



**New Albany Planning Commission
November 21, 2022 Minutes**

I. The New Albany Planning Commission met in regular session in the Council Chambers at Village Hall, 99 West Main Street, and was called to order by Planning Commission Chair Mr. Neil Kirby at 7:02 p.m.

II. Those answering roll call:

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

Staff members present: Sierra Cratic-Smith, Planner; Steven Mayer, Planning Manager; Benjamin Albrecht, Law Director; Ryan Ohly, Engineering Manager; Josie Taylor, Clerk; Christina Madriguera, Deputy Clerk.

III. Vice Chair Wallace moved, seconded by CM Schell, to approve the October 17, 2022 minutes as submitted and to continue consideration of the November 7, 2022 minutes until the next regularly scheduled meeting of the Planning Commission (hereafter PC). Upon roll call Chair Kirby noted that procedurally the movant's name should be called first followed by the second then the names should proceed in random order: Mr. Wallace, yea; Mr. Kirby, yea; Mr. Larsen, yea; Mr. Schell, yea; Yea, 4; Nay, 0; Abstain, 0. The motion passed by a 4-0 vote.

IV. Chair Kirby asked and Planning Manager Mayer answered that there were no additions or corrections to the agenda.

Chair Kirby administered the oath to all who would be speaking on the agenda.

V. Chair Kirby asked and there was no response regarding whether there were any persons present who wished to speak to the PC on items not on the agenda.

VII. Cases:

VAR-103-2022 Variance Reconsideration

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

Applicant: Ryan and Ashely Deal

Planning Manager Mayer presented an overview on platting requirements and discussed the types of easements including easements in a major flood route. (concluded at 11:55 min)

Planner Cratic-Smith presented the staff report on VAR-103-2022 Variance Reconsideration, a request for reconsideration of the PC's denial of an application for variance to construct a black aluminum fence within the platted drainage easement. (concluded at 14:04)

Chair Kirby asked and Law Director Albrecht answered that there are many factors that would comprise a finding of liability on the part of the village/city, but if a variance application was approved by the PC with the knowledge of the potential for damage, such a claim against the village/city would be foreseeable.

Vice Chair Wallace asked and Planning Manager Mayer answered that only the one-page letter was submitted with the request for reconsideration and that a written request for reconsideration was all that was required. Planning Manager Mayer further clarified the city's request that if the PC granted the applicant's request for reconsideration based upon the criteria established in code, that the application be tabled so that a full staff report on the merits could be completed and neighbor letters could be distributed as required by code. Vice Chair Wallace clarified that he was examining whether the evidentiary standard for reconsideration has been met in this case, whether something had changed at the property, or whether there was new information that could not have been discovered in the exercise of reasonable diligence. He observed that he did not see anything in the packet to support a finding of either of the reconsideration criteria. (16:12) Planning Manager Mayer stated that there was no additional information that staff was aware of.

Commission Member Larsen asked and Planning Manager Mayer responded in the affirmative that if the applicant constructed a fence on their property (but outside of the easement) it would be permissible for the applicant to construct a gate allowing access to the easement. (17:19)

Chair Kirby asked to hear from the applicant.

Mr. Deal, the applicant, stated that since the last meeting he had observations. The first regarded security – requiring property owners to construct fences outside of the easement would result in a 26ft alleyway which would decrease security, a fence which included the entire property was much more secure. He offered a police report, dated October 20th. The applicant further stated that a neighboring property currently had a fence similar to the applicant's variance request, and that variance (for landscaping and fencing at 7029 Hanby's Loop) was approved in November 2020. He stated that construction on his house did not begin until May of 2021 and his understanding was that construction of a fence similar to the neighboring property would be permissible. He further noted that code enforcement proceedings on the existing fence on the neighboring property did not begin until 2022. And that the November 2020 approval by the city of the fence for the neighboring property demonstrated that the city's assertion in a prior meeting that the neighboring fence had not been approved, was incorrect. (20:47) Planning Manager Mayer responded that construction of a fence in the major flood route on the neighboring property was missed (by the city) but was nonetheless erroneous and must be removed because it goes beyond the bounds of what was permitted by law. He further stated that the city was working with that property owner to bring that property into alignment with code. (21:30)

Vice Chair Wallace and Planning Manager Mayer discussed the process for the preparation and approval of a site plan in general and for the site plan for the neighboring property in particular. Planning Manager Mayer stated that the drainage easement was missed, and that the fencing was not clearly marked, and that if those items had been caught the fence on the neighboring property would not have been approved. Commission Member Schell further clarified that there was no variance request for the neighboring property fencing, that construction of the fence was part of the construction site plan.

Chair Kirby asked and Planning Manager Mayer responded that it would be possible to update the code to require that easement lines were more clearly marked on site plans in order to avoid similar problems in the future. (25:54)

Mr. Deal continued that Hanby's Loop, the road, was also part of the major flood route and that cars are similar obstructions within the major flood route. Planning Manager Mayer explained that it was very typical for streets to contain major flood routes and that streets are designed with drainage and curb inlets to convey water away. Mr. Deal stated that the neighbors agreed to construction of a fence on his property, and that he did not wish to have alley behind his property. He averred his willingness to work with the city in order to retain as much of his property - the cost of which was substantial - as possible, and to maintain as much security as possible.

Commission Member Schell asked and Mr. Deal responded that the major flood route easement was not disclosed to him prior to or at the purchase of his property. (28:05) Mr. Deal reiterated that at the time he purchased his property, a fence existed on the neighboring property, that he did not have legal counsel at the closing of the purchase of the property, and the title company did not disclose the existence of the major flood route easement. (29:19)

Vice Chair Wallace raised that the evidence seemed insufficient to support reconsideration in this case, and following that, whether there was sufficient evidence for approval of the variance. He asked and Law Director Albrecht responded that there was not much guidance but commission members must weigh what was presented; granting the motion to reconsider was not a determination on the merits of the variance, but a decision to reconsider the merits.

Mr. Jay Halladay, 6976 Hanby's Loop, stated in response to Vice Chair Wallace, that the new evidence in support of the motion for reconsideration was the ongoing conflict about the existing fence, the approval by the city and the home owner's association, and who would bear financial responsibility for the substantial cost of necessary changes. (30:48). Vice Chair Wallace pointed out that Mr. Halladay's application for variance was distinguished from Mr. Deal's in that Mr. Deal's was requesting reconsideration rather than a request for consideration in the first instance. On reconsideration, the applicant must demonstrate that they could not have discovered the new evidence with the exercise of reasonable diligence. In this case, because the dispute over the existing fence was on-going at the time the application was filed, that standard was not being met. Law Director Albrecht stated that the September 19, 2022 staff report (regarding consideration of Mr. Deal's application in the first instance) indicated that the existing fence on the neighboring property was in code enforcement. (34:21)

Mr. Daniel Martin, 6972 Hanby's Loop, stated that he thought the new information was the fact that the fence on the neighboring property was approved by the city, Mr. Deal agreed with Mr. Martin and reiterated that the city's approval of the existing fence, rather than the code enforcement proceedings, was new evidence to support his application for reconsideration. The PC, Law Director Albrecht, and Mr. Deal discussed whether his application for reconsideration should proceed as scheduled on the agenda or be tabled until the other two applications, scheduled for consideration in the first instance, were considered.

Chair Kirby moved, and Vice Chair Wallace seconded, that the application for reconsideration be tabled until the end of the cases. Upon roll call: Chair Kirby yea; Vice Chair Wallace yea; Commission Member Larsen yea; Commission Member Schell yea. There were 4 yea votes; 0 nay votes; 0 abstentions. The motion passed 4-0. (42:13)

VAR-128-2022 Variance

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

Applicant: Daniel Martin

Planner Cratic-Smith delivered the staff report.

