



New Albany Board of Zoning Appeals Meeting Agenda
August 21, 2023 at 6:00pm

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

I. Call to order

II. Roll call

III. Action on minutes June 26, 2023

IV. Additions or corrections to agenda

Administer oath to all witnesses/applicants/staff who plan to speak regarding an application on tonight's agenda. "Do you swear to tell the truth and nothing but the truth."

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

VI. Cases

VAR-81-2023 Variance

Variances to C.O. 1169.16(d) to allow two wall signs to have greater area and lettering height than permitted by the city sign code for Amgen located at 4150 Ganton Parkway (Parcel ID: 094-106404-00.004).

Applicant: Turner Construction c/o Bruce Carder

Motion of acceptance of staff reports and related documents into the record for - VAR-81-2023.

Motion of approval for application VAR-81-2023 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VII. Other business

VIII. Poll members for comment

IX. Adjournment



**New Albany Board of Zoning Appeals
June 26, 2023 DRAFT Meeting Minutes**

I. Call to order

The New Albany Board of Zoning Appeals met in regular session in the New Albany Village Hall on June 26, 2023. Chair LaJeunesse called the meeting to order at 7:00 p.m.

II. Roll call

Those answering roll call:

Mr. LaJeunesse	present
Mr. Jacob	present
Ms. Samuels	present
Mr. Smith	present
Mr. Schell	present
Council Member Brisk	present

Having all voting members present, the board had a quorum to transact business. Council Member Brisk attended the meeting in place of Council Member Shull.

Staff members present: Planner Sierra Cratic-Smith, Planning Manager Steve Mayer, Deputy Clerk Christina Madriguera.

III. Action on minutes

Chair LaJeunesse asked if there were any additions or changes to the meeting minutes from March 27, 2023.

Hearing no response, Board Member Jacob moved to approve the minutes from the March 27, 2023 meeting. Chair LaJeunesse seconded the motion.

Upon roll call: Mr. Jacob, yes; Mr. LaJeunesse, yes; Ms. Samuels, yes; Mr. Smith, yes; Mr. Schell, yes. Having 5 yes votes, the March 27, 2023 meeting minutes were approved as submitted.

IV. Additions or corrections to agenda

Chair LaJeunesse asked if there were any additions or corrections to the agenda.

Planning Manager Mayer requested to add the annual organizational meeting to Other business. Without objection, the annual organizational meeting was added to Other business.

Chair LaJeunesse administered the oath to all present who wished to address the board.

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

Chair LaJeunesse asked whether there was anyone present who wished to address the board on a matter not on the agenda. Hearing no response, he called on staff to present the report for VAR-61-2023.

VI. Cases

VAR-61-2023 Variance

Variance to allow a detached garage to encroach almost 12 feet into the rear yard setback of 30 feet based on the city codified ordinance Chapter 1165.04(a)(2)(e) at 4433 Olmsted Road (PID: 222-01442-00).

Applicant: Todd M. Parker, F5 Design/Architecture Inc.

Planner Cratic-Smith delivered the staff report.

Chair LaJeunesse asked whether there was a motion to accept the staff report into the record.

Board Member Smith so moved, and Board Member Samuels seconded the motion.

Upon roll call: Mr. Smith, yes; Ms. Samuels, yes; Mr. Schell, yes; Mr. LaJeunesse, yes; Mr. Jacob, yes. Having 5 yes votes, the staff report was accepted into the record.

Chair LaJeunesse asked staff whether they had heard from the neighbors.

Planning Manager Mayer responded that city received one call with questions, but no concerns.

Board Member Samuels asked whether the neighbors were aware of this request.

Planning Manager Mayer responded yes, letters to all neighbors within 200-feet of this property were sent 10 days prior to this meeting.

Chair LaJeunesse asked Mr. Parker whether he would like to speak in support of the application.

Applicant Todd Parker, F5 Design/Architecture Inc., stated that the Planner Cratic-Smith's report was thorough and concise and he had nothing to add, but noted there is precedent for detached garages in this area. He also stated that he had preliminary approval from the relevant hoa architectural review committee.

Board Member Jacob asked whether the similar detached garages he mentioned were similar in the fact that they were on corner lots.

