



**New Albany Board of Zoning Appeals**  
February 24, 2025 Meeting Minutes - Approved

**I. Call to order**

The New Albany Board of Zoning Appeals held a regular meeting on Monday, February 24, 2025 in the New Albany Village Hall. Chair LaJeunesse called the meeting to order at 6:29 and asked to hear the roll.

**II. Roll call**

Those answering the roll:

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

\*Council Member Kist attended in lieu of Council Member Shull

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

Staff members present: Planner Blackburn, Planning Manager Christian, Deputy Clerk Madriguera.

**III. Action on minutes January 27, 2025**

Chair LaJeunesse asked if there were any corrections to the minutes from the January 27, 2025 meeting.

Hearing none, Board Member Jacob moved for approval of the January 27, 2025 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 January 27, 2025 meeting minutes were approved as submitted.

**IV. Additions or corrections to the agenda**

Chair LaJeunesse delivered the oath to all present who wished to address the board for a case on the agenda.

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

Chair LaJeunesse recognized that there were three visitors present who wished to address the board for an item not on the agenda.

Chair LaJeunesse introduced the first and only case on the agenda and asked to hear the staff report.

**VI. Cases**

**VAR-08-2025 Variance**

Variance to Business and Commerce L-GE zoning text section VI (B) to delay the installation of the required landscaping along adjacent residential use properties at 13360 Miller Road (PID: 095-111648-00.00)

**Applicant: Ryan O'Grady**

Planner Blackburn delivered the staff report.

Board Member Samuels moved to admit the staff reports and related documents into the record for VAR-08-2025. 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, the motion passed and the staff reports and related documents were admitted into the record for VAR-08-2025.

Board Member Jacob asked staff to elaborate on the type of greenery or plants that will be put in.

Applicant Ryan O'Grady answered that it would be a mixture of various trees and shrubbery.

Planning Manager Christian added that city staff, including the city architect, worked to be sure that the landscaping will meet the requirements of the text.

Chair LaJeunesse asked the applicants whether they had anything to add to the staff report.

Applicants Joseph Dzubara, Ryan O'Grady, and David Darby thanked Planner Blackburn for her presentation and stated they had nothing further to add but were available for questions.

Board Member Schell asked whether anything like this has come before the board.

Planning Manager Christian answered no. Staff has been working with the applicant since day 1. This is a unique piece of property and the annexation process has begun, and the current neighbor's rezoning would obviate the need for the variance

Board Member Samuels asked about the vegetation v. fencing barrier, and about the expectation.

Planning Manager Christian responded that it is more of a visual barrier than a sound barrier.

Board Member Jacob moved for approval of VAR-08-2025 based on the findings in the staff report with the conditions in the staff report, if any, and subject to staff approval. Chair LaJeunesse seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. LaJeunesse yes.

Ms. Samuels yes. As rationale for her vote, Ms. Samuels requested that the record include Planning Manager's comment that the current neighbor's rezoning would obviate the need for the variance.

Mr. Schell yes.

Having four yes votes, the motion passed and VAR-08-2025 was approved.

The board wished the applicants good luck.

Thereafter Chair LaJeunesse recognized that there were visitors present, Laurie Johnson, Joel Topolosky, and Jennifer Lewis, who wished to address the board for an item not on the agenda. These visitors would be heard under Other business.

## **VII. Other business**

Lori Johnson, 6357 Callaway Square East, thanked the board and stated that she wanted to address the board about the proposed rezoning of the property adjacent to the Nottingham Trace age-restricted residential subdivision. The property was being considered for rezoning in order to accommodate a bus

barn for the schools and a new fire substation. She asked whether this board would review that application.

Planning Manager Christian responded no, that application would not come before this board. This board deals with appeals. The Planning Commission and City Council address zoning applications.

