



**New Albany Planning Commission Meeting Agenda**  
Monday, July 21, 2025 at 7:00 p.m.

Members of the public must attend the meeting in-person to participate and provide comments at New Albany Village Hall at 99 West Main Street. The meeting will be streamed for viewing purposes only via the city website at <https://newalbanyohio.org/answers/streaming-meetings/>

**I. Call to order**

**II. Roll call**

**III. Action on minutes:** June 16, 2025

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

Administration of 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:**

**FPM-51-2025 Hawksmoor Lot 19 Re-Plat**

Final plat modification to vacate and create tree preservation zones/drainage easements on 3.29 acres of land located at 8 Hawksmoor Drive (PID 222-004645-00).

**Applicant: Curtis Echelberry**

*Motion of acceptance of staff reports and related documents into the record for FPM-51-2025.*

*Motion of approval for application FPM-51-2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.*

**VAR-52-2025 Ealy Crossing Pool Variance**

Variance to pool fence and location requirements to allow a safety cover on a pool and for a pool to be outside of the building line on a 0.75-acre site located at 21 Ealy Crossing S (PID: 222-004142-00).

**Applicant: Julie and Vince Jenkins**

*Motion of acceptance of staff reports and related documents into the record for VAR-52-2025.*

*Motion of approval for application VAR-52-2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.*

**VII. Other business**

1. City Code Amendment: C.O. 1153 General Employment – Architectural Changes

**VIII. Poll members for comment**

**IX. Adjournment**



**New Albany Planning Commission**  
Monday, June 16, 2025 Meeting Minutes - DRAFT

**I. Call to order**

The New Albany Planning Commission held a regular meeting on Monday, June 16, 2025 in the New Albany Village Hall. Chair Kirby called the meeting to order at 7:00 p.m. and asked to hear the roll.

**II. Roll call**

Those answering the roll:

|             |         |
|-------------|---------|
| Mr. Kirby   | present |
| Mr. Wallace | present |
| Mr. Schell  | present |
| Ms. Briggs  | present |
| Mr. Larsen  | present |

Council Member Brisk present on behalf of Council Member Wilttrout.

Having all voting members present the commission had a quorum to transact business.

Staff members present: Law Director Albrecht, Community Development Engineer Albright, Planner I Blackburn, Planning Manager Christian, Planner II Saumenig, Planner Sauter, Deputy Clerk Madriguera.

**III. Action on minutes: May 19, 2025**

Chair Kirby asked whether there were any additions or corrections to the minutes.

Hearing none, Commissioner Schell moved for approval of the May 19, 2025 meeting minutes. Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Schell yes, Ms. Briggs yes, Mr. Kirby yes, Mr. Wallace abstained from the vote, Mr. Larsen yes. Having four yes votes, the motion passed and the May 19, 2025 meeting minutes were approved as submitted.

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

Chair Kirby asked whether there were any additions or corrections to the agenda.

Planner II Saumenig answered yes, Kennel Club wished to offer an informal presentation under Other business regarding a potential rezoning application. Hearing no objection, the agenda was amended.

Chair Kirby administered the oath to all present who would be addressing the commission.

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

Chair Kirby asked whether there were any visitors present who wished to address the commission for an item not on the agenda.

Hearing none, he introduced the first case and asked to hear the staff report.

## **VI. Cases:**

### **ZC-48-2025 NACC Section 30 Zoning Amendment**

Rezoning of approximately 1.18 acres generally located north and west of Lambton Park Road and south of Brandon Road (Parts of PID: 222-004458, PID: 222-005189, and PID: 222-005193) as they exist today from C-PUD NACO 1998 PUD Subarea 1G: Golf Course and East Nine Infill-Planned Unit Development (I-PUD) to East Nine Infill-Planned Unit Development (I-PUD).

**Applicant: The New Albany Company LLC c/o Aaron Underhill, Esq.**

Planning Manager Christian delivered the staff reports for ZC-48-2025, TM-49-2025, FDP-35-2025, and FPL-40-2025 in a single presentation because the applications all relate to the same property.

Chair Kirby asked to hear from the applicant.

Applicant Tom Rubey from the New Albany Company spoke in support of the application. He described the modifications that had taken place since the last time the commission had reviewed the application – chiefly the wetland plantings. The Parks and Trails Advisory Board has reviewed and approved the parks and trails of the development. He described the modification of the area referred to as the close. There have been meetings with the fire department. There are three locations where structures would be built above a public road. There have been conversations with the city manager, and the law director.

Chair Kirby asked whether the fire department documents were included in the materials.

Mr. Rubey said they were not.

Chair Kirby and Mr. Rubey agreed that a condition of approval would be inclusion of those documents.

Commissioner Larsen asked about on-street parking.

Mr. Rubey explained that there was limited on-street parking in the close areas but each home would have an auto court.

Commissioner Schell asked who would own the accessory dwelling unit (ADU) above the street.

Mr. Rubey explained they were part of the deeded lots.

Commissioner Wallace asked whether the community would be gated.

Mr. Rubey answered no and further confirmed that all the roads in the development will be public.

Commissioner Larsen confirmed which home would be attached to the ADU[s] and that they would be suitable for habitation.

Commissioner Schell asked if there were more homes as a result of the ADU[s].

Mr. Rubey said no, the total number of homes remains 40.

Commissioner Briggs, referencing Commissioner Larsen's comment about the on-street parking, asked whether there would be enough space for a delivery truck or food delivery vehicle and still allow through traffic.

Mr. Rubey responded no, the streets were narrow. However he stated that there would be motor courts in front of the houses, and there would be a larger area at the end for parking.

Commissioner Larsen confirmed that the stipulation in the text for subarea 3 was for the space above the road.

Chair Kirby asked whether the wording on roman VI 3 B 4 could be tightened to clarify that this is not in the right of way but in the air.

Mr. Rubey agreed and explained that what the applicant essentially needs is air rights, not on the right of way, the structure does not extend to the right of way.

Chair Kirby confirmed the fire department would address minimum heights and asked about the front doors that do not face the street.

Mr. Rubey identified the lots with doors that do not face the street and explained that the lots are very large – in excess of 2 acres - so the applicants are asking from relief.

Chair Kirby confirmed that the zoning text included this provision, thus variances would not be required; he further confirmed that this would be four-sided architecture. He asked for other questions from the commissioners.

Commissioner Wallace pointed out the uniqueness of the area and thus there was no precedential value.

Chair Kirby asked for the questions from the public. Hearing none, he confirmed that there were no comments from engineering.

Chair Kirby stated that he would proceed with the document motions for the related applications and then on the merits for each application.

Chair Kirby moved to admit the staff reports and related documents, including the applicant materials for ZC-48-2025. Commissioner Wallace seconded the motion.

Chair Kirby asked if there was any discussion on the motion.

Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Mr. Schell yes, Ms. Briggs yes, Mr. Larsen yes. Having five yes votes, the staff reports and related documents including the applicant materials were admitted to the record for ZC-48-2025.

Commissioner Wallace moved for approval of ZC-48 2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

Chair Kirby asked whether there was any discussion on the motion. Hearing none he asked to hear the roll.

Upon roll call: Mr. Wallace yes, Mr. Schell yes, Mr. Larsen yes, Ms. Briggs yes. Having five yes votes ZC-48-2025 was approved.

**TM-49-2025 NACC Section 30 Zoning Text Modification**

Amendment to the NACC Section 30 East Nine I-PUD zoning text (PIDs: 222-005185 and 46 others (see backside of agenda for complete parcel list).

**Applicant: The New Albany Company LLC c/o Aaron Underhill, Esq.**

Chair Kirby moved to accept the staff reports and related documents into the record for TM-49-2025. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Mr. Schell yes, Ms. Briggs yes, Mr. Schell yes. Having five yes votes the staff reports and related documents were accepted into the record for TM-49-2025.

Commissioner Wallace moved to approve TM-49-2025 based on the findings in the staff report with the conditions in the staff report and the following additional conditions, subject to staff approval:

3. Staff approval of signage and graphics.
4. No ground level encroachment into right of way, VI B 4 and V B 4, lots 139- 140, 135, and 108-116.

Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none he asked to hear the roll.

Upon roll call: Mr. Wallace yes, Ms. Briggs yes, Mr. Larsen yes, Mr. Kirby yes, Mr. Schell yes. Having five yes votes, the motion passed and TM-49-2025 was approved subject to the conditions in the staff report and the conditions as stated above, subject to staff approval.

**FDP-35-2025 NACC Section 30 Final Development Plan**

Final development plan for a 40-lot residential subdivision on 30.30 acres generally located north and west of Lambton Park Road and south of Brandon Road (PID: 222-004458 and 46 others—see backside of agenda for complete parcel list).

**Applicant: The New Albany Company LLC c/o Aaron Underhill, Esq.**

Chair Kirby moved to accept the staff reports and related documents into the record for FDP-35-2025. Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Ms. Briggs yes, Mr. Larsen yes, Mr. Wallace yes, Mr. Schell yes. Having five yes votes, the motion passed and the staff reports and related documents were accepted into the record for FDP-35-2025.

Commissioner Wallace moved for approval of FDP-35-2025 based on the findings in the staff report, with the conditions in the staff report and the following additional conditions, subject to staff approval:

6. Fire department mandates be met including minimum heights and building standards, subject to staff approval.
7. That there be minimum height sufficient for vehicle access, subject to staff approval.

Commissioner Larsen seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Wallace yes, Mr. Larsen yes, Mr. Schell yes, Mr. Kirby yes, Ms. Briggs yes. Having five yes votes, the motion passed and FDP-35-2025 was approved subject to the conditions in the staff report and as stated above, subject to staff approval.

**FPL-40-2025 NACC Section 30 Final Plat**

Final plat for a 40-lot residential subdivision on 30.30 acres generally located north and west of Lambton Park Road and south of Brandon Road (PID: 222-004458 and 46 others—see backside of agenda for complete parcel list).

**Applicant: The New Albany Company LLC c/o Aaron Underhill, Esq.**

Chair Kirby moved to admit the staff reports and related documents into the record for FPL-40-2025.

Chair Kirby asked whether there was any discussion on the motion. Hearing none he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Mr. Schell yes, Ms. Briggs yes, Mr. Larsen yes. Having five yes votes, the motion passed and the staff reports and related documents were admitted to the record for FPL-40-2025.

Commissioner Wallace moved for approval of FPL-40-2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval. Commissioner Schell seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none he asked to hear the roll.

Upon roll call: Mr. Wallace yes, Mr. Schell yes, Ms. Briggs yes, Mr. Kirby yes, Mr. Larsen yes. Having five yes votes, the motion passed and FPL-40-2025 was favorably recommended to the New Albany City Council.

The commission congratulated the applicants and wished them good luck.

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

**FDM-37-2025 Canini Medical Office Building FDP Modification**

Final development plan modification to allow for the construction of two medical office buildings on 2.08 acres located on Forest Drive (PID: 222-004888).

**Applicant: Canini & Associates, Ltd.**

Planner I Blackburn delivered the staff reports on FDM-37-2025 and VAR-44-2025 in a single presentation because they referred to the same property.

Chair Kirby asked whether there were any comments from engineering.

Development Engineer Albright answered that there were no comments from engineering.

Chair Kirby asked to hear from the applicant.

Applicant Larry Canini spoke in support of the applications. He explained that following the prior presentation he was surprised to learn there were some wetlands on the property. They have flipped the plan in order to deal with the wetlands. He further explained why there would not be cross access from one parcel to the next. They decided it was best to keep the wetland protected. He apologized for not dealing with the wetland prior to appearance the first time. Regarding the parking, the single access point was for the single tenant and the mixed use tenant would have its own parking which would be larger.

Chair Kirby confirmed that the drive was built to public road standards.

Commissioner Schell asked about the hesitation for shared parking.

Mr. Canini explained that it was because it was a single tenant and that tenant should not be burdened with shared parking.

Commissioner Wallace asked the applicant to explain the burden.

Mr. Canini reiterated that he was trying to attract tenants and tenants were attracted to dedicated parking.

