



**New Albany Board of Zoning Appeals
Meeting Minutes - Approved
November 27, 2023 at 6:30 p.m.**

I. Call to order

The New Albany Board of Zoning Appeals held a regular meeting on Monday, November 27, 2023 at the New Albany Village Hall. Vice-Chair Smith called the meeting to order at 6:30 p.m.

II. Roll call

Those answering roll call:

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

Having three voting members present, the board had a quorum to transact business.

Staff members present: Planner II Christian; Deputy Clerk Madriguera.

III. Action on minutes September 25, 2023

Vice-Chair Smith noted that a draft of the minutes from the September 25, 2023 meeting had been distributed and asked whether there were any corrections and if not he would entertain a motion.

Board Member Jacob moved for approval of the minutes from the September 25, 2023 meeting. Board Member Schell seconded the motion.

Upon roll call: Mr. Jacob yes; Mr. Schell yes; Mr. Smith yes. Having three votes, the motion passed and the September 25, 2023 minutes were approved as submitted.

IV. Additions or corrections to agenda

Vice-Chair Smith asked if there were any additions or corrections to the agenda.

Planner II Christian answered that there were not.

VI. Cases

VAR-115-2023 Variances

Variances to the Jug Street North L-GE zoning text to exceed the lot coverage and setback requirements for two properties located on Horizon Court (PIDs: 095-111756-00.011 and 095-111756-00.010).

Applicant: The City of New Albany

Vice-Chair Smith introduced the first and only case on the agenda and asked to hear the staff report.

Planner II Christian delivered the staff report.

Board Member Schell asked whether any neighbors had responded to the notices.

Planner II Christian answered no, and further explained that this was not the only developer who agreed to dedicate additional right of way. The surrounding developers had likewise agreed to dedicate right of way, thus they were aware of the city's request.

Vice-Chair Smith confirmed that the building owner is New Albany Data Center.

Planner II Christian responded yes and continued that it is the Lincoln Property Company in Chicago, and they own both properties.

Vice-Chair Smith asked if there were any other questions.

Council Member Shull asked if the area on the map that had the trees was a conservation area.

Planner II Christian responded that it was correct.

Council Member Shull observed then, that really the only area that the variances would affect was the building there. He further asked whether the road to the north of the building in the lower section was changing based on the second variance and whether there would be sufficient space from a fire and ems perspective.

Planner II Christian explained that this plan actually provided improved connectivity, but that would be reviewed again as part of final development.

Board Member Jacob asked whether any utilities were impacted by these variances.

Planner II Christian responded that there were not.

Vice-Chair Smith asked if there were further questions on the application.

Hearing none, Vice-Chair Smith moved to admit the staff report and related documents into the record for VAR-115-2023. Board Member Jacob seconded the motion.

Upon roll call: Mr. Smith yes; Mr. Jacob yes; Mr. Schell yes. Having three yes votes, the motion passed and the staff reports and related documents were admitted to the record.

Vice-Chair Smith asked if there were any more questions. Hearing none, he indicated he would entertain a motion.

Board Member Schell moved for approval of VAR-115-2023 based on the findings in the staff report, he noted that there were no conditions in the staff report. Board Member Jacob seconded the motion.

Upon roll call: Mr. Schell yes; Mr. Jacob yes; Mr. Smith yes. Having three yes votes, the motion passed and the variances were approved.

VII. Other business

Vice-Chair Smith asked if there was any other business before the board.

Planner II Christian responded that there was none from staff.

VIII. Poll members for comment and adjournment

Vice-Chair Smith asked the board had any comments.

Hearing none, Vice-Chair Smith moved for adjournment. Board Member Jacob seconded the motion.

Upon roll call: Mr. Smith yes; Mr. Jacob yes; Mr. Schell yes. Having three yes votes, the motion passed and the November 27, 2023 meeting of the New Albany Board of Zoning Appeals was adjourned at 6:40 p.m.

Submitted by Deputy Clerk Madriguera, Esq.

Appendix

VAR-115-2023

Staff Report

Record of Action



**Board of Zoning Appeals Staff Report
November 27, 2023 Meeting**

**PROJECT LINCOLN
VARIANCES**

LOCATION: Two properties located along Horizon Court (Parcel IDs: 095-111756-00.011 and 095-111756-00.010).

APPLICANT: City of New Albany

REQUEST: (A) Variance to Jug Street North zoning text section D(2)(c) to allow a pavement setback of 22 feet from Briscoe Parkway where the text requires a 25-foot setback.
(B) Variance to Jug Street North zoning text section D(1) to allow a lot coverage amount of 77% where the text allows a maximum of 75%.
(C) Variance to C.O. 1153.04(d) to allow a 20-foot side yard setback where city code requires 25 feet.

ZONING: Limited General Employment (L-GE): Jug Street North Zoning Text

STRATEGIC PLAN: Employment Center

APPLICATION: VAR-115-2023

Review based on: Application materials received on November 14, 2023.

