



**New Albany Board of Zoning Appeals
March 25, 2024 Meeting Minutes - Approved**

I. Call to order

The New Albany Board of Zoning Appeals held a regular meeting on Monday, March 25, 2024 at the New Albany Village Hall. Chair LaJeunesse called the meeting to order at 6:30 p.m. and asked to hear the roll.

II. Roll call

Those answering roll call:

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

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

Staff members present: Planner Cratic-Smith, Planning Manager Mayer, Clerk Mason.

III. Action on minutes November 27, 2023

Chair LaJeunesse asked if there were any updates to the minutes.

Hearing none, Board Member Jacob moved to approve the November 27, 2023 meeting minutes. Board Member Schell seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. Schell yes, Ms. Samuels yes, Mr. LaJeunesse yes. Having four yes votes, the motion passed and the November 27, 2023 meeting minutes were adopted as submitted.

IV. Administration of oath

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 if there was anyone present who wished to address the board for an item not on the agenda. Hearing none, he introduced the first case and asked to hear from staff.

VI. Cases

Chair LaJeunesse noted that there were two cases on the agenda. He introduced the first case and asked to hear from staff.

VAR-10-2024 Variance

Variance to codified ordinance 1165.04(a)(2)(E) to allow a new detached garage to encroach 16 feet into a 30-foot rear yard setback at 7809 Lambton Park Road.

Applicant: Todd Parker, F5 Design

Planner Cratic-Smith delivered the staff report.

Board Member Samuel moved to accept the staff reports and related documents into the record for VAR-10-2024. Board Member Jacob seconded the motion.

Upon roll call: Ms. Samuel yes, Mr. Jacob yes, Mr. LaJeunesse yes, Mr. Schell yes. Having four yes votes, the motion passed and the staff reports and related documents for VAR-10-2024 were admitted into the record.

Chair LaJeunesse asked whether there was anyone present who wished to speak on the application.

Applicant Todd Parker, architect of the project on behalf of the property owner, Jay Desmarteau. He thanked Planner Cratic-Smith for her thorough staff report. He explained that they studied all of the options.

Board Member Schell asked staff whether they had heard from any of the neighbors.

Planner Cratic-Smith responded that staff had not heard from neighbors.

Board Member Schell asked what was the need for the new detached garage.

Applicant Jay Desmarteau of 7809 Lambton Park Road, stated that he had recently moved to New Albany from Connecticut. He explained that he has two kids and four cars. He did not want to park in the driveway or on the street.

Chair LaJeunesse asked staff what the setback would be if this was not a corner lot.

Planning Manager Mayer responded that it was 10-feet.

Chair LaJeunesse asked staff where the 10-foot line would be on the site plan.

Planner Cratic-Smith indicated the location on the site plan.

Chair LaJeunesse asked what the depth of the garage would be.

Mr. Parker responded that it was 24 x 24.

Board Member Schell asked how strong the screening would be.

Mr. Parker responded that there are massive arbor vitae along the driveway, and along the property line there are dense deciduous trees.

Board Member Jacob confirmed with the applicant that the proposed structure was a garage only, that there would not be an apartment or other use.

Board Member Samuels asked staff about precedent and whether other variance requests had been granted in the vicinity.

Planning Manager Mayer answered that he believed the other granted variances were in the country club, but not in this specific area of the country club.

Chair LaJeunesse asked Mr. Desmarteau whether he had met his neighbor to the east, noting that the eastern neighbor would be most impacted by this proposed structure.

Mr. Desmarteau responded that he had not, and further stated that he had not yet moved into the house.

Chair LaJeunesse welcomed Mr. Desmarteau to New Albany, then asked whether there was a motion on the application.

Board Member Schell moved for approval of VAR-10-2024 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.

Upon roll call: Mr. Schell yes. Mr. Schell explained that he does not normally grant variances like this, but circumstances were unique in this case. Granting this variance was preferable to having cars parked in the driveway or on the street. Mr. LaJeunesse yes, Mr. Jacob yes, Ms. Samuels yes. Having four yes votes, the motion passed and VAR-10-2024 was approved with the conditions listed in the staff report.