The applicant, Daniel Martin, 6972 Hanby's Loop, New Albany, stated that his application was submitted in coordination with the rest of the block. He remarked that the existing fence on neighboring property informed his decision to have a fence installed on his property when his home was being built, that it was also a basis for his application for a variance, as was the city's approval of the neighboring fence, and that the drainage easement infringed on his yard. Mr. Martin stated that construction of a fence outside of the easement would greatly decrease the size of his property and raised concerns for the safety of his family. He stated that all neighbors agreed to the existing fence in the easement and that he was willing to compromise. Commission Member Schell asked why Mr. Smith was safer with a fence farther away from the house; Mr. Martin acknowledged Commission Member Schell's point and stated that he desired a larger fenced in area. Chair Kirby asked and Mr. Martin answered that he (Mr. Martin) did not have legal counsel when he purchased the property. Commission Member Larsen asked and Mr. Martin answered that the builder that constructed his home was different than the builder who constructed the neighboring home. Chair Kirby asked and Mr. Martin answered that no permit had been issued for the construction of the fence. Chair Kirby remarked that the contractor or subcontractor, Hamilton Fencing, who built the fence was bound to comply with permitting regulations imposed by the city. Chair Kirby asked and Planning Manager Mayer answered that no permits were sought by Hamilton or issued by the city for construction of a fence on the applicant's property. Chair Kirby and Law Director Albrecht discussed contractual obligations of Hamilton Fencing and whether the city bore any responsibility for the construction of the fence within the easement here. Mr. Martin remarked that because he was still operating under the builder contract for his home he had engaged in robust discussions with the builder regarding the construction of the fence. Commission Member Schell asked and Planning Manager Mayer answered that Hamilton Fencing was a registered contractor in the city but he did not know the amount of jobs Hamilton performed and that each property owner (on Hanby's Loop) had a different fence contractor. (54:48) Vice Chair Wallace asked and Planning Manager Mayer answered that a permit was required for fencing, but not for landscaping. Commission Member Larsen remarked that if the fence was moved and a gate was installed, the applicant would still have access to the portion of his backyard that contained the easement. (58:36) Chelsea Martin, 6972 Hanby's Loop, applicant, remarked that installation of a gate and establishing a large alleyway behind their property, would not be safe for their young children.

Jay Holladay asked the PC whether, in terms of reconsideration, there was a legal requirement for the size of the easement and whether the easement could be made smaller. Chair Kirby, Law Director Albrecht, and Engineer Ohly responded that easements were recorded with the county recorder and the process of vacating an easement required multiple levels of review and approval by local and county officials, as well as compliance with notification and approval from neighbors, and further that it was unclear whether an agreement executed between current property owners would be enforceable against future property owners. (1:03) Mr. Holladay acknowledged the substantial amount of work involved then questioned whether these applications could be tabled so that the applicants could investigate other options. Chair Kirby noted that two engineering analyses had been performed and advised Mr. Holladay to use caution prior to procuring more analysis. Chair Kirby and Mr. Martin then discussed whether Mr. Martin would like his application tabled, and if so for what period of time. (1:07) The PC consulted staff and Planning Manager Mayer advised the PC that there were many considerations involved with tabling the application, that applications had been tabled for 1 – 3 months in the past. He further stated that if the application was not approved a redesign would not be precluded, and if the application was approved a redesign would not be needed. The PC discussed the impact of tabling the application verses approval or denial of the application, and noted that if the applicant intended to pursue a redesign of the drainage easement tabling of this application was of no value. (1:12) Commission Member Larsen clarified with Planning Manager Mayer that pursuit of a change via engineering is an administrative process through the city, further that there was no value to tabling this request. Professional engineering advice would be targeted at changing the platting and redesigning the easement. Mr. Deal stated that a redesign was of interest and that there was currently substantial foot traffic in the area behind the properties. Mr. Holladay then

asked the PC about the next steps were, procedurally, the time limits to appeal a denial, and about preservation of the issue. Vice Chair Wallace responded that denials were appealable to the court of common pleas within a certain time and discussed with Law Director Albrecht whether, if no appeal was filed, the PC decision was res judicata. Law Director Albrecht stated that the city could not give legal advice to the applicants, the relevant rules and the time to appeal were established in the code. (1:18) Mr. Holladay was also concerned about the accumulation of daily fines during the pendency of the appeal process or redesign study and consultation process as well as the complications with securing approval by each property owner. Planning Manager Mayer acknowledged the daily fine provisions and stated that the city typically works with property owners before enforcing the fine provisions. Commission Member Larsen stated that the biggest challenge to this variance was the fact that it involved a safety provision, the life and safety of the applicant and surrounding property owners, rather than easement for a utility. Commission Member Schell stated that, in addition this application was challenging because of the potential liability to the city.

Chair Kirby moved to accept the staff report and related documents for VAR-128-2022 into the record. Vice Chair Wallace seconded the motion and added a friendly amendment to include the landscaping materials from 7029 Hanby's Loop. Chair Kirby agreed to the amendment. (1:22) Upon roll call: Chair Kirby, yea; Vice Chair Wallace, yea; Commission Member Larsen, yea; Commission Member Schell, yes. Having 4 yea; 0 nay; 0 abstentions, the documents were accepted into the record 4-0.

Chair Kirby then asked for a motion on the application. Vice Chair Wallace moved for approval of VAR-128-2022 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval. Chair Kirby seconded the motion. (1:23) Chair Kirby asked and there was no discussion on the motion. Upon roll call: Vice Chair Wallace, no; Chair Kirby, no; Commission Member Larsen, no; Commission Member Schell, no. Have 0 yea; 4 nays; 0 abstentions, the motion failed 0-4.

Regarding his no vote, Chair Kirby referred to the factors in *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83, (1986), and found that this application was a substantial variance and approval of this application would impose a substantial detriment to the 100-year drainage, the delivery of government services and on the neighboring properties, and that the problem this application proposed to solve could be solved by other means.

Regarding his no vote, Vice Chair Wallace agreed that this variance does not meet the *Duncan* requirements and also found that denial of this application was consistent with denial of a prior application and provided precedential value in the event the PC was faced with similar applications. Vice Chair Wallace and the PC members acknowledged the frustration of the applicant.

Regarding his no vote, Commission Member Larsen agreed with the findings of Chair Kirby and Vice Chair Wallace and added that approval of this variance would adversely affect the health and safety of neighboring properties.

Regarding his no vote, Commission Member Schell agreed with the findings made by the other commission members and acknowledged the challenge the applicant faced here but the task of the commission was to consider the application using stated criteria and there were too many safety concerns here.

VAR-129-2022 Variance

Variance request to allow the fence and landscaping constructed within a drainage easement for a major flood route to remain at 6976 Hanby's Loop (PID: 222-004833). (1:26)

Applicant: Jay Holladay

Planner Cratic-Smith delivered the staff report.

Mr. Holladay, the applicant, informed the PC that his application was different because the shape of his property was not rectangular, thus in order for him to comply with homeowner's association provisions that required fences to be rectangular, several mature evergreen trees would need to be removed from his property. (1:29) Compliance with HOA requirements and easement requirements would result in the loss of 2/3 of his property and removal or relocating the trees would cost thousand of dollars. Mr. Holladay stated that he contacted the home builder and the fence contractor and both affirmed that they had approval for the landscaping and fencing but neither could produce permits for the fence or landscaping; Mr. Holladay stated that he did not have legal counsel at the closing of his home. He stated that he had not made any changes to the landscaping since his purchase of the home and likewise the fence has been there without incident until recently and he was unsure how this arose. Chair Kirby stated that this was a hidden defect. Chair Kirby asked and Mr. Holladay answered that he was unsure how many levels of homeowner's associations existed in his neighborhood and that his property was part of the country club community. Chair Kirby stated that some alignment between the homeowner's associations and the property owners needed to take place regarding this easement and rules on fences. Chair Kirby asked and Planning Manager Mayer and Engineer Ohly answered that the trunk of the tree needed to be completely outside of the easement, a trunk that was slightly over the line impermissibly encroached on the easement, however boughs that do not touch the ground would not encroach on the easement. Planning Manager Mayer also stated that they had not yet field-verified which trees encroached on the easement, but would do so. (1:45) Mr. Holladay reiterated the significant cost of bringing this property into alignment with code, the PC acknowledged this difficult burden but approval of this application would exacerbate a known risk to health and safety.

Chair Kirby moved to accept the staff report and related documents, including additional documents supplied, into the record for VAR-129-2022. Commission Member Schell seconded the motion. Upon roll call: Chair Kirby, yea; Commission Member Schell, yea; Vice Chair Wallace, yea; Commission Member Larsen, yea. Having 4 yeas; 0 nays; 0 abstentions, the motion passed 4-0.