Staff report completed by Chris Christian, Planner II

I. REQUEST AND BACKGROUND

As part of the construction of a new public street in Licking County, Briscoe Parkway, the city obtained right-of-way from several property owners. The right-of-way necessary to construct this street impacted the existing and planned commercial development along Horizon Court, creating the need for several variances. The city requests the following variances on behalf of the property owner.

- (A) Variance to Jug Street North zoning text section D(2)(c) to allow a pavement setback of 22 feet from Briscoe Parkway where the text requires a 25-foot setback.
- (B) Variance to Jug Street North zoning text section D(1) to allow a lot coverage amount of 77% where the text allows a maximum of 75%.
- (C) Variance to C.O. 1153.04(d) to allow a 20-foot side yard setback where city code requires 25 feet.

II. SITE DESCRIPTION & USE

The two properties are located in the Licking County portion of the New Albany Business Park and accessed off of Horizon Court. A commercial building exists on one of the sites and the other is currently undeveloped however, two commercial buildings are planned to be developed on it. The properties are zoned L-GE and the zoning text allows the same uses as the Personal Care and Beauty Park (data center, office, distribution, and warehousing uses) to be developed.

III. EVALUATION

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The property owners within 200 feet of the property in question have been notified.

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.*

Considerations and Basis for Decision

(A) Variance to Jug Street North zoning text section D(2)(c) to allow a pavement setback of 22 feet from Briscoe Parkway where the text requires a 25-foot setback.

(B) Variance to Jug Street North zoning text section D(1) to allow a lot coverage amount of 77% where the text allows a maximum of 75%.

(C) Variance to C.O. 1153.04(d) to allow a 20-foot side yard setback where city code requires 25 feet.

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

1. At the city’s request, the property owner dedicated right-of-way in order to allow for the construction of Briscoe Parkway, a new public street in Licking County. This new street provides additional connectivity in the New Albany Business Park for existing and planned development sites. The right-of-way necessary to construct the street reduced the amount of ground that the property owner has the ability to develop, creating the need for variances and the city requests approval of them on behalf of the property owner.

2. The variances are not substantial. While the proposed development pattern does not meet code requirements, the setback encroachments and lot coverage amount are minimal and will not be noticeable from off site. The Board of Zoning Appeals and Planning Commission have approved similar variance requests in the past for other sites in the New Albany Business Park as long as other landscape and screening standards from the zoning text can be met. Some of these requirements include on site trees, parking lot screening and additional landscaping within pavement and building setback areas. Based on the submitted site plan and discussions with property owner, all landscape and screening standards will be met even if the variances are granted.
3. There are special circumstances and conditions that justify the variance request and do not result from direct action of the property owner. As mentioned, the property owner dedicated right-of-way to the city to allow the construction of Briscoe Parkway. Prior to this, the property owner planned development on their site that would otherwise be in conformance with the zoning code. The right-of-way dedication reduced the amount of overall space for the property owner to develop, creating the need for variances.
4. The essential character of the neighborhood will not be altered if the variances are approved. As mentioned, the property owner must comply with other landscape and screening standards found in the zoning text which are similar to other areas in the New Albany Business Park. These standards ensure consistent streetscape and setback design between all sites and will still be achieved in this case if the variances are approved.
5. The problems cannot be solved in any other manner other than granting the variance requests. One of the development sites is already constructed and cannot be altered. There is a large preservation area directly north of the developed site where development is not permitted to occur. The other site is also constrained by existing conditions as development has occurred on all sides of the property with the exception to the east however, property to the east is not under common ownership and therefore cannot be used for additional development area.
6. Granting the variance will not adversely affect the delivery of government services, 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. SUMMARY

The proposed variances appear to be appropriate in this case. Granting the variances is necessary in order to allow for the construction of Briscoe Parkway while ensuring that the property owner can develop their sites in a manner consistent with how they originally intended which would have met all zoning requirements if the street were never to be developed. While variances are being requested, they are not substantial and are similar to other variances that have been approved by the Board of Zoning Appeals and Planning Commission in the past. Additionally, all of the landscape and screening standards found in the zoning text must still be met if the variances are granted. These standards are found throughout the rest of the New Albany Business Park and ensure a consistent design aesthetic is achieved between sites.

V. ACTION

Suggested Motion for VAR-115-2023 (conditions may be added):

Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate.

Move to approve VAR-115-2023 (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 City of New Albany,

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

Monday, November 27, 2023

The New Albany Board of Zoning Appeals took the following action on 11/27/2023 .

Variance

Location: Parcel IDs: 095-111756-00.011 and 095-111756-00.010

Applicant: LPC Midwest LLC,

Application: PLVARI20230115

Request: Variances to the Jug Street North L-GE zoning text to exceed the lot coverage and setback requirements for two properties located on Horizon Court (PIDs: 095-111756-00.011 and 095-111756-00.010).

Motion: Move to approve

Commission Vote: Motion Approved, 3-0

Result: Variance, PLVARI20230115 was Approved, by a vote of 3-0.

Recorded in the Official Journal this November 27, 2023

Condition(s) of Approval: None.

Staff Certification:

Chris Christian

Chris Christian
Planner