The board wished the applicant good luck and welcomed him to New Albany.

Chair LaJeunesse introduced the next case and asked to hear from staff.

VAR-11-2024 Variance

Variance to codified ordinance 1171.01 to allow the site's parking lot islands to use artificial turfgrass where code prohibits artificial landscaping at 6895 Bevelhymer Road.

Applicant: Nick Cavalaris c/o Plymouth Brethren Church

Planner Cratic-Smith delivered the staff report.

Board Member Jacob moved to accept the staff reports and related documents into the record for VAR-11-2024. Board Member Samuels seconded the motion.

Upon roll call: Mr. Jacob yes, Ms. Samuels yes, Mr. Schell yes, Mr. LaJeunesse yes. Having four yes votes, the motion passed and the staff reports and related documents were accepted into the record for VAR-11-2024.

Chair LaJeunesse asked whether there were any guests present who wished to speak on the application.

Clerk Mason responded that there were four speakers and she was unsure whether they wished to speak in any particular order, Mr. Calaveris, Mr. Hashes, Mr. Johnstone, and Mr. [inaudible].

Applicant Nick Cavalaris, 8000 Walton Parkway. Mr. Cavalaris stated that he had been out of town and did not get the staff report. The church constructed and installed the turf grass. When the city conducted the final inspection, the turf grass was discovered and the city informed the applicant that pursuant to city code, use of turf grass was not permitted. He explained the site plan and the landscaping, and noted that the turfgrass would not be visible. The applicant believes the turf more closely mimics actual grass than poured rubber. He continued that the code has five factors for a variance and not one single factor controls. The church is surrounded by grass. This property is unique and other similar variances have been approved.

Mr. Jacob asked staff to explain the how the disconnect between the rule prohibiting turfgrass and the applicant's installation of the turf. Was there a reason that this was not discovered by the city until the final inspection?

Planning Manager Mayer explained that the landscape plan used the word "turf" and staff interpreted that to mean natural turf and he thought that was what the applicant originally intended. Upon final inspection staff discovered that artificial turf had been installed. Staff advised the applicant that there were two options, removal or request a variance from this board.

Samuels asked staff to comment or detail on the other variances granted that permitted the installation of turf grass.

Planning Manager Mayer explained that the Courtyard at New Albany was a 55+ community by Epcon. The Planning Commission granted a variance to permit artificial turf around the fenced in area around the pool only. The other variance granted was at a residential home, but it also involved a pool area. In that case, the pool area was elevated and separated from the rest of the lawn surrounded by concrete which made it difficult to maintain natural vegetation.

Board Member Samuels continued and asked whether in the latter scenario, whether natural vegetation was required.

Planning Manager Mayer stated that it was, and that was the reason the applicant in that case sought a variance.

Board Member Samuels asked whether, in the Epcon case, the artificial turf was visible.

Planning Manager Mayer responded that it was visible, however the pool is centrally located within the Epcon community, so it was not necessarily visible to the public.

Council Member Shull commented that it seemed as though the two prior variances were granted for active locations, for example a playground area. But those areas would then be surrounded by natural grass. He asked Planning Manager Mayer whether he knew of locations where artificial turf was used on parking lot islands.

Planning Manager Mayer responded that he was not aware of any such locations in the city. The code permits grass, mulch, or shrubs or a combination thereof. He further explained that code requires 5% of parking lot space to be islands in order to introduce natural vegetation.

Board Member Schell asked whether there were any slides or playground equipment at the location.

Applicant Jim Reed, Pastor of the Plymouth Bretheren Church responded, not yet. They were working a step at a time. He continued that that they were doing a step up from the requirements and noted that the turf was expensive. They were seeking to ameliorate the challenges that came with mulch such as keeping it clean and keeping it in place. They wanted this area to look better. Furthermore they are willing to post bond and commit to keeping it looking better.

Chair LaJeunesse asked why they installed artificial turf instead of natural grass, was it because it was difficult to mow?