Vice Chair Wallace moved to approve application VAR-129-2022 based on the findings in the staff report and with any conditions listed in the staff report, subject to staff approval. Commission Member Larsen seconded the motion. Upon roll call: Vice Chair Wallace, nay; Commission Member Larsen, nay; Commission Member Schell, nay; Chair Kirby, nay. Having 0 yeas, 4 nays; 0 abstentions, the motion failed 0-4.

Regarding their no votes, the PC incorporated by reference the reasons stated for their denial of VAR-128-2022, for their denial of VAR-129-2022. (1:50)

VAR-103-2022 Variance Reconsideration

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

Applicant: Ryan and Ashely Deal

Chair Kirby moved to accept the staff report and related documents into the record for VAR-103-2022, including the police report. Upon roll call: Chair Kirby, yea; Vice Chair Wallace, yea; Commission Member Larsen, yea; Commission Member Schell, yea. Having 4 yeas, 0 nays, 0 abstentions, the motion passed 4-0.

Vice Chair Wallace moved to hear reconsideration of application VAR-103-2022 based on the findings in the staff report and the applicant letter. Commission Member Larsen seconded the motion. Upon roll call Vice Chair Wallace, yea; Commission Member Larsen, yea. Vice Chair Wallace then sought clarification on the meaning of a yes vote, and, following some discussion with Law Director Albrecht and the PC,

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stated that his yea vote was unintentional. Commission Member Larsen stated the same. Chair Kirby requested that roll call begin again.

Vice Chair Wallace moved to reconsider application VAR-103-2022 based on the findings in the staff report and the applicant letter. Mr. Deal, the applicant, asked, and Chair Kirby clarified that the PC's consideration was limited to whether the criteria for reconsideration of the denial had been met. The PC did not consider the merits of the application. Commission Member Larsen seconded the motion. Upon roll call: Vice Chair Wallace, nay; Commission Member Larsen, nay; Commission Member Schell, nay; Chair Kirby, nay. Having 0 yeas, 4 nays, 0 abstentions, the motion failed 0-4. (1:52)

Regarding his no vote, Vice Chair Wallace stated that this variance reconsideration request did not meet the standard for reconsideration.

Regarding his no vote, Commission Member Larsen agreed with Vice Chair Wallace's finding and stated that nothing would have changed the outcome for this application. There was no new, significant, material submitted.

Regarding his no vote, Commission Member Schell agreed with the findings made by Vice Chair Wallace.

Regarding his no vote, Chair Kirby also found that the materials submitted did not meet the standard for reconsideration. (1:56)

Mr. Deal then asked the PC about his appellate rights and was advised by the PC and staff to consult legal counsel and the New Albany Code of Ordinances. (1:57)

At 8:55 p.m., Chair Kirby called a ten-minute recess.

VII. Other Business

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

Planning Manager Mayer presented the staff report regarding the review and recommendation to City Council updates to the waiver criteria set forth in Section 1113.11. The proposed revisions would add to the criteria that staff and the Architectural Review Board used when evaluating a waiver request. Current code, site-specific constraints are the only physical conditions taken into consideration. The proposed code change would allow for building, structure or site-specific conditions to be considered with the intent of promoting consistency with other code provisions and clarity in this section of code.

Vice Chair Wallace asked why the language in option 3, that appeared to mirror the *Duncan* factors, was not included in option 2 and Planning Manager Mayer answered that staff reviewed that issue and concluded that adding those circumstances made the language too broad. Vice Chair Wallace asked whether this language would create any precedential value when reviewing Hamlet I-PUD questions in the future, and Planning Manager Mayer answered that this was the same language used in the hamlet I-PUD zoning text.

Vice Chair Wallace moved to recommend to council the updates to C.O. 1113.11. Commission Member Larsen seconded the motion. Upon roll call: Vice Chair Wallace, yea; Commission Member Larsen, yea; Chair Kirby, yea; Commission Member Schell, yea. Having 4 yeas; 0 nays; 0 abstentions, the motion passed 4-0. (2:08)

Vice Chair Wallace asked whether staff had any comment on the ongoing proceedings regarding the rezoning request to permit the development of a hamlet, which was approved at the prior PC

meeting. Planning Manager Mayer replied that the rezoning request was introduced as an ordinance before City Council and had its first hearing. The second hearing would take place on December 6th, this hearing would include public comment and the council would act on the ordinance. He further stated, in response, that some public comment regarding school impact and traffic was made at the first hearing.

VIII. Poll members for comment
No response.

IX. Adjournment
Chair Kirby adjourned the meeting at 9:20 p.m.

Submitted by Christina Madriguera, Deputy Clerk.

APPENDIX

Staff reports and related documents received into the record:

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VAR-103-2022

Staff Report on Fence Location Variance Reconsideration Request

Applicant letter

Police report

VAR-128-2022

Staff Report

Applicant letter

Landscaping materials for 7029 Hanby's Loop

VAR-129-2022

Staff Report

Applicant letter and landscaping diagram

Planning Commission Decision and Record of Action

VAR-103-2022 – Reconsideration denied 0-4

VAR-128-2022 – Variance denied 0-4

VAR-129-2022 – Variance denied 0-4



**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. ASSESMENT

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

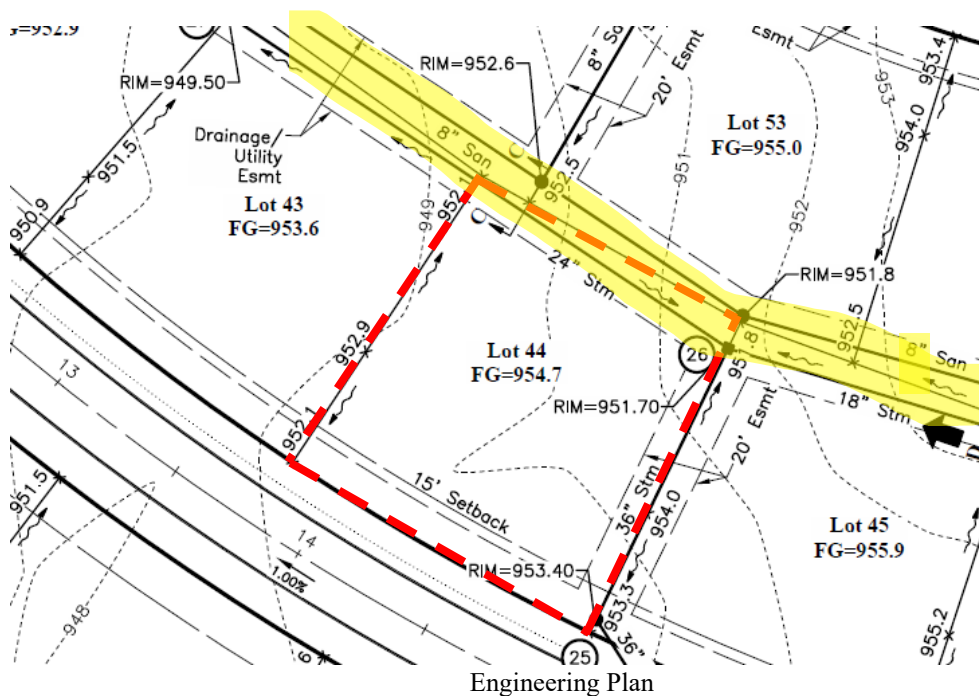
(A) Variance to Ebrington recorded plat to allow the installation of an aluminum black fence and tree landscaping where the plat requires, “No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within Drainage Easement areas.”

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

**Daniel Martin**  
6972 Hanbys Loop  
New Albany, OH 43054  
614-315-7977  
[Danmart@svmelitejanitorial.com](mailto: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 facility 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.