Mr. Parker answered yes, they were on corner lots.

Board Member Schell asked staff whether New Albany had granted any variances like this.

Planning Manager Mayer responded that the board had approved a variance for a detached garage on Beecher Court in 2015, and the board had also approved a setback encroachment for a detached pool-house on a corner lot in Ebbington.

Mr. Parker added that Planning Manager Mayer could correct him if he was wrong, and stated that he thought the setback for detached structures was recently changed in the last few code updates to be consistent with the 30-foot rear yard on corner lots, and noted that he thought it used to be 10-feet.

Planning Manager Mayer responded that he thought the setback for detached structures had been increased, the code now treats all detached structures similarly for purposes of the required setbacks.

Mr. Parker stated that could explain why the other detached garages did not require variance requests.

Council Member Brisk noted they [construction of the other detached garages] also could have predated department record-keeping.

Mr. Parker responded that all he knew was that he did not do them.

Chair LaJeunesse asked staff to confirm whether or not there were utilities in that area that needed to be taken into consideration.

Planning Manager Mayer responded that there was a 10-foot utility easement in the area and that this construction was at least 8 feet, 3 inches away from it so it was not of any concern from staff's perspective.

Board Member Samuels asked staff to help her understand the purpose of the adjustment to the setback in the code.

Planning Manager Mayer responded that the overall goal was to provide consistency regarding detached structures and ease the complexity. Staff gathered feedback from other boards and commissions such as the Planning Commission and City Council, and decided to hold to the larger setbacks for rear-yards with the understanding that the variance process would be a remedy. The thought was more about creating clarity, ease, and consistency of treatment of detached structures.

Board Member Kirk asked whether there was a difference between the side and rear yard setback.

Planning Manager Mayer responded that for detached structures the setback was 10-feet on the side and 30-feet in the rear.

Board Member Schell asked about the hatched area on the rendering and whether a variance was required for that structure.

Mr. Parker explained that it was a covered structure which was permitted by the code and was not affected by this variance.

Board Member Schell observed that it really could not be shifted, considering the location of the driveway entering the property.

Chair LaJeunesse opened the public hearing.

A neighbor present in the audience stated that she would like to speak on the variance application. She noted that it was difficult for her to hear the amplified voices inside the room due to her hearing aids.

Chair LaJeunesse administered the oath to the neighbor.

She stated that she lived on Olmsted on the same side of the street as the subject property. She did not want to oppose a neighbor, and that she had lived in the neighborhood three years. She stated that she moved to the neighborhood because it was beautiful. She has noticed that a few of the corner lots have garages and she thinks they ruin the lot and the look of the neighborhood. She continued that she would have liked to have a 3-car garage but has learned to accept not having more space. She noted that we all have too much stuff. She was surprised that New Albany was not going to stick to their zoning code and questioned the purpose of a zoning code if the board was going to eliminate it. She stated that she did not think this structure improved the neighborhood at all, she did not see the need for it, and her preference would be that this would

not be built. She reiterated that she did not like opposing a neighbor but she was opposing the idea of this and the mushroom effect it would on the rest of the neighborhood. She noted that she received the neighbor letter and observed that it did not specify the setback or how far the encroachment would be.

Chair LaJeunesse asked the neighbor to come closer to the dais so that he could ask her some questions. He asked where her home was located in reference to the subject property.

She responded that she lived 2 houses away on the same side of the street as the subject property.

Chair LaJeunesse explained that from a code perspective, that this was compliant with the green space requirement, even with the construction of the detached garage. He further stated that the property owner was being penalized with a greater setback of 30-feet because it was a corner lot. He further stated that the board's job was to maintain the integrity of the town and things that change over time; and as long as the owner stays within the confines of the code regarding the green space, he believed the board should pass this. He understood her points.

Council Member Brisk asked staff whether it was the whole thing or only the bump-out that was encroaching on the setback.

Planning Manager Mayer responded that the request was for 12-feet but that was the maximum encroachment, it would be about 21-feet from the property line.

Council Member Brisk stated that she had misunderstood that it was only the bump-out that encroached and now knew that it was the whole structure. She then asked whether the bump-out was a necessary part of the structure.