Commissioner Wallace responded that he would think that shared parking would increase availability.

Chair Kirby asked why the dumpster was not screened.

Mr. Canini explained that he manages a lot of medical facilities throughout Ohio. The refuse pickup company would not open the gate, staff must do it and when the gate is not opened the pickup is missed and the refuse stacks up. Additionally, items are tossed over the gate. An exposed dumpster screened by landscaping is more visible and thus more tidy.

Chair Kirby stated that this application is for a variance and it is precedent setting. He noted that staff is asking for three sides, not a gate.

Planner I Blackburn confirmed that it could be landscaping on three sides.

All agreed that variance B was not needed.

Chair Kirby confirmed that A says the driveway is treated like a private street.

Commissioner Schell acknowledged that cross-access can be problematic in terms of parking.

Commissioner Wallace asked for clarification that the larger building is to the south, the smaller is to the north and would have less parking.

Mr. Canini agreed and further stated that there would be no ground mounted signage on the north building; there would be a sign on the porch.

Commissioner Wallace continued that there would be a separate address for each building, and wondered how people would know which drive to enter. He remarked that the Commission is faced with setting precedent and trying to figure out how drivers would find the tenants.

Mr. Canini stated he would be happy to come back with ground mounted signage.

Commissioner Wallace remarked that VAR A is needed because it abuts the driveway and not the public street.



Chair Kirby agreed and confirmed that the new lot would not touch the public street. Splitting the lot creates the need for the variance it is just a question of where to place the access.

Mr. Canini added that once this is approved they can close on the lot split.

Chair Kirby asked for other questions from the commission. Hearing none, he asked if anyone from the public was present to comment on the application. Hearing none, he stated that for lessons learned, access to the Estate needed to be a public street.

Planning Manager Christian answered that was correct, and noted that this was probably done in 2010, before he began working for the city.

Commissioner Schell indicated that he was okay with the removal of condition 1b, the cross-access for shared parking. Commissioners Larsen and Briggs, and Chair Kirby indicated they likewise did not object to removal of that condition.

Chair Kirby moved to acceptance the staff reports and related documents into the record for FDM-37-2025. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Mr. Larsen yes, Mr. Schell yes, Ms. Briggs yes. Having five yes votes the motion passed and the staff reports and related documents were admitted to the record for FDM-37-2025.

Commissioner Wallace moved for approval for application FDM-37-2025 based on the findings in the staff report with the conditions listed in the staff report except for 1b, subject to staff approval. Commissioner Larsen seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Wallace no, Mr. Larsen yes, Mr. Kirby yes, Ms. Briggs yes. Having four yes votes and one no vote, the motion passed and FDM-37-2025 passed subject to the conditions in the staff report, except for 1b.

Commissioner Wallace explained that he voted no because condition 1b was removed.

#### **VAR-44-2025 Canini Medical Office Building Lot Split and Screening Variance**

Variances to eliminate the requirement for lot frontage related to a proposed lot split and eliminate the screening requirements for a dumpster enclosure for a 2.08 acre site located on Forest Drive (PID: 222-004888).

**Applicant: Canini & Associates, Ltd.**

Chair Kirby moved to admit the staff reports and related documents into the record for VAR-44-2025. Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Ms. Briggs yes, Mr. Larsen yes, Mr. Wallace yes, Mr. Schell yes. having five yes votes, the staff reports and related documents were accepted into the record for VAR-44-2025.

Chair Kirby moved for approval of VAR-44-2025 A only and not B, subject to the conditions in the staff report, if any, subject to staff approval. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Ms. Briggs yes, Mr. Larsen yes, Mr. Schell yes. Having five yes votes the motion passed and VAR-44-2025 A only and not B was passed.

The commission thanked the applicant and wished him good luck.

Chair Kirby introduced CU-38-2025 and asked to hear the staff report.

**CU-38-2025 EdgeConneX Conditional Use**

Conditional use application to allow for an industrial manufacturing and assembly use for the operation of a temporary concrete batch plant on 12.6 acres located at 12525 Jug Street Road (PID: 095-112056-00.006).

**Applicant: Danis Building Construction Co.**

Planning Manager Christian delivered the staff report.

Development Engineer Albright delivered the engineering report.

Applicant Jim Albertson stood in support of the application and said he was prepared to respond to any questions about the application.

Chair Kirby confirmed which party would be responsible for the clean up. He further noted a minor typographical error in the first condition, “2025” should be “2027.”

Development Engineer Albright added that per regulation, it would go through EdgeConnex.

Planning Manager Christian added that if a permit was issued, failure to comply would be a code enforcement issue.

Chair Kirby moved to admit the staff reports and related documents into the record for CU-38-2025. Commissioner Briggs seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Ms. Briggs yes, Mr. Larsen yes, Mr. Wallace yes, Mr. Schell yes. having five yes votes, the staff reports and related documents were accepted into the record for CU-38-2025.

Commissioner Briggs moved for approval of CU-38-2025 based on the findings in the staff report and subject to the conditions in the staff report, with the correction of the typo in condition one, subject to staff approval.

Chair Kirby seconded the motion; and asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Ms. Briggs yes, Mr. Kirby yes, Mr. Wallace yes, Mr. Schell yes, Mr. Larsen yes. having five yes votes, the motion passed and CU-38-2025 was approved.

The commission thanked the applicant and wished him good luck.

Thereafter Chair Kirby called a recess at 8:43 p.m.

Chair Kirby called the commission to order at 8:57 p.m. and introduced the final two cases on the agenda.

**FDM-42-2025 Lot 14 FDP Modification**

Final development plan modification to reduce parking by two spaces and add additional landscaping located at 5065 Forest Drive (PID: 222-000347).

**Applicant: J. Carter Bean Architect LLC c/o Carter Bean**

Planner II Saumenig delivered the staff report.

Development Engineer Albright said there were no comments from engineering.

Chair Kirby administered the oath to Applicant J. Carter Bean.

Applicant J. Carter Bean spoke in support of the application.

Applicant Larry Canini added that the retail center had commitments for the entire building except for the endcap. He reviewed the hours of operation and explained that they were complementary to the other building tenants so there would not be a problem with parking and stacking in the parking lot.

Commissioner Wallace asked whether there will be outdoor seating for eating ice cream.

Mr. Canini said yes, and explained that the adjacent pond had been drained and a patio would be built there.

Chair Kirby asked whether, where the driveway conflicts with the sidewalk, will that be resolved. He further asked whether a Watch for Pedestrians sign count against the applicant.

Planner II Saumenig remarked that such a sign would not count against the applicant.

Mr. Bean responded that was a great idea. He further remarked that the applicant had no conflicts with the conditions.

Chair Kirby moved to accept the staff reports and related documents into the record for FDM-42-2025. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Ms. Briggs yes, Mr. Schell yes, Mr. Larsen yes. having five yes votes, the motion passed and the staff reports and related documents were accepted into the record for FDM-42-2025.

Commissioner Schell moved to approve FDM-42-2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval. Commissioner Larsen seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Schell yes, Mr. Larsen yes, Mr. Kirby yes, Mr. Wallace yes, Ms. Briggs yes. Having five yes votes, the motion passed and FDM-42-2025 was approved.

**CU-43-2025 Graeter's Drive-Through Conditional Use**

Conditional use application to allow for a full access drive-through for a proposed Graeter's Ice Cream located at 5065 Forest Drive (PID: 222-000347).

**Applicant: J. Carter Bean Architect LLC c/o Carter Bean**

Chair Kirby moved to accept the staff reports and related documents into the record for CU-43-2025. Commissioner Wallace seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Kirby yes, Mr. Wallace yes, Ms. Briggs yes, Mr. Schell yes, Mr. Larsen yes. having five yes votes, the motion passed and the staff reports and related documents were accepted into the record for CU-43-2025.

Chair Schell moved to approve CU-43-2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval. Commissioner Larsen seconded the motion.

Chair Kirby asked whether there was any discussion on the motion. Hearing none, he asked to hear the roll.

Upon roll call: Mr. Schell yes, Mr. Larsen yes, Mr. Kirby yes, Mr. Wallace yes, Ms. Briggs yes. Having five yes votes, the motion passed and CU-43-2025 was approved.

The commission thanked the applicants and wished them good luck.

**VII. Other business**

Kennel Club USA, Mark Jeremias gave an informal presentation about new facility on Johnstown Road.

**VIII. Poll members for comment**

Chair Kirby polled the members for comment.

**IX. Adjournment**

Hearing no comments from the members, having completed the agenda, and having no further business, Chair Kirby adjourned the June 16, 2025 Planning Commission meeting without objection at 9:23 p.m.

**Appendix**

**ZC-48-2025**

**Staff Report**

**Applicant Submission**

**Record of Action**

**TM-49-2025**

**Staff Report**

**Record of Action**

**FDP-35-2025**  
    **Staff Report**  
    **Record of Action**  
**FPL-40-2025**  
    **Staff Report**  
    **Record of Action**  
**FDM-37-2025**  
    **Staff Report**  
    **Record of Action**  
**VAR-44-2025**  
    **Staff Report**  
    **Record of Action**  
**CU-38-2025**  
    **Staff Report**  
    **Record of Action**  
**FDM-42-2025**  
    **Staff Report**  
    **Record of Action**  
**CU-43-2025**  
    **Staff Report**  
    **Record of Action**



**Planning Commission Staff Report  
July 21, 2025 Meeting**

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**8 HAWKSMOOR DRIVE  
FINAL PLAT MODIFICATION**

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LOCATION: 8 Hawksmoor Drive (PID: 222-004645-00)  
APPLICANT: Curtis Echelberry  
REQUEST: Final Plat Modification  
ZONING: Hawksmoor I-PUD Zoning District  
STRATEGIC PLAN: Residential District  
APPLICATION: FPM-51-2025

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Review based on application materials received on June 18 and June 26, 2025.

*Staff report completed by Lauren Sauter, Planner.*

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**I. REQUEST AND BACKGROUND**

The final plat modification, titled “Re-Subdivision of Lot 19 of the Re-Subdivision of Lots 8-11 of Hawksmoor Subdivision,” is proposed for 8 Hawksmoor Drive. The proposal modifies lot 19, formerly lot 8, of the Re-Subdivision of Lots 8-11 (FP-191-2013) for the Hawksmoor subdivision. The proposal includes the following modifications:

- Detail D: Remove (vacate) an existing 0.092-acre tree preservation zone/no-build zone/drainage easement.
- Detail E: Create a new 0.341-acre tree preservation zone/no-build zone/drainage easement.

Additionally, a final plat modification for the lot was approved by the Planning Commission in November 2024 (FPM-81-2024) and City Council in February 2025 (O-04-2025) (hereafter referred to as the “2024 plat modification” or “2024 re-plat”). The proposal included the following modifications:

- Detail A: Remove (vacate) an existing 0.094-acre tree preservation zone/no-build zone/drainage easement.
- Detail B: Create a new 0.050-acre storm sewer easement on the property.
- Detail C: Create a new 0.10-acre tree preservation zone/no-build zone/drainage easement.

Details A, B, and C from the 2024 plat modification are included in the newly proposed modification. All details remain unchanged except for the designation of Detail B, which has been renamed from a storm easement to a drainage easement in accordance with the City Engineer’s comments on the 2024 re-plat.

The lot line for 8 Hawksmoor Drive was adjusted in 2023 (LA-48-2023) to add a 0.557-acre piece of land on the western side of the lot. This portion of land was conveyed to a different property owner at that time and was not included in the previous final plat modification (neither FPM-81-2024 nor O-04-2025). The land was recently conveyed to the same property owner as 8 Hawksmoor Drive and is now included in this final plat modification application.

The proposed final plat modification includes Details A through E and is intended to modify the 2014 subdivision plat. However, because the Planning Commission has previously

reviewed and conditionally approved Details A, B, and C, this staff report will primarily be evaluating Details D and E.

