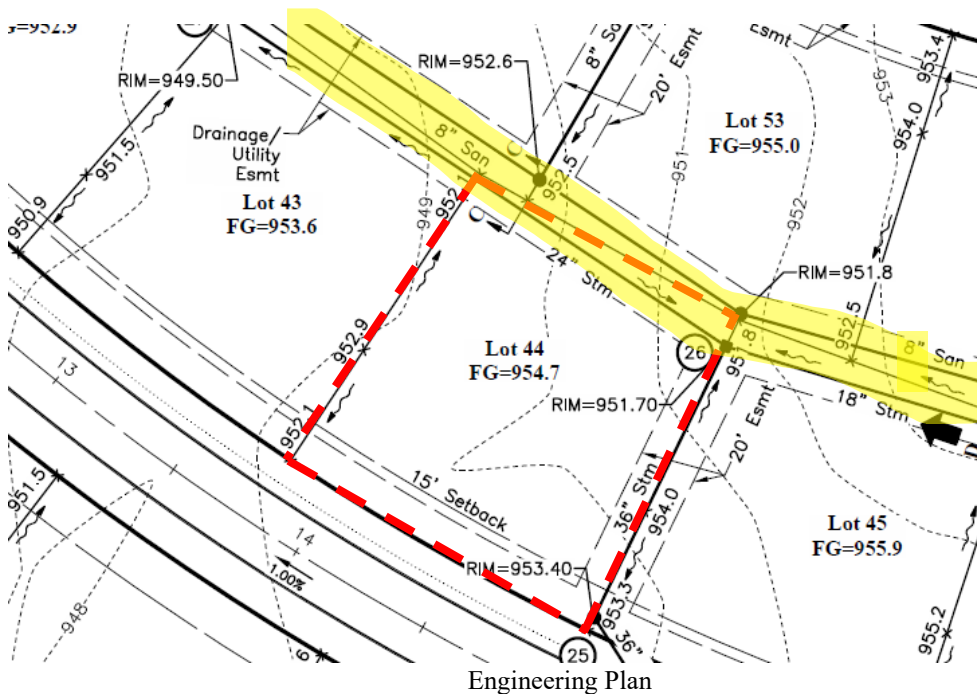
(A) Variance to Ebrington recorded plat to allow the installation of an aluminum black fence and tree landscaping where the plat requires, “No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas.”

The following should be considered in the commission’s decision:

1. The property’s rear yard is encumbered with a drainage easement. The drainage easement varies in width from 11 feet along the west side of the rear lot line to 18 feet on the east side of the rear lot line. The plat states, “within those areas designated, “Drainage Easement” on this plat, an additional easement is hereby reserved for the purpose of

constructing, operating, and maintaining major storm water drainage swales and/or other above ground storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas as delineated on this plat unless approved by the New Albany Municipal Engineer. No building shall be constructed in any area over which easements are hereby reserved."

2. The property owner requests a variance to allow for the construction of an aluminum fence with vertical pickets and landscaping within the rear drainage easement of their property. The fence will be constructed along the side and rear property lines and within the drainage easement. The landscaping includes three trees located within the northeast corner of the property. There is a general utility easement on the eastside property line where the fencing and landscaping is permitted to be installed.
3. According to the approved engineering plans for the subdivision, this drainage easement runs along the rear property line of 14 homes along this section and provides stormwater drainage for the properties into an inlet as shown in the picture below.



- Legend:
- ↔ Major Flood Route Direction
 - Inlets for Drainage
 - ~ Flood Path
 - Drainage easement

4. According to the approved engineering plans for the subdivision, this drainage easement has two types of drainage improvements. The first being a swale to drain surface rainwater from neighboring properties to catch basins. The second is a buried 24-inch storm sewer that runs along the rear of the property. This drainage easement also serves as a major flood route for significant rain events.
5. A major flood route is designed to accommodate and convey stormwater from major rain events. The typical drainage improvements are engineered to meet the demands of minor storm events whereas major flood routes are designed for major and extraordinary storm events.
6. The engineering plans show that in major and extraordinary storm events, if the buried 24-inch storm sewer were to fill up with water, the rear of these properties are graded to collect and convey the stormwater within the drainage easement, over the surface, to the roadway

- to the west. The rear of the property is graded for a flood routing channel that is approximately 14 feet wide and 1.5 feet deep.
7. If obstructions are located within the drainage easement, this could block the stormwater from flowing through the easement, as designed by the professional engineer who prepared the plans. As a result, blockage within the easement could result in ponding outside of the drainage area which will affect this and neighboring properties.
 8. This request appears to be substantial. The rear of the property is a major flood route. This flood route is used for rain and flood waters to drain properly in the rear of property owner's yards. The major flood route serves multiple properties within this section of the subdivision.
 9. It appears the problem can be solved by some manner other than the granting of a variance considering the size of the lot. The property's rear yard is encumbered with a drainage easement that varies in width from 11 feet along the west side of the rear to 18 feet on the east side of the rear yard. The back of the garage is about 25 feet from the rear property line. If the drainage easement cannot be built on, then there is 10-13+/- feet of buildable rear yard space behind the garage and 26-45+/-feet buildable rear yard space behind the house.
 10. It does not appear that there are special conditions and/or circumstances that are peculiar to the property that justify the variance request. The drainage easement in the rear yard is located within all of the lots (total of 14) within this block of the subdivision. Other homes within this vicinity with fences or other improvements within the drainage easement are currently in code enforcement.
 11. Approving the variance may be injurious to private property or public improvements in the vicinity. The fence could prevent stormwater runoff from properly draining out of the area. The result would likely be additional standing water encroaching into properties than designed since there would not be proper drainage.
 12. Granting the variance may adversely affect the delivery of government services. The city's engineering staff reviewed the application and determined that if debris or material is caught in the fence during a major rain event, it could block the stormwater from entering into the drainage inlets.

IV. RECOMMENDATION

In order to allow the drainage easement to function as designed, it is important that the fence and landscape are located outside of the easement. The major flood route engineering design focuses on precautionary protection of the neighborhood. If obstructions are located within the drainage easement, this could block the stormwater from getting to the catch basins, thereby prohibiting the drainage easement from functioning properly. Historically the city staff and city boards and commission have not permitted encroachments into major flood routes. Approving this variance may be precedent setting since there do not appear any special conditions on the properties.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for disapproval, finding the following motion is appropriate.