Council Member Kist thanked Ms. Johnson for taking the time to come to the Board of Zoning Appeals meeting. He explained that this board considers appeals of staff determinations. The application Ms. Johnson was interested in commenting on is currently in the informal review process. It would be considered by the Planning Commission, the Plain Township Trustees, the New Albany Plain Local School Board, and the New Albany City Council. The rezoning signs with a qr code will be posted on the property

Mr. Topolosky, 6204 Callaway Square West. He lives in the first house in the development. The Nottingham Trace residents are concerned about the bus return road; the north road will need a left turn lane in order to avoid backing up traffic. For that reason the Nottingham Trace residents believe that the bus barn road is a bad idea. He further explained that he thought that the proposed building is in the drop zone of a nearby communication tower. He is concerned about the impact of bus emissions on their health and that having a bus barn near a residential area could decrease property values.

Board Member Schell thanked Mr. Topolosky and stated that he wanted to be sure they able raised their concerns to the appropriate boards. He advised them to be sure they visited with the Plain Township Trustees, the New Albany Planning Commission, and the New Albany City Council. He urged Mr. Topolosky, Ms. Johnson, and Ms. Lewis to reach out to city staff.

Council Member Kist thanked Mr. Topolosky and said his [Mr. Topolosky's] message was heard loud and clear. He stated that the other body to consider contacting is the New Albany Plain Local School Board. He also said the city is considering adding a dedicated page to the website regarding this issue and that the Nottingham Trace homeowners' association should be reaching out very soon.

Board Member Schell added that the board loves hearing from citizens and stated that there will be traffic studies regarding this application.

Residents – are they doing studies with air pollution, sound, and the pond.

Schell – city staff will have the answers;

Ms. Johnson thanked the board and stated that the irony is that many residents of Nottingham Trace are health compromised, and many others take care of grandchildren. They love New Albany and many are worried that they will have to sell their homes.

The board thanked the residents.

Council Member Kist thanked the residents and assured them that this was still in the decision stage.

### **VIII. Poll members for comment**

Chair LaJeunesse polled the members for comment.


### **IX. Adjournment**

Hearing no comment, Board Member Jacob moved to adjourn the February 24, 2025 meeting of the Board of Zoning Appeals. Board Member Schell seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. Schell yes, Ms. Samuels yes, Mr. LaJeunesse. Having four yes votes, the motion passed and the February 24, 2025 meeting was adjourned.

Submitted by Deputy Clerk Madriguera, Esq.

**Appendix  
VAR-08-2025  
Staff Report  
Record of Action**

  
**NEW ALBANY**  
COMMUNITY CONNECTS US  
Board of Zoning Appeals Staff Report  
February 24, 2025 Meeting

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**LANDSCAPE SCREENING VARIANCE**

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LOCATION: 13360 Miller Road, NW (PID: 095-111648-00.000).  
APPLICANT: Ryan O’Grady  
REQUEST: (A) Variance to Business and Commerce L-GE zoning text section VI(B) to delay the installation of the required landscaping along adjacent residential use properties  
ZONING: Limited General Employment (L-GE): Business and Commerce Zoning Text  
STRATEGIC PLAN: Employment Center  
APPLICATION: VAR-08-2025

Review based on: Application materials received January 31, 2025

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*Staff report prepared by Kylie Blackburn, Planner*

**I. REQUEST AND BACKGROUND**

The applicant requests a variance to delay the installation of the required landscaping along a residentially used property. The Business and Commerce L-GE zoning text requires landscaping and/or mounding to be installed within the minimum required pavement setback areas, adjacent to residentially zoned and used properties, to provide an opacity of 75% on the date that is five (5) years after planting to a total height of 10 feet above ground level when viewed from off-site. Due to the requirements of this zoning text, the landscaping is required to be installed immediately and the applicant request a variance to allow it to be installed by the end of construction work on the site.

**II. SITE DESCRIPTION & USE**

The property, spanning +/- 79.3 acres, is located in the Licking County portion of the New Albany Business Park. The site is planned to be developed as a data center campus. Adjacent properties to the west and south are located in the same limited overlay district. To the east, the property is zoned Technology Manufacturing District. The property to the north is residentially zoned and used, located within Jersey Township.

**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.*

### **III. ASSESSMENT**

#### ***Considerations and Basis for Decision***

#### **(A) Variance to Business and Commerce L-GE zoning text section VI(B) to delay the installation of the required landscaping along adjacent residential use properties**

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

1. The Business and Commerce zoning text’s Buffering, Landscaping, Open Space, and Screening code section VI(B) provides the following requirements related to screening along residentially zoned and used properties.