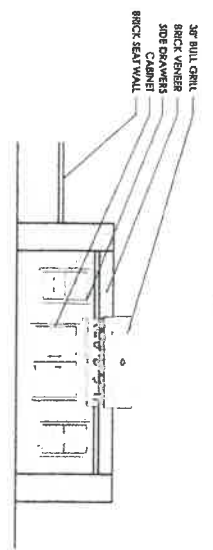
Sincerely,



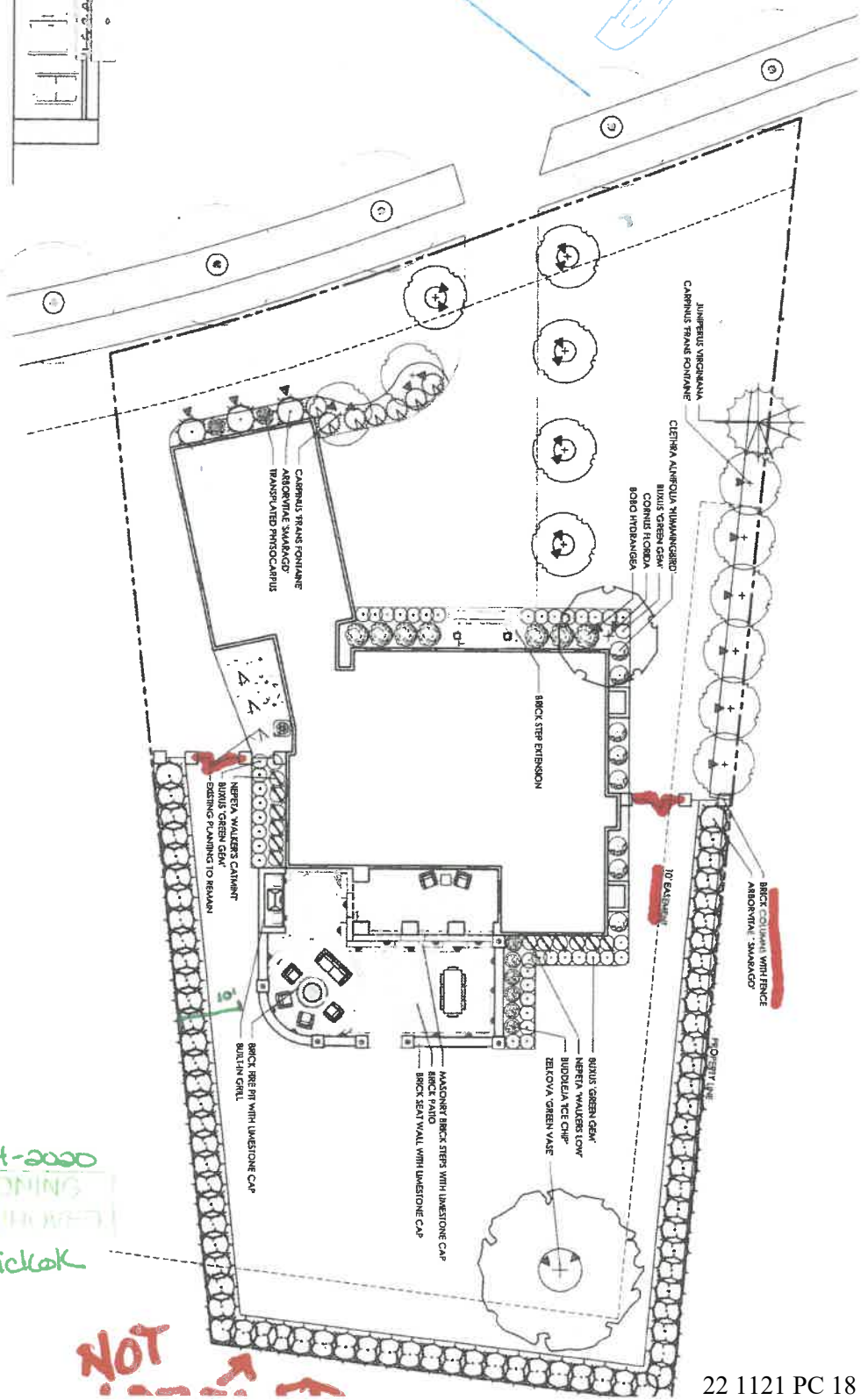
Daniel Martin, Esq., MBA

RECEIVED  
NOV 02 2012  
BY: \_\_\_\_\_

1 BUILT IN GRILL  
SCALE 1"=2'-0"



2 LANDSCAPE PLAN  
SCALE 1"=8'-0"



11-4-2000  
ZONING  
APPLICABLE  
P. HICKOK

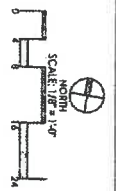
NOT

# LANDSCAPE CONCEPT

## PLAZA RESIDENCE

PREPARED FOR: 7029 HANBY'S LOOP, NEW ALBANY, OH 43054

Site: 7029 Hanby's Loop, New Albany, OH 43054  
Owner: Mr. & Mrs. John & Mary Smith  
Prepared by: P. Hickok  
Date: 11-4-2000  
Scale: 1"=8'-0"



**HIDDEN CREEK LANDSCAPING INC.**  
2100 KENTON BLVD. SUITE 100, HILLIARD, OH 43026  
Telephone: (614) 777-2524 Fax: (614) 777-2525

7029 Hanbys Loop, New Albany OH 43054 (lot 48)

Jose A Plaza and Martha Orrantia

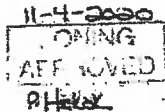
City of New Albany

APPROVED

Date: 11.4.2020

Permit #: REM.2020.0647

By: [Signature]



## Hardscape

### Columns and walls

- 6 brick columns 20" x20"x28" tall with 22"x22"x 2.5" thick limestone cap. Conduit included for electrician to run wiring.
- approximately 53 linear ft of brick seating wall at 20" tall above patio height. Wall to be 12" thick with 14" wide limestone cap.
- footings to be dug below frost line (36" deep) and poured a minimum of 12" thick.

### Mortared brick patio

- includes approximately 700 sq ft of mortared brick over reinforced concrete per plan.
- concrete will be reinforced through entire slab for longevity.
- bonding agent to be added to bed mortar

### Steps around upper patio

- approximately 75 linear ft of risers and limestone tread to create two steps up to upper patio
- caps to be 12" - 14" limestone at 2.5" thick.

### Fire pit

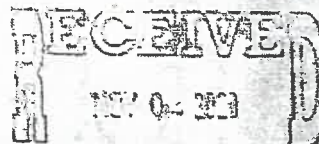
- approximately 5' radius brick fire pit with limestone cap. Per plan
- lined with firebrick
- limestone cap on fire pit is susceptible to damage from heat and is not warranted.

### Outdoor barbecue area

- Approximately 14ft wide by 7' tall
- includes full concrete footing and brick structure per plan.
- includes limestone or poured concrete countertop.
- Side Pillars

### Pillars on side of the house

- 7 Masonry Pillars on footers.
- The fence columns would need to be at least 6' tall, 20" wide, and have 22" limestone caps.
- Fence black aluminum 5' ht



BY:

### Lights

- Under mount low voltage LED lights per plan. 20 total.
- 8 fixture lights (pillars and kitchen)

### Electrical work

- 4 circuit total:
- 2 dedicated circuits by gas grill (protected GFCI)
- 1 dedicated circuit for exterior lighting
- 1 dedicated circuit as "spare"

|                                        |            |
|----------------------------------------|------------|
| This project will require permits for: |            |
| <input checked="" type="checkbox"/>    | Electrical |
| <input type="checkbox"/>               | Mechanical |
| <input type="checkbox"/>               | Plumbing   |
| <input checked="" type="checkbox"/>    | Other Gas  |

Need - outdoor grill  
+ fire pit



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

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

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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*

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**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.”**