Move to approve application VAR-128-2022 based on the findings in the staff report (conditions of approval may be added)

Approximate Site Location:









Source: NearMap

Permit # _____
 Board _____
 Mtg. Date _____



Community Development Planning Application

Project Information	Site Address <u>6972 Hanbys Loop, New Albany, OH 43054</u>																																																												
	Parcel Numbers <u>223-004832-00</u>																																																												
	Acres <u>0.3</u> # of lots created <u>1</u>																																																												
Contacts	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">Choose Application Type</th> <th colspan="4" style="text-align: center;">Circle all Details that Apply</th> </tr> <tr> <td><input type="checkbox"/> Appeal</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Certificate of Appropriateness</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Conditional Use</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Development Plan</td> <td style="text-align: center;">Preliminary</td> <td style="text-align: center;">Final</td> <td style="text-align: center;">Comprehensive</td> <td style="text-align: center;">Amendment</td> </tr> <tr> <td><input type="checkbox"/> Plat</td> <td style="text-align: center;">Preliminary</td> <td style="text-align: center;">Final</td> <td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Lot Changes</td> <td style="text-align: center;">Combination</td> <td style="text-align: center;">Split</td> <td style="text-align: center;">Adjustment</td> <td></td> </tr> <tr> <td><input type="checkbox"/> Minor Commercial Subdivision</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Vacation</td> <td style="text-align: center; border: 1px solid black; border-radius: 50%;">Easement</td> <td></td> <td style="text-align: center;">Street</td> <td></td> </tr> <tr> <td><input checked="" type="checkbox"/> Variance</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Extension Request</td> <td></td><td></td><td></td><td></td> </tr> <tr> <td><input type="checkbox"/> Zoning</td> <td style="text-align: center;">Amendment (rezoning)</td> <td></td> <td style="text-align: center;">Text Modification</td> <td></td> </tr> </table>	Choose Application Type	Circle all Details that Apply				<input type="checkbox"/> Appeal					<input type="checkbox"/> Certificate of Appropriateness					<input type="checkbox"/> Conditional Use					<input type="checkbox"/> Development Plan	Preliminary	Final	Comprehensive	Amendment	<input type="checkbox"/> Plat	Preliminary	Final			<input type="checkbox"/> Lot Changes	Combination	Split	Adjustment		<input type="checkbox"/> Minor Commercial Subdivision					<input type="checkbox"/> Vacation	Easement		Street		<input checked="" type="checkbox"/> Variance					<input type="checkbox"/> Extension Request					<input type="checkbox"/> Zoning	Amendment (rezoning)		Text Modification	
	Choose Application Type	Circle all Details that Apply																																																											
	<input type="checkbox"/> Appeal																																																												
<input type="checkbox"/> Certificate of Appropriateness																																																													
<input type="checkbox"/> Conditional Use																																																													
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<input type="checkbox"/> Lot Changes	Combination	Split	Adjustment																																																										
<input type="checkbox"/> Minor Commercial Subdivision																																																													
<input type="checkbox"/> Vacation	Easement		Street																																																										
<input checked="" type="checkbox"/> Variance																																																													
<input type="checkbox"/> Extension Request																																																													
<input type="checkbox"/> Zoning	Amendment (rezoning)		Text Modification																																																										
Description of Request:	<p>Variance to allow existing fencing and landscaping within easement. Landscaping was constructed by The Grounds Guy via my builder, Guzzo & Garner. The received ARC and HOA approval. All surrounding neighbors desire both landscaping for privacy and fencing for safety/protection. The current easement regulations limit all neighbors to have limited yard protected by fence.</p>																																																												
Property Owner's Name: <u>Daniel Martin</u>	Address: <u>6972 Hanbys Loop</u>																																																												
City, State, Zip: <u>New Albany, OH, 43054</u>	Phone number: <u>614-315-7977</u> Fax: _____																																																												
Email: <u>danmart@svmelitejanitorial.com</u>																																																													
Applicant's Name: <u>Same</u>	Address: _____																																																												
City, State, Zip: _____	Phone number: _____ Fax: _____																																																												
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Signature	<p>Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information here within and attached to this application is true, correct and complete.</p>																																																												
	<table style="width: 100%;"> <tr> <td style="width: 60%;">Signature of Owner <u></u></td> <td style="width: 20%;">Date: <u>10/21/22</u></td> </tr> <tr> <td>Signature of Applicant <u></u></td> <td>Date: <u>10/21/22</u></td> </tr> </table>	Signature of Owner <u></u>	Date: <u>10/21/22</u>	Signature of Applicant <u></u>	Date: <u>10/21/22</u>																																																								
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Daniel Martin
6972 Hanbys Loop
New Albany, OH 43054
614-315-7977
Danmart@svmelitejanitorial.com

City of New Albany
Community Development
99 West Main Street
PO Box 188
New Albany, OH 43054

10/21/22

To Whom It May Concern,

This letter is meant to serve as a narrative statement of the variance application for the property located at 6972 Hanbys Loop, New Albany, OH 43054.

The violations at issue involve the existence of a fence and landscaping within an easement, in the rear portion (backyard) of the property.

The current fence was installed by Hamilton Fencing through my builder Guzzo & Garner in April 2022. As part of the contracting agreement between Guzzo & Garner and Hamilton Fencing, Hamilton Fencing was responsible for acquiring all permits. Guzzo & Garner was responsible for having the fence approved through the ARC. Hamilton Fencing applied for a permit through the HOA, requiring several submissions and received approval. Guzzo & Garner also received approval through the ARC. Hamilton Fencing believed that HOA approval included city compliance. Thus, through discussions with Hamilton Fencing, HOA approval, and ARC approval, it was Guzzo & Garner and I's understanding that the appropriate permits were obtained before construction of the fence.

The bottom of the fence is above ground and slats are thin, so water flows freely through and under it, as well as the visual line of site. The fence adds considerable value to the property via beauty and safety/protection. The safety/protection aspect is important to me because I have a Wife and two kids that live in the residence. My kids are ages 4 and 2. Recently, there has been some questionable conduct happening in the neighborhood from non-residents that resulted in police being in our neighborhoods and I's backyards. I need this fence to keep my family safe. In addition, the fence is in coordination with other neighboring fences, adding consistency in beauty and character to the neighborhood. If needed to be removed, the fence is coated with aluminum, and could be deconstructed fairly quickly with proper equipment, however, this would come at a steep cost. The fence cost over \$10,000 and will require a similar amount to adjust it, in addition to reducing our backyard area to the point where it wouldn't be worth surrounding with a fence.

After discussion with several neighbors in the Ebrington community from door-to-door efforts and current relationships, several of the neighbors are wanting to construct a fence too. Hence, why several of the neighbors are in collective coordination with the efforts on this variance. Homes in the Ebrington community were purchased under the pretext that the HOA bylaws allowed fences. One of the original homes in the community has a fence and landscaping that was approved by the city and HOA, encouraging buyers that such is allowed and feasible. The city is now trying to revoke the permits of this property, issued years ago, putting the expense and hardship on the current homeowner to make the requested adjustments despite previous approval.

The existing easement within the Hanbys Loop portion of the Ebrington community, and its associated regulations, almost completely prohibit the establishment of fences. The neighbors and I are applying for reconsideration of the regulations to be more accommodating to the establishment of a yard where families, children, and pets can enjoy their family lives with the protection of fencing, as intended when purchasing their homes. The safety of my family is of utmost importance to me because of how much they mean to me. I know the same goes for my neighbors.