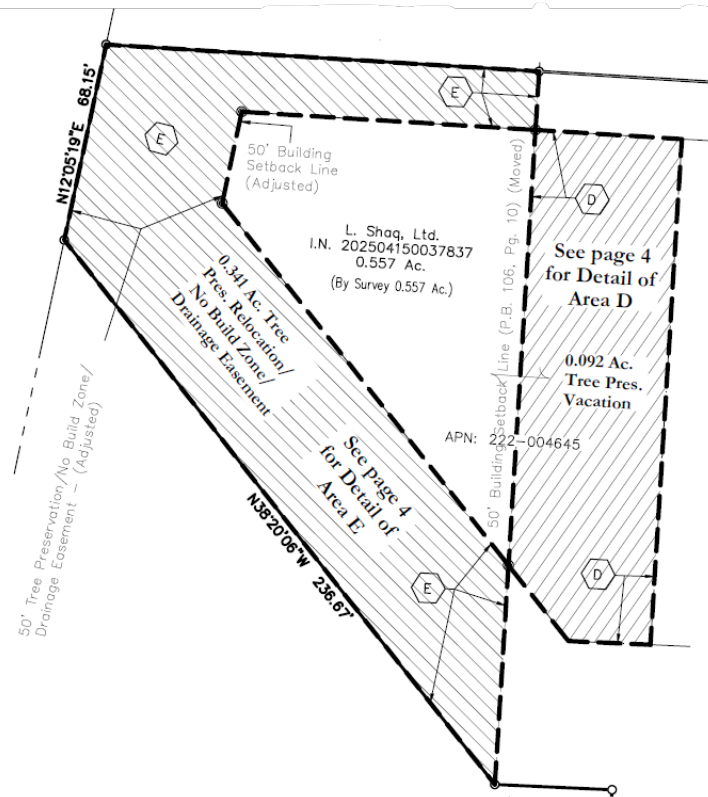
## II. SITE DESCRIPTION & USE

The property is located in the Hawksmoor subdivision, which is accessed from State Route 605 just to the east. The property, including the recent 0.557-acre land addition on the western lot line, is 3.849 acres in size and currently contains a single-family home, a detached structure, and a swimming pool. There is a wetland and 100-year flood zone in the southwest portion of the lot that attaches to Crescent Pond to the west. The property is surrounded by residentially zoned and used properties.

## III. PLAN REVIEW

The Planning Commission's review authority of the plat is found under C.O. Section 1187. The staff's review is based on New Albany plans and studies, zoning text, and zoning regulations.

- The re-plat application proposes the following modifications to lot 19:
  - Detail D: Remove (vacate) an existing 0.092-acre tree preservation zone/no-build zone/drainage easement.
  - Detail E: Create a new 0.341-acre tree preservation zone/no-build zone/drainage easement.



*Details D (right) and E (left) on a portion of the proposed final plat modification for Hawksmoor lot 19.*

- The new tree preservation zone (Detail E) will comprise a larger area than the tree preservation zone being vacated (Detail D). Given that the tree density appears consistent across both areas and the new preservation zone is larger, it is expected to contain a greater number of trees; thus, a new tree survey was not conducted.
- The existing tree preservation zone/no-build zone/drainage easement (Detail D) is located along the former western lot line of the property. An additional 0.557 acres of land was appended to the lot, and the proposed tree preservation zone/no-build zone/drainage easement (Detail E) is located along the new western lot line.

- Note “C” on the plat states that no improvements of any kind are allowed in the new tree preservation zone/no-build zone/drainage easement. This language is identical to the existing plat except that it does not allow the installation of utilities in this zone.

#### IV. ENGINEER’S COMMENTS

The City Engineer has reviewed the referenced plan in accordance with the engineering-related requirements of Code Section 1187.04 and provided the following comments. Staff recommends a condition of approval that these comments be addressed by the applicant, subject to staff approval (condition #1).

1. That the applicant provide written letters from private utility companies (e.g., gas, electric, telecommunications, etc.) identifying what utilities, if any, have been installed in the areas where preservation zones are to be relocated.
2. That the applicant have the area to be re-platted reviewed by the Franklin County Engineer’s office and a summary of County Engineer review comments and the applicant’s comment responses be provided for our records.

#### V. ACTION

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

**Move to approve final plat modification application FPM-51-2025 with the following conditions:**

1. The city engineer’s comments must be addressed, subject to staff approval.

#### Approximate Site Location:

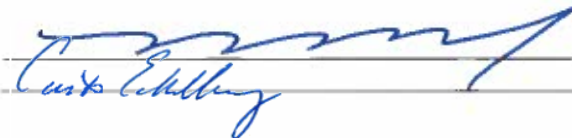


Source: NearMap





## Community Development Planning Application

|                     |  |   |
|---------------------|--|---|
| Submission          | Submit planning applications and all required materials via email to <a href="mailto:planning@newalbanyohio.org">planning@newalbanyohio.org</a>  |   |
|                     | Paper copies are not required at this time however, 12 paper copies of the entire submission will be required ahead of a board hearing date. The planner assigned to your case will inform you when the paper copies need to be delivered to our offices. Fee invoices will be issued to you once the application is entered.  |   |
| Project Information | Site Address <u>8 Hawksmoor Drive</u>  |   |
|                     | Parcel Numbers <u>222-004645-00</u>  |   |
|                     | Acres <u>3.29</u>  | # of lots created <u>0</u>  |
| Project Information | <b>Choose Application Type</b>   | <b>Description of Request:</b>  |
|                     | <input type="checkbox"/> Appeal<br><input type="checkbox"/> Certificate of Appropriateness<br><input type="checkbox"/> Conditional Use<br><input type="checkbox"/> Development Plan<br><input checked="" type="checkbox"/> Plat<br><input type="checkbox"/> Lot Changes<br><input type="checkbox"/> Minor Commercial Subdivision<br><input type="checkbox"/> Zoning Amendment (Rezoning)<br><input type="checkbox"/> Zoning Text Modification              | <input type="checkbox"/> Extension Request<br><input type="checkbox"/> Variance<br><input checked="" type="checkbox"/> Vacation<br>This application is a Re-Plat of Lot 19 of Hawksmoor Subdivision. the intent is to vacate existing tree preservation and drainage easements along existing lot lines no longer present due to a Re-Plat of lots. New tree preservation and drainage easement will be set with the Re-Plat. |
| Contacts            | <b>Applicant Information</b>   | <b>Property Owner Information</b>   |
|                     | Name <u>Curtis Echelberry</u><br>Address <u>781 Science Blvd.</u><br>City, State, Zip <u>Gahanna, OH 43230</u><br>Phone Number <u>614-944-5086</u><br>Email <u>cechelberry@advancedcivildesign.com</u>   | Name <u>L Shaq LTD</u><br>Address <u>8 Hawksmoor Drive</u><br>City, State, Zip <u>New Albany, Ohio 43054</u><br>Phone Number<br>Email   |
| 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<br>Signature of Applicant   | <br>Date: <u>6/18/25</u><br>Date: <u>06/18/2025</u>   |

Department Address: 7815 Walton Parkway • New Albany, Ohio 43054 • Phone 614.939.2254

Mailing Address: 99 West Main Street • P.O. Box 188 • New Albany, Ohio 43054

|   |   |               |  |
|---|---|---------------|--|
| Appeal  |   | 250.00        |  |
| Certificate of Appropriateness                      |   |               |  |
| ARB – single and two family residential             |   | 100.00        |  |
| ARB – All other residential or commercial           |   | 300.00        |  |
| ARB - Signage                                       |   | 75.00         |  |
| Conditional Use                                     |   | 600.00        |  |
| Development Plan – Preliminary PUD or Comprehensive |   |               |  |
| Planning fee  | First 10 acres                          | 750.00        |  |
|   | Each additional 5 acres or part thereof | 50.00 / each  |  |
| Engineering fee                                     | 1-25 lots                               | 155.00 / each |  |
|   | Minimum fee                             | 1000.00       |  |
| Engineering fee                                     | 26 – 50 lots                            | 3875.00       |  |
|   | Each additional lot over 26             | 75.00 / each  |  |
| Engineering fee                                     | Over 51 lots                            | 5750.00       |  |
|   | Each additional lot over 51             | 50.00 / each  |  |
| Development Plan – Final PUD                        |   |               |  |
| Planning fee  | First 10 acres                          | 650.00        |  |
|   | Each additional 5 acres or part thereof | 50.00         |  |
| Engineering fee                                     | 1-25 lots                               |               |  |
|   | (minimum fee \$1,000.00)                | 155.00 / each |  |
| Engineering fee                                     | 26 – 50 lots                            | 3875.00       |  |
|   | Each additional lot over 26             | 75.00 / each  |  |
| Engineering fee                                     | Over 51 lots                            | 5750.00       |  |
|   | Each additional lot over 51             | 50.00 / each  |  |
| Development Plan – Non-PUD                          |   | 300.00        |  |
| Development Plan / Text Amendment                   |   | 600.00        |  |
| Plat – Road Preliminary                             |   |               |  |
| Planning fee  |   | 350.00        |  |
| Engineering fee                                     | no lots on either side of street        | 1.00 / LF     |  |
|   | lots on one side of street              | .50 / LF      |  |
|   | Minimum fee                             | 1,000.00      |  |
| Plat – Road Final                                   |   |               |  |
| Planning fee  |   | 350.00        |  |
| Engineering fee                                     | no lots on either side of street        | 1.00 / LF     |  |
|   | lots on one side of street              | .50 / LF      |  |
|   | Minimum fee                             | 1,000.00      |  |
| Plat – Subdivision Preliminary                      |   |               |  |
| Planning  |   | 650.00        |  |
|   | Plus each lot                           | 50.00 / each  |  |
| Engineering fee                                     | 1-25 lots                               |               |  |
|   | (minimum fee \$1,000.00)                | 155.00 / each |  |
| Engineering fee                                     | 26 – 50 lots                            | 3875.00       |  |
|   | Each lot over 26                        | 75.00 / each  |  |
| Engineering fee                                     | Over 51 lots                            | 5750.00       |  |
|   | Each lot over 51                        | 50.00 / each  |  |

# Fees & Submittal Requirements

## Plat – Subdivision Final

|                               |   |              |         |
|-------------------------------|---|--------------|---------|
| Planning                      |   | 650.00       | 650.00  |
|                               | Plus each lot   | 15.00 / each | 15.00   |
| Engineering fee               | 1-25 lots<br>(minimum fee \$1,000.00)                           | 155.00 /each | 1000.00 |
| Engineering fee               | 26-50 lots  | 3875.00      |         |
|                               | Each lot over 26  | 75.00 / each |         |
| Engineering fee               | Over 51 lots  | 5750.00      |         |
|                               | Each lot over 51  | 50.00 / each |         |
| Lot Changes                   |   | 200.00       |         |
| Minor Commercial Subdivision  |   | 200.00       |         |
| Vacation (Street or Easement) |   | 1200.00      | 1200.00 |
| Variance                      |   |              |         |
|                               | Non-single family, commercial, subdivision, multiple properties | 600.00       |         |
|                               | Single Family residence   | 250.00       |         |
|                               | In conjunction with Certification of Appropriateness            | 100.00       |         |
| Extension Request             |   | 0.00         |         |
| Zoning                        |   |              |         |
|                               | Rezoning - First 10 acres                                       | 700.00       |         |
|                               | Each additional 5 acres or part thereof                         | 50.00 / each |         |
|                               | Rezoning to Rocky Fork Blacklick Accord                         | 250.00       |         |
|                               | Text Modification   | 600.00       |         |
| Easement Encroachment         |   | 800.00       |         |

Z:\24-0011-1098\DWG\PRODUCTION DRAWINGS\SURVEY\24-0011-1098 resub lot 19 fp1 rev 04-04-25.dwg page 1 Apr 17, 2025 - 10:11:53am dbickham

Situated in State of Ohio, County of Franklin, City of New Albany, located in Quarter Townships 3 and 4, Township 2, Range 16, United States Military Lands, being a resubdivision of all of Lot 19 as numbered and delineated upon the record plat of "RE-SUBDIVISION OF LOTS 8-11 OF HAWKSMOOR SUBDIVISION", of record in Plat Book 116, Page 79, in the name of L. Shaq, Ltd. of record in Instrument Number 201406100071976, being of record in Recorder's Office, Franklin County, Ohio.

