



**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



**Board of Zoning Appeals Staff Report
March 25, 2024 Meeting**

**7809 LAMBTON PARK ROAD
DETACHED GARAGE SETBACK VARIANCE**

LOCATION: 7809 Lambton Park Road (PID: 222-002074-00)
APPLICANT: Todd M. Parker, F5 Design/Architecture Inc.
REQUEST: Variance to allow a detached garage to encroach the rear setback
ZONING: R-3 (Single Family Residential District)
STRATEGIC PLAN: Residential
APPLICATION: VAR-10-2024

Review based on: Application materials received on February 29, 2024.

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 16 feet into the 30-foot required rear yard setback that's required by city codified ordinance Chapter 1165.04(a)(2)(e) at 7809 Lambton Park Road.

II. SITE DESCRIPTION & USE

The property is 0.38 acres and contains a single-family home. The lot is located within the New Albany Country Club section 16A and zoned under the R-3 district. All the neighboring properties are zoned residential under the R-3 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 16 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 16 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 to the existing garage and asphalt 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 23+/- percent which meets the code’s allowable maximum lot coverage of 30 percent. In addition, the proposed detached garage meets all other city code requirements.
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 similar brick material and a brick water table. In addition, the height of the proposed garage is one story compared to the two-story existing attached garage and house.
5. The variance meets the ‘spirit and intent’ of the city codified ordinance because the detached garage is screened from the neighboring property by existing trees. Even though the detached garage is closer to the property line than code allows, the existing landscaping provides a buffer between the properties.
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. On a corner lot, the rear yard is not determined by the orientation of the home. In the case of a corner lot, the rear lot line is opposite and furthest removed from the front lot line of the least dimension. 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. There are similar variances approved by the Board of Zoning Appeals.
 - a. In September 2017, a variance was approved by an owner on a residential corner lot for a detached garage to encroach almost 15 feet into the 30-foot rear yard setback at 7228 Greensward Drive.
 - b. In February 2019, a variance was approved for a corner lot for a detached garage to encroach 25 feet into the 30-foot rear yard setback at 7747 Sutton Place.
 - c. In June 2023 a detached garage and pergola was approved to encroach the rear yard setback by 16 feet at 4433 Olmstead Road.
8. Granting the variance will not adversely affect the delivery of government services. The garage is not located in any public easements.
9. 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. SUMMARY

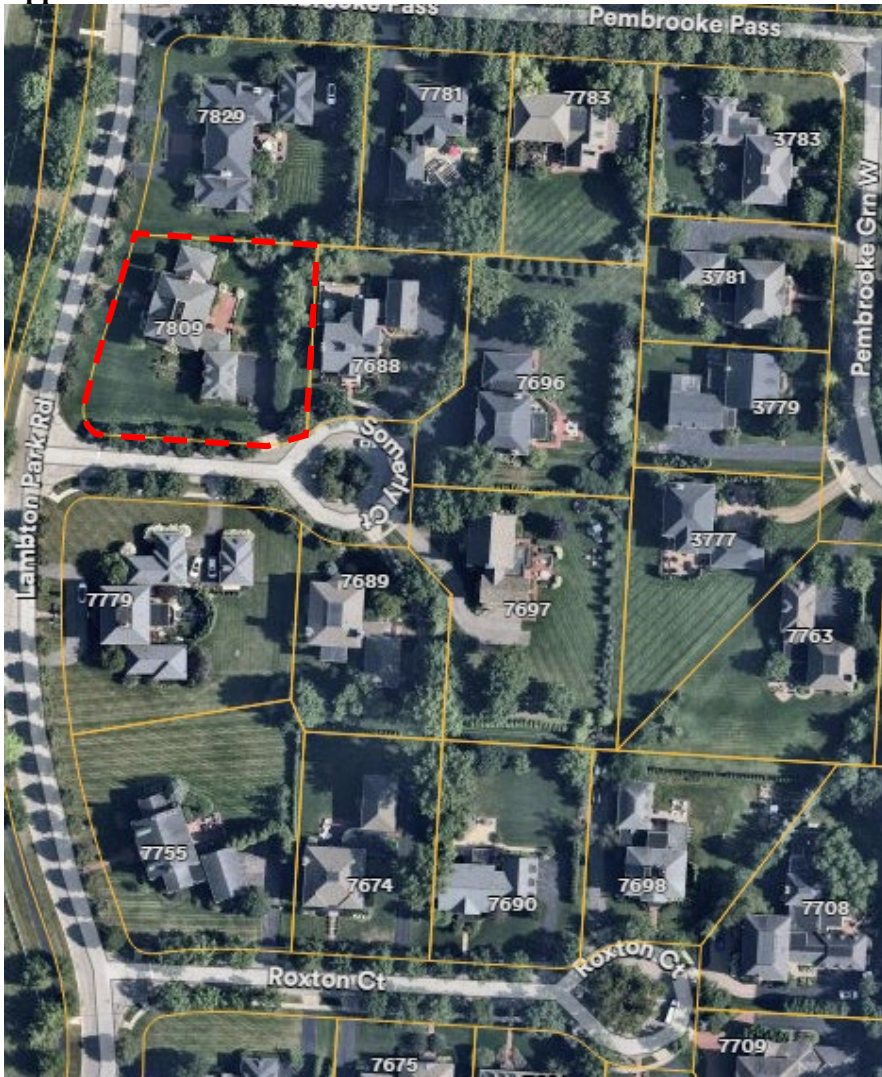
Due to the property being a corner lot and the location of the existing home, there does not appear to be an alternative location on the property to build a detached garage or extend the existing garage. The distance of the detached garage from the neighboring line is 14 feet in order to allow sufficient 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. The proposed detached garage is the exact same materials, and design as the existing garage and home. The large, existing trees provide 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 approval, finding the following motion is appropriate.