In regard to landscaping, the current landscaping was constructed by The Grounds Guys through my builder, Guzzo & Garner. The landscaping contains multiple trees and embedded rock scenery that are stunning. When we have visitors over, they are always impressed with our landscaping. All landscaping was constructed in compliance with ARC and HOA standards and provides needed privacy, safety, and protection to the yard. The landscaping was constructed in April 2022. Most of the landscaping lies within the easement lines by a matter of 1-3 feet and roughly 12-13 ft off the rear/shared property line. Any impediment of water draining is strictly subjective and subject to the bias of the surveyor. There has been no water drainage issues to date.

After speaking with our landscaping company, removing the landscaping will incur steep financial costs of roughly \$20,000-\$25,000. Constructing new landscaping, roughly 3 feet farther in from the property line will be a similar cost. As the homeowner, I would be responsible for these costs, which could be up to \$50,000, plus \$10,000 to remove the fence, for a total of \$60,000. This seems like a steep financial penalty when all I am trying to do is protect my loved ones.

While I am applying for reconsideration of my own circumstances, I am also here in support of my neighbors who are also applying for similar interests in terms of the existence or establishment of a fence, and/or landscaping, along easement lines that will add beauty, safety, protection, and value to their property, and the Ebrington community, without risk of safety. Further, I feel the sporadic and untimely notice of these violations, and the associated demand, after years of previous existence in one of my neighbors' instances, has put a great hardship on the associated homeowners, and has created a distrust between homeowners and the city administration that is meant to serve and protect them. This is very un-New Albany like. This

community is supposed to come together and work together to solve problems/come to compromises and in this scenario that is not happening. We want to protect our families, hence, the need for a fence and we should be able to come to a solution/compromise to accomplish that goal.

Sincerely,



Daniel Martin, Esq., MBA

Associated Properties:

6976 Hanbys Loop New Albany, OH 43054

6972 Hanbys Loop New Albany, OH 43054

6980 Hanbys Loop New Albany, OH 43054

6984 Hanbys Loop New Albany, OH 43054

6988 Hanbys Loop New Albany, OH 43054

7013 Hanbys Loop New Albany, OH 43054

7017 Hanbys Loop New Albany, OH 43054

7029 Hanbys Loop New Albany, OH 43054

7025 Hanbys Loop New Albany, OH 43054

7021 Hanbys Loop New Albany, OH 43054

7009 Hanbys Loop New Albany, OH 43054

7005 Hanbys Loop New Albany, OH 43054

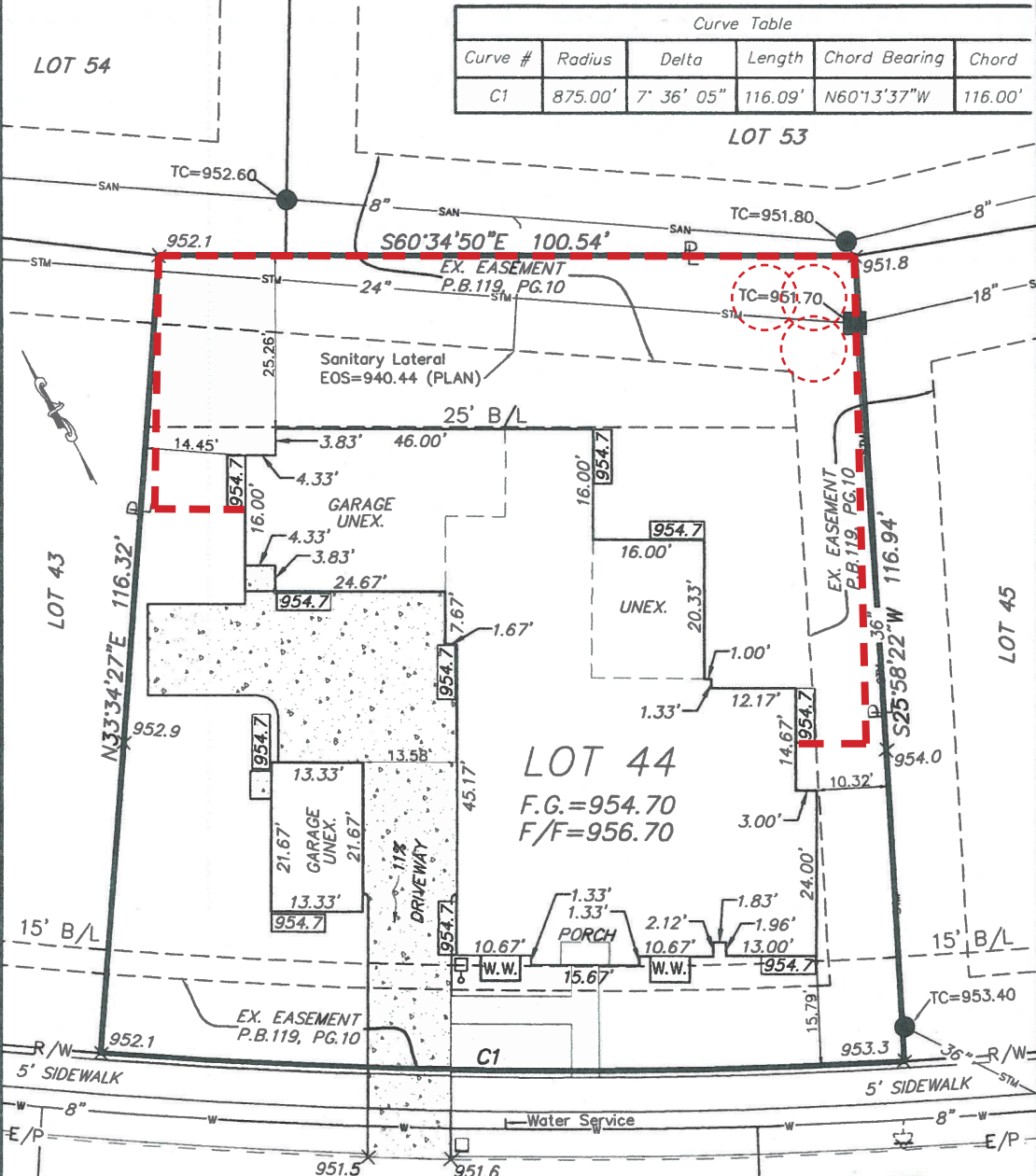
3905 Ebrington Rd. New Albany, OH 43054

6964 Hanbys Loop New Albany, OH 43054

FOR GUZZO HOUSE STYLE MARTIN PARCEL NO. 223-004832-00
 LOT NO: 44 ADDRESS: 6972 HANBY'S LOOP SUBDIVISION: NEW ALBANY COUNTRY CLUB
 CITY OF NEW ALBANY COUNTY OF FRANKLIN
 MIN. SETBACKS: REAR -XX' FLOOD ZONE: X COMMUNITY PANEL: 39049 PAGE: C0204K DATE: 06/17/2008

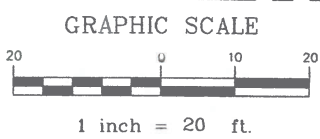
SIDE -7

Curve Table					
Curve #	Radius	Delta	Length	Chord Bearing	Chord
C1	875.00'	7° 36' 05"	116.09'	N60°13'37"W	116.00'



LOT 44
 F.G.=954.70
 F/F=956.70

Hanby's Loop - 50' R/W



W.W.=WINDOW WELL
 □=MAILBOX
 ○=LAMP POST

We hereby certify that the forgoing PLOT PLAN was prepared from information provided by the client and data obtained from an engineered subdivision plan. This plot plan is to be used by the client for the sole purpose of obtaining a BUILDING PERMIT. The use of the plot plan for other purpose is strictly prohibited.

