



**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**



**New Albany Board of Zoning Appeals  
DRAFT Meeting Minutes  
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**

DRAFT



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

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**PROJECT LINCOLN  
VARIANCES**

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**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*

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**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  
Planner



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

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

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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.

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*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. ASSESMENT**

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**

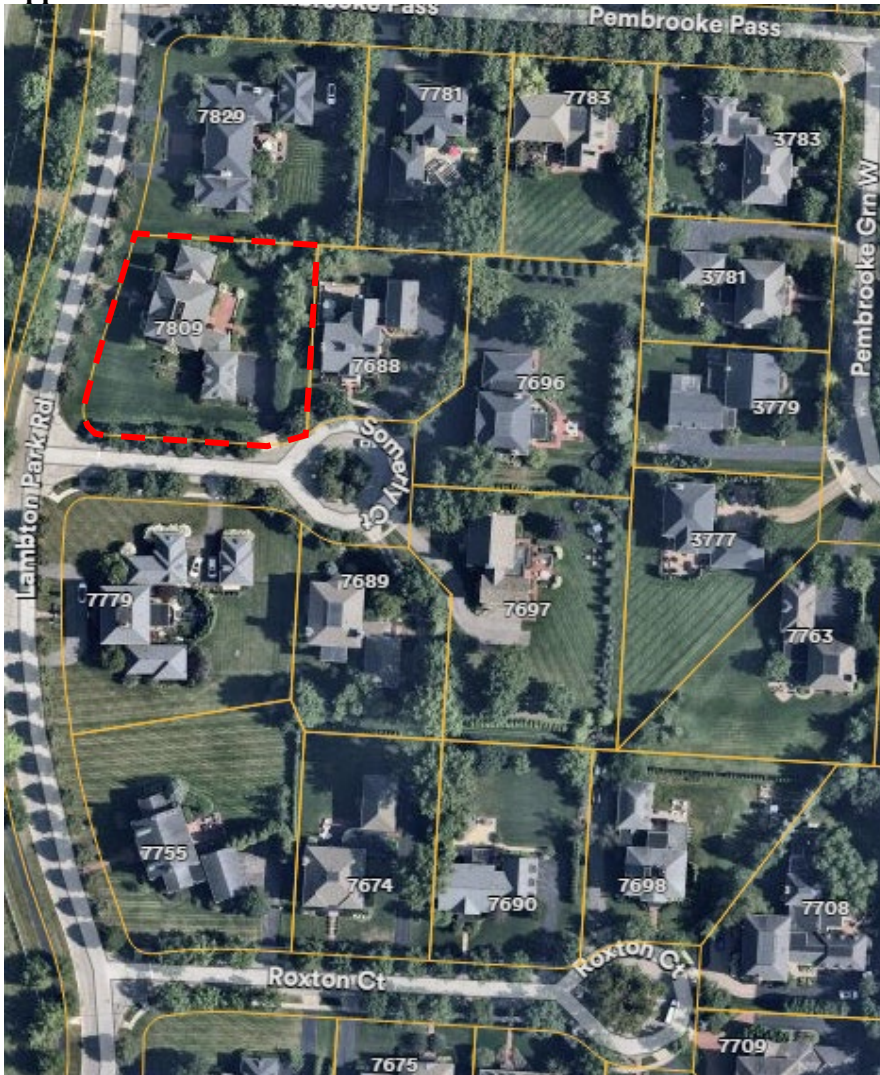
Due to the property being a corner lot and the location of the existing home, there does not appear to be an alternative location on the property to build a detached garage or extend the existing garage. The distance of the detached garage from the neighboring line is 14 feet in order to allow sufficient 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

City of New Albany  
Development Department  
Planning Commission  
20 Feb. 2024

**Applicant** – Todd Parker, F5 Design/Architecture Inc.

On behalf of Jay DesMarteau and Carissa McMahon

**Address of subject Property:** 7809 Lambton Park Road

**Type of Request:** Variance for Garage encroachment into 30' Rear Yard Setback.

| Applicant seeks the following variance to permit construction of a Detached Garage (576 S.F.)  
| that would encroach into the rear yard setback on the Property at 7809 Lambton Park Road, New  
| Albany, OH 43054.

The request is for a rear yard setback encroachment of a detached garage and attached covered porch. The Design has been approved by the NACCC ARC and The encroachment would be a maximum of 16'-1" into the 30'-0" rear yard setback at the garage structure. The 30'-0" rear yard setback is dictated by section 1165.04(a)2.E of the Codified Ordinances.

The definition of the rear yard setback is as follows:

*"Rear Yard" means that portion of ta lot extending across the rear of the lot between the side lot lines and being the required minimum horizontal distance between the rear lot line and the rear of the building or structure.*

According to C.O. 1113.03 (e) A narrative/justification statement is needed explaining the following:

- (1)The use for which variance or appeal is sought.

The variance is being sought to allow the encroachment of the proposed detached garage into the 30 foot rear yard setback. The garage will encroach at its furthest point 16'-1" with a total area is 356 s.f.

- (2) Details of the variance that is applied for and the grounds on which it is claimed that the variance should be granted, as the case may be.

The variance should be approved as the nature of the structure is appropriately designed for the Community and approved by the NACCCARC. Additionally, the zoning text for 30' front yard setbacks with the 30' setback on a corner lot exacerbate the restrictions of this lot, amongst other site factors such as, lack of street parking, numerous easements on the lot and other Architectural Requirements.

- (3) The Specific Reasons why the variance is justified according to this chapter.

The variance should be approved as the nature of the structure is appropriately designed for the Community and approved by the NACCCARC. The Proposed garage will have minimal impact on the neighboring properties and will be predominantly screened from adjacent homes by existing Arborvitae Hedges.

Other Factors to this variance:

1. *The proposed use will be harmonious with and in accordance with the general objectives, or with any specific objective or purpose of the Zoning Ordinance*  
The proposed use is harmonious with the overall community and will have a negligible effect on any general objective.

(b)

*2. The proposed use will be harmonious with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.*

The proposed garage will be harmonious with the main house and it will be similar to many other garage structures within the area.

*3. The use will not be hazardous to existing or future neighboring uses.*

The proposed use will not be hazardous in any way to the existing or future neighboring uses.

*4. The area will be adequately served by essential public facilities and services such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewers, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services.*

The Proposed use will not have any adverse effect on any public facilities or services.

*5. The proposed use will not be detrimental to the economic welfare of the community.*

The proposed use will not have any adverse effect on the economic welfare of the community.

*6. The proposed use will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*

The proposed use will not involve any excessive traffic, noise, smoke, fumes, glare or odors.

*7. Vehicular approaches to the property shall be so designated as not to create interference with traffic on surrounding public streets or roads.*

The proposed use will not create any interference with traffic.