Pastor Reed responded it was hard to mow because of the six-inch curbs. The grass clippings ended up on the parking lot and created a mess. He acknowledged the concern around astro turf in residential front yards.

Chair LaJeunesse asked staff whether there was artificial turf on any playgrounds in New Albany.

Planning Manager Mayer responded that the Barrington School was the only area he was aware of and he thought that was approved by the Planning Commission. He continued that it was not unusual for playgrounds to use an alternate surface such as poured rubber, it was not always natural mulch or grass.

Board Member Samuels asked staff whether it was required that the space be designated as a play area.

Planning Manager Mayer responded no, such a designation was not required.

Board Member Schell asked whether the applicants were familiar with their neighbor Mr. Shockey.

Applicant Robert Johnstone, Bob, of 1332 Windtree Court, stated that he knew Mr. and Mrs. Schockey well. He explained that he got along well with the Shockeys, and that this violation of the code was unintentional. He continued that the artificial turf in the play area would reduce the tracking of mud inside the church, he further explained that it was on top of a heated concrete slab designed to reduce slush. They would very much appreciate being able to keep it.

Board Member Schell continued that Mr. Shockey was very concerned with the use of artificial turf at this location, and shared the letter that Mr. Shockey had submitted to the board.

Mr. Johnstone responded that he was not aware of Mr. Shockey's concerns and that he had not seen the letter. He noted that the letter said that they had had a good relationship. Beyond that, Mr. Johnstone would not comment on the letter out of respect for the Shockeys.

Council Member Shull pointed out the location of Mr. Schockey's property, on the western side.

Chair LaJeunesse asked whether there were other questions or comments.

Board Member Schell asked staff whether the board could modify the variance request to include the play area and not the parking islands.

Planning Manager Mayer responded yes, that was within the board's power.

Board Member Schell continued that he understood the cost and the investment that the applicant had made here, and the additional expense the applicant would bear to tear it out. He explained that the board had to consider and protect from precedents. The precedential effect of granting this request, put the board in a difficult position, particularly after installation. No one on the board likes making that kind of decision. The variances that have already been granted are smaller in scale and isolated. This application is a big area and it is highly visible when people drive in. Because the turf has already been installed the board did not have the chance to approve or disapprove it. This is a tough spot for the board and granting this request could open flood gates for others to put in astro turf in future. Board Member Schell stated that he would be open to permitting the turf in the play area only and he could see the benefit of it with children.

Tim Gooden, 7367 Central College, neighbor. Mr. Gooden thanked the board and spoke in support of the application. He stated that he had moved to New Albany from Australia and that he thinks that this is the best neighborhood. He remarked that the turf looks like natural grass, and that it is attractive and smart looking. He further shared that he has seen children playing in those areas during church functions. He reiterated that he supports the application and that he did not think it could be improved upon from an aesthetic perspective.

Board Member Jacob stated that he concurred with Board Member Schell. He explained that as a resident and board member he is familiar with the long-term planning strategies and priorities of the city council and staff. Maintaining the spirit of traditional green space wherever possible makes the most sense. He understood that playgrounds and pool areas are different. He reiterated that he concurred with Board Member Schell's remarks.

Mr. Johnstone stated that he was not familiar with the board's procedures and that the applicants were unaware of the Shockeys' concerns and inquired about tabling the application until the next meeting.

Planning Manager Mayer explained the procedure for tabling.

Mr. Johnstone asked whether additional time and support would influence the board's decision.

Board Member Samuels remarked that the board had the code to consider. Additional support from neighbors would not eliminate the board's duty to consider and apply the code. The board's job is to uphold the code. Until the code changes, she would agree with Board Member Schell that this variance should be limited to active areas for safety.

Chair LaJeunesse stated that additional support from neighbors would not influence his decision, so it did not make sense to push this.

Mr. Johnstone thanked the board.

Mr. Cavalaris stated that this was unusual because it is installed and asked whether there was any appetite to give them additional time for the islands, perhaps until June. The applicants could use time to get the money together to get it out of the islands.

Chair LaJeunesse asked Planning Manager Mayer how that would work and whether there are penalties involved.