By *[Signature]* Professional Surveyor No. 8114 Date 4/24/20



REVISIONS	DATE

PREPARED BY: **TAT WATCON**
 CONSULTING ENGINEERS & SURVEYORS
 83 Shull Avenue
 Gahanna, Ohio 43230
 Ph. (614) 414-7979

LOT NO.	44
DRAWN BY	JGL
CHECKED BY	SAE
SCALE	1" = 20'
DATE	04/22/2020

Z:\GUZZO\44 EBRINGTON\44 EBRINGTON.DWG - 0 XREFS: - PLOTTED BY JARED LANE - April 23, 2020 - 10:39 AM



**Planning Commission Staff Report
November 21, 2022 Meeting**

**6976 HANBY'S LOOP
FENCE & LANDSCAPING LOCATION VARIANCE**

LOCATION: 6976 Hanby's Loop (PID: 222-004833-00)
APPLICANT: Jay Holladay & Kimberly Sperwer
REQUEST: Variance to Ebrington Recorded Plat Easement
ZONING: Comprehensive Planned Unit Development: West Nine 2 Subarea C
STRATEGIC PLAN: Residential
APPLICATION: VAR-129-2022

Review based on: Application materials received on October 21, 2022.

Staff report prepared by Sierra Cratic-Smith, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to allow a fence and landscaping to be constructed within a platted drainage easement. The subdivision plat established a drainage easement along the rear property for the conveyance of stormwater.

The Ebrington subdivision recorded plat states:

"Within those areas designated, "Drainage Easement" on this plat, an additional easement is hereby reserved for the purpose of constructing, operating, and maintaining major storm water drainage swales and/or other above ground storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas as delineated on this plat unless approved by the New Albany Municipal Engineer. No building shall be constructed in any area over which easements are hereby reserved."

The city (municipal) engineer has reviewed and denied the request to encroach into the easement. The city engineer denied the request because the drainage easement contains a major flood route. Since the city engineer did not approve the request, the homeowner is seeking a variance.

The application is a result of a zoning code violation. City staff visited the site and determined the landscaping and fence were constructed without a permit. The property owner submitted a building permit after notice of the violation. The city denied the permit since the built conditions are in violation of the platted restrictions. The homeowner is requesting a variance in order to allow the landscaping and fencing to remain as built.

II. SITE DESCRIPTION & USE

The property is lot 45 on the recorded plat, is 0.30 acres in size and contains a single-family home. The lot is located in the New Albany Country Club's Ebrington subdivision. The surrounding properties are located within the same subdivision and contain residential uses.

III. ASSESSMENT

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. In accordance with C.O. 1113.05(b), all property owners within 200 feet of the subject property in question have been notified of the request via mail.

Criteria

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*
3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

IV. EVALUATION

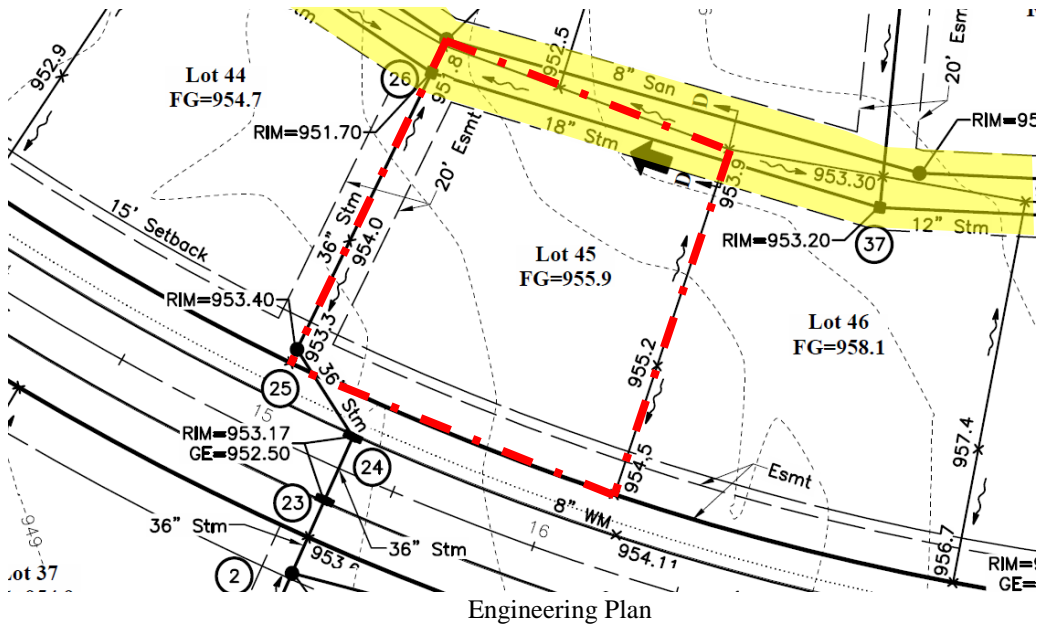
(A) Variance to the Ebrington recorded plat to allow the installation of an aluminum black fence and tree landscaping where the plat requires, “No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas.”

The following should be considered in the commission’s decision:

1. The property’s rear yard is encumbered with a drainage easement. The drainage easement varies in width from 18 feet along the west side of the rear lot line to 12 feet on the east

side of the rear lot line. The plat states, “within those areas designated, “Drainage Easement” on this plat, an additional easement is hereby reserved for the purpose of constructing, operating, and maintaining major storm water drainage swales and/or other above ground storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas as delineated on this plat unless approved by the New Albany Municipal Engineer. No building shall be constructed in any area over which easements are hereby reserved.”

2. The property owner requests a variance to allow for the construction of an aluminum fence with vertical pickets and landscaping within the rear drainage easement on their property. The fence will be constructed along the side and rear property lines and within the drainage easement. The landscaping includes six trees that are spread along the rear and east side of the property. There is a general utility easement on the west side property line where the fencing and landscaping is permitted to be installed.
 - a. The plot plan submitted by the applicant identifies two trees as being installed by the city. The city does not install trees or other landscaping on private property. The landscaping plans approved with the final development plan only show street trees, within the area between the street and sidewalk, were to be installed by the developer as part of the required infrastructure improvements.
3. According to the approved engineering plans for the subdivision, this drainage easement runs along the rear property line of 14 homes along this section and provides stormwater drainage for the properties into an inlets as shown in the picture below.