Move to approve application VAR-10-2024 based on the findings in the staff report (conditions of approval may be added).

Approximate Site Location:



Source: NearMap



New Albany Board of Zoning Appeals Meeting Agenda
March 25, 2024 at 6:30 pm

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 November 27, 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-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

Motion of acceptance of staff reports and related documents into the record for - VAR-10-2024.

Motion of approval for application VAR-10-2024 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

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

Motion of acceptance of staff reports and related documents into the record for - VAR-11-2024.

Motion of approval for application VAR-11-2024 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VII. Other business

1. Annual Organizational Meeting

- Swear in new members
- Elect Chairperson

- Elect Vice-Chairperson
- Elect Secretary
- Establish date, time, and location for 2024 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.*

VIII. Poll members for comment

IX. Adjournment



Community Development Department

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

Dear Todd Parker,

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, March 26, 2024

The New Albany Board of Zoning Appeals took the following action on 03/25/2024 .

Variance

Location: 7809 LAMBTON PARK RD

Applicant: Todd Parker, F5 Design

Application: PLVARI20240010

Request: To allow a new detached garage to encroach 16 feet into a 30-foot rear yard setback.

Motion: To approve

Commission Vote: Motion Approved, 4-0

Result: Variance, PLVARI20240010 was Approved, by a vote of 4-0.

Recorded in the Official Journal this March 26, 2024

Condition(s) of Approval:

Staff Certification:

Sierra Cratic-Smith

Sierra Cratic-Smith
Planner



**Board of Zoning Appeals Staff Report
March 25, 2024 Meeting**

**6895 BEVELHYMER ROAD
ARTIFICIAL LANDSCAPE VARIANCE**

LOCATION: 6895 Bevelhymer Road (PID: 222-004750-00)
APPLICANT: Plymouth Brethren Church c/o Nick Cavalaris, Underhill Law Firm
REQUEST: Variance to City Codified Ordinance Chapter 1171.07 to allow for artificial turfgrass.
ZONING: R-1, Residential Estate District
STRATEGIC PLAN: Residential
APPLICATION: VAR-11-2024

Review based on: Application materials received on February 29, 2024.

Staff report prepared by Sierra Cratic-Smith, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a variance to allow the use of artificial turfgrass, about 1,052 +/- square feet, within the parking lot islands and children’s play area at 6895 Bevelhymer Road. The city codified ordinance 1171.07 states artificial plants are prohibited and that all landscape materials shall be living plants for the landscaping material requirements for planting such as grass and ground cover, trees, shrubs and hedges.

During a final inspection, the city staff found the parking islands and play area are not natural landscape such as turfgrass or mulch. The property owner states that the artificial turfgrass was installed for improved durability

II. SITE DESCRIPTION & USE

The property is 5.71 acres in size and contains a new church known as Plymouth Brethren Church. The property is south of Central College Road and west of Bevelhymer Road. The surrounding properties are zoned Residential Estate District (R-1) 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

Variance to allow the use of artificial turfgrass, about 1,052+/- square feet, within a play area and parking lot islands.

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

1. The city codified ordinance Chapter 1171.07 states artificial plants are prohibited and that all landscape materials shall be living plants for the landscaping material requirements for planting such as grass and ground cover, trees, shrubs and hedges. The applicant requests a variance to allow for artificial turf on the parking islands. There is large parking lot island that is used for a children's play area.
2. The islands and play area make up 1,052 +/- square feet. The parcel is about 248,727.6 +/- square feet in size. This equates to about 4% of the entire property.
3. The essential character of the neighborhood may be substantially altered if the variance is approved. The purpose of requiring living plant material is to promote and protect the natural environment according to codified ordinance Chapter 1171.01.
4. The artificial turfgrass is located just within the parking islands and play area. The remainder of the property uses natural turfgrass. The applicant states the purpose of the artificial turfgrass on the parking islands and children's play area is because they are too small to mow properly. In addition, the turfgrass could endure the children's use of the play area so it will not wither. The property owner states they are using the artificial turfgrass to keep a consistent, clean appearance over time.