#### DUNCAN FACTORS -7809 Lambton Park Road

- *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.*
  - **The shape of the lot and development requirements create peculiar setback conditions compared to other homes in the area.**
- *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.*
  - **The literal interpretation of the zoning code would indeed deprive the Homeowner from executing this project and there is precedent for some other detached structures in the neighborhood. In this case the corner of the garage in question would create roughly a 13'-10" setback.**
- *That the special conditions and circumstances do not result from the action of the applicant.*
  - **The special conditions and circumstances did not result from any actions of the homeowner.**
- *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.*
  - **It is not apparent that the granting of this variance will confer any special privilege that is denied by the zoning ordinance to other lands or structures in the same zoning district as there are numerous accessory structures within the district that have had variances.**
- *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.*
  - **The granting of the variance will not have any effect of the health and safety or materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity whatsoever.**



## **EXHIBIT 'A'**

File Number: 2580023-00811

### **LEGAL DESCRIPTION**

**Situated in the State of Ohio, County of Franklin, and in the Township of Plain, and being described as follows:**

**Being Lot Number Two (2) of THE NEW ALBANY COUNTRY CLUB SECTION 16A, as the same is numbered and delineated upon the recorded plat thereof, of record in Plat Book 87, pages 81 through 83, Recorder's Office, Franklin County, Ohio.**

Parcel ID#: 222-002074-00



Executed this 24<sup>th</sup> day of July, 2023.

The Lynne E.C. Smith 2002 Revocable Trust Dated  
March 19, 2002, As Amended

Lynne E.C. Smith, Trustee  
By: Lynne E. C. Smith, Trustee

State of Ohio

County of Franklin ss:

The foregoing instrument was acknowledged before me this 24 day of  
July, 2023, by Lynne E. C. Smith, Trustee of The Lynne E.C.  
Smith 2002 Revocable Trust Dated March 19, 2002, As Amended.

Chester A. Sharp Jr.



CHESTER A. SHARP JR.  
Notary Public, State of Ohio  
My Commission Expires FEB. 1st, 2024

Notary

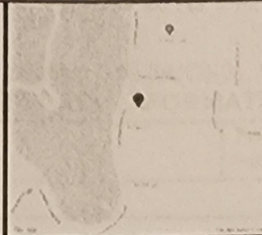
\*See Section 5302.09 Ohio Revised Code

This instrument prepared by Magnuson & Barone, Attorneys at Law





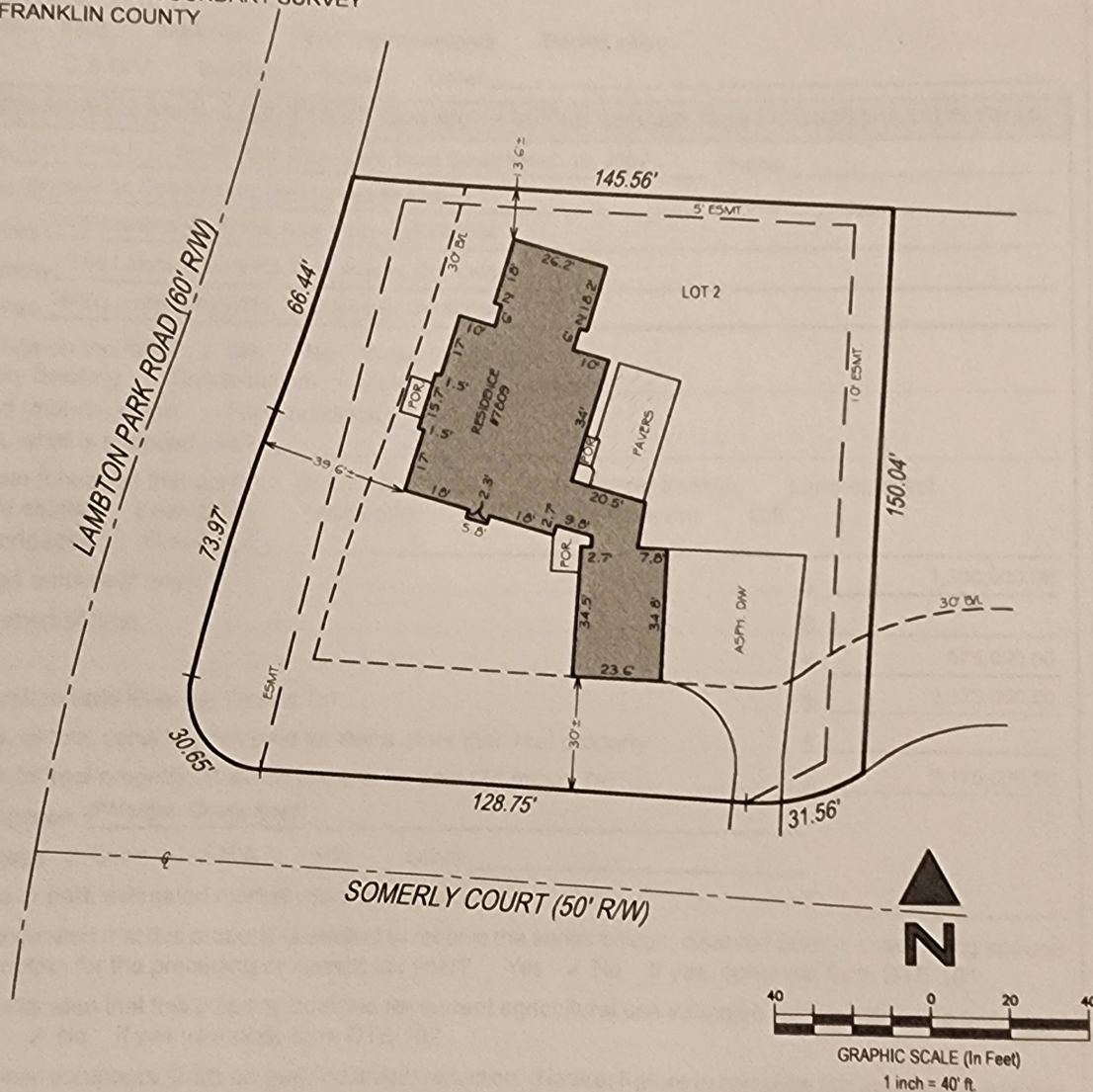
www.landmarksurvey.com | office: 614-485-9000



PROPERTY ADDRESS: 7809 LAMBTON PARK ROAD, NEW ALBANY, OHIO 43054

SURVEY NUMBER: 2306.5638

2306.5638  
MORTGAGE LOCATION SURVEY  
THIS IS NOT A BOUNDARY SURVEY  
FRANKLIN COUNTY



POINTS OF INTEREST:  
NONE VISIBLE

CLIENT NUMBER: 177587

BUYER: DEMARTEAU, MCMAHON SELLER: SMITH

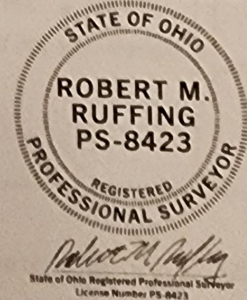
LOT: 2 BLOCK: PLAT: 87 PG: 81-83

SUBDIVISION: NEW ALBANY COUNTRY CLUB SECTION 16A

COUNTY: FRANKLIN

CERTIFIED TO:  
QUALITY CHOICE TITLE -DUBLIN

THIS MORTGAGE LOCATION SURVEY IS PERFORMED IN ACCORDANCE WITH 4733-38 OF THE OHIO ADMINISTRATIVE CODE AND IS NOT A BOUNDARY SURVEY PURSUANT TO CHAPTER 4733-37 OF THE ADMINISTRATIVE CODE AND IS ONLY FOR THE USE OF THE MORTGAGE LENDER AND TITLE INSURER. DO NOT USE THIS MORTGAGE LOCATION SURVEY FOR FUTURE CONSTRUCTION OF FENCES, SHEDS, GARAGES, ADDITIONS OR ANY OTHER STRUCTURE(S). THIS DOCUMENT MAY NOT SHOW ALL EASEMENTS AFFECTING THE SUBJECT PROPERTY.