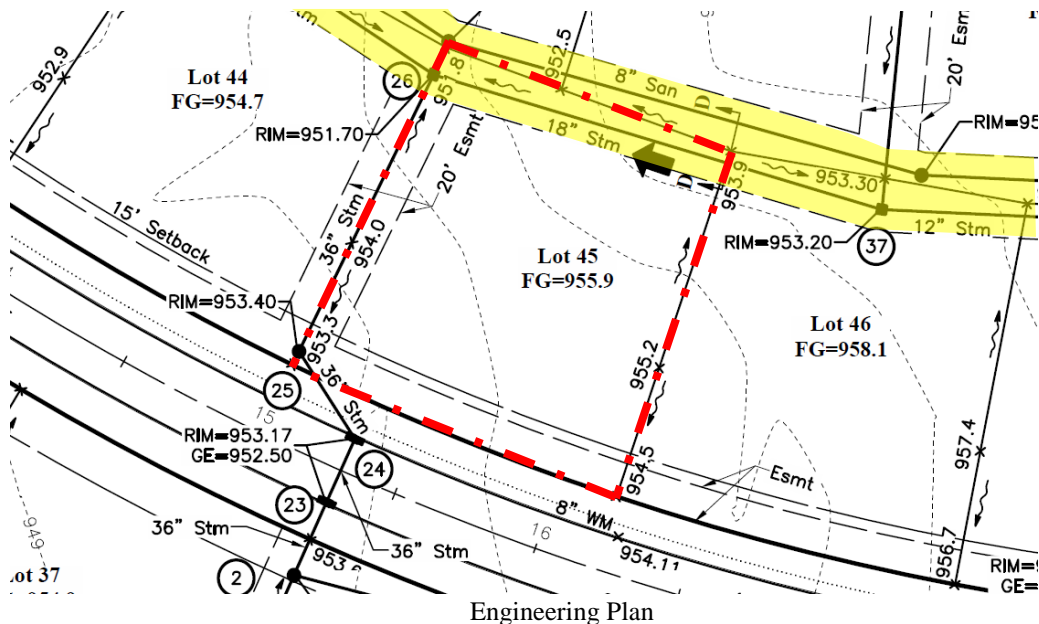
The following should be considered in the commission’s decision:

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



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



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

CERTIFIED TO STEWART TITLE COMPANY

LENDER QUICKEN LOANS, INC.

BUYER JOHNSON

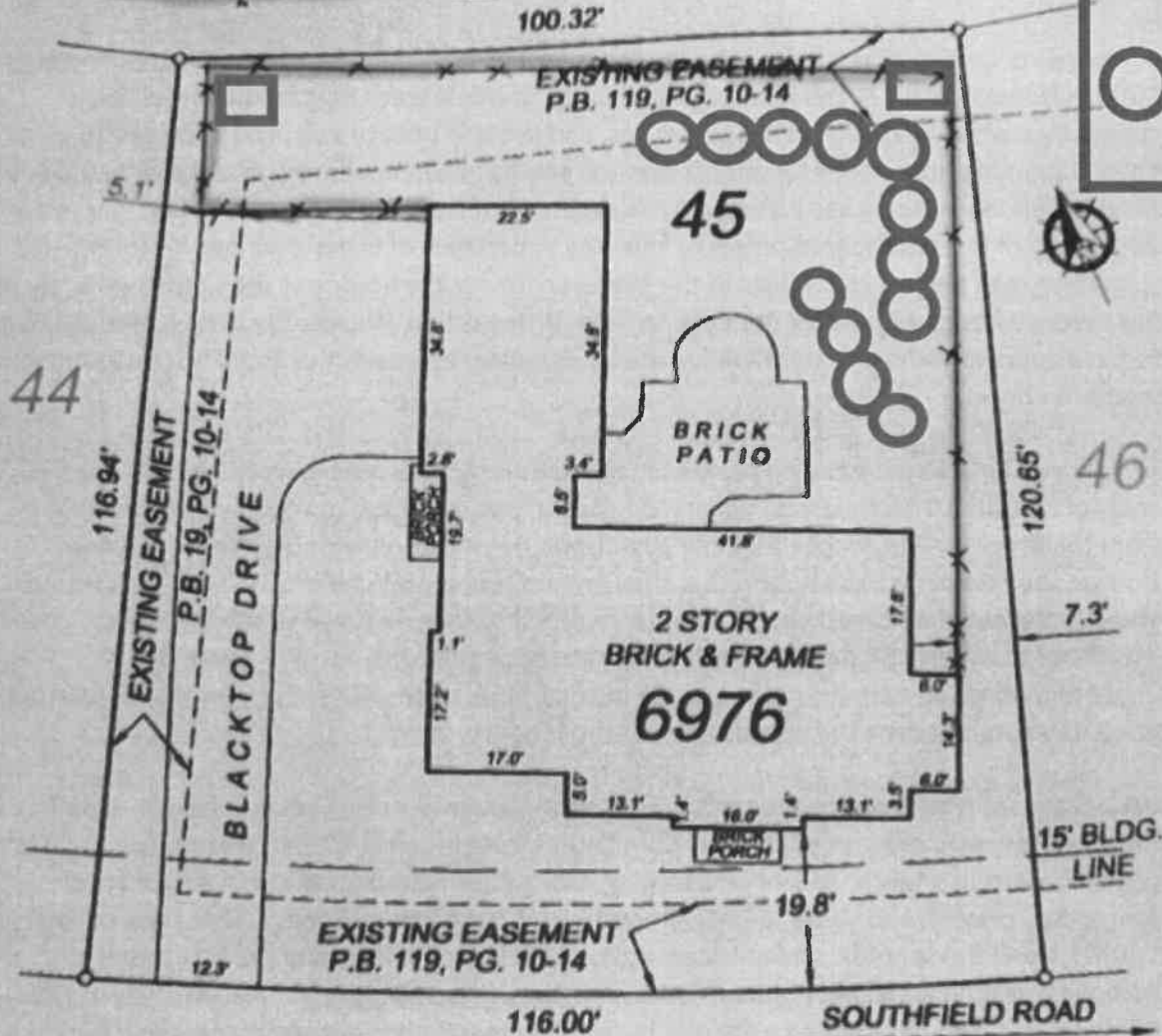
LEGAL DESC. LOT 45 - NEW ALBANY COUNTRY CLUB SECTION 28 PART 2 P.B. 119 PG. 34-35

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.

*Signature*





Planning Commission Staff Report  
November 21, 2022 Meeting

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

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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

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

*Staff report completed by Sierra Cratic-Smith, Planner*

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**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. ASSESMENT**

### ***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



**NEW ALBANY POLICE DEPARTMENT****FIELD CASE REPORT**CASE# **2022-00010673**

|              |                                               |                         |                        |
|--------------|-----------------------------------------------|-------------------------|------------------------|
| <b>EVENT</b> | REPORTED DATE/TIME<br><b>10/20/2022 22:31</b> | OCCURRED INCIDENT TYPE  | LOCATION OF OCCURRENCE |
|              | OCCURRED FROM DATE/TIME                       | OCCURRED THRU DATE/TIME |                        |

| <b>OFFENSES</b> | STATUTE/DESCRIPTION | COUNTS | ATTEMPT/COMMIT |
|-----------------|---------------------|--------|----------------|
|                 |                     |        |                |
|                 |                     |        |                |
|                 |                     |        |                |
|                 |                     |        |                |
|                 |                     |        |                |
|                 |                     |        |                |

|                |                                      |                                                                 |                                                                               |                                   |                      |                    |
|----------------|--------------------------------------|-----------------------------------------------------------------|-------------------------------------------------------------------------------|-----------------------------------|----------------------|--------------------|
| <b>SUBJECT</b> | JACKET/SUBJECT TYPE<br><b>Adult</b>  | NAME (LAST, FIRST, MIDDLE SUFFIX)<br><b>MARTINEZ, MICHAEL J</b> |                                                                               |                                   |                      |                    |
|                | DOB<br><b>03/14/1975</b>             | AGE or AGE RANGE<br><b>47</b>                                   | ADDRESS (STREET, CITY, STATE, ZIP)<br><b>9838 GLASGOW CT DUBLIN, OH 43017</b> |                                   |                      |                    |
|                | RACE<br><b>W - White</b>             | SEX<br><b>Male</b>                                              | HEIGHT or RANGE<br><b>5'8" 5'8"</b>                                           | WEIGHT or RANGE<br><b>210 210</b> | HAIR<br><b>Brown</b> | EYE<br><b>Blue</b> |
|                | DL NUMBER/STATE<br><b>[REDACTED]</b> | PRIMARY PHONE<br><b>[REDACTED]</b>                              | PHONE #2                                                                      | PHONE #3                          |                      |                    |
|                |                                      |                                                                 |                                                                               |                                   |                      |                    |