- a. The use of alternative surface material for the children's play area is consistent with other areas of the city. While there are no other known playgrounds utilizing artificial turf grass, many use mulch or pour-in-place rubber.
 - b. The majority of parking lot islands at commercial and institutional properties use a combination of natural grass, shrubs, and mulch.
5. There are layers of screening that prevent the artificial turfgrass from the public right-of-way. The artificial turf is in the parking islands where it is located 275 feet away from the public right of way. In addition, the artificial turf is used on the children's play area where it is located 300 +/- feet away from the public right-of-way. The applicant states that due to a curve in the entrance drive to the parking area, and the existing landscaping between the church and Bevelhymer Road, none of these artificial grass applications are visible from Bevelhymer Road or any other public right-of-way.
6. The church property is surrounded by residential properties so it is required to install landscape screening at the perimeter of the property that achieves 75% opacity screening at full foliage.
7. This variance does not appear to preserve the spirit and intent of the zoning requirement. The artificial turf grass parking lot islands have trees installed in them which results in a mixture of natural and artificial landscape material. The trees planted with the artificial turf have the possibility of uprooting the artificial turfgrass as they grow resulting in an unseemly appearance.
8. There are special conditions and circumstances exist that are peculiar for the play area. This is because the play area using artificial turfgrass is similar to other projects found in the city. Its ability to endure the use of child's play would keep a consistent appearance of the landscape. In addition, it would protect the children in case of injury similar to the pour-in-play found on city parks in residential neighborhoods.
9. This variance does not negatively impact the delivery of government services.
10. This problem can be solved by some manner other than the granting of the variance. It appears that natural landscape could be installed.
11. The city staff could not find any other variances approved for institutional uses historically. However, a variance has been approved at the Courtyards at New Albany subdivision allowing for artificial turf grass around the community pool. In addition, the Planning Commission recently approved a variance for artificial turfgrass to be permitted around a pool area on a residential property.
12. This variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed project.

IV. SUMMARY

The city created the Design Guidelines and Requirements to ensure the community enjoys the highest possible quality of architectural and site design. Section 1 of the Design Guidelines and Requirements contains the overall guiding principles for design in New Albany. One of these overall principles is that development in New Albany will be designed to include landscaping to enhance the quality and character of the built environment. The distinctive character of New Albany is due to a combination of the architectural and physical environment which includes natural landscape features.

The property is screened with 75% opacity landscaping from neighboring properties, and there is a curve in the entrance drive to the parking area with existing landscaping so off-site visibility of the artificial turfgrass appears to be limited. However, the use of artificial turfgrass in the parking lot islands does appear to meet the spirit and intent of the zoning requirement.

Some special conditions and circumstances exist that are peculiar to the children's play area. The use of artificial turfgrass appears to be consistent with previously approved variances and the use of alternative surface material is typical throughout the community.

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-11-2024 based on the findings in the staff report (conditions of approval may be added)

Approximate Site Location:



Source: NearMap

Thomas A. Shockey
7199 Central College Road
New Albany, Ohio 43054

March 20, 2024

Sierra Cratic-Smith, Planner
99 W. Main Street
New Albany, Ohio 43054

Dear Ms. Cratic-Smith,

Thank you for your notification regarding the variance request of the Plymouth Brethren Church, asking to replace natural turf with artificial turf. I am unable to attend the public hearing on March 25, 2024. However, I would like to share my thoughts.

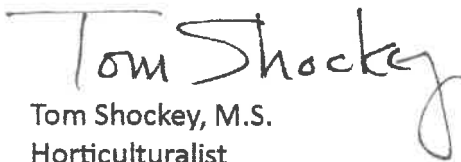
I am a graduate, and employee, of the Department of Horticulture and Crop Science at The Ohio State University. A major area of study is Turfgrass Science. I have a comprehensive background in this area, as well as employment as a specialist at the Fairfax Country Club in Virginia, near Washington, D.C.

I do not feel that artificial turf is a satisfactory substitute for real grass, in any situation.

Please know that the Church Leaders involved with the establishment of this church have been extremely responsive to our concerns as a neighbor. I do not wish to jeopardize our friendly relationship, but I do have strong feelings in this regard. I would hate to see this request honored, or any future similar requests positively addressed.

Please let me know if you have any questions or concerns.

Sincerely,

A handwritten signature in black ink that reads "Tom Shockey". The signature is written in a cursive style with a large, sweeping "T" and a long, trailing "y".

Tom Shockey, M.S.
Horticulturalist
boxer7199@gmail.com
614-477-4487 (Cell)



Community Development Department

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

Dear Nick Cavalaris c/o Plymouth Brethren Church

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, March 26, 2024

The New Albany Board of Zoning Appeals took the following action on 03/25/2024 .

Variance

Location: 6895 Bevelhymmer Rd.

Applicant: Nick Cavalaris c/o Plymouth Brethren Church

Application: PLVARI20240011

Request: To allow the site's parking lot islands and play area to use artificial turfgrass where code prohibits artificial landscaping.

Motion: To approve

Commission Vote: Motion Approved with Conditions, 4-0

Result: Variance, PLVARI20240011 was Approved with Conditions, by a vote of 4-0.

Recorded in the Official Journal this March 26, 2024

Condition(s) of Approval:

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.

Staff Certification:

Sierra Cratic-Smith

Planner