The undersigned, Michael J. DeAscentis II, authorized signature for L. Shaq, Ltd. owner of the land platted herein, does hereby certify that this plat correctly represents its "Re-Subdivision of Lot 19 of the Re-Subdivision of Lots 8-11 of Hawksmoor Subdivision" containing Lot 19a, and does hereby accept this plat of the same.

Easements are hereby reserved in, over and under areas hereby platted, and designated on this plat as "Easement" or "Drainage Easement" for the construction, operation and maintenance of all public and quasi public utilities above and beneath the surface of the ground and, where necessary, for the construction, operation and maintenance of service connections to all adjacent lots and lands and for storm water drainage. Within those areas designated "Drainage Easement" on this plat, an additional easement is hereby reserved for the purpose of constructing, operating, and maintaining major storm water drainage swales and or other storm water drainage facilities. No above grade structures, dams or other obstructions to the flow of storm water runoff are permitted within the Drainage Easement areas as delineated on this plat unless approved by the Director of Public Service, City of New Albany.

All easements within the building setback lines for general utility and drainage purposes shall be landscaped per the Hawksmoor Landscape Plan and maintained by the Hawksmoor Homeowners Association, Inc.

In Witness Whereof, Michael J. DeAscentis II, Authorized Signature for L. Shaq, Ltd., has hereunto set their hand this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

Signed and acknowledged L. Shaq, Ltd.  
In the presence of:

\_\_\_\_\_  
Witness By \_\_\_\_\_  
Title \_\_\_\_\_

Witness

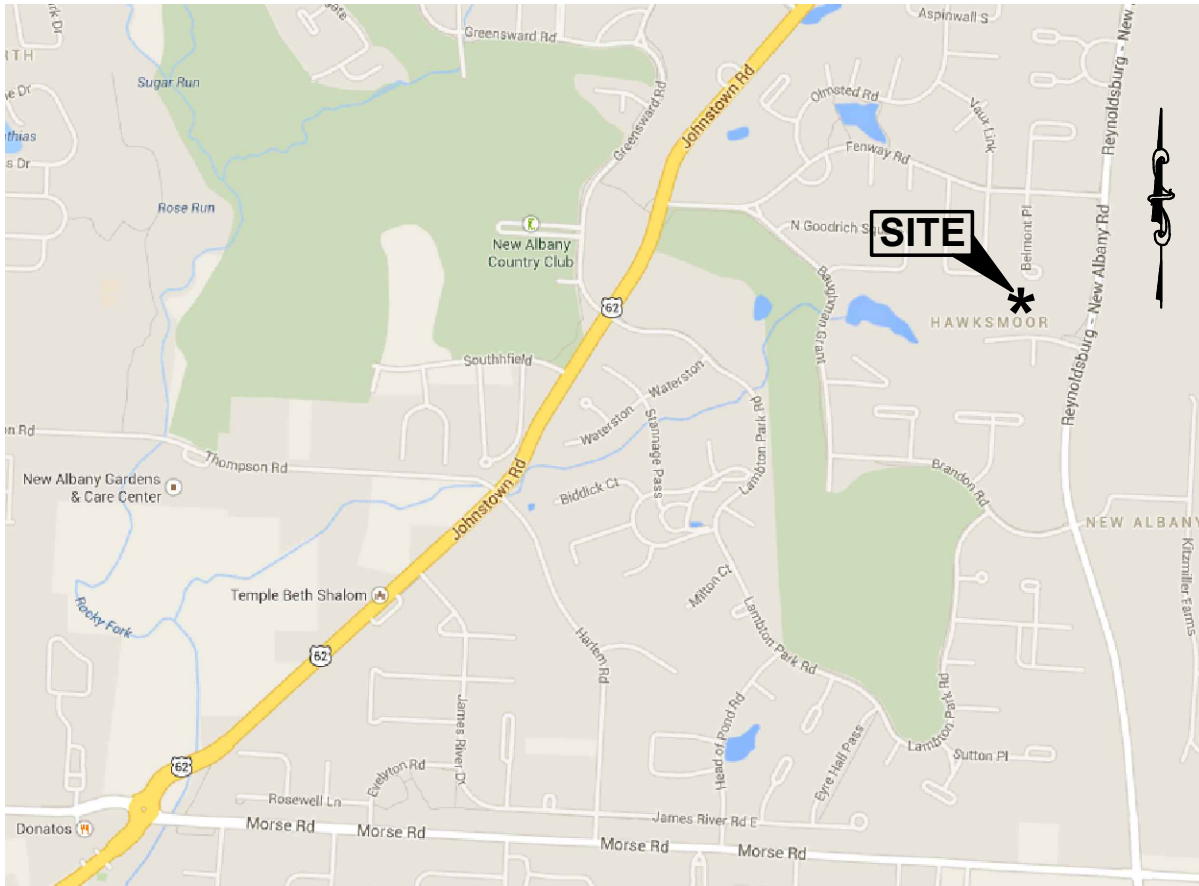
STATE OF OHIO  
COUNTY OF FRANKLIN ss:

Before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_, authorized signed of L. Shaq, LTD., who acknowledge the signing the foregoing instrument to be their free and voluntary act and deed and the free and voluntary act and deed of L. Shaq, LTD. for the uses and purposes expressed therein.

Witness Thereof, I have hereunto set my hand and affixed any official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

My Commission expires \_\_\_\_\_  
Notary Public, State of Ohio

# RE-SUBDIVISION OF LOT 19 OF THE RE-SUDIVISION OF LOTS 8-11 OF HAWKSMOOR SUBDIVISION



## SURVEY DATA:

**BASIS OF BEARINGS:** The bearings shown on this plat were transferred from a GPS survey of Franklin County Monuments "FCGS 9913-B" and "FCGS 9914-B" performed by the Franklin County Engineer's Office, which was based on the Ohio State Plane Coordinate System, Ohio South Zone, NAD83 (1986 adjustment) and determines the bearing between said monuments as N 10° 32' 24" E.

**SOURCE OF DATA:** The sources of recorded survey data are the records of the Franklin County, Ohio, Recorder, referenced in the plan and text of this plat.

**IRON PINS,** where indicated, unless otherwise noted, are to be set and are iron pipes, thirteen-sixteenths inch inside diameter, thirty inches long with a plastic cap placed in the top bearing the inscription "ADVANCED". These markers shall be set following the completion of the construction/installation of the street pavement and utilities and prior to the Village of New Albany, Ohio's acceptance of these subdivision improvements. The New Albany, Ohio, Municipal Engineer shall be notified in writing by the surveyor when the markers are in place.

**PERMANENT MARKERS:** Permanent markers, where indicated hereon, are to be one-inch diameter, thirty-inch long, solid iron pins, are to be set with the top end flush with the surface of the ground and then capped with an aluminum cap stamped "ADVANCED". Once installed, the top of the cap shall be marked (punched) to record the actual location of the point. These markers shall be set following the completion of the construction/installation of the street pavement and utilities and prior to the Village of New Albany, Ohio's acceptance of these subdivision improvements. The New Albany, Ohio, Municipal Engineer shall be notified in writing by the surveyor when the markers are in place.

Approved this \_\_\_\_ day of \_\_\_\_\_,  
2025 Mayor, New Albany, Ohio

Approved this \_\_\_\_ day of \_\_\_\_\_,  
2025 Municipal Engineer, New Albany, Ohio

Approved this \_\_\_\_ day of \_\_\_\_\_,  
2025 Council Representative to Planning  
Commission, New Albany, Ohio

Approved this \_\_\_\_ day of \_\_\_\_\_,  
2025 Chairperson, Planning Commission  
New Albany, Ohio

Approved this \_\_\_\_ day of \_\_\_\_\_,  
2025 Finance Director, New Albany, Ohio

Approved and accepted by Resolution No. \_\_\_\_\_, passed \_\_\_\_\_,  
2025 by the Council for the City of New Albany, Ohio. Approval of this plat shall become  
null and void unless recorded prior to \_\_\_\_\_, 2025.

the Council for the City of New Albany, Ohio. Approval of this plat shall

Transferred this \_\_\_\_ day of \_\_\_\_\_,  
Auditor, Franklin County, Ohio

Deputy Auditor, Franklin County, Ohio

Filed for record this \_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_, 2025 at \_\_\_\_\_ .M. Recorder, Franklin County, Ohio

Fee \$ \_\_\_\_\_

File No. \_\_\_\_\_

Recorded this \_\_\_\_ day of \_\_\_\_\_,  
2025 Deputy Recorder, Franklin County, Ohio

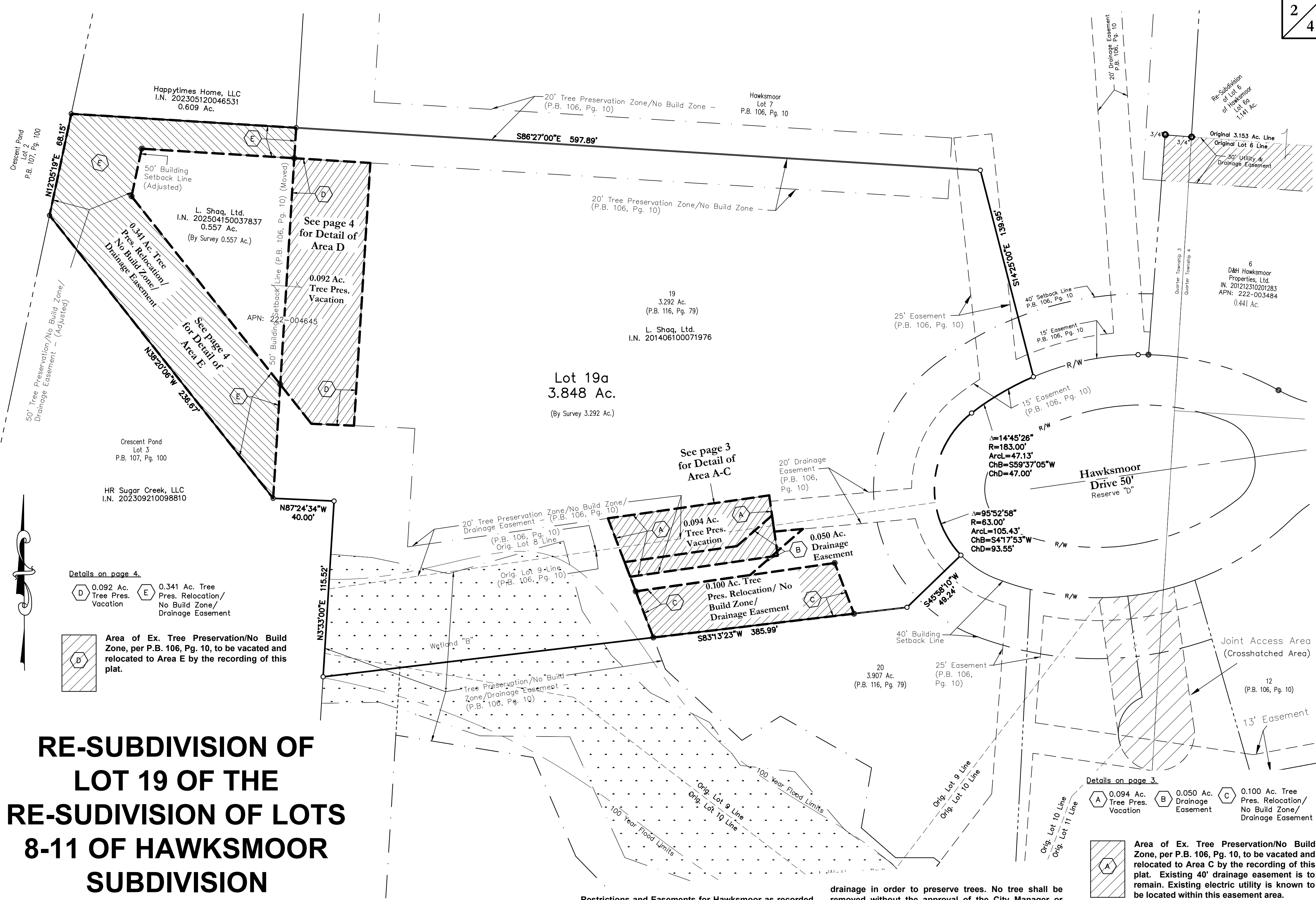
Plat Book \_\_\_\_\_, Pages \_\_\_\_\_

We do hereby certify that we have surveyed the above premises, prepared the  
attached plat, and that said plat is correct. All dimensions are in feet and decimal  
parts thereof.