FIELD DATE: 7/5/2023

DATE SIGNED: 07/05/23

REVISION HISTORY: (REVO 7/5/2023)

SURVEY COORDINATED BY



P 866 772 8813 F 215 359 1733  
www.truelinetech.com

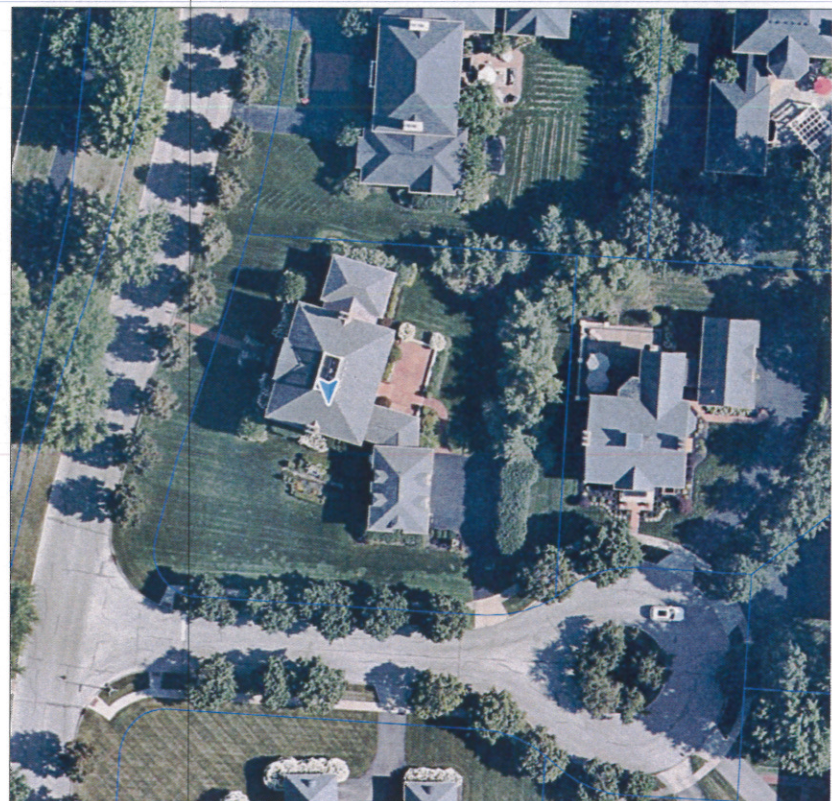
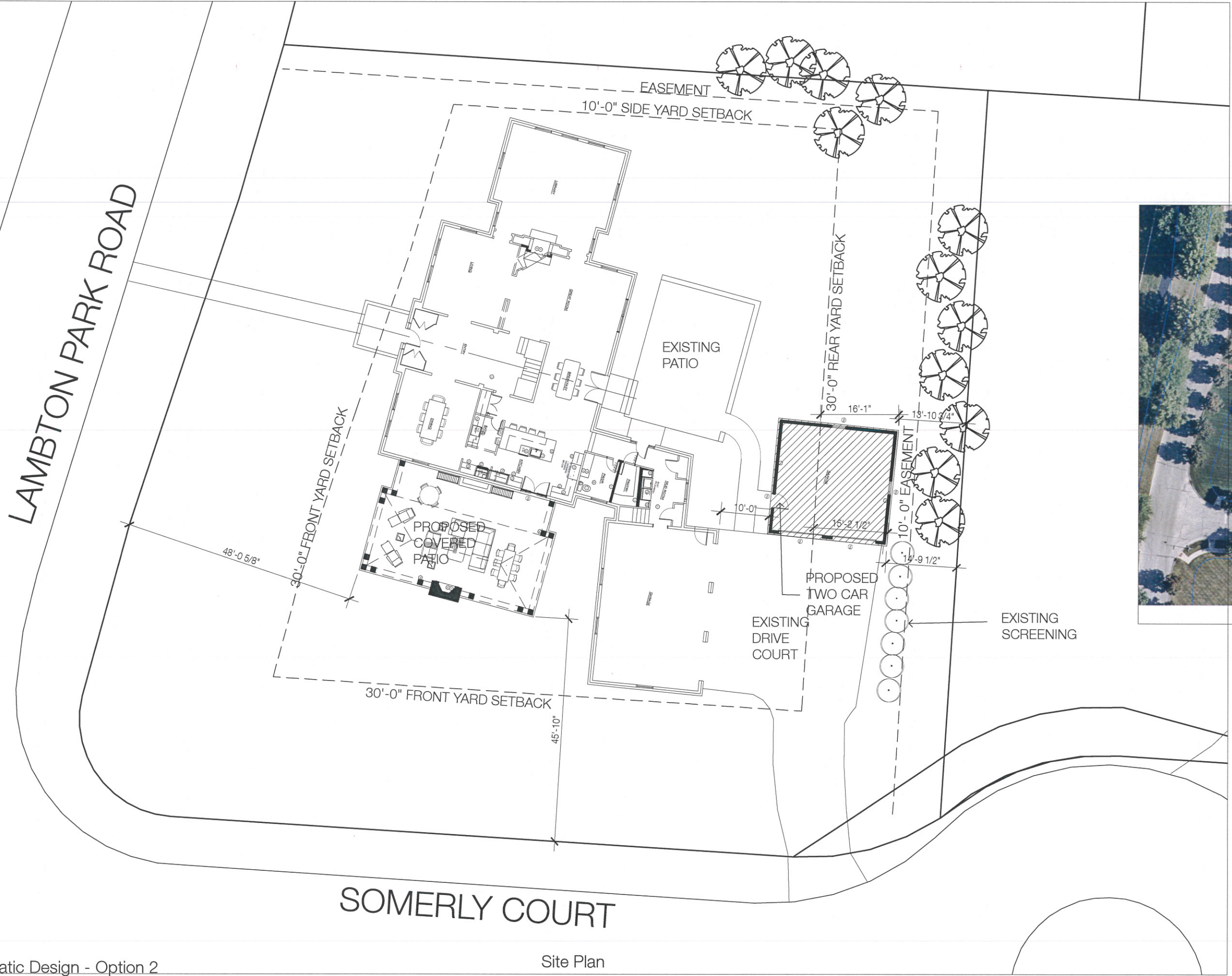