Planning Manager Mayer explained the concept of conditional occupancy which involves the payment of a fee on a monthly basis. Conditional occupancy allows operation while the conditions are outstanding. The city will not issue a certificate of full occupancy until the conditions have been met. It is a mechanism for the city to ensure that the variance is being adhered to.

Board Member Jacob asked whether conditional occupancy had an expiration date.

Planning Manager Mayer responded that in general the city tries to keep it to one year, but it is on a month to month basis. He further stated that the board had the authority to specify a time.

Chair LaJeunesse asked the applicant what time would be acceptable to them.

Mr. Cavalaris and Pastor Reed requested until September.

Chair LaJeunesse responded that he board wanted to work with the applicants and that this was a partnership.

Board Member Schell moved for approval of application VAR-11-2024 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval with the following conditions:

1. This approval only extends to the play area, not the parking lot islands.
2. The parking lot islands are to be restored to natural, living grass no later than September 30, 2024.

Board Member Samuels seconded the motion.

Upon roll call: Mr. Schell yes, Ms. Samuels yes, Mr. LaJeunesse yes, Mr. Jacob yes. Having four yes votes, the motion passed and VAR-11-2024 was approved with the conditions as stated above

The board wished the applicant good luck.

VII. Other business

1. Annual Organizational Meeting

Chair LaJeunesse opened the annual organization meeting.

Board Member Schell noted that Board Member Smith is the current vice-chair and asked whether anyone knew whether he wanted to continue as vice-chair and whether the organizational meeting should be postponed until Board Member Smith was present.

Council Member Shull remarked that Board Member Smith could be elected at tonight's meeting, in his absence.

Chair LaJeunesse stated, speaking for himself that he was happy to continue as chair or to let someone else serve as chair if they so desired.

- Elect Chairperson

Board Member Samuels nominated Mr. LaJeunesse to serve as chair of the New Albany Board of Zoning Appeals. Board Member Jacob seconded the motion.

Upon roll call: Ms. Samuels yes, Mr. Jacob yes, Mr. LaJeunesse yes, Mr. Schell yes. Having four yes votes, Mr. LaJeunesse was elected chair of the New Albany Board of Zoning Appeals.

- Elect Vice-Chairperson

Chair LaJeunesse nominated Mr. Smith as vice-chair, unless anyone else would be willing to serve.

Mr. Jacob stated that he would be happy to serve.

Mr. LaJeunesse nominated Mr. Jacob to serve as vice chair of the New Albany Board of Zoning Appeals. Board Member Samuels seconded the motion.

Upon Roll Call: Mr. LaJeunesse yes, Ms. Samuels yes, Mr. Jacob yes, Mr. Schell yes. Having four yes votes, Mr. Jacob was elected vice-chair of the New Albany Board of Zoning Appeals.

- Elect Secretary

Board Member Jacob nominated Board Member Samuels to serve as secretary of the New Albany Board of Zoning Appeals. Chair LaJeunesse seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. LaJeunesse yes, Ms. Samuels yes, Mr. Schell yes. Having four yes votes, Ms. Samuels was elected secretary of the New Albany Board of Zoning Appeals.

- Establish date, time, and location for 2024 regular meetings

The New Albany Board of Zoning Appeals agreed that they will continue to meet on the fourth Monday of the month at 6:30 p.m. in the New Albany Village Hall.

Thereafter, Clerk Mason read the following attendance policy:

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.

VIII. Poll members for comment

Chair LaJeunesse polled the members for comment.

IX. Adjournment

Hearing no comment from the members and having no further business, Chair LaJeunesse moved to adjourn the meeting. Board Member Schell seconded the motion.

Upon roll call: Mr. LaJeunesse yes, Mr. Schell yes, Mr. Jacob yes, Ms. Samuels. Having four yes votes, the March 25, 2024 meeting of the New Albany Board of Zoning Appeals was adjourned at 7:23 p.m.

Submitted by: Deputy Clerk Madriguera, Esq.

Appendix

VAR-10-2024

Staff Report

Record of Action

VAR-11-2024

Staff Report

Letter from Mr. Shockey

Record of Action