- Legend:
- ⇨ Major Flood Route Direction
 - Inlets for Drainage
 - <~~ Flood Path
 - Drainage easement

4. According to the approved engineering plans for the subdivision, this drainage easement has two types of drainage improvements. The first being a swale to drain surface rainwater from neighboring properties to catch basins. The second is a buried 18-inch storm sewer that runs along the rear of the property. This drainage easement also serves as a major flood route for significant rain events.
5. A major flood route is designed to accommodate and convey stormwater from major rain events. The typical drainage improvements are engineered to meet the demands of minor

storm events whereas major flood routes are designed for major and extraordinary storm events.

6. The engineering plans show that in major and extraordinary storm events, if the buried 18-inch storm sewer were to fill up with water, the rear of these properties are graded to collect and convey the stormwater within the drainage easement, over the surface, to the roadway to the west. The rear of the property is graded for a flood routing channel that is approximately 13 feet wide and 1.5 feet deep.
7. If obstructions are located within the drainage easement, this could block the stormwater from flowing through the easement, as designed by the professional engineer who prepared the plans. As a result, blockage within the easement could result in ponding outside of the drainage area which will affect this and neighboring properties.
8. This request appears to be substantial. The rear of the property is a major flood route. This flood route is used for rain and flood waters to drain properly in the rear of property owner's yards. The major flood route serves multiple properties within this section of the subdivision.
9. It appears the problem can be solved by some manner other than the granting of a variance considering the size of the lot. The drainage easement varies in width from 18 feet along the west side of the rear lot line to 12 feet on the east side of the rear lot line. The back of the house is 63+/- feet from the rear property line. If the drainage easement cannot be built on, then there is an average of 49+/- feet of buildable rear yard space. There appears to be sufficient space for a fence to be located outside the easement for backyard amenities as desired by the homeowner.
10. It does not appear that there are special conditions and/or circumstances that are peculiar to the property that justify the variance request. The drainage easement in the rear yard is located within all of the lots (total of 14) within this block of the subdivision. Other homes within this vicinity with fences or other improvements within the drainage easement are currently in code enforcement.
11. Approving the variance may be injurious to private property or public improvements in the vicinity. The fence could prevent stormwater runoff from properly draining out of the area. The result would likely be additional standing water encroaching into properties than designed since there would not be proper drainage.
12. Granting the variance may adversely affect the delivery of government services. The city's engineering staff reviewed the application and determined that if debris or material is caught in the fence during a major rain event, it could block the stormwater from entering into the drainage inlets.

IV. RECOMMENDATION

In order to allow the drainage easement to function as designed, it is important that the fence and landscape are located outside of the easement. The major flood route engineering design focuses on precautionary protection of the neighborhood. If obstructions are located within the drainage easement, this could block the stormwater from getting to the catch basins, thereby prohibiting the drainage easement from functioning properly. Historically the city staff and city boards and commission have not permitted encroachments into major flood routes. Approving this variance may be precedent setting since there do not appear any special conditions on the properties.

V. ACTION

Should the Planning Commission find that the application has sufficient basis for disapproval, finding the following motion is appropriate.

Move to approve application VAR-129-2022 based on the findings in the staff report (conditions of approval may be added)

Approximate Site Location:



Source: NearMap

Permit # _____
 Board _____
 Mtg. Date _____

NEW ALBANY

Community Development Planning Application

Project Information	Site Address <u>6976 Hanbys Loop New Albany, OH 43054</u>			
	Parcel Numbers <u>39049C</u>			
Acres <u>0.3</u>	# of lots created <u>1</u>			
Choose Application Type	Circle all Details that Apply			
<input type="checkbox"/> Appeal				
<input type="checkbox"/> Certificate of Appropriateness				
<input type="checkbox"/> Conditional Use				
<input type="checkbox"/> Development Plan	Preliminary Final Comprehensive Amendment			
<input type="checkbox"/> Plat	Preliminary Final			
<input type="checkbox"/> Lot Changes	Combination Split Adjustment			
<input type="checkbox"/> Minor Commercial Subdivision				
<input type="checkbox"/> Vacation	<u>Easement</u> Street			
<input type="checkbox"/> Variance				
<input type="checkbox"/> Extension Request				
<input type="checkbox"/> Zoning	Amendment (rezoning) Text Modification			
Description of Request:	Variance to allow existing fencing and landscaping within easement. Landscaping is original to home, placed by builder who claims to have had city and HOA approval. Fencing permit was applied for by Hamilton Fencing company, which received approval through HOA. All surrounding neighbors desire both landscaping for privacy and fencing for security and protection. The current easement regulations limit all neighbors to have limited if any yard protected by fence. Homes were purchased under the pretext of having a yard protected by fence and buyers were deceived by the presence of fence at neighboring property, who received permits from HOA and city. Current landscaping has existed for nearly six years without protest, current fence for one year. Current owner now having to take on expense and devaluation.			
Contacts	Property Owner's Name: <u>Jay Holladay</u>			
	Address: <u>6976 Hanbys Loop</u>			
City, State, Zip: <u>New Albany, OH 43054</u>	Phone number: <u>757-773-8340</u> Fax: _____			
Email: <u>jholladay85@gmail.com</u>				
Applicant's Name: <u>Same</u>				
Address: _____				
City, State, Zip: _____				
Phone number: _____ Fax: _____				
Email: _____				
Signature	Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information here within and attached to this application is true, correct and complete.			
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Signature of Owner <u>[Signature]</u>	Date: <u>10/29/22</u>			
Signature of Applicant <u>[Signature]</u>	Date: <u>10/21/22</u>			

Jay Holladay
6976 Hanbys Loop
New Albany, OH 43054
757-773-8340
jholladay85@gmail.com

City of New Albany
Community Development Department
99 West Main Street
PO Box 188
New Albany, OH 43054

10/21/22

To Whom It May Concern,

This letter is meant to serve as the narrative statement of the variance application for the property at 6976 Hanbys Loop, New Albany, OH 43054.

The violations at issue involve the existence of a fence and landscaping within an easement, in the rear portion (back yard) of the property.

The current fence was installed by Hamilton Fencing in August 2020. It has existed for over a year without complaint. As part of the contracting agreement, Hamilton Fencing was responsible for acquiring all permits. Hamilton Fencing applied for a permit through the HOA, requiring multiple submissions, before ultimately receiving approval. It was the understanding of Hamilton Fencing at that time that HOA approval included city compliance. Thus, through feedback from Hamilton Fencing, and HOA approval, it was my understanding as the homeowner that the appropriate permit was obtained before proceeding with construction.

The bottom of the fence is above ground and the slats are thin. Water flows freely through and under it, as well as the visual line of site. The fence adds value to the property via beauty and protection. The fence is in coordination with other neighboring fences, adding consistency in beauty and character to the neighborhood. If needed to be removed, the fence is coated aluminum, and could be deconstructed/cut fairly quickly with proper equipment. The cost of the fence was over 10 thousand dollars, and will require a similar amount to adjust it, in addition to reducing the yard to an area, arguably not worth surrounding.