690 Lakeview Plaza Blvd | Suite A  
Worthington, OH 43085  
Phone: 614-485-9000  
www.landmarksurvey.com

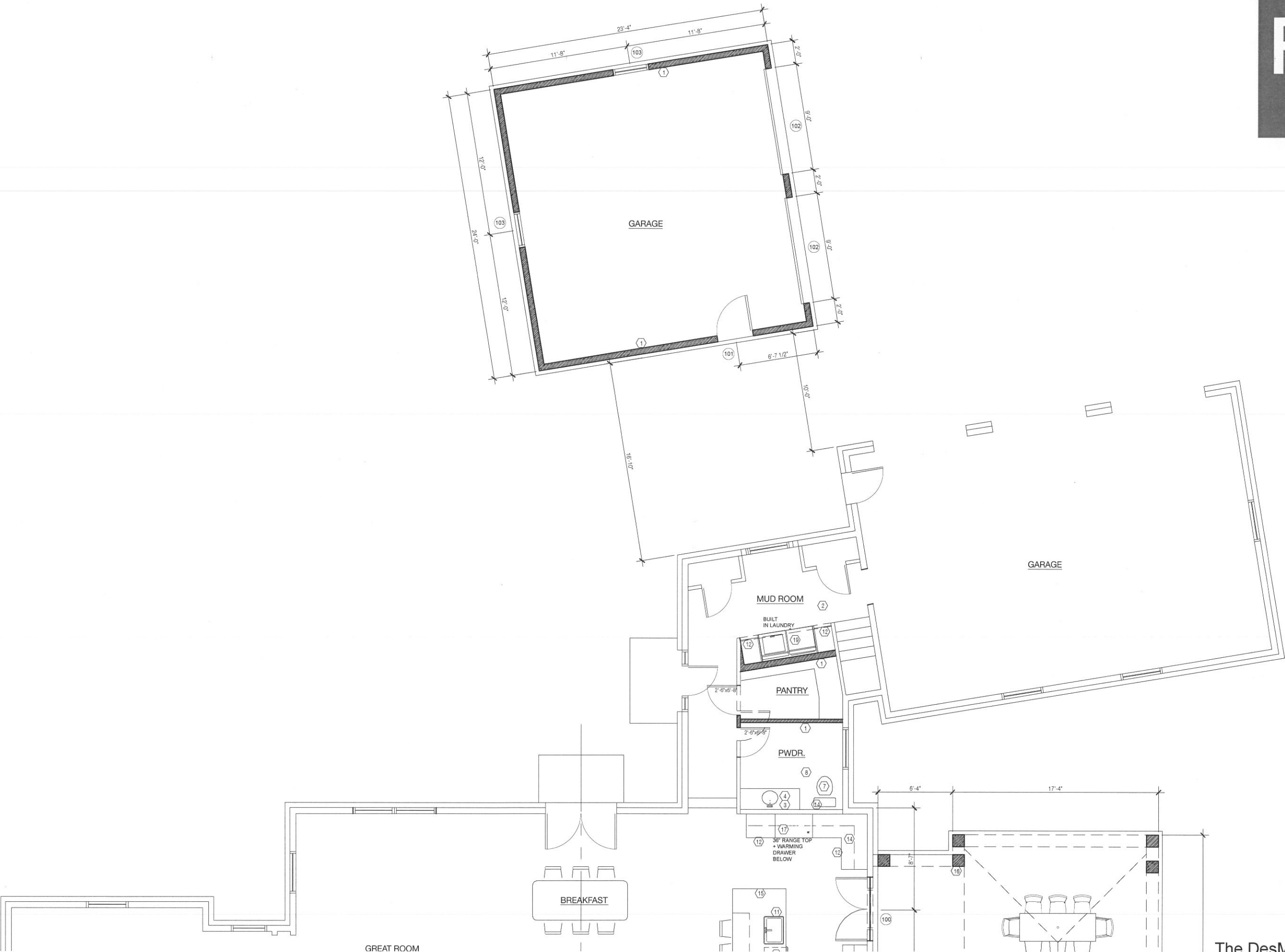


LAMBTON PARK ROAD

SOMERLY COURT



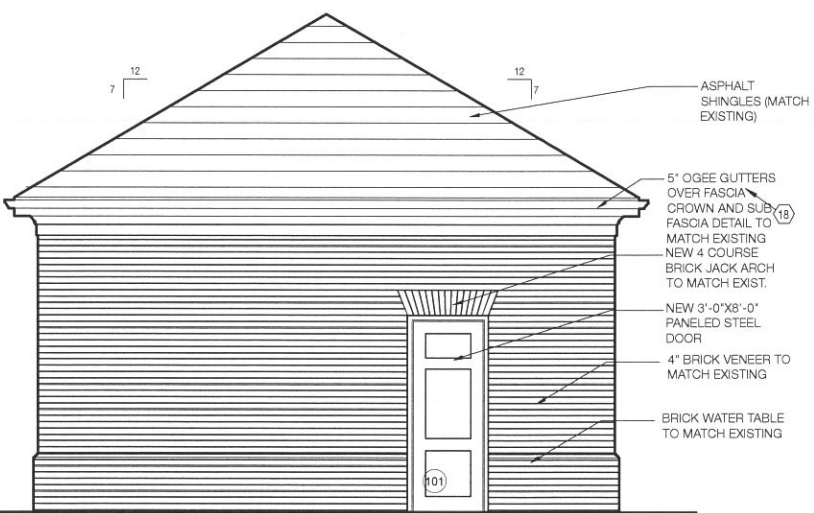
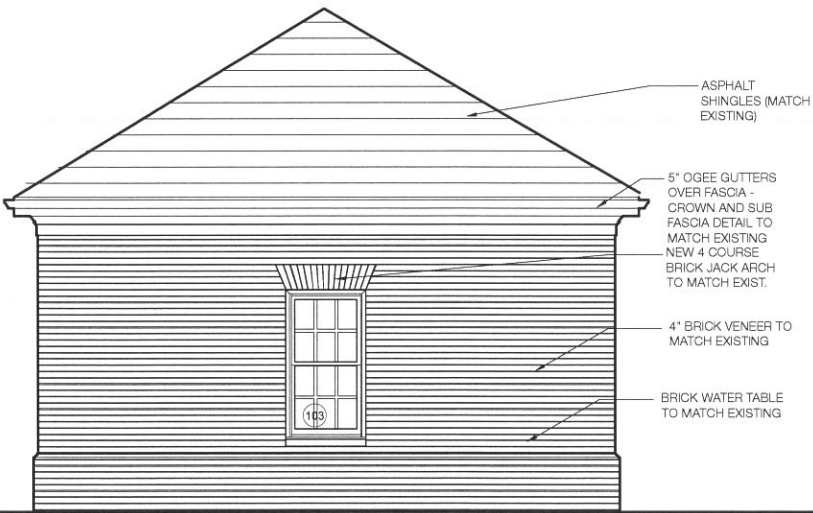
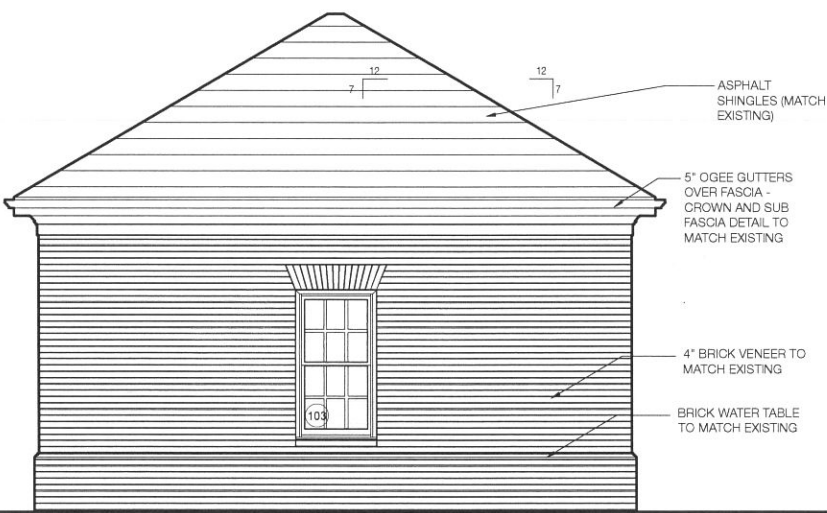
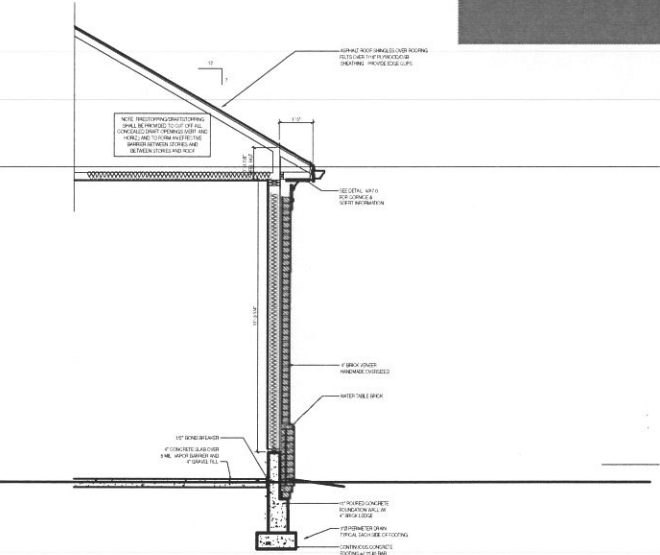
Context Map