Mr. Parker responded that they were trying to maximize storage for cars, bikes, and toys.

Board Member Samuels asked when the homeowner purchased the home.

Scott Harold, 4433 Olmsted Road, applicant and owner, responded 6 years ago.

Board Member Samuels asked staff whether that was prior to the code change, at that time was the code 10-feet and not 30-feet.

Planning Manager Mayer responded that was correct.

Board Member Samuels continued, even on a corner lot.

Planning Manager Mayer responded that he believed so.

Board Member Samuels asked when the project started.

Mr. Harold responded that it started just a couple of months ago.

Chair LaJeunesse asked if there were any other questions.

Chair LaJeunesse moved to accept this variance, VAR-61-2023. Board Member Jacob seconded the motion.

Upon roll call: Mr. LaJeunesse, yes; Mr. Jacob, yes; Mr. Schell, yes; Mr. Smith, yes; Ms. Samuels, yes with the following comments: that she appreciated the neighbor who came to share her perspective, Ms. Samuels thought it was helpful and that it was the board's job to maintain

the spirit of the code, and as Mr. LaJeunesse stated, the percentage for build on this property is not being exceeded, there is no health and safety concern, when this property was purchased a variance would not have been required, and there have been no comments from the neighbors who would be most impacted by this request. She concluded that she wanted to place these comments on the record in the event that there is another variance request of this nature.

Having 5 yes votes, VAR-61-2023 was approved.

The board thanked the applicants and wished them good luck.

VII. Other business

Annual Organizational Meeting.

Chair LaJeunesse opened the annual organizational meeting.

Planning Manager Mayer explained that the board needed to appoint a chair, vice-chair, and secretary, and they also needed to establish dates and times for their 2023 meetings.

Board Member Schell asked for an update on which members served in which capacity.

Chair LaJeunesse asked whether anyone wished to change positions.

Chair LaJeunesse, Vice-Chair Smith, and Secretary Jacob indicated they were happy to remain in their positions.

Board Member Schell confirmed that no changes were desired and moved to reappoint the current officers, Chair LaJeunesse, Vice-Chair Smith, and Secretary Jacob. Board Member Smith seconded the motion.

Upon roll call: Mr. Schell, yes; Mr. Smith, yes; Mr. LaJeunesse, yes; Mr. Jacob, yes; Ms. Samuels, yes. Having 5 yes votes, the leadership of the New Albany Board of Zoning appeals remained as follows: Mr. LaJeunesse, Chair; Mr. Smith, Vice-Chair; Mr. Jacob, Secretary.

Chair LaJeunesse moved to retain the fourth Monday of the month at 7:00 p.m.

Board Member Smith asked whether that was for the calendar year.

Planning Manager Mayer responded that it was.

Chair LaJeunesse noted that council meetings began at 6:30 and asked whether the board was interested in meeting at 6:30 p.m. instead of 7:00 p.m.

The board members indicated their interest.

Planning Manager Mayer stated that 6:30 p.m. worked for staff.

Chair LaJeunesse moved to change the time from 7:00 p.m. to 6:30 p.m. Board Member Jacob seconded the motion.

Upon roll call: Mr. LaJeunesse, yes; Mr. Jacob, yes; Mr. Smith, yes; Ms. Samuels, yes; Mr. Schell, yes. Having 5 yes votes, the meeting date of the New Albany Board of Zoning Appeals would continue to be the 4th Monday of the month, and the meeting time would change from 7:00 p.m. to 6:30 p.m.

VIII. Adjournment

Chair LaJeunesse asked whether there was any further business before the board.

Planning Manager Mayer responded that there was none from staff.

Board Member Jacob moved to adjourn the meeting. Board Member Samuels seconded the motion.

Without objection, the meeting was adjourned at 7:40 p.m.

Submitted by: Deputy Clerk Christina Madriguera, Esq.

Appendix:

VAR-61-2023

Staff Report

Record of Action



**Board of Zoning Appeals Staff Report
June 26, 2023 Meeting**

**4433 OLMSTED ROAD
DETACHED GARAGE SETBACK VARIANCE**

LOCATION: 4433 Olmsted Road (PID: 222-01442-00)
APPLICANT: Todd M. Parker, F5 Design/Architecture Inc.
REQUEST: Variance to allow a detached garage to encroach the rear setback.
ZONING: R-4 (Single Family Residential District)
STRATEGIC PLAN: Residential
APPLICATION: VAR-61-2023

Review based on: Application materials received on May 25, 2023.