Upon going door to door, it was found that all surrounding neighbors desire to have fences for their own yards, and are collectively in coordination with the effort of this variance. Homes in the Ebrington subdivision were purchased under the pretext that the HOA by-laws allowed fences. One of the original homes in the subdivision has a fence and landscaping that was approved by the city and HOA, encouraging buyers that such is allowed and feasible. The city is now trying to revoke the permits of this property, issued years ago, putting the expense and

hardship on the current homeowner to make the requested adjustments despite previous approval.

The existing easement within the Hanbys Loop portion of the Ebrington subdivision, and its associated regulations, almost completely prohibit the establishment of fences. I (We) are applying for reconsideration of the regulations to be more accommodating to the establishment of a yard where families, children, and pets can enjoy their daily lives with the protection of fencing, as intended when purchasing their homes.

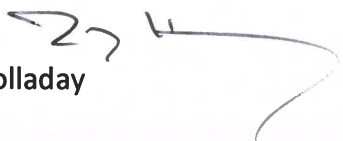
In regards to landscaping, the existing landscaping was placed by the original builder (Weaver Custom Homes) in 2017. The landscaping involves multiple trees that are beautiful, in compliance with New Albany HOA standards, and provide privacy and protection to the yard. The landscaping has existed for almost 6 years, and has been unaltered by any previous owner. Most of this landscaping lies just within the easement lines by a matter of 1-3 feet, and roughly 12-13ft off of the rear/shared property line. Any impedance of water drainage is strictly subjective, and subject to the bias of the surveyor. To my knowledge as the homeowner, there has been no issues with water drainage to date. When called, Weaver Custom Homes claimed to have approval from city and HOA for the landscaping, however, this could not be found upon inquiry to the city.

After speaking with landscaping professionals, removing the landscaping will incur financial costs of roughly 10-15 thousand dollars. Replacing new landscaping, roughly 3 feet farther in from the property line, will be a similar cost. Upon conversation with the Weaver Custom Homes, they claim no liability, and that they are not responsible for any costs of the dispute. Thus, as the current homeowner, I am now required to take on these significant costs, estimated at roughly 30 thousand dollars, when I had nothing to do with any of its implementation, and purchased the home in good faith, unknowing of any potential violation, given its existence since the construction of the property in 2017.

While I am applying for reconsideration of my own circumstances, I am also here in support of my neighbors who are also applying for similar interests in terms of the existence or establishment of a fence, and/or landscaping, along easement lines that will add beauty, protection, privacy, and value to their property, and our neighborhood, without risk of safety. Further, I feel the sporadic and untimely notice of these violations, and the associated demands, after years of previous existence, has put a great hardship on the associated homeowners, and has created a distrust between homeowners, and the city administration that is meant to serve and protect them. I urge the city to reconsider these violations, and work with homeowners to establish a more suitable compromise to satisfy the needs and desires of all parties involved.

Regards,

Jay Holladay

A handwritten signature in black ink, appearing to read "Jay Holladay", with a long, sweeping underline that extends to the right.



JOB NUMBER #: 3577 - 2019 S DATE OF DRAWING 07-26-19

CERTIFIED TO STEWART TITLE COMPANY

LENDER QUICKEN LOANS, INC.

BUYER JOHNSON

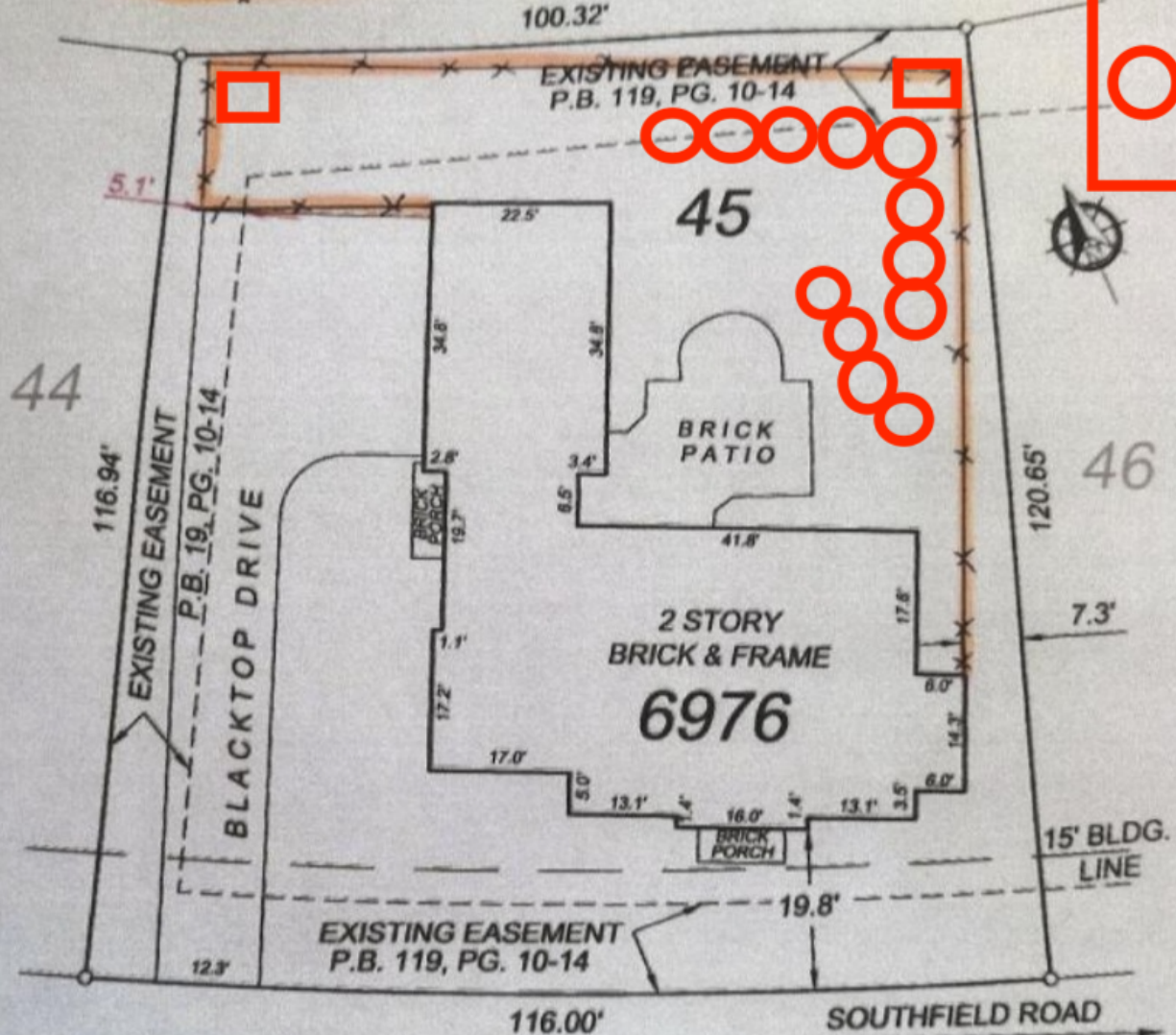
LEGAL DESC. LOT 45 - NEW ALBANY COUNTRY CLUB SECTION 28 PART 2 P.B. 119 PG. 34 - 35