South Elevation



Det. Garage Elevations

Buffer search results

Results 1 - 11 of 11

	Alt ID	Site Address	Owner 1	Owner 2
<a href="#">222N052HHB 00200</a>	222-002074-00	7809 LAMBTON PARK RD	DESMARTEAU JACQUES M	MCMAHON CARISSA M
<a href="#">222N052HHB 00300</a>	222-002075-00	7688 SOMERLY CT	DAMANTE MARK A	DAMANTE LESLEY A
<a href="#">222N052HHB 00400</a>	222-002076-00	7696 SOMERLY CT	BUSCH MICHAEL L	BUSCH AMY J
<a href="#">222N052HHB 00500</a>	222-002077-00	7697 SOMERLY CT	FARRELL JAMES M	FARRELL CATHERINE
<a href="#">222N052HHB 00600</a>	222-002078-00	7689 SOMERLY CT	HEIDARPOOR MARYAM K	
<a href="#">222N052HHB 00700</a>	222-002079-00	7779 LAMBTON PARK RD	ALLEVATO JASON S	ALLEVATO COURTNEY FITZPA...
<a href="#">222N052HHB 05200</a>	222-002123-00	LAMBTON PARK RD	NEW ALBANY COUNTRY CLUB COMMU...	
<a href="#">222N052HHB 09800</a>	222-002289-00	7783 PEMBROOKE PASS	STEIN DAVID K TR	STEIN DEE-ANN P TR OF DA...
<a href="#">222N052HHB 09900</a>	222-002288-00	7781 PEMBROOKE PASS	WHITE JOHN B	WHITE KATHRYN S
<a href="#">222N052HHB 10000</a>	222-002287-00	7829 LAMBTON PARK RD	KISTNER MATTHEW T	KISTNER MEGAN
<a href="#">222O075J 05006</a>	222-004458-00	JOHNSTOWN RD	NEW ALBANY COMPANY LLC	



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

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**6895 BEVELHYMER ROAD  
ARTIFICIAL LANDSCAPE VARIANCE**

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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



# Community Development Planning Application

Project Information	Site Address <u>6895 Bevelhimer Rd., New Albany, OH 43054</u> Parcel Numbers <u>222-004750</u> Acres <u>5.663</u> # of lots created <u>1</u>																																																																								
	<table border="1"> <thead> <tr> <th>Choose Application Type</th> <th colspan="5">Circle all Details that Apply</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/> Appeal</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Certificate of Appropriateness</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Conditional Use</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td><input type="checkbox"/> Development Plan</td> <td>Preliminary</td> <td>Final</td> <td>Comprehensive</td> <td colspan="2">Amendment</td> </tr> <tr> <td><input type="checkbox"/> Plat</td> <td>Preliminary</td> <td>Final</td> <td></td> <td colspan="2"></td> </tr> <tr> <td><input type="checkbox"/> Lot Changes</td> <td>Combination</td> <td>Split</td> <td colspan="3">Adjustment</td> </tr> <tr> <td><input type="checkbox"/> Minor Commercial Subdivision</td> <td></td> <td></td> <td></td> <td colspan="2"></td> </tr> <tr> <td><input type="checkbox"/> Vacation</td> <td>Easement</td> <td></td> <td colspan="3">Street</td> </tr> <tr> <td><input checked="" type="checkbox"/> Variance</td> <td></td> <td></td> <td></td> <td colspan="2"></td> </tr> <tr> <td><input type="checkbox"/> Extension Request</td> <td></td> <td></td> <td></td> <td colspan="2"></td> </tr> <tr> <td><input type="checkbox"/> Zoning</td> <td colspan="2">Amendment (rezoning)</td> <td colspan="3">Text Modification</td> </tr> </tbody> </table>	Choose Application Type	Circle all Details that Apply					<input type="checkbox"/> Appeal						<input type="checkbox"/> Certificate of Appropriateness						<input type="checkbox"/> Conditional Use						<input type="checkbox"/> Development Plan	Preliminary	Final	Comprehensive	Amendment		<input type="checkbox"/> Plat	Preliminary	Final				<input type="checkbox"/> Lot Changes	Combination	Split	Adjustment			<input type="checkbox"/> Minor Commercial Subdivision						<input type="checkbox"/> Vacation	Easement		Street			<input checked="" type="checkbox"/> Variance						<input type="checkbox"/> Extension Request						<input type="checkbox"/> Zoning	Amendment (rezoning)		Text Modification		
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Description of Request: <u>Variance from parking lot landscaping for parking islands requirement concerning ground cover to permit synthetic field turf as detailed in accompanying variance statement.</u>																																																																									
Contacts	Property Owner's Name: <u>Christian Meeting Room, Inc.</u> Address: <u>1332 Windtree Ct.</u> City, State, Zip: <u>New Albany, OH 43054</u> Phone number: <u>(614) 230-9752</u> Fax: _____ Email: <u>claytonh97@outlook.com</u>																																																																								
	Applicant's Name: <u>Plymouth Brethren Christian Church</u> Address: <u>c/o Underhill &amp; Hodge (Nick Cavalari's, Esq.)</u> City, State, Zip: <u>New Albany, OH 43054 - Suite 260</u> Phone number: <u>(614) 335-9320</u> Fax: <u>(614) 335-9329</u> Email: <u>nick@uhlawfirm.com</u>																																																																								
Signature	Site visits to the property by City of New Albany representatives are essential to process this application. The Owner/Applicant, as signed below, hereby authorizes Village of New Albany representatives, employees and appointed and elected officials to visit, photograph and post a notice on the property described in this application. I certify that the information here within and attached to this application is true, correct and complete.																																																																								
	Signature of Owner By: <u>Michelle Coulter</u> Date: <u>2/23/24</u> Signature of Applicant By: <u>Nick Cavalari</u> Date: <u>2/23/24</u>																																																																								