|                |                     |                                   |                                    |                 |      |     |
|----------------|---------------------|-----------------------------------|------------------------------------|-----------------|------|-----|
| <b>SUBJECT</b> | JACKET/SUBJECT TYPE | NAME (LAST, FIRST, MIDDLE SUFFIX) |                                    |                 |      |     |
|                | DOB                 | AGE or AGE RANGE                  | ADDRESS (STREET, CITY, STATE, ZIP) |                 |      |     |
|                | RACE                | SEX                               | HEIGHT or RANGE                    | WEIGHT or RANGE | HAIR | EYE |
|                | DL NUMBER/STATE     | PRIMARY PHONE                     | PHONE #2                           | PHONE #3        |      |     |
|                |                     |                                   |                                    |                 |      |     |

|                |                     |                                   |                                    |                 |      |     |
|----------------|---------------------|-----------------------------------|------------------------------------|-----------------|------|-----|
| <b>SUBJECT</b> | JACKET/SUBJECT TYPE | NAME (LAST, FIRST, MIDDLE SUFFIX) |                                    |                 |      |     |
|                | DOB                 | AGE or AGE RANGE                  | ADDRESS (STREET, CITY, STATE, ZIP) |                 |      |     |
|                | RACE                | SEX                               | HEIGHT or RANGE                    | WEIGHT or RANGE | HAIR | EYE |
|                | DL NUMBER/STATE     | PRIMARY PHONE                     | PHONE #2                           | PHONE #3        |      |     |
|                |                     |                                   |                                    |                 |      |     |

|                                         |                           |                                        |                   |
|-----------------------------------------|---------------------------|----------------------------------------|-------------------|
| REPORTING OFFICER<br><b>24 Ferguson</b> | DATE<br><b>10/20/2022</b> | REVIEWED BY<br><b>Strahler, Joel D</b> | <b>10/21/2022</b> |
|-----------------------------------------|---------------------------|----------------------------------------|-------------------|





# NEW ALBANY POLICE DEPARTMENT

FIELD CASE REPORT

CASE# 2022-00010673

## NARRATIVE

Officer Ferguson was dispatched to a disturbance involving a resident and a suspicious person going through garbage in the area of Hanby's Loop and Armscote End. Officers Goad and Klingler were dispatched as well. Officer Ferguson witnessed a vehicle matching the description of the suspicious vehicle leaving the area with one headlight out. Officer Ferguson called out the vehicle as it passed him. Officers Goad and Klingler, who were behind Officer Ferguson, initiated a traffic stop on the vehicle. Officer Ferguson turned around and went to the traffic stop. Officer Ferguson made a driver's side approach and witnessed bags of what appeared to be insulation and square wooden posts, approximately the size of railing spindles, connected with white plastic ties. The wood had pink paint on the ends. Officer Ferguson then left the traffic stop to make contact with the witness.

Officer Ferguson went to 7100 Armscote and spoke to the resident and her significant other, Michael Martinez. During this interaction, Martinez showed signs of impairment. The resident stated that they witnessed the suspect vehicle parked in the area move to a location which was later identified as 7021 Hanby's Loop. Martinez stated that he confronted the suspect. Martinez stated that the suspect told him that he was there to take trash from the dumpsters. Martinez also stated that he did not witness the suspect removing any property. The resident at 7100 Armscote told Martinez to come in and then called police. Martinez did provide identification and a written statement.

Officer Ferguson then met up with Officer Pack and walked through the construction sites to try and locate a victim. Officers Pack and Ferguson checked dumpsters and the new builds. No material matching what was located was found in any dumpster. Officers Ferguson and Pack did locate wood, that matched what was found in the suspect vehicle, stacked in the garage of 7021 Hanby's Loop. Officer Pack took pictures and Officers Pack and Ferguson cleared.

Officer Ferguson went back to the stop and spoke to the suspect. The suspect stated that he had gotten the items from the trash. Officer Ferguson allowed the suspect to call for a ride on the cruiser phone from 66. Officer Ferguson gave a courtesy transport to the Sheetz on Dublin-Granville Road after Officer Goad issued the suspect his citations.

REPORTING OFFICER  
**24 Ferguson**

DATE  
**10/20/2022**

REVIEWED BY  
**Strahler, Joel D**

**10/21/2022**



# NEW ALBANY POLICE DEPARTMENT

## FIELD CASE REPORT

CASE# 2022-00010673

|       |                                                    |                                                    |                                                                                        |
|-------|----------------------------------------------------|----------------------------------------------------|----------------------------------------------------------------------------------------|
| EVENT | REPORTED DATE/TIME<br><b>10/19/2022 22:31</b>      | OCCURRED INCIDENT TYPE<br><b>Theft</b>             | LOCATION OF OCCURRENCE<br><b>ARMSCOTE END<br/>HANBYS Loop<br/>New Albany, OH 43054</b> |
|       | OCCURRED FROM DATE/TIME<br><b>10/19/2022 22:31</b> | OCCURRED THRU DATE/TIME<br><b>10/19/2022 22:31</b> |                                                                                        |

|          |                                                                       |          |                |
|----------|-----------------------------------------------------------------------|----------|----------------|
| OFFENSES | STATUTE/DESCRIPTION                                                   | COUNTS   | ATTEMPT/COMMIT |
|          | <b>01 2913.02A1<br/>Theft - Without Consent (Theft from building)</b> | <b>1</b> | <b>Commit</b>  |
|          |                                                                       |          |                |
|          |                                                                       |          |                |
|          |                                                                       |          |                |
|          |                                                                       |          |                |

|         |                                            |                                                                                     |                 |                 |      |     |  |
|---------|--------------------------------------------|-------------------------------------------------------------------------------------|-----------------|-----------------|------|-----|--|
| SUBJECT | JACKET/SUBJECT TYPE<br><b>Adult Victim</b> | NAME (LAST, FIRST, MIDDLE SUFFIX)<br><b>Stanley, Mark</b>                           |                 |                 |      |     |  |
|         | DOB<br>AGE or AGE RANGE                    | ADDRESS (STREET, CITY, STATE, ZIP)<br><b>7021 Hanby's Loop New Albany, OH 43054</b> |                 |                 |      |     |  |
|         | RACE<br><b>U - Unknown</b>                 | SEX<br><b>Male</b>                                                                  | HEIGHT or RANGE | WEIGHT or RANGE | HAIR | EYE |  |
|         | DL NUMBER/STATE                            | PRIMARY PHONE                                                                       | PHONE #2        | PHONE #3        |      |     |  |

|         |                                             |                                                  |                               |                               |                    |                   |  |
|---------|---------------------------------------------|--------------------------------------------------|-------------------------------|-------------------------------|--------------------|-------------------|--|
| SUBJECT | JACKET/SUBJECT TYPE<br><b>Adult Suspect</b> | NAME (LAST, FIRST, MIDDLE SUFFIX)<br>[REDACTED]  |                               |                               |                    |                   |  |
|         | DOB<br>AGE or AGE RANGE                     | ADDRESS (STREET, CITY, STATE, ZIP)<br>[REDACTED] |                               |                               |                    |                   |  |
|         | RACE<br>[REDACTED]                          | SEX<br>[REDACTED]                                | HEIGHT or RANGE<br>[REDACTED] | WEIGHT or RANGE<br>[REDACTED] | HAIR<br>[REDACTED] | EYE<br>[REDACTED] |  |
|         | DL NUMBER/STATE                             | PRIMARY PHONE                                    | PHONE #2                      | PHONE #3                      |                    |                   |  |

|         |                         |                                    |                 |                 |      |     |  |
|---------|-------------------------|------------------------------------|-----------------|-----------------|------|-----|--|
| SUBJECT | JACKET/SUBJECT TYPE     | NAME (LAST, FIRST, MIDDLE SUFFIX)  |                 |                 |      |     |  |
|         | DOB<br>AGE or AGE RANGE | ADDRESS (STREET, CITY, STATE, ZIP) |                 |                 |      |     |  |
|         | RACE                    | SEX                                | HEIGHT or RANGE | WEIGHT or RANGE | HAIR | EYE |  |
|         | DL NUMBER/STATE         | PRIMARY PHONE                      | PHONE #2        | PHONE #3        |      |     |  |

|                                     |                           |                                        |                   |
|-------------------------------------|---------------------------|----------------------------------------|-------------------|
| REPORTING OFFICER<br><b>46 Goad</b> | DATE<br><b>10/19/2022</b> | REVIEWED BY<br><b>Strahler, Joel D</b> | <b>10/20/2022</b> |
|-------------------------------------|---------------------------|----------------------------------------|-------------------|