Staff report prepared by Sierra Cratic-Smith, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to allow a detached garage to encroach approximately 12 feet into the 30 foot required rear yard setback that's required by city codified ordinance Chapter 1165.04(a)(2)(e) at 4433 Olmsted Road.

II. SITE DESCRIPTION & USE

According to the Franklin County Auditor the property is 0.38 acres and contains a single-family home. The lot is located within the New Albany Country Club section 5 and zoned under the R-4 district. All the neighboring properties are zoned residential under the R-4 district.

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 codified ordinance Chapter 1165.04(a)(2)(e) to allow a detached garage to encroach approximately 12 feet into the 30 foot rear yard setback.

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

1. The applicant proposes to allow a detached garage to encroach approximately 12 feet into the rear yard setback. The city codified ordinance Chapter 1165.04(a)(2)(e) requires the setback “shall be located thirty (30) feet from any rear lot line.”
2. The design of the proposed garage is consistent with the existing conditions of the property. The proposed detached garage is designed to be parallel with the existing garage and paver driveway. It is located at a distance wide enough to allow adequate length/distance for a car to turn into the detached garage.
3. This variance request does not appear to be substantial because the new lot coverage is recorded at almost 15 +/- percent which is half of what code requires under city codified ordinance Chapter 1133.05 at 30 percent.
4. The proposed garage does not appear to alter the essential character of the neighborhood because the proposed materials mirror the existing materials of the home. The proposed exterior walls match the existing exterior with a white lap siding and a brick water table. In addition, the height of the proposed garage matches the current attached garage.
5. The detached garage is screened from the neighboring property by an existing, tall arborvitae wall. Even though the detached garage is closer to the property line than code allows, the existing landscaping provides a buffer between the properties. Additionally, the area where the garage encroaches the setback is where the neighboring property’s garage is located, so it is not adjacent to livable space.
6. The literal interpretation of the city codified ordinance deprives the applicant of rights commonly enjoyed by other properties because it is a corner lot. This property has a 30-foot rear yard setback. Since it is a corner lot, the 30-foot rear yard setback applies to the detached garage and not the 10-foot side yard setback. If the lot was not on a corner, this variance would not be necessary and the location would be permissible.

7. The variance will not adversely affect the delivery of government services, 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. SUMMARY

Due to the property being a corner lot and the location of the existing home, there does not appear to be any alternative location on the property to build a detached garage or extend the existing garage. The distance of the detached garage from the neighboring line is 18 feet in order to allow sufficient maneuverability in and out of both garages and utilize the existing driveway. The variance does not appear to be substantial since the character of the neighborhood will not be altered because it meets all other standards such as lot coverage. The lot coverage maximum for this property is 30 percent; however, the new proposed lot coverage would be 15 +/- percent which meets code. In addition, the proposed detached garage will be the exact same materials, height, and design as the existing garage. The large, existing arborvitae provides screening and buffering from the neighboring property where the encroachment is located.

V. ACTION

Should the Board of Zoning Appeals find that the application has sufficient basis for disapproval, finding the following motion is appropriate.

Move to approve application VAR-61-2023 based on the findings in the staff report (conditions of approval may be added).

Approximate Site Location:



Source: NearMap



Community Development Department

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

Dear Laura & Scott Harrold

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, June 27, 2023

The New Albany Board of Zoning Appeals took the following action on 06/26/2023 .

Variance

Location: 4433 OLMSTED RD

Applicant: Todd Parker, F5 Design Studio

Application: PLVARI20230061

Request: to allow a detached garage to encroach approximately 12 feet into the 30 foot required rear yard setback.

Motion: To approve

Commission Vote: Motion Approved, 5, 0

Result: Variance, PLVARI20230061 was Approved, by a vote of 5, 0.

Recorded in the Official Journal this June 27, 2023

Condition(s) of Approval: N/A

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith
Planner