**APPLICANT:**

Plymouth Brethren Christian Church  
c/o Underhill & Hodge, LLC  
8000 Walton Parkway, Suite 260  
New Albany, OH 43054

**PROPERTY OWNER(S):**

Christian Meeting Room, Inc.  
1332 Windtree Ct.  
New Albany, OH 43054

**ATTORNEY/AGENT:**

Nick Cavalaris, Esq.  
Underhill & Hodge LLC  
8000 Walton Parkway, Suite 260  
New Albany, OH 43054

**SURROUNDING PROPERTY OWNERS:**

EDWARD J & REBA A TEIGA  
6880 BEVELHYMER RD  
NEW ALBANY, OH 43054

LEE & NORLIDA ALI OGG  
7343 CENTRAL COLLEGE RD  
NEW ALBANY, OH 43054

THOMAS & SUSAN SHOCKEY  
7199 CENTRAL COLLEGE RD  
NEW ALBANY, OH 43054-9303

MATTHEW MELE  
6851 BEVELHYMER RD  
NEW ALBANY, OH 43054

AARON & SARAH YORDE  
7375 CENTRAL COLLEGE RD  
NEW ALBANY, OH 43054

SHERI BRASSEUR & MATTHEW STROPKI  
7331 CENTRAL COLLEGE RD  
NEW ALBANY, OH 43054

MARY SANFORD  
7401 CENTRAL COLLEGE RD  
NEW ALBANY, OH 43054

CAROL MONTROSE  
7421 CENTRAL COLLEGE RD  
NEW ALBANY, OH 43054-9309

EDWIN HOFMANN & CHASITY KILBURN  
6868 BEVELHYMER RD  
NEW ALBANY, OH 43054

DEBRA CLINE  
6856 BEVELHYMER RD  
NEW ALBANY, OH 43054

CHRISTIAN MEETING ROOM INC  
1332 WINDTREE CT  
NEW ALBANY, OH 43054-9594

7367 CENTRAL COLLEGE LLC  
1101 BROOKHOUSE LANE  
COLUMBUS, OH 43230

JOHN & JO LINDA SPIEGEL  
7355 CENTRAL COLLEGE RD  
NEW ALBANY, OH 43054

**AFFIDAVIT OF FACTS**

I, Nicholas C. Cavalaris, in my capacity as attorney for the applicant listed on the variance application pertaining to 5.663 +/- acres known as a portion of Franklin County Parcel Number 222-004750, being first duly sworn, do hereby state and depose the following:

That accompanying this affidavit is a list of all property owners located within two hundred (200) feet of the parcel that are the subject of the application and their addresses as appearing on the Franklin County Auditor's current tax list; and

That said list is based solely on the records of the Office of the Auditor of Franklin County, Ohio, as provided on its website on or about the date of this affidavit.

Futher Affiant sayeth not.

By: Nicholas C. Cavalaris

Nicholas C. Cavalaris  
Of Counsel attorney, Underhill & Hodge LLC

STATE OF OHIO  
COUNTY OF FRANKLIN SS.

The foregoing instrument was acknowledged before me on the 23 day of February 2024, by Nicholas C. Cavalaris, who acknowledged the foregoing signature to be his voluntary act and deed.

Eric J. Zartman, Attorney At Law  
NOTARY PUBLIC-STATE OF OHIO  
My Commission Has No Expiration Date  
Sec. 147.03.R.C.

Eric J. Zartman  
Notary Public

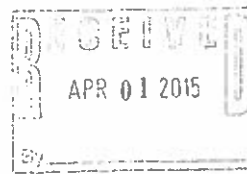
My Commission Expires: N/A

CITY OF NEW ALBANY  
NO PLAY REQUIRED  
APPROVED

*Steven Mays* 4/3/2015  
Signature Date

PLA 2015 0025

5.663 ACRES



Situated in the State of Ohio, County of Franklin, City of New Albany, lying in Section 12, Quarter Township 1, Township 2, Range 16, United States Military Lands and being part of that 9.40 acre tract conveyed as Parcel 1 and that 2.29 acre tract conveyed as Parcel 2 to John B. Shockey by deeds of record in Instrument Numbers 200709270169855 and 200710100177123, (all references are to the records of the Recorder's Office, Franklin County, Ohio), being more particularly described as follows:

Beginning, for reference, at Franklin County Geodetic Survey Monument Number 2206 found at the centerline intersection of Central College Road (variable width) and Bevelhymmer Road (60 feet wide), being South 86° 00' 34" East, a distance of 2719.95 feet from Franklin County Geodetic Survey Monument Number 5213 found in the centerline of said Central College Road;

Thence South 03° 24' 36" West, with said centerline of said Bevelhymmer Road, partially with the easterly line of that 1.420 acre tract conveyed to Joseph F. Cox and Janice E. Cox, Co-Trustees, by deed of record in Instrument Number 200702220031673, a distance of 260.01 feet to a magnetic nail set in said centerline at the easterly common corner of said 2.29 and 1.420 acre tracts, the TRUE POINT OF BEGINNING;

Thence South 03° 24' 36" West, continuing with said centerline and the easterly line of said 2.29 acre tract, a distance of 209.73 feet to a magnetic nail set in said centerline;

Thence across said 2.29 and 9.40 acre tracts, the following courses and distances:

North 86° 07' 53" West, a distance of 347.73 feet to an iron pin set;

South 48° 40' 34" West, a distance of 87.39 feet to an iron pin set;

South 03° 29' 01" West, a distance of 181.72 feet to an iron pin set; and

North 86° 30' 59" West, a distance of 348.25 feet to an iron pin set in the easterly line of that 5.204 acre tract conveyed to Thomas A. Shockey and Susan S. Shockey by deed of record in Official Record 31407F08;

Thence North 03° 31' 35" East, with the line common to said 9.40 and 5.204 acre tracts, a distance of 457.40 feet to a point in the southerly line of that 1 acre tract conveyed to Kirpatrick M. A. McCaulley and Melonie A. McCaulley by deed of record in Instrument Number 201209050130239, being referenced by a 5/8 inch rebar found (0.38 feet south);

Thence South 86° 00' 34" East, with the northerly line of said 9.40 and 2.29 acre tracts, the southerly line of said 1 acre tract, that 1 acre tract conveyed to Lee Ogg and Norlia Ali-Ogg by deed of record in Official Record 22503B05, that 1 acre tract conveyed to John M. Spiegel and Jo Linda Spiegel by deed of record in Official Record 20107G14, that 1 acre tract conveyed to David Shuster by deed of record in Instrument Number 201303010034787, and said 1.420 acre tract, (passing a 3/4 inch iron pin found at 17.54 feet (0.46 feet south, 0.23 feet east), a 2 inch iron pin found at 352.44 feet, a 5/8 inch iron pin found at 408.13 feet, a 2 inch iron pin found at 519.85 feet and a 5/8 inch rebar found at 727.86 feet) a total distance of 757.40 feet to the TRUE POINT OF BEGINNING, containing 5.663 acres, more or less, of which 3.975 acre is part of said 9.40 acre tract (APN: 222-000695) and 1.688 acre is part of said 2.29 acre tract (APN: 222-000771). Of said 5.663 acre tract, 0.144 acre is within the current right-of-way of said Bevelhymmer Road.

Subject, however, to all legal rights-of-way and/or easements, if any, of previous record.

Iron pins set, where indicated, are iron pipes, thirteen sixteenths (13/16) inch inside diameter, thirty (30) inches long with a plastic plug placed in the top bearing the initials EMHT INC.

CITY OF NEW ALBANY  
NO PLAT REQUIRED  
APPROVED

Stephen May 4/3/2015  
Signature Date

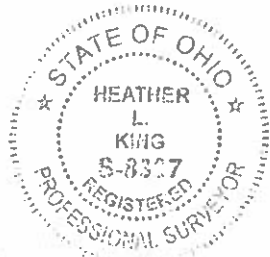


5.663 ACRES

-2-

The bearings herein are based on the Ohio State Plane Coordinate System as per NAD83 South Zone (1986 Adjustment). Control for bearings was from coordinates of monuments FRANK 78 and FRANK 178, having a bearing of North 57° 24' 57" East, established by the Franklin County Engineering Department, using Global Positioning System procedures and equipment.

This description is based on a field survey performed by or under the direct supervision of Heather L. King, Professional Surveyor No. 8307 in March, 2015.

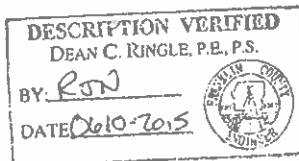
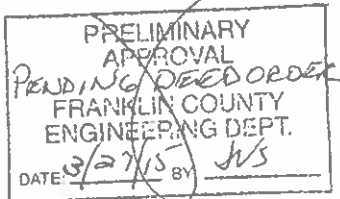


EVANS, MECHWART, HAMBLETON & TILTON, INC.

Heather L. King  
Heather L. King  
Professional Surveyor No. 8307

3/23/15  
Date

HLK: mm  
S\_663 ac 20140894-VS-BNDY 01.doc



0.074-G  
SPLIT  
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# Franklin County Auditor's Office

Auditor

Michael Stinziano

## Planimetric Legend

Source: 2011 Aerial Photography

Edge of Pavement

Roadway Centerlines

Railroad Centerlines

Building Footprints

Building Under Construction

Creeks, Streams, Ditches

Rivers & Ponds

## Topographic Legend

Source: USIP, 2019 USAR Collection

Spot Elevation

Index Contour

Intermediate Contour

## Appraisal Legend

Source: Franklin County Auditor & Engineer

Parcel IDs

100 Parcel Dimensions

100 Lot Numbers

123 Main St

Site Address

Parcel Boundary

Subdivision Boundary

Condominium Boundary

County Boundary

City or Village Boundary

Tax District Boundary

School District Boundary

Zip Code Boundary

The information on this web site is prepared from the real property inventory maintained by the Franklin County Auditor's Office. Users of this data are notified that the primary information source should be consulted for verification of the information contained on this site. The county and vendors assume no liability for any errors or omissions contained on this site. Please contact the Franklin County Auditor's Real Estate Division at any discrepancies.

For scaled maps, please visit the parcel viewer at <https://maps.franklincountyohio.gov/parcelviewer>







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## **Variance Application Supporting Statement**

### **Variance Request**

A variance request is being made by the Property Owner/Applicant, Plymouth Brethren Christian Church (the "church") to permit synthetic field turf ("field turf") to be installed as the ground cover for a children's play area and within the parking islands in the parking area of the church. This church is located at 6895 Bevelhymer Road and is located on a 5.663 +/- acre sized lot. Due to a curve in the entrance drive to the parking area, and existing landscaping between the church and Bevelhymer Road, none of these field turf applications are visible from Bevelhymer Road or any public right of way. There are 10 islands (16' x 5') utilizing the field turf and a children's play area (approx. 252 sq. ft.). The closest parking island utilizing the field turf is approx. 275 feet from Bevelhymer Road, the play area is over 300 feet away and neither are not visible from the road.

- A. New Albany Zoning Code Section 1171.06: The zoning code governs parking lot islands and states the ground cover area shall be landscaped with trees, shrubs, or ground cover. Section 1171.07 defines "ground cover" as grass normally grown as permanent lawns and "in certain cases, ground cover consisting of rocks, pebbles, sand or similar materials may be used." (Zoning Code, Section 1171.07 (g)). The applicant requests a variance to section 1171.06 to permit the field turf to qualify as ground cover within the parking islands.

### **Rationale/Justification for Request**

Over the past decade, field turf and commercial applications of similar products have been installed worldwide as a playing surface for all types of athletic facilities for all skill levels. The advantages are reliability, appearance, and safety. The addition of infill (a mixture of sand and rubber granules) allows the turf to not only cushion falls but mimics natural grass and allows for improved drainage. The commercial application of field turf is becoming more common due to improvements that have resulted in an appearance that is incredibly close to natural grass, no loss of drainage capabilities, protects cars and property from rocks and dirt, keeps the lot clean, and improved durability.

This 5.6 acre lot housing the church has acres of natural grass and landscaping around the perimeter and the installation of field turf in the parking islands is a slight amount of area compared to the entire lot area. The small areas of field turf do not detract from the church, offer a year-round green space that closely mimics grass, and even offers safer areas for pedestrians. In this case, the turf is designed to have small fragments of brown and green shades to more closely mimic grass. None of the field turf installations are visible from any public right of way due to the size of the parcel, driveway configuration and orientation on the lot.

### **Analysis of Variance Factors**

The City's Zoning Code provides factors to be applied by the Board of Zoning Appeals (the "BZA") when reviewing a variance application. Section 1113.06 of the Zoning Code states the BZA shall approve a variance if findings are made which are detailed in sub-sections (a) through (e) thereof. (Detailed information below).

Additionally, in *Duncan vs. Middlefield* (1986), 23 Ohio St. 3d 83, the Ohio Supreme Court provided factors that must be considered in addition to the local code. It should be noted that the case

provides for a weighing of the factors and not all must be met and no single factor controls. The test is described as a determination of the existence of “practical difficulty.”

### **Zoning Code Factors**

The factors that are to be considered by the BZA when reviewing a variance request pursuant to Code Section 1113.06 (a) – (e) are in bold below, with each being followed by an analysis of each factor.

- (a) 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.**

The property is over 5.6 acres in size and utilizes a curved entrance driveway to the parking lot which reduces public views of the parking lot. This commercial application of the field turf in the parking islands has small fragments of browns and shades of green to mimic natural grass and provide year-round performance improvements for the church. Moreover, the closest field turf installation is 275 feet from the right of way and none of the field turf is visible from the public right of way. Acres of existing natural grass and landscaping on site that are visible to the public serves to compliment the established appearance of the surrounding area.

- (b) 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.**

Section 1171.06 of the Zoning Code provides parking islands are to utilize some type of ground cover. Section 1171.07 (g) defines “ground cover” as grass or “rocks, pebbles, sand or similar materials may be approved.” Here, the applicant is requesting that commercial field turf that very closely resembles the look of natural grass but with improved performance standards be permitted in areas not visible to the public. Other properties may use rocks, pebbles and other similar materials as ground cover and this request falls closer on the spectrum to grass than these materials. Since these parking islands are not visible to the public and closely resemble natural grass should weigh in favor of the applicant on this factor.

- (c) That the special conditions and circumstances do not result from the action of the applicant.**

One of the installations of this field turf is for a children’s play area, which is sought mainly due to safety concerns. The island installations are sought due to performance, reliability, and appearance. They are not visible to the public and would enhance the appearance of the parking area due to inclement weather. This is a \$40,000.00 investment by the church who believes this is a preferred solution to their needs and investment in the city.

- (d) 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.**

There have been other applications of field turf in the city and applicant is not the first to request such use. Approved ground cover includes rocks, pebbles or similar materials. Field

turf closely resembles natural grass and this installation is not visible to the public. The closest parking lot island to Bevelhymer Road is over 275 feet away and none of the installations are visible to the public. Moreover, other play areas in the city utilize this application such as Barrington School.

- (e) **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.**

The requested variances will not adversely affect health and safety of persons residing or working in the vicinity of the Property nor will they be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity. The turf is a safer application for play areas than grass can be and has been previously utilized in the city. It is not visible from Bevelhymer Road or any public right of way and enhances the safety, performance, and cleanliness.

### **Duncan v. Middlefield Factors**

The factors to be considered and weight in determining whether a property owner seeking an area variance has encountered practical difficulties in the use of its property include, according to the Ohio Supreme Court in *Duncan v. Middlefield*, those which are bolded below (analysis of this variance is provided after each.) Again, the case provides for a weighing of factors. Not all of them must be met and no single factor controls.

- (1) **Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;**

The property could yield a reasonable return without the field turf however, locations of which were dictated in large part by requirements of the development standards and are not visible from the public rights of way. The church has made a \$40,000.00 investment in this application mainly due to safety, year-round appearance, and cleanliness. The field turf closely resembles grass than other uses listed as acceptable ground cover such as rocks, pebbles, or sand in Section 1171.07 (g).

- (2) **Whether the variance is substantial;**

The variances are not significant given the 5.6 acre size of the church lot. However, given the nature of the zoning and existing uses and the field turf if granted, is not inconsistent with the character of the area. In addition, there will continue to be a significant distance between the proposed use and the public right of way.

- (3) **Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;**

The character of the area is residential at this intersection of Bevelhymer Road and Central College Road. The use is setback by over 275 feet from the right of way and is not visible.

There is natural grass, mounding and landscaping at this church property that match the character of the area and since the field turf is not visible to the public, would not cause a substantial detriment as a result of the variance.

**(4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);**

The variance will not affect the delivery of governmental services. This use will not require the use of public water or sanitary sewer services.

**(5) Whether the property owner purchased the property with knowledge of the zoning restrictions;**

The property was purchased in 2015 and since that time the church was planned, investments made and constructed. The field turf is sought for safety, performance, and appearance. The owner made a \$40,000.00 investment and did not know of this restriction. This is but one factor to be weighed by the BZA. No single factor controls according to the *Duncan* court case and field turf is a closer in application to grass than rocks or pebbles which can qualify as ground cover, if approved.

**(6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance;**

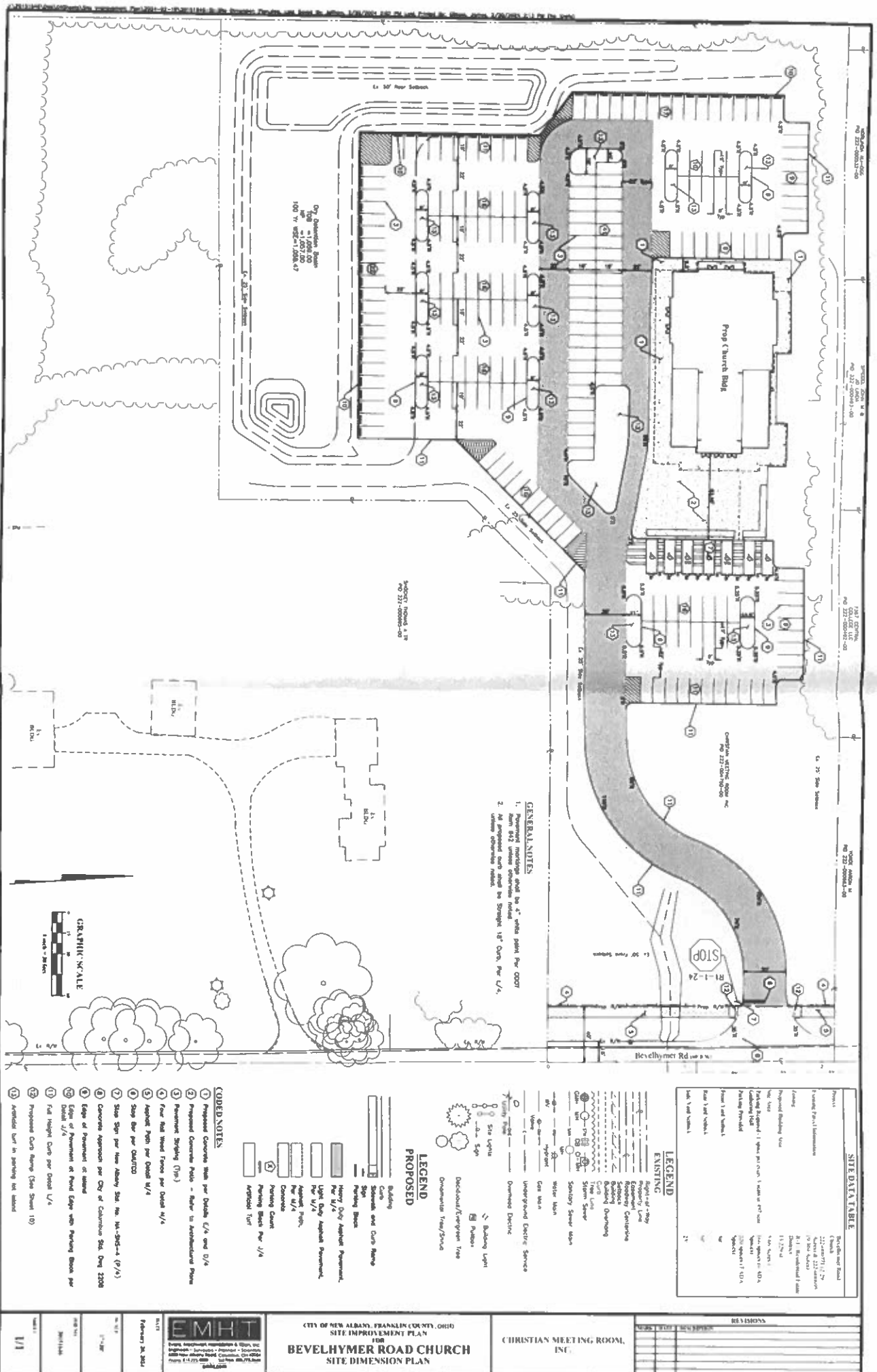
The issues facing the church with respect to its property utilizing other types of ground cover for the parking islands are cost and appearance. Field turf performs more reliably than grass, this installation more closely resembles grass, is safer, and cleaner for the parking area.

**(7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.**

The spirit and intent of the underlying zoning requirement will be observed, and substantial justice will be done by granting the variance. The variance process is intended to provide relief in circumstances where there would otherwise be a substantial detriment to a property. This field turf resembles grass and is not visible to the public and the applicant respectfully requests that it be permitted in this location.

*Richard C. Coker*







## **Plymouth Brethren Christian Church**

**6895 Bevelhymer Road New Albany, Ohio**