CITY/TWP. NEW ALBANY COUNTY FRANKLIN DRN. SJH CK. SS DRAWING SCALE 1" = 20'

FEMA INFORMATION: FLOOD ZONE X MAP PANEL INFO 39049C 0204K MAP DATE 06-17-08

Proposed fence marked by x
Fence Same with Hove

□ = tree planted by city
○ = tree planted by builder



HANBY'S LOOP 50'

ENCROACHMENT INFORMATION DRIVE IN EASEMENT

I / WE HAVE RECEIVED A COPY OF THIS SURVEY AND FIND THE CONDITIONS ACCEPTABLE.

BUYER / OWNER

We hereby certify that the foregoing MORTGAGE LOCATION SURVEY was prepared in accordance with Chapter 4733-38, Ohio Administrative Code, and is not a Boundary Survey pursuant to Chapter 4733-37, Ohio Administrative Code. This plat is prepared for mortgage loan and title purposes only and is not to be construed as having been prepared for the owner and is not to be used to erect fences or other structures. Easements shown on this plat were taken from the subdivision plat of record. Additional easements affecting this property may exist.



Associated Properties:

6976 Hanbys Loop New Albany, OH 43054

6972 Hanbys Loop New Albany, OH 43054

6980 Hanbys Loop New Albany, OH 43054

6984 Hanbys Loop New Albany, OH 43054

6988 Hanbys Loop New Albany, OH 43054

7013 Hanbys Loop New Albany, OH 43054

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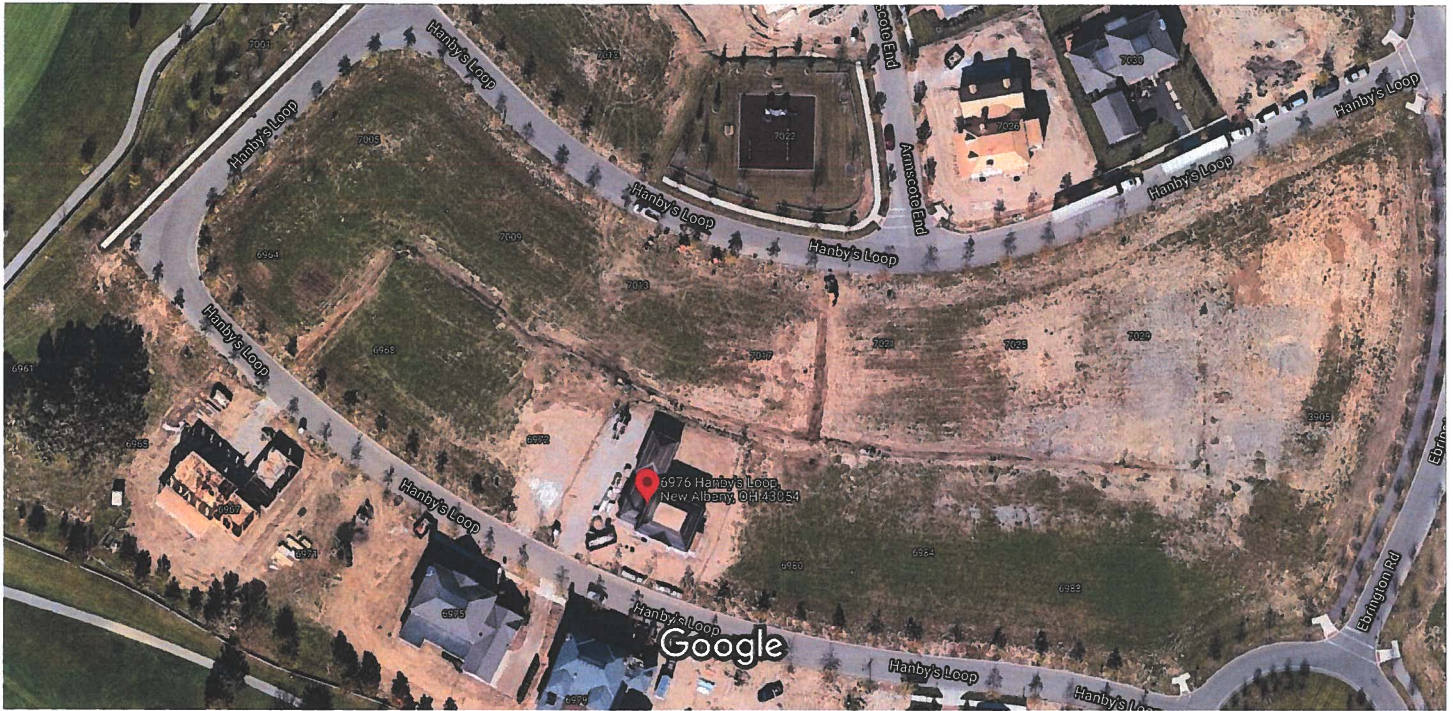
7021 Hanbys Loop New Albany, OH 43054

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3905 Ebrington Rd. New Albany, OH 43054

6964 Hanbys Loop New Albany, OH 43054





To: Planning Commission
From: Community Development Department
Re: C.O. 1113 Waiver Code Section Update
Date: November 15, 2022

This effort is a continuation of the community development department's 2022 initiative to review the planning and zoning code and make recommendations to bring the code up to current development standards. Attached are proposed updates to the city codified ordinances that provide additional factors for the Architectural Review Board (ARB) to consider when evaluating a waiver request. Under the current code, site-specific constraints are the only physical conditions that may be taken into consideration when granting a waiver request. Over time, city staff and the ARB have identified other conditions related to buildings or structures on a site that warrant consideration when evaluating a waiver request. The proposed code change will allow for building, structure or site-specific conditions to be taken into consideration by the ARB. The ARB reviewed and recommended approval to the Planning Commission during their November 14th meeting.

Please feel free to contact city staff if you have any questions.

CHAPTER 1113 APPEALS, VARIANCES AND WAIVERS¹

1113.01 APPEALS.

- (a) Taking of Appeals . Appeals to the Board of Zoning Appeals concerning interpretation or administration of this Ordinance by a staff member may be taken by any person aggrieved including a tenant, or by a governmental officer, department, board, or bureau, unless otherwise specified in this chapter. Such appeal shall be taken within twenty (20) days after the date of the decision, by filing with the Board of Zoning Appeals, a notice of appeal specifying the grounds thereof.
- (b) Imminent Peril . An appeal shall stay all proceedings in furtherance of the action appealed from, unless the City Manager's designee certifies to the Board of Zoning Appeals, after notice of appeal shall have been filed with him, that by reason of facts stated in the application a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may, on due cause shown, be granted by the Board of Zoning Appeals, after notice to the City Manager's designee or by judicial proceedings.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.02 NATURE OF VARIANCE AND WAIVER.