# NEW ALBANY POLICE DEPARTMENT

## FIELD CASE REPORT

CASE# 2022-00010673

### VEHICLES as INVOLVED

|                  |                                        |                                    |                         |                                    |
|------------------|----------------------------------------|------------------------------------|-------------------------|------------------------------------|
| INVOLVED VEHICLE | VEHICLE ROLE<br><b>Suspect Vehicle</b> |                                    |                         |                                    |
|                  | VEH YR<br><b>2006</b>                  | TYPE/MAKE/MODEL<br><b>Chrysler</b> |                         | STYLE<br><b>Town &amp; Country</b> |
|                  | PLATE / STATE<br><b>HQA5724 / OH</b>   | VIN<br><b>2A4GP54LX6R924255</b>    | TOP COLOR<br><b>Red</b> | BOTTOM COLOR<br><b>Red</b>         |
|                  | ADDITIONAL DESCRIPTIVE INFORMATION     |                                    |                         |                                    |
|                  |                                        |                                    |                         |                                    |

|                  |                                    |                 |           |              |
|------------------|------------------------------------|-----------------|-----------|--------------|
| INVOLVED VEHICLE | VEHICLE ROLE                       |                 |           |              |
|                  | VEH YR                             | TYPE/MAKE/MODEL |           | STYLE        |
|                  | PLATE / STATE                      | VIN             | TOP COLOR | BOTTOM COLOR |
|                  | ADDITIONAL DESCRIPTIVE INFORMATION |                 |           |              |
|                  |                                    |                 |           |              |

### VEHICLES as PROPERTY

|                  |                                    |                 |           |              |
|------------------|------------------------------------|-----------------|-----------|--------------|
| PROPERTY VEHICLE | PROPERTY CODE                      |                 |           | VALUE        |
|                  | VEH YR                             | TYPE/MAKE/MODEL |           | STYLE        |
|                  | PLATE / STATE                      | VIN             | TOP COLOR | BOTTOM COLOR |
|                  | ADDITIONAL DESCRIPTIVE INFORMATION |                 |           |              |
|                  |                                    |                 |           |              |

|                  |                                    |                 |           |              |
|------------------|------------------------------------|-----------------|-----------|--------------|
| PROPERTY VEHICLE | PROPERTY CODE                      |                 |           | VALUE        |
|                  | VEH YR                             | TYPE/MAKE/MODEL |           | STYLE        |
|                  | PLATE / STATE                      | VIN             | TOP COLOR | BOTTOM COLOR |
|                  | ADDITIONAL DESCRIPTIVE INFORMATION |                 |           |              |
|                  |                                    |                 |           |              |

|                  |                                    |                 |           |              |
|------------------|------------------------------------|-----------------|-----------|--------------|
| PROPERTY VEHICLE | PROPERTY CODE                      |                 |           | VALUE        |
|                  | VEH YR                             | TYPE/MAKE/MODEL |           | STYLE        |
|                  | PLATE / STATE                      | VIN             | TOP COLOR | BOTTOM COLOR |
|                  | ADDITIONAL DESCRIPTIVE INFORMATION |                 |           |              |
|                  |                                    |                 |           |              |

|                                     |                           |                                        |                   |
|-------------------------------------|---------------------------|----------------------------------------|-------------------|
| REPORTING OFFICER<br><b>46 Goad</b> | DATE<br><b>10/19/2022</b> | REVIEWED BY<br><b>Strahler, Joel D</b> | <b>10/20/2022</b> |
|-------------------------------------|---------------------------|----------------------------------------|-------------------|

**NEW ALBANY POLICE DEPARTMENT****FIELD CASE REPORT**CASE# **2022-00010673****GENERAL PROPERTY**

|                |                                                                                            |                                                           |        |                        |
|----------------|--------------------------------------------------------------------------------------------|-----------------------------------------------------------|--------|------------------------|
| <b>GENERAL</b> | PROPERTY CODE<br><b>Evidence (Non IBR)</b>                                                 |                                                           |        | VALUE<br><b>\$ .00</b> |
|                | QUANTITY/UNIT OF MEASURE<br><b>3 / Each</b>                                                | PROPERTY TYPE/CLASS<br><b>15 - Drugs/Narcotic Equipmt</b> | SERIAL | COLOR                  |
|                | ITEM DESCRIPTION<br><b>1 glass meth pipe with red sleeve and 2 broken glass meth pipes</b> |                                                           |        |                        |
|                |                                                                                            |                                                           |        |                        |

|                |                                                                      |                                                      |        |                        |
|----------------|----------------------------------------------------------------------|------------------------------------------------------|--------|------------------------|
| <b>GENERAL</b> | PROPERTY CODE<br><b>Evidence (Non IBR)</b>                           |                                                      |        | VALUE<br><b>\$ .00</b> |
|                | QUANTITY/UNIT OF MEASURE<br><b>1 / Each</b>                          | PROPERTY TYPE/CLASS<br><b>25 - Building Supplies</b> | SERIAL | COLOR                  |
|                | ITEM DESCRIPTION<br><b>King city lumber, 6 pack bundle 1"x1"x10'</b> |                                                      |        |                        |
|                |                                                                      |                                                      |        |                        |

|                |                                                                      |                                                      |        |                        |
|----------------|----------------------------------------------------------------------|------------------------------------------------------|--------|------------------------|
| <b>GENERAL</b> | PROPERTY CODE<br><b>Evidence (Non IBR)</b>                           |                                                      |        | VALUE<br><b>\$ .00</b> |
|                | QUANTITY/UNIT OF MEASURE<br><b>1 / Each</b>                          | PROPERTY TYPE/CLASS<br><b>25 - Building Supplies</b> | SERIAL | COLOR                  |
|                | ITEM DESCRIPTION<br><b>King city lumber, 6 pack bundle 1"x1"x10'</b> |                                                      |        |                        |
|                |                                                                      |                                                      |        |                        |

|                |                                                                      |                                                      |        |                        |
|----------------|----------------------------------------------------------------------|------------------------------------------------------|--------|------------------------|
| <b>GENERAL</b> | PROPERTY CODE<br><b>Evidence (Non IBR)</b>                           |                                                      |        | VALUE<br><b>\$ .00</b> |
|                | QUANTITY/UNIT OF MEASURE<br><b>1 / Each</b>                          | PROPERTY TYPE/CLASS<br><b>25 - Building Supplies</b> | SERIAL | COLOR                  |
|                | ITEM DESCRIPTION<br><b>King city lumber, 6 pack bundle 1"x1"x10'</b> |                                                      |        |                        |
|                |                                                                      |                                                      |        |                        |

|                |                                                                      |                                                      |        |                        |
|----------------|----------------------------------------------------------------------|------------------------------------------------------|--------|------------------------|
| <b>GENERAL</b> | PROPERTY CODE<br><b>Evidence (Non IBR)</b>                           |                                                      |        | VALUE<br><b>\$ .00</b> |
|                | QUANTITY/UNIT OF MEASURE<br><b>1 / Each</b>                          | PROPERTY TYPE/CLASS<br><b>25 - Building Supplies</b> | SERIAL | COLOR                  |
|                | ITEM DESCRIPTION<br><b>King city lumber, 6 pack bundle 1"x1"x10'</b> |                                                      |        |                        |
|                |                                                                      |                                                      |        |                        |

|                |                                                                      |                                                      |        |                        |
|----------------|----------------------------------------------------------------------|------------------------------------------------------|--------|------------------------|
| <b>GENERAL</b> | PROPERTY CODE<br><b>Evidence (Non IBR)</b>                           |                                                      |        | VALUE<br><b>\$ .00</b> |
|                | QUANTITY/UNIT OF MEASURE<br><b>1 / Each</b>                          | PROPERTY TYPE/CLASS<br><b>25 - Building Supplies</b> | SERIAL | COLOR                  |
|                | ITEM DESCRIPTION<br><b>King city lumber, 8 pack bundle 1"x1"x10'</b> |                                                      |        |                        |
|                |                                                                      |                                                      |        |                        |

REPORTING OFFICER  
**46 Goad**DATE  
**10/19/2022**REVIEWED BY  
**Strahler, Joel D****10/20/2022**



