



New Albany Board of Zoning Appeals
March 27, 2023 Meeting Minutes

I. Call to order

The New Albany Board of Zoning Appeals met in regular session on March 27, 2023 at the New Albany Village Hall. Chair LaJeunesse called the meeting to order at 7:02 p.m. He recognized that Council Member Shull was at the meeting and would be serving as the council liaison.

The board welcomed Council Member Shull

II. Roll call

Those answering roll call:

Mr. LaJeunesse	present
Mr. Jacob	present
Ms. Samuels	absent
Mr. Smith	absent
Mr. Schell	present
Council Member Shull	present

Staff members present: Law Director Ben Albrecht; Planner II, Chris Christian; Deputy Clerk Christina Madriguera.

III. Action on minutes February 27, 2023

Chair LaJeunesse asked if there were any changes or corrections to the minutes.

Board Member Jacob moved to approve the meeting minutes from the February 27, 2023 meeting. Chair LaJeunesse seconded the motion.

Upon roll call: Mr. Jacob, yes; Mr. LaJeunesse, yes; Mr. Schell, yes. Having 3 yes votes; 0 no votes; and 0 abstentions, the February 27, 2023 meeting minutes were approved as submitted.

IV. Hearing of visitors for items not on tonight's agenda

There were no visitors for items not on the agenda.

Chair LaJeunesse administered the oath to applicant, Jim Knox of Suncraft.

V. Cases

VAR-32-2023 Variance

Variance to codified ordinance 1165.04(b)(3)(b) to allow an extension of a deck to encroach 6 feet into a drainage easement at 7034 Dean Farm Road (PID: 222-002246).

Applicant: Suncraft Construction Company

Planner II Christian delivered the staff report.

He explained that the applicant requested a variance from Codified Ordinance 1165.04(b)(3)(b) to allow a deck expansion of an existing patio to encroach 6 feet into an easement with a width of 10 feet for a total encroachment area of 60 square feet. The rear lot is 75 +/- feet long. The subject property was granted a variance in July 2021 for the existing patio and approval of this variance

would permit additional encroachment into the easement. He noted that there are no public utilities installed in the easement and that the proposed deck, if the variance is approved, would sit 3 feet above grade on posts in order to avoid negatively impacting stormwater drainage. And further, that 9 feet of open space would remain to allow for stormwater drainage.

Planner II Christian stated that, just as it had in July 2021, staff recommended a condition that the homeowner enter into and record a hold harmless agreement (or similar legal mechanism to be determined by the city engineer and/or attorney) specifying that the property owner, and not the city, is responsible for any damages to the deck in the event that a public or private utility provider needs to access the easement area prior to the issuance of a building permit and any impacts to neighboring surface drainage is the responsibility of the homeowner to address.

Chair LaJeunesse asked if there were any questions.

Board Member Jacob asked what property backed up to the subject property.

Planner Christian answered that it was a reserve area owned by the city that buffers the golf course.

Chair LaJeunesse asked whether the neighbors were notified and whether there had been any responses.

Planner Christian responded yes, and that there have not been any responses.

Chair LaJeunesse invited Mr. Fox to offer any further remarks in support of the application.

Mr. Fox responded that Planner II Christian's presentation and the staff report were sufficient.

Board Member Schell noted that the approval of the existing variance predated current board membership and asked Planner II Christian if he knew why the existing deck was approved.

Planner Christian responded that he reviewed the prior minutes and the existing deck was approved because it did not impede drainage as it was an elevated deck, because it was not built over any utilities, and because of the hold harmless provision.

Council Member Shull asked Law Director Albrecht whether this was deemed substantial the first time around and whether that was one of the main reasons for the indemnification contract.

Planner Christian responded in the affirmative and stated that staff has done hold harmless agreements for similar variance requests.

Law Director Albrecht stated that in this type of situation it is appropriate, but it might not be appropriate and sufficient for all areas.

Council Member Shull recalled that the layout of this particular neighborhood with properties so close to the easement necessitated variance requests from many of the properties.

Chair LaJeunesse moved to accept the staff report and related documents into the record for VAR-32-2023. Board Member Schell seconded the motion.

Upon roll call: Mr. LaJeunesse, yes; Mr. Schell, yes; Mr. Jacob, yes. Having 3 yes votes; 0 no votes; and 0 abstentions, the staff reports and related documents were accepted into the record.

Board Member Jacob moved for approval for application VAR-32-2023 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval. Chair LaJeunesse seconded the motion.

Law Director Albrecht clarified that the motion included the condition in the staff report that the homeowner enter into a hold harmless agreement.

The board agreed.

Upon roll call: Mr. Jacob, yes; Mr. LaJeunesse, yes; Mr. Schell, yes. Having 3 yes votes; 0 no votes; and 0 abstentions, the application was approved with the condition listed in the staff report.

VII. Other business

1. Annual Organizational Meeting

- Swear in new members
- Elect Chairperson
- Elect Vice-Chairperson
- Elect Secretary
- Establish date, time, and location for 2023 regular meetings

**Attendance is defined as in-person presence during the hearing and consideration of applications without a conflict of interest before that commission/board at that meeting. Attendance of all current serving members of the commission/board is encouraged, and three (3) consecutive absences by any member or four (4) absences in any 12-month period shall be considered a forfeiture of the membership to the commission/board. The forfeiture would occur regardless of the reason for the absences. The applicable department designee would then notify the clerk of council so that they can inform council that a new appointment needs to be made.*

Chair LaJeunesse noted that only 3 of the 5 board members were present and raised the issue of tabling the organizational meeting until the next regularly scheduled meeting.

Law Director Albrecht indicated that tabling would be appropriate if that is what the board wanted to do.

Chair LaJeunesse opened the issue for discussion and reviewed the current positions on the board.

Board Member Jacob agreed that tabling was appropriate.

Board Member Schell agreed that tabling was appropriate.

Planner II Christian recommended tabling until the next regularly scheduled meeting and noted that pursuant to recent code updates, that boards and commissions had until July to conduct their organizational meetings.

Board Member Schell moved to table the organizational meeting until the next regularly scheduled meeting. Board Member Jacob seconded.

Upon roll call: Mr. Schell, yes; Mr. Jacob, yes; Mr. LaJeunesse, yes. Having 3 yes votes; 0 no votes; and 0 abstentions, the organizational meeting was tabled until the next regularly scheduled meeting.

VIII. Adjournment

Chair LaJeunesse moved to adjourn. Board Member Jacob seconded the motion.

Upon roll call: Mr. LaJeunesse, yes; Mr. Jacob, yes; Mr. Schell, yes. Having 3 yes votes; 0 no votes; and 0 abstentions, the meeting was adjourned at 7:15 p.m.

Submitted by Christina Madriguera, Esq., Deputy Clerk.

Appendix
VAR-32-2023
Staff Report
Record of Action