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable development standards of the Zoning Ordinance unreasonable and, therefore, procedures for variances and waivers from development standards are provided to allow the flexibility necessary to adapt to changed or unusual conditions, both foreseen and unforeseen, under circumstances which do not ordinarily involve a change of the primary use of the land or structure permitted.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.03 APPLICATION FOR VARIANCES AND APPEALS.

Any person owning or having an interest in property, may file an application to obtain a variance or appeal from the decision of the City Manager's designee.

The application of a variance or an appeal shall be made on such forms as prescribed by staff and shall contain the following information:

- (a) Name, address and phone number of the applicant.
- (b) Legal description of property as recorded in Franklin County Recorder's office.
- (c) Each application for a variance or appeal shall refer to the specific provisions of this Ordinance which apply.

¹Cross reference(s)—Board of Zoning Appeals - see CHTR. 10.03 et seq.;
Appeals from zoning decisions - see ORC 713.11, Ch. 2506

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- (d) The names and addresses of all property owners within two hundred (200) feet, contiguous to, and directly across the street from the property, as appearing on the Franklin County Auditor's current tax list.
 - (e) A narrative statement explaining the following:
 - (1) The use for which variance or appeal is sought.
 - (2) Details of the variance or appeal that is applied for and the grounds on which it is claimed that the variance or appeal should be granted, as the case may be.
 - (3) The specific reasons why the variance or appeal is justified according to this chapter.
 - (4) Such other information regarding the application for appeal as may be pertinent or required for appropriate action by the Board of Zoning Appeals.
 - (f) A plot plan drawn to an appropriate scale showing the following:
 - (1) The boundaries and dimensions of the lot.
 - (2) The nature of the special conditions or circumstances giving rise to the application for approval.
 - (3) The size and location of existing and proposed structures.
 - (4) The proposed use of all parts of the lots and structures, including accesses, walks, off-street parking and loading spaces, and landscaping.
 - (5) The relationship of the requested variance to the development standards.
 - (6) The use of land and location of structures on adjacent property.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.04 SUPPLEMENTARY CONDITIONS AND SAFEGUARDS.

In granting any appeal or variance, the Board of Zoning Appeals may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the appeal or variance is granted, shall be deemed a violation of this Ordinance and punishable under Section 1109.99. Under no circumstances shall the Board of Zoning Appeals grant an appeal or variance to allow a use not permissible under the terms of this Ordinance in the district involved, or any use expressly or by implication prohibited by the terms of this Ordinance in said district.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.05 PUBLIC HEARINGS AND NOTICE.

- (a) Public Hearing. The Board of Zoning Appeals shall hold a public hearing within thirty (30) days after receipt of an application for an appeal or variance from staff.
- (b) Notice. Before conducting the required public hearing, notice of the hearing shall be given in one or more newspapers of general circulation in the Municipality at least seven (7) days before the date of said hearing. The notice shall set forth the time and place of the public hearing and the nature of the proposed appeal or variance.

Written notice of the required public hearing shall be mailed by first class mail, at least ten (10) days before the day of the hearing to owners of property within two hundred (200) feet from, contiguous to, and directly across the street from the property being considered.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.06 ACTION BY THE BOARD OF ZONING APPEALS.

Within thirty (30) days after the public hearing, the Board of Zoning Appeals shall either approve, approve with supplementary conditions, or disapprove the request for appeal or variance. The Board of Zoning Appeals shall only approve a variance or approve a variance with supplementary conditions if the following findings are made:

- (a) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.
- (b) That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.
- (c) That the special conditions and circumstances do not result from the action of the applicant.
- (d) That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.
- (e) That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.
- (f) Certified copy of the Board's decision shall be transmitted to the applicant, or appellant, and a copy shall be filed with the Community Development Department.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.07 CERTIFICATE OF ZONING COMPLIANCE.

A certificate of zoning compliance may be issued only within the period of one year from the date of final approval by the Board of Zoning Appeals.

(Ord. 30-93. Passed 5-18-93; Ord. O-08-2011. Passed 5-17-11.)

1113.08 ACTION BY BOARD OF ZONING APPEALS.

Within thirty (30) days after the public hearing pursuant to Section 1113.05 or within thirty (30) days of the application if a hearing is not held, the Board of Zoning Appeals shall either approve, approve with supplementary conditions as specified in Section 1113.04, or disapprove the request for appeal or variance. If the application is approved, or approved with supplementary conditions, the Board of Zoning Appeals shall make a finding that the reasons set forth in the application justify the granting of the variance that will make possible a reasonable use of the land, building or structure. If the request for appeal or variance is denied, the applicant may seek relief through the Court of Common Pleas. A written copy of the Board's decision and findings will be provided to the applicant.

(Ord. O-08-2011. Passed 5-17-11.)

1113.09 WAIVERS.

Where specifically defined within the Zoning Ordinance, deviations from certain development standards are subject to the waiver process. A waiver to the standards may be approved by the Architectural Review Board (ARB) upon the request of an applicant as part of a certificate of appropriateness application. In considering a request for a waiver, the ARB shall conduct a public meeting in conjunction with the certificate of appropriateness.

(Ord. O-08-2011. Passed 5-17-11.)

1113.10 APPLICATION FOR WAIVER.

An applicant who wishes to have a requirement of the Zoning Ordinance waived must apply to the ARB through city staff for said waiver in conjunction with a certificate of appropriateness application that will be reviewed by the Architectural Review Board., The applicant must indicate the nature of the waiver sought and provide a statement explaining why the waiver should be granted. Any drawings or other materials needed to support the application, as determined by city staff, shall be submitted with the waiver request.

(Ord. O-08-2011. Passed 5-17-11.)

1113.11 ACTION BY THE ARCHITECTURAL REVIEW BOARD.

Within thirty (30) days after the public meeting, the ARB shall either approve, approve with supplementary conditions, or disapprove the request for a waiver. The ARB shall only approve a waiver or approve a waiver with supplementary conditions if the ARB finds that the waiver, if granted, would:

- (a) Provide an appropriate design or pattern of development considering the context in which the development is proposed and the purpose of the particular standard. In evaluating the context as it is used in the criteria, the ARB may consider the relationship of the proposed development with adjacent structures, the immediate neighborhood setting, or a broader vicinity to determine if the waiver is warranted;
- (b) Substantially meet the intent of the standard that the applicant is attempting to seek a waiver from, and fit within the goals of the Village Center Strategic Plan, Land Use Strategic Plan and the Design Guidelines and Requirements;
- (c) Be necessary for reasons of fairness due to unusual building, structure, or site - specific conditionseconstraints; and
- (d) Not detrimentally affect the public health, safety or general welfare.

(Ord. O-08-2011. Passed 5-17-11.)