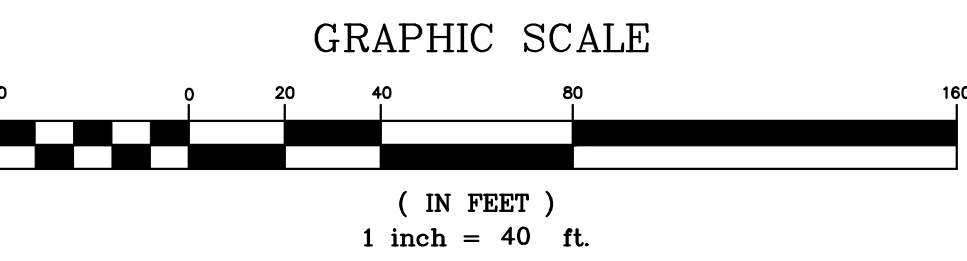
- = Iron Pin Set
- ◎ = Preservation Zone Marker
- = Iron Pin Found
- ✱ = PK Nail Found

By \_\_\_\_\_  
Douglas R. Hock, P.S. 7661





# RE-SUBDIVISION OF LOT 19 OF THE RE-SUDIVISION OF LOTS 8-11 OF HAWKSMOOR SUBDIVISION



NOTE "A": All of the area hereby platted is within Zone X (area determined to be outside 500-year floodplain) as shown on Federal Emergency Management Agency Flood Insurance Rate Map for Franklin County, Ohio and Incorporated Areas, map numbered 39049C0204K with effective date of June 17, 2008.

NOTE "B": The Hawksmoor Homeowners Association, Inc. and all of the area being platted, hereby, shall be subject to Declarations of Covenants, Conditions,

Restrictions and Easements for Hawksmoor as recorded with the Franklin County, Ohio Recorder in Instrument Number 200506030107847 and Instrument Number 200707100120698 and Instrument Number 201505080060071.

NOTE "C" - TREE PRESERVATION/NO BUILD ZONE/DRAINAGE EASEMENT: Within those areas designated hereon as "Tree Preservation/No Build Zone/Drainage Easement", no accessory buildings, fences, walks, steps or improvements of any kind shall be constructed with the exception of seeding and limited grading to allow proper

drainage in order to preserve trees. No tree shall be removed without the approval of the City Manager or their designee. Dead plant material, and noxious plant material such as poison ivy and trees may be removed. This zone shall be maintained by the owners of the lot."

NOTE "D" - PRESERVATION ZONE MARKERS: Preservation area markers are to be installed at the edge of the preservation areas along the south and west property line of lot 19a and the north line of lot 20 property line and within lot 19a. Preservation zone markers will be maintained by the homeowner's association. Markers shall be obtained from the City of New Albany.

Details on page 3.

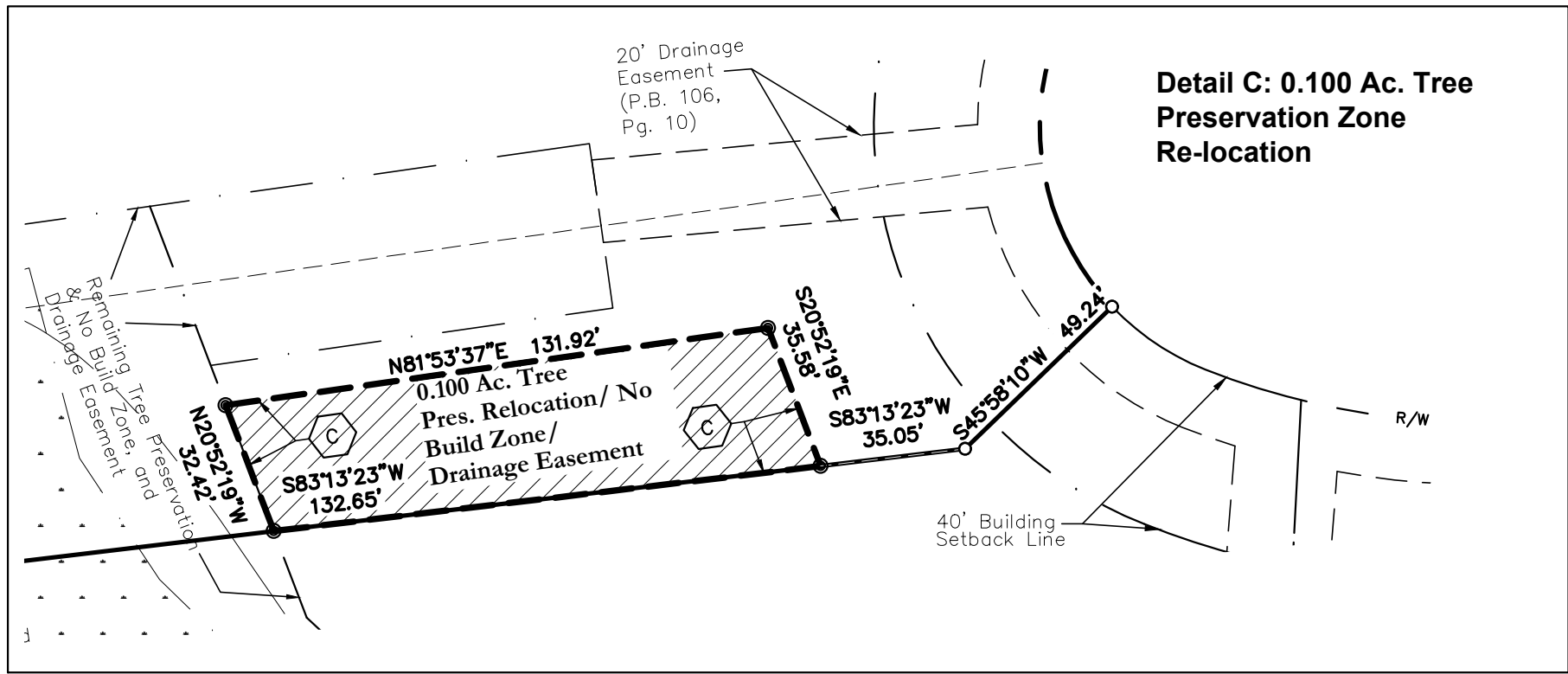
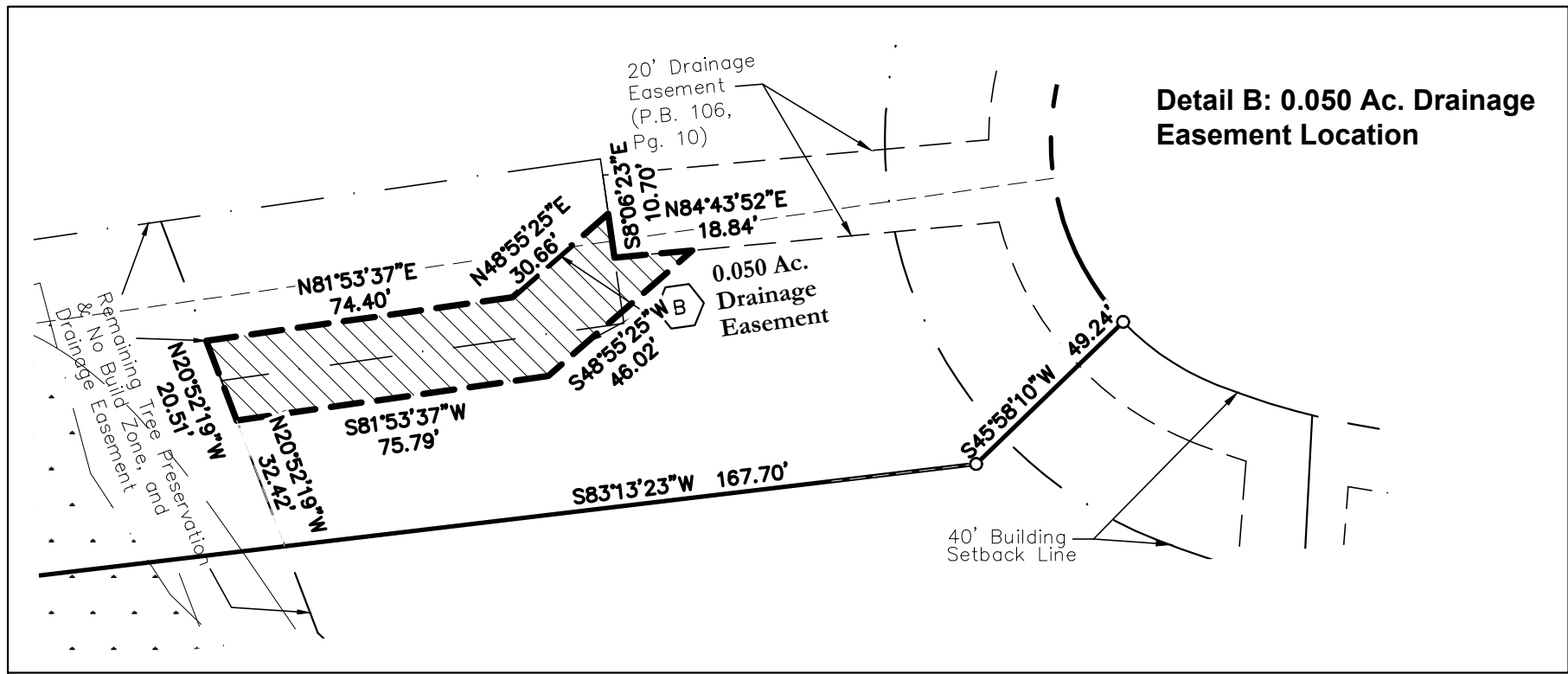
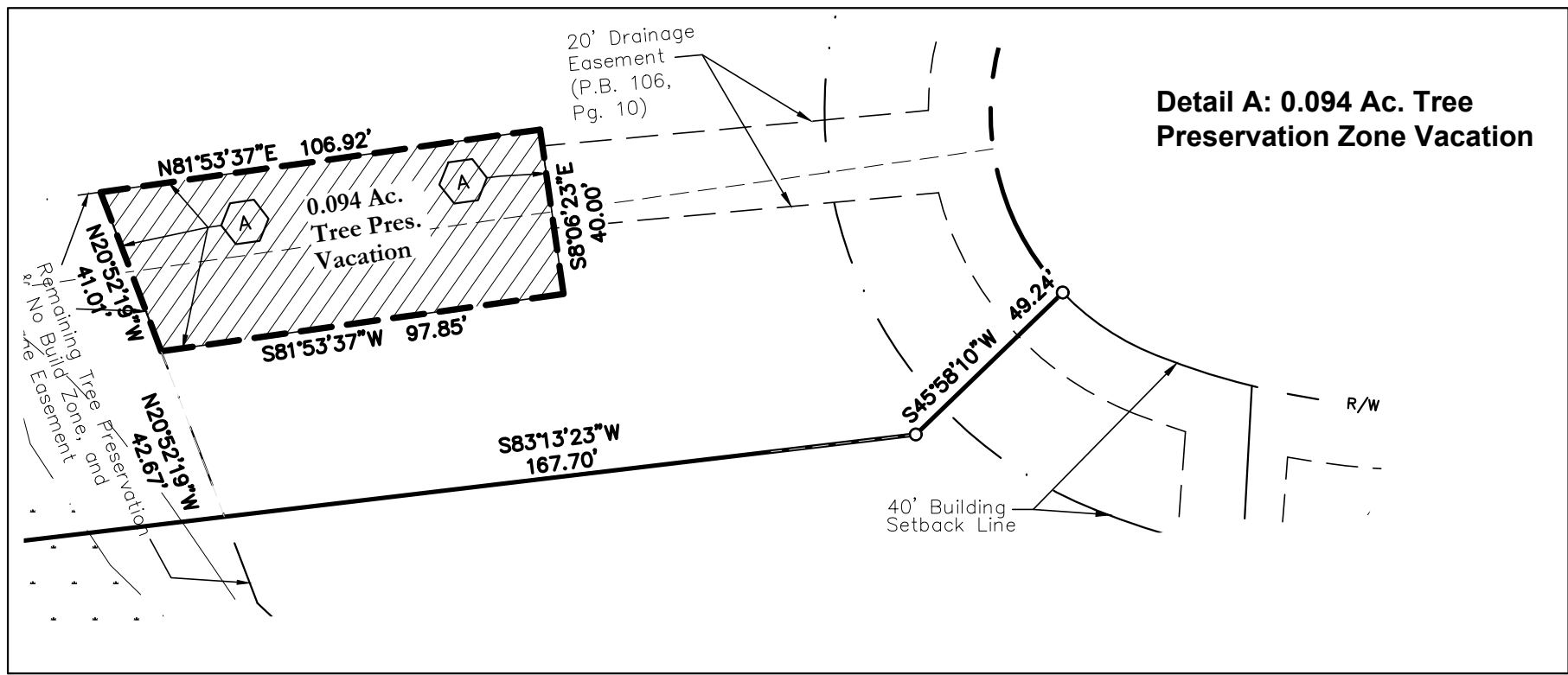
A 0.094 Ac. Tree Pres. Vacation  
B 0.050 Ac. Drainage Easement  
C 0.100 Ac. Tree Pres. Relocation/No Build Zone/Drainage Easement