# NEW ALBANY POLICE DEPARTMENT

## FIELD CASE REPORT

CASE# 2022-00010673

### GENERAL PROPERTY

|         |                                                       |                                                      |        |                        |
|---------|-------------------------------------------------------|------------------------------------------------------|--------|------------------------|
| GENERAL | PROPERTY CODE<br><b>Evidence (Non IBR)</b>            |                                                      |        | VALUE<br><b>\$0.00</b> |
|         | QUANTITY/UNIT OF MEASURE<br><b>1 / Each</b>           | PROPERTY TYPE/CLASS<br><b>25 - Building Supplies</b> | SERIAL | COLOR                  |
|         | ITEM DESCRIPTION<br><b>Thermafiber R15 insulation</b> |                                                      |        |                        |

|         |                                                       |                                                      |        |                        |
|---------|-------------------------------------------------------|------------------------------------------------------|--------|------------------------|
| GENERAL | PROPERTY CODE<br><b>Evidence (Non IBR)</b>            |                                                      |        | VALUE<br><b>\$0.00</b> |
|         | QUANTITY/UNIT OF MEASURE<br><b>1 / Each</b>           | PROPERTY TYPE/CLASS<br><b>25 - Building Supplies</b> | SERIAL | COLOR                  |
|         | ITEM DESCRIPTION<br><b>Thermafiber R15 insulation</b> |                                                      |        |                        |

|         |                          |                     |        |       |
|---------|--------------------------|---------------------|--------|-------|
| GENERAL | PROPERTY CODE            |                     |        | VALUE |
|         | QUANTITY/UNIT OF MEASURE | PROPERTY TYPE/CLASS | SERIAL | COLOR |
|         | ITEM DESCRIPTION         |                     |        |       |

|         |                          |                     |        |       |
|---------|--------------------------|---------------------|--------|-------|
| GENERAL | PROPERTY CODE            |                     |        | VALUE |
|         | QUANTITY/UNIT OF MEASURE | PROPERTY TYPE/CLASS | SERIAL | COLOR |
|         | ITEM DESCRIPTION         |                     |        |       |

|         |                          |                     |        |       |
|---------|--------------------------|---------------------|--------|-------|
| GENERAL | PROPERTY CODE            |                     |        | VALUE |
|         | QUANTITY/UNIT OF MEASURE | PROPERTY TYPE/CLASS | SERIAL | COLOR |
|         | ITEM DESCRIPTION         |                     |        |       |

|         |                          |                     |        |       |
|---------|--------------------------|---------------------|--------|-------|
| GENERAL | PROPERTY CODE            |                     |        | VALUE |
|         | QUANTITY/UNIT OF MEASURE | PROPERTY TYPE/CLASS | SERIAL | COLOR |
|         | ITEM DESCRIPTION         |                     |        |       |

|                                     |                           |                                        |                   |
|-------------------------------------|---------------------------|----------------------------------------|-------------------|
| REPORTING OFFICER<br><b>46 Goad</b> | DATE<br><b>10/19/2022</b> | REVIEWED BY<br><b>Strahler, Joel D</b> | <b>10/20/2022</b> |
|-------------------------------------|---------------------------|----------------------------------------|-------------------|



# NEW ALBANY POLICE DEPARTMENT

FIELD CASE REPORT

CASE# 2022-00010673

## NARRATIVE

On 10/20/22 in a fully marked cruiser, I Ofc. Goad was dispatched to the area of Armscote End and Hanby's Loop to investigate a complaint of an individual going the garbage. While en-route I was informed the individual had been going through construction sites and I received a description of the suspect, a white male with beard, and the vehicle, a red minivan.

I arrived in the area and observed a red Chrysler minivan with a headlight out leaving the area. I activated my overhead emergency lights and conducted a traffic stop. I made a passenger side approach and made contact with the driver, identified as [REDACTED]. I observed new construction material to include new insulation still in its packaging and bundled pieces of wood in the back of the vehicle.

The vehicle was impounded, and new construction material was seized and [REDACTED] was cited for driving under suspension, financial responsibility act suspension, and headlights required. [REDACTED] was given a curtsy transport by Ofc. Ferguson, and all evidence seized was logged into New Albany evidence. Further investigation is needed.

REPORTING OFFICER  
**46 Goad**

DATE  
**10/19/2022**

REVIEWED BY  
**Strahler, Joel D**

**10/20/2022**



## **Community Development Department**

RE: City of New Albany Board and Commission Record of Action

Dear Daniel & Chelsea Martin

Attached is the Record of Action for your recent application that was heard by one of the City of New Albany Boards and Commissions. Please retain this document for your records.

This Record of Action does not constitute a permit or license to construct, demolish, occupy or make alterations to any land area or building. A building and/or zoning permit is required before any work can be performed. For more information on the permitting process, please contact the Community Development Department.

Additionally, if the Record of Action lists conditions of approval these conditions must be met prior to issuance of any zoning or building permits.

Please contact our office at (614) 939-2254 with any questions.

Thank you.



## Community Development Department

### Decision and Record of Action

Tuesday, November 22, 2022

The New Albany took the following action on November 21, 2022.

#### Variance

**Location:** 6972 Hanby's Lp., Unit:44

**Applicant:** Daniel & Chelsea Martin

**Application:** PLVARI20220128

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

**Motion:** To approve

**Commission Vote:** Motion Disapproved, 0-4

**Result:** Variance, PLVARI20220128 was denied , by a vote of 0-4 .

Recorded in the Official Journal this Tuesday, November 22, 2022

**Condition(s) of Approval:** NA

Staff Certification:

*Sierra Cratic-Smith*

Sierra Cratic-Smith  
Planner





## **Community Development Department**

RE: City of New Albany Board and Commission Record of Action

Dear Jay Holladay

Attached is the Record of Action for your recent application that was heard by one of the City of New Albany Boards and Commissions. Please retain this document for your records.

This Record of Action does not constitute a permit or license to construct, demolish, occupy or make alterations to any land area or building. A building and/or zoning permit is required before any work can be performed. For more information on the permitting process, please contact the Community Development Department.

Additionally, if the Record of Action lists conditions of approval these conditions must be met prior to issuance of any zoning or building permits.

Please contact our office at (614) 939-2254 with any questions.

Thank you.



## Community Development Department

### Decision and Record of Action

Tuesday, November 22, 2022

The New Albany took the following action on November 21, 2022.

#### Variance

**Location:** 6976 Hanby's Lp., Unit:45

**Applicant:** Jay Holladay

**Application:** PLVARI20220129

**Request:** Variance request to allow installation of a fence and landscaping within a drainage easement located at 6976 Hanby's Loop (PID: 222-004832).

**Motion:** To approve

**Commission Vote:** Motion Disapproved , 0-4

**Result:** Variance, PLVARI20220129 was denied , by a vote of 0-4.

Recorded in the Official Journal this Tuesday, November 22nd, 2022

**Condition(s) of Approval:** N/A

Staff Certification:

*Sierra Cratic-Smith*

Sierra Cratic-Smith  
Planner



## **Community Development Department**

RE: City of New Albany Board and Commission Record of Action

Dear Ryan Deal

Attached is the Record of Action for your recent application that was heard by one of the City of New Albany Boards and Commissions. Please retain this document for your records.

This Record of Action does not constitute a permit or license to construct, demolish, occupy or make alterations to any land area or building. A building and/or zoning permit is required before any work can be performed. For more information on the permitting process, please contact the Community Development Department.

Additionally, if the Record of Action lists conditions of approval these conditions must be met prior to issuance of any zoning or building permits.

Please contact our office at (614) 939-2254 with any questions.

Thank you.



## Community Development Department

### Decision and Record of Action

Tuesday, November 22, 2022

The New Albany Planning Commission took the following action on November 21, 2022 .

#### Variance

**Location:** 6988 Hanby's Lp., Unit:48

**Applicant:** Ryan Deal

**Application:** PLVARI20220103

**Request:** 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).

**Motion:** To reconsider VAR-2022-103

**Commission Vote:** Motion Disapproved, 0-4

**Result:** Variance, PLVARI20220103 was denied, by a vote of 0-4.

Recorded in the Official Journal this November 21, 2022

**Condition(s) of Approval:**N/A

Staff Certification:

*Sierra Cratic-Smith*

Sierra Cratic-Smith  
Planner