*“For those perimeter boundaries which abut residentially zoned and used properties (if two contiguous properties have an intervening public street right-of-way between them, they shall still be considered to be abutting) that are not owned by the developer, then the required landscaping and/or mounding (or some combination thereof) within minimum required pavement setback areas shall be enhanced to provide an opacity of 75% on the date that is five (5) years after planting to a total height of 10 feet above ground level when viewed from off-site. Existing trees may be utilized to meet this opacity requirement.”*

2. Zoning text section VI(J) states that this screening is required to be installed when a site improvement is constructed that will be within 800 feet of the residentially zoned and used property. There is a residentially zoned and used property adjacent to the northern boundary of this commercial site and the applicant plans to construct improvements that are within 800 feet of this shared property line, therefore the screening is required to be

- installed immediately. The applicant requests a variance to this requirement to delay the installation of landscaping until the end of construction work on the site.
3. The variance request does not appear to be substantial, as the applicant intends to delay the landscaping installation just until construction is completed on-site. The variance is being requested due to there being insufficient space to relocate construction trailers on site during construction. While the required landscaping will not be in place immediately, the applicant states that they will install construction fencing along the northern property line, adjacent to the neighboring residential area.
  4. Allowing the variance would not significantly alter the essential character of the neighborhood. The applicant has committed to maintaining screening of the construction from neighboring properties through the use of fencing until the landscaping is installed. Since the landscaping would not provide full opacity immediately upon installation, the fencing may offer more effective screening than the landscaping could on day one. Additionally, there are other commercial sites in the surrounding where immediate installation of screening is not required. Those property owners are permitted to install the screening by the end of construction which is the same request this applicant is making.
  5. The variance request generally aligns with the "spirit and intent" of the zoning requirement, as the applicant is still required to provide the necessary screening as construction is completed. This approach ensures that the intent of the zoning requirement is upheld while still addressing practical constraints, thereby serving substantial justice by balancing the needs of the project with the surrounding environment.
  6. The applicant states that there are special conditions and circumstances in this case that justify the variance request, as outlined in their reasoning letter. They state that despite repeated attempts to contact the residents of the adjoining property, no one has reached out, and it appears that the property is not actively in use. However, the zoning text still requires compliance with the screening provisions.
  7. Granting the variance will not adversely affect the health and safety of those residing or working nearby, nor will it be materially detrimental to the public welfare or injurious to private property or public improvements. The applicant has ensured that a form of screening will remain in place along the residential property through the use of fencing, and the landscaping will be installed once construction is complete and the construction trailers are removed. This approach will maintain the intended screening, ensuring no negative impact on the surrounding area.
  8. The variance would not adversely affect the delivery of government services.

#### **IV. SUMMARY**

The variance request involves delaying the installation of required landscaping until after construction is completed, due to space constraints for construction trailers. The applicant commits to maintaining screening along the residential property line using fencing during this period, ensuring that the intent of the zoning requirements is still met. Granting the variance will not significantly alter the neighborhood's character, as the fencing will provide effective screening until the landscaping can be installed. Overall, it does not appear that granting this variance negatively impacts the surrounding area and it will be in line with the spirit of the zoning code.

#### **V. ACTION**

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

Move to approve application VAR-08-2025.

**Approximate Site Location:**



Source: NearMap



## **Community Development Department**

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

Dear Ryan O'Grady,

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, February 25, 2025

The New Albany Board of Zoning Appeals took the following action on 02/24/2025 .

#### Variance

**Location:** 13360 Miller Rd, Unit:Bldg 2, New Albany, OH 43031

**Applicant:** Ryan O'Grady,

**Application:** PLVARI20250008

**Request:** Variance

**Motion:** To Approve

**Commission Vote:** Motion Approved, 4-0

**Result:** Variance, PLVARI20250008 was Approved, by a vote of 4-0.

Recorded in the Official Journal this February 25, 2025

**Condition(s) of Approval:** N/A

Staff Certification:

Kylie Blackburn  
Planner