Area of Ex. Tree Preservation/No Build Zone, per P.B. 106, Pg. 10, to be vacated and relocated to Area C by the recording of this plat. Existing 40' drainage easement is to remain. Existing electric utility is known to be located within this easement area.

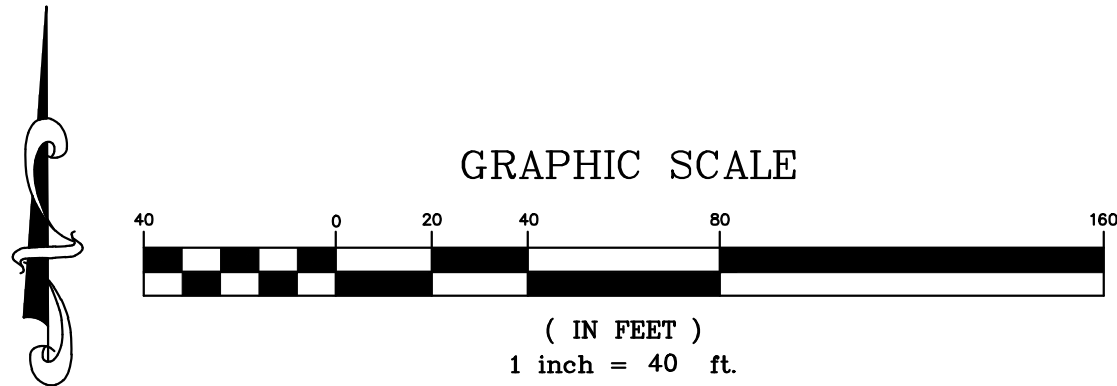
**ADVANCED CIVIL DESIGN ENGINEERS SURVEYORS**

781 Science Boulevard, Suite 100  
Gahanna, Ohio 43230  
ph 614.428.7750  
fax 614.428.7755

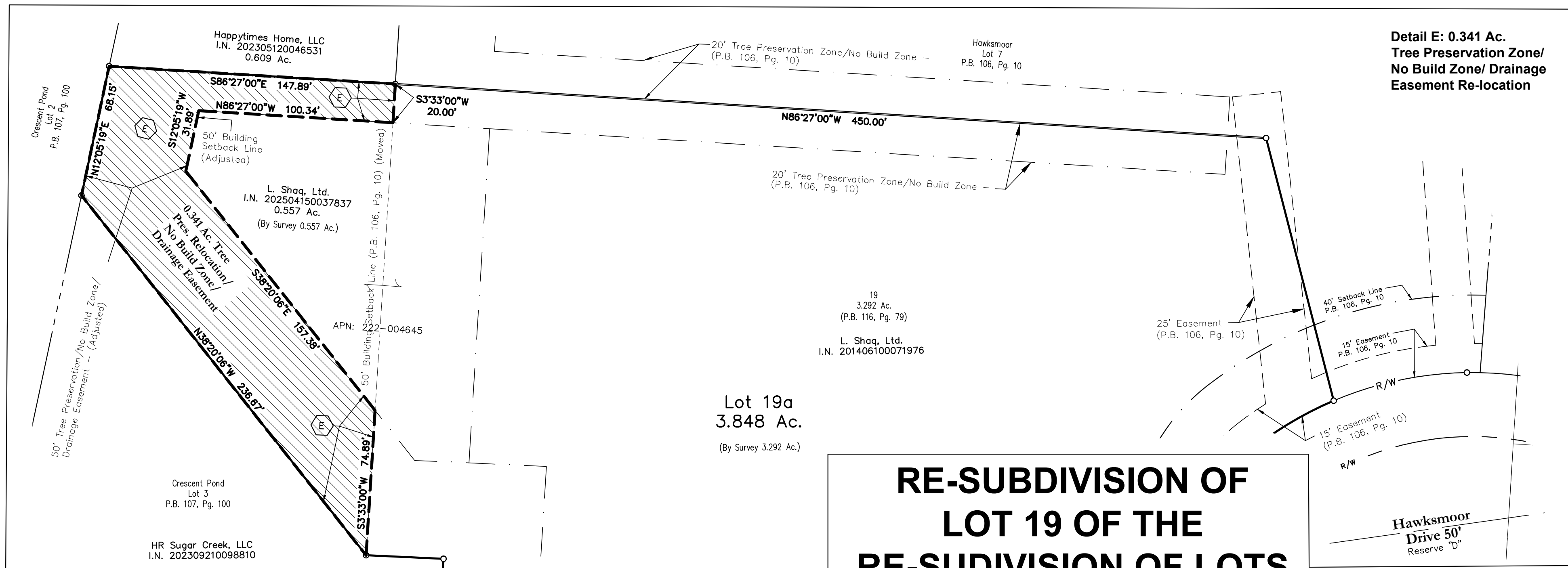
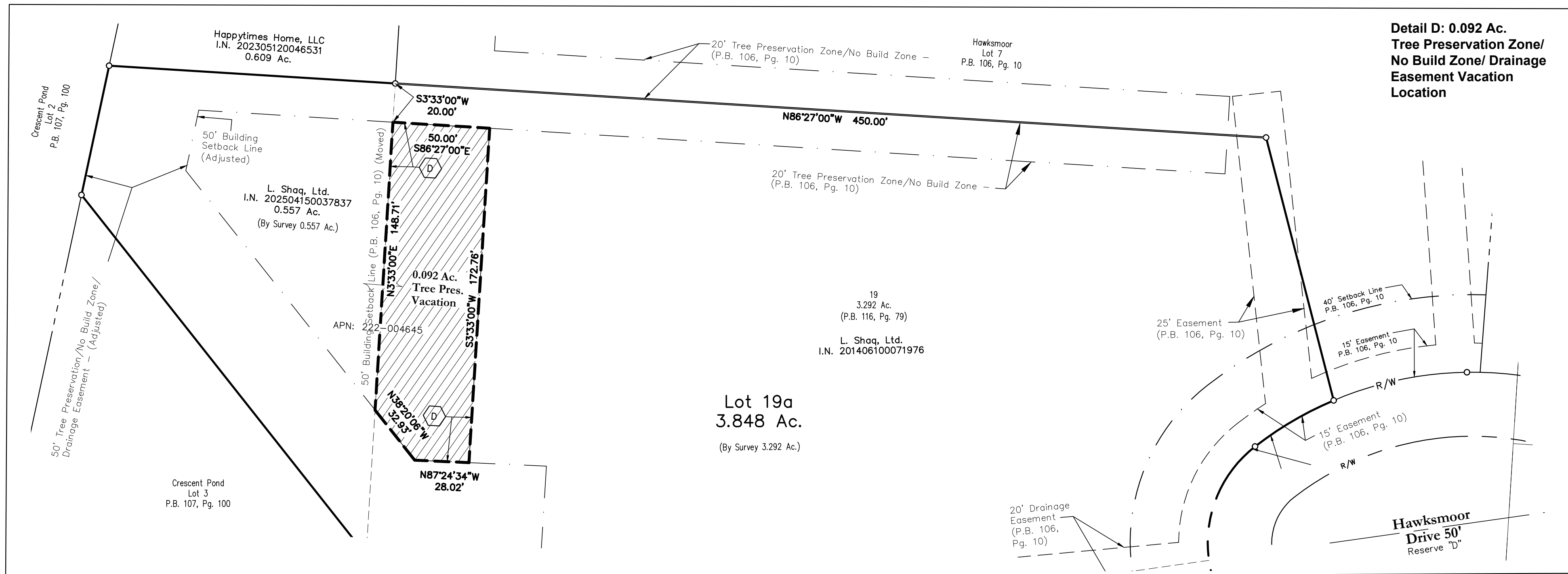




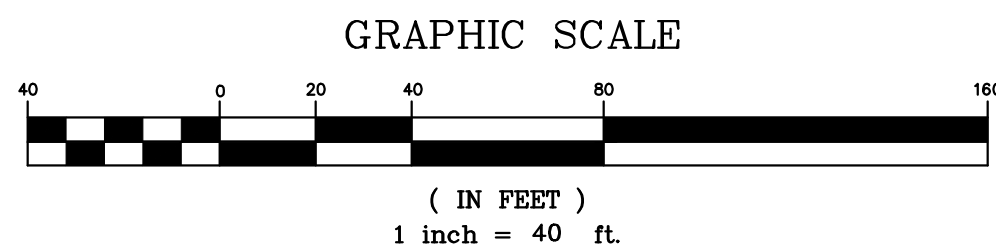
# RE-SUBDIVISION OF LOT 19 OF THE RE-SUDIVISION OF LOTS 8-11 OF HAWKSMOOR SUBDIVISION



NOTE "E" - Acreage Breakdown:  
(Lot 19) I.N. 201406100071976.....3.292 Acres  
I.N. 202504150037837.....0.557 Acre  
Total.....3.848 Acres



# RE-SUBDIVISION OF LOT 19 OF THE RE-SUDIVISION OF LOTS 8-11 OF HAWKSMOOR SUBDIVISION

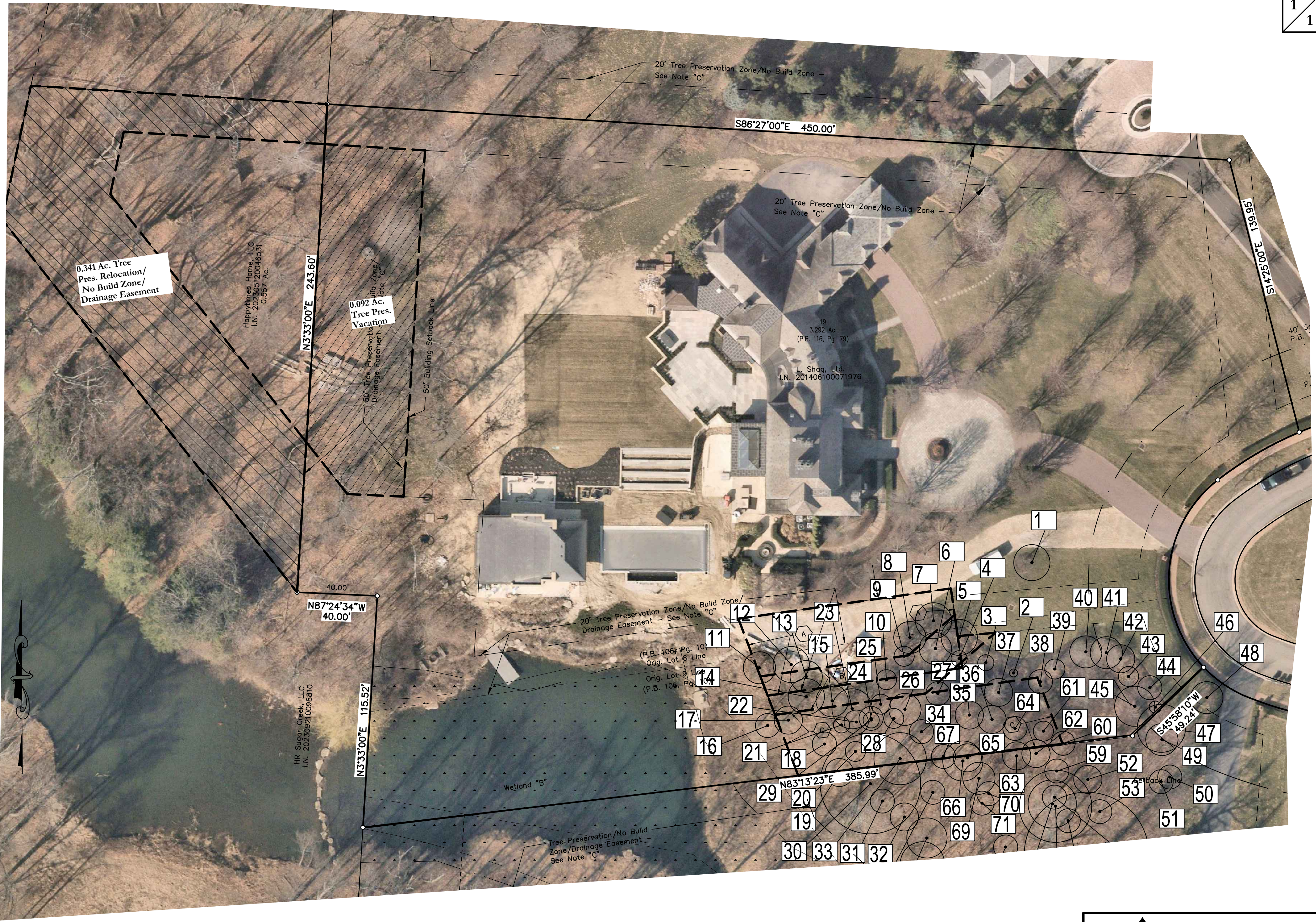


NOTE "E" - Acreage Breakdown:  
(Lot 19) I.N. 201406100071976.....3.292 Acres  
I.N. 202504150037837.....0.557 Acre  
Total.....3.848 Acres

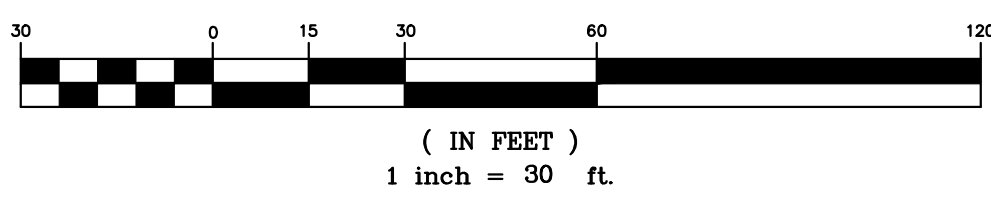
  
**ADVANCED**  
CIVIL DESIGN  
ENGINEERS SURVEYORS

781 Science Boulevard, Suite 100  
Gahanna, Ohio 43230  
ph 614.428.7750  
fax 614.428.7755





GRAPHIC SCALE





**ADVANCED**  
CIVIL DESIGN  
ENGINEERS SURVEYORS

781 Science Boulevard, Suite 100  
Gahanna, Ohio 43230  
ph 614.428.7750  
fax 614.428.7755





**Planning Commission Staff Report  
July 21, 2025 Meeting**

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**21 S EALY CROSSING  
POOL VARIANCE**

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**LOCATION:** 21 S Ealy Crossing (PID: 222-004142)  
**APPLICANT:** Julie & Vince Jenkins  
**REQUEST:** (A) Variance to allow a swimming pool not to be fully enclosed by fencing.  
(B) Variance to allow a swimming pool to be outside the building line of the site.  
**ZONING:** Ealy Crossing I-PUD (Planned Unit Development District)  
**STRATEGIC PLAN:** Residential  
**APPLICATION:** VAR-52-2025

---

Review based on: Application materials received on June 19, 2025, and July 6, 2025.

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*Staff report prepared by Jay Henderson, Planner*

**I. REQUEST AND BACKGROUND**

The applicant is requesting the following variances:

- (A) Variance to Ealy Crossing zoning text Section VI(f)(1) to allow a 160 square foot swimming pool to be covered by only an automatic pool cover, where the text requires fencing to fully enclose the pool.
- (B) Variance to Ealy Crossing zoning text Section VI(f)(1) to allow a swimming pool to be located outside of the building line of the site, where the zoning text requires pools to be located in the rear yard, within the building line of the site.

**II. SITE DESCRIPTION & USE**

The property is 0.75 acres in size and contains a single-family home. This property is located within the New Albany Country Club Ealy Crossing subdivision and is zoned residential I-PUD. The surrounding properties are residential on all sides. The property contains a 100-foot woodland preservation zone at the rear.

**III. ASSESSMENT**

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 standards for granting of a 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 a variance:

All of the factors should be considered and no single factor is dispositive. The key to whether a 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 Ealy Crossing zoning text Section VI(f)(1) to allow a swimming pool to not be fully enclosed by fencing.**

The following information should be considered in the Planning Commission’s decision for the requested variance:

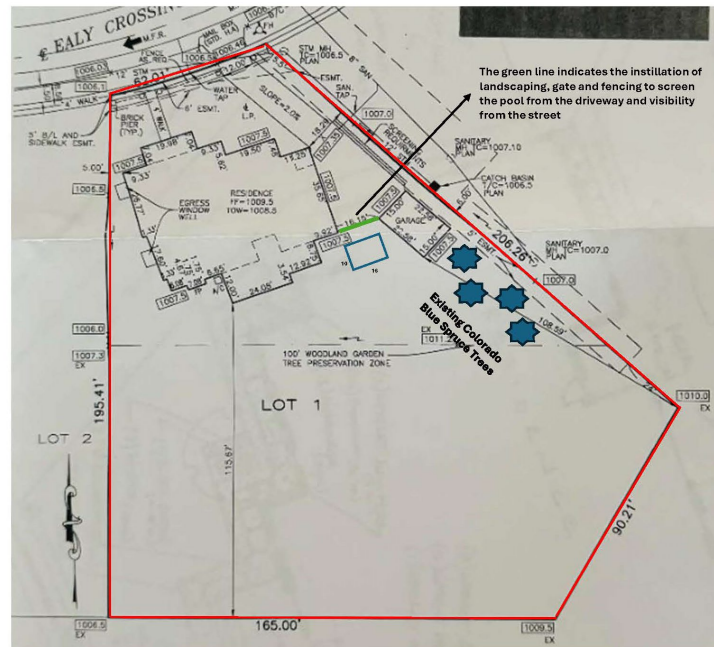
1. Ealy Crossing zoning text Section VI(f)(1) requires “All swimming pools/ spas shall be located in the rear yard, within the building line of the site, completely enclosed by fencing and screened from adjoining properties.”
2. The applicant is requesting a variance to allow the installation of a 160-square-foot swimming pool, without being completely enclosed by fencing.
3. All surrounding properties contain single-family residences in proximity. Based on previous cases, the boards have weighed this option heavily in approving this type of variance.
4. While the applicant has indicated plans to implement additional safety measures to limit unauthorized access, these measures do not effectively prevent direct entry into the yard from adjacent properties.
5. The applicant proposes to use an ASTM automatic pool safety cover. This may be similar to previous pool covers that have been previously approved through a variance; however, the Ealy Crossing development text Section VI (f)(1) was intended to regulate pools and spas to be enclosed completely by fencing.

6. The property owner intends to install a fence and gate with additional screening on the north end of the pool that extends from the house to the detached garage. The proposed fence will only prevent direct access from the north of the property. The applicant states they believe there are sufficient safety measures in place with the proposed ASTM automatic safety pool cover.
7. Granting the variance could alter the character of the neighborhood and present an opportunity for other homes in the zoning district to be relieved of this requirement.
8. Granting the variance will not adversely affect the delivery of governmental services.

**(B) Variance to Ealy Crossing zoning text Section VI(f)(1) to allow a swimming pool to be located outside of the building line of the site.**

The following information should be considered in the Planning Commission's decision for the requested variance:

1. Ealy Crossing zoning text Section VI(f)(1) requires "All swimming pools/ spas shall be located in the rear yard, within the building line of the site, completely enclosed by fencing and screened from adjoining properties."
2. The applicant proposes a 160-square-foot swimming pool located outside the building line of the site in the side yard between the principal structure and detached garage. The applicant provided street view pictures as part of their application materials, and they were included in the board's packet.



3. It does not appear that the essential character of the neighborhood would be altered if the variance request is granted. The lot has a 100-foot woodland garden tree preservation zone at the rear of the property, which provides a large vegetation buffer at the south of the property in addition to the applicant providing screening along the north side of the pool.
4. The variance meets the spirit and intent of the zoning text requirement, which is to ensure that swimming pools are screened from adjacent properties and public rights-of-way. The swimming pool is located in the side yard; however, it is screened to the east by the existing detached garage, screened to the south by vegetation, and screened to the north by proposed fencing and landscaping.
5. It appears that the problem could be solved by another manner locating the swimming pool in the rear yard behind the principal structure; however, the applicant will not have the existing screening to the east from the detached garage and will need to provide other means of screening.

6. It does not appear that the variance would adversely affect the delivery of governmental services or affect the health and safety of people residing or working in the vicinity of the proposed swimming pool location.

## **V. HISTORY**

There have been several similar applications heard by either the Board of Zoning Appeals or the Planning Commission since 2007.

- The BZA denied a variance to allow a pool cover for a residence on 15.6 acres in Illmington in 2007. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA denied a variance to allow a pool cover in 2010 for a home on a 0.5-acre parcel in Fenway. The BZA cited safety and liability concerns as reasons for denying the variance request.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on May 28, 2014 for 14 New Albany Farms Road. The BZA stated the size of the property (19.9 acres), proximity to other parcels and limited access due to private streets creates special conditions and circumstances which are peculiar to the land that results in a general isolation from neighbors. The parcel at 14 New Albany Farms is one of the largest in the gated Farms subdivision resulting in the pool being located a much greater distance from the parcel lines and roads. For this reason, the BZA approved the variance while stating some homes may be too close to each other for only a pool cover alone.
- The BZA approved a variance to allow a pool cover in-lieu of a fence on September 22, 2014 for 6 New Albany Farms Road. The BZA stated this lot having heavy woods on three sides of the property results in a general isolation from neighbors and being within the Farms community which is gated and has private streets creates special conditions and circumstances which are peculiar to the land.
- The PC approved a variance to allow a pool cover in-lieu of a fence that meets code requirements on April 18, 2016 for 6958 Lambton Park Road. Members voting in favor of the variance noted that with conditions of approval the variance preserves the spirit and intent of the zoning ordinance, appears to have limited access due to the private golf course, substantial screening, horse fence, the property's size and lack of neighbors create special circumstances, and having an annually certified pool cover. Members voting against the variance noted this is because there is not a condition requiring code compliant fencing along Johnstown Road and lack of evidence that pool covers have the same safety record as fences, and this is substantial because it affects the health and safety in the community. The conditions of approval were:
  - An automatic safety pool cover installed that is ASTM compliant as and if amended.
  - The pool area is fully enclosed by a house, fence, or wall.
  - The existing 54" and 44" horse fence counts towards the enclosure of the pool.
  - The new fence, installed along the east side of the property adjacent to the neighboring lot that permits single-family residential, must meet the new proposed pool code requirements that the Planning Commission recommended approval of on April 18<sup>th</sup>.
  - The pool cover is certified annually by the homeowner.
- The PC approved a variance to allow landscaping and pool netting in -lieu of a fence that meets code requirements on October 17, 2016 for 10 and 11 Highgrove. Members voting in favor of the variances noted that with conditions of approval the variance preserves the spirit and intent of the zoning ordinance, appears to have limited access due to the private golf course, substantial screening including a hedgerow to be installed around all sides of the pool, horse fence, the property owners stated the intent is to use the pool net when the pool is not in use with adult supervision, and having an annually certified pool net. Members voting against the variance noted this is because the property would have a reasonable return without the variance, believes variance is substantial, essential character of neighborhood would not change, property owners were aware of the restrictions, original permit showed code complaint fence and was not installed per

approved plan. Finally, the applicant did not prove pool netting is as safe as a fence. The conditions of approval are:

- Landscaping approved by ARC and staff to include original and tonight's submissions.
  - Commitment to install boxwoods or gates at all openings.
  - Pool netting or hard cover ASTM compliant installed at all times when not in use and not attended by a responsible adult.
  - Applicant maintains landscaping and new plantings.
  - The pool netting is certified annually by the homeowners for function.
  - Hard cover installed by 11/1/16 and not removed until in compliance.
  - The applicant provides a copy of the easement to permit homeowner to maintain the fence in the event the NACO does not.
- The PC approved a variance to allow a pool cover for a residence in-lieu of a fence that meets code requirements on May 18, 2020 for 7010 Lambton Park. The applicant proposed to install a 44-inch-high horse fence along the eastern property line which, in addition to a creek and being a heavily wooded area, provided an appropriate barrier to access that matched similar factors for other approved pool fence variances. The presence of a pool cover is also an important factor to ensure safety. In addition, the applicant proposed to install a continuous, uninterrupted 3-4-foot-tall evergreen landscape hedge along the golf course property line where landscaping does not already exist. Staff believed that this additional landscaping served as an appropriate barrier to prevent uncontrolled, access to the pool. With these additional landscaping barriers, the variance preserved the spirit and intent of the zoning ordinance. The conditions of approval are:
    - Applicant maintains landscaping and new plantings.
    - The pool cover is certified annually by the homeowner.
  - The BZA tabled a variance to allow a pool cover for a residence on 6.5 acres in lieu of a fence at 8323 Central College Road in 2022. The basis of the table was the applicant working with staff to figure out alternative measures to provide unimpeded access. The application was later withdrawn by the applicant following the hearing.

## **VI. SUMMARY**

Through several pool barrier variance applications, the Board of Zoning Appeals and the Planning Commission have had to weigh the importance of many factors in coming to decisions on the applications. Some of the factors stated on the record are the proximity of the property to other residences, public accessibility to the property, and the effectiveness of a pool cover in providing safety.

The property in question is located within a dense single-family neighborhood with potential for unauthorized access. The pool's proposed location does not adversely affect the surrounding area as it is heavily wooded at the rear, screening from the detached garage to the east, and the applicant is proposing additional screening to the north.

## **VIII. ACTION**

Should the Planning Commission find that the application has sufficient basis for approval, the following motion would be appropriate:

Move to approve variance application VAR-52-2025 based on the findings in the staff report with the following condition(s) of approval:

1. The pool cover must be certified annually by the homeowner.

**Approximate Site Location:**

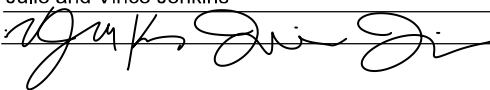


Source: NearMap





## Community Development Planning Application

| <b>Submission</b>                                       | <p>Submit planning applications and all required materials via email to <a href="mailto:planning@newalbanyohio.org">planning@newalbanyohio.org</a></p> <p>Paper copies are not required at this time however, 12 paper copies of the entire submission will be required ahead of a board hearing date. The planner assigned to your case will inform you when the paper copies need to be delivered to our offices. Fee invoices will be issued to you once the application is entered.</p>  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
|---|--|----------------------------|-------------------------|-------------------------|---------------------------------|---|---|--|---|-------------------------------|--------------------------------------|---|--|---|--|--|-----------------------------------|----------------------|--------------|--------------|--------------|--------------|-------|------------------------|-------|------------------------|
| <b>Project Information</b>                              | <p>Site Address <u>21 Ealy Crossing S.</u></p> <p>Parcel Numbers <u>222-004142-00</u></p> <p>Acres <u>.75</u> # of lots created <u>1</u></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 50%;">Choose Application Type</th><th style="width: 50%;">Description of Request:</th></tr> </thead> <tbody> <tr> <td><input type="checkbox"/> Appeal</td><td rowspan="9">                     We are requesting a variance to install a small 10x16 plunge pool in our backyard with a walkable hard cover. After much research into the matter while more expensive, the safest option to secure the pool is a hardtop, walkable safety cover that meets ASTM standards, thus eliminating the need for a surrounding fence. We believe this solution not only maintains the intended safety measures, but based upon recent evident, exceeds them.                 </td></tr> <tr> <td><input type="checkbox"/> Certificate of Appropriateness</td></tr> <tr> <td><input type="checkbox"/> Conditional Use</td></tr> <tr> <td><input type="checkbox"/> Development Plan</td></tr> <tr> <td><input type="checkbox"/> Plat</td></tr> <tr> <td><input type="checkbox"/> Lot Changes</td></tr> <tr> <td><input type="checkbox"/> Minor Commercial Subdivision</td></tr> <tr> <td><input type="checkbox"/> Zoning Amendment (Rezoning)</td></tr> <tr> <td><input type="checkbox"/> Zoning Text Modification</td></tr> <tr> <td><input type="checkbox"/> Extension Request</td></tr> <tr> <td><input checked="" type="checkbox"/> Variance</td></tr> <tr> <td><input type="checkbox"/> Vacation</td></tr> </tbody> </table> |                            | Choose Application Type | Description of Request: | <input type="checkbox"/> Appeal | We are requesting a variance to install a small 10x16 plunge pool in our backyard with a walkable hard cover. After much research into the matter while more expensive, the safest option to secure the pool is a hardtop, walkable safety cover that meets ASTM standards, thus eliminating the need for a surrounding fence. We believe this solution not only maintains the intended safety measures, but based upon recent evident, exceeds them. | <input type="checkbox"/> Certificate of Appropriateness | <input type="checkbox"/> Conditional Use | <input type="checkbox"/> Development Plan | <input type="checkbox"/> Plat | <input type="checkbox"/> Lot Changes | <input type="checkbox"/> Minor Commercial Subdivision | <input type="checkbox"/> Zoning Amendment (Rezoning) | <input type="checkbox"/> Zoning Text Modification | <input type="checkbox"/> Extension Request | <input checked="" type="checkbox"/> Variance | <input type="checkbox"/> Vacation |                      |              |              |              |              |       |                        |       |                        |
| Choose Application Type                                 | Description of Request:  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Appeal                         | We are requesting a variance to install a small 10x16 plunge pool in our backyard with a walkable hard cover. After much research into the matter while more expensive, the safest option to secure the pool is a hardtop, walkable safety cover that meets ASTM standards, thus eliminating the need for a surrounding fence. We believe this solution not only maintains the intended safety measures, but based upon recent evident, exceeds them.  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Certificate of Appropriateness |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Conditional Use                |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Development Plan               |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Plat                           |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Lot Changes                    |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Minor Commercial Subdivision   |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Zoning Amendment (Rezoning)    |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Zoning Text Modification       |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Extension Request              |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input checked="" type="checkbox"/> Variance            |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <input type="checkbox"/> Vacation                       |  |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <b>Contacts</b>   | <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th colspan="2">Applicant Information</th><th colspan="2">Property Owner Information</th></tr> </thead> <tbody> <tr> <td style="width: 25%;">Name</td><td style="width: 25%;">Juie &amp; Vince Jenkins</td><td style="width: 25%;">Name</td><td style="width: 25%;">Julie &amp; Vince Jenkins</td></tr> <tr> <td>Address</td><td>21 Ealy Crossing S</td><td>Address</td><td>21 Ealy Crossing S.</td></tr> <tr> <td>City, State, Zip</td><td>New Albany, OH 43054</td><td>City, State, Zip</td><td>New Albany, OH 43054</td></tr> <tr> <td>Phone Number</td><td>614-657-2019</td><td>Phone Number</td><td>614-657-2019</td></tr> <tr> <td>Email</td><td>julebjenkins@yahoo.com</td><td>Email</td><td>julebjenkins@yahoo.com</td></tr> </tbody> </table>   |                            | Applicant Information   |                         | Property Owner Information      |   | Name  | Juie & Vince Jenkins                     | Name                                      | Julie & Vince Jenkins         | Address                              | 21 Ealy Crossing S                                    | Address  | 21 Ealy Crossing S.                               | City, State, Zip                           | New Albany, OH 43054                         | City, State, Zip                  | New Albany, OH 43054 | Phone Number | 614-657-2019 | Phone Number | 614-657-2019 | Email | julebjenkins@yahoo.com | Email | julebjenkins@yahoo.com |
| Applicant Information                                   |  | Property Owner Information |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| Name  | Juie & Vince Jenkins   | Name                       | Julie & Vince Jenkins   |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| Address   | 21 Ealy Crossing S   | Address                    | 21 Ealy Crossing S.     |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| City, State, Zip  | New Albany, OH 43054   | City, State, Zip           | New Albany, OH 43054    |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| Phone Number  | 614-657-2019   | Phone Number               | 614-657-2019            |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| Email   | julebjenkins@yahoo.com   | Email                      | julebjenkins@yahoo.com  |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |
| <b>Signature</b>  | <p>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.</p> <p>Signature of Owner <u>Julie and Vince Jenkins</u> Date: <u>5/19/25</u></p> <p>Signature of Applicant <u></u> Date: <u>5/19/25</u></p>   |                            |                         |                         |                                 |   |   |  |   |                               |                                      |   |  |   |  |  |                                   |                      |              |              |              |              |       |                        |       |                        |

Department Address: 7815 Walton Parkway • New Albany, Ohio 43054 • Phone 614.939.2254

Mailing Address: 99 West Main Street • P.O. Box 188 • New Albany, Ohio 43054

# **Fees & Submittal Information**

|   |   |               |  |
|---|---|---------------|--|
| Appeal  |   | 250.00        |  |
| Certificate of Appropriateness                      |   |               |  |
| ARB – single and two family residential             |   | 100.00        |  |
| ARB – All other residential or commercial           |   | 300.00        |  |
| ARB - Signage                                       |   | 75.00         |  |
| Conditional Use                                     |   | 600.00        |  |
| Development Plan – Preliminary PUD or Comprehensive |   |               |  |
| Planning fee  | First 10 acres                          | 750.00        |  |
|   | Each additional 5 acres or part thereof | 50.00 / each  |  |
| Engineering fee                                     | 1-25 lots                               | 155.00 / each |  |
|   | Minimum fee                             | 1000.00       |  |
| Engineering fee                                     | 26 – 50 lots                            | 3875.00       |  |
|   | Each additional lot over 26             | 75.00 / each  |  |
| Engineering fee                                     | Over 51 lots                            | 5750.00       |  |
|   | Each additional lot over 51             | 50.00 / each  |  |
| Development Plan – Final PUD                        |   |               |  |
| Planning fee  | First 10 acres                          | 650.00        |  |
|   | Each additional 5 acres or part thereof | 50.00         |  |
| Engineering fee                                     | 1-25 lots                               |               |  |
|   | (minimum fee \$1,000.00)                | 155.00 / each |  |
| Engineering fee                                     | 26 – 50 lots                            | 3875.00       |  |
|   | Each additional lot over 26             | 75.00 / each  |  |
| Engineering fee                                     | Over 51 lots                            | 5750.00       |  |
|   | Each additional lot over 51             | 50.00 / each  |  |
| Development Plan – Non-PUD                          |   | 300.00        |  |
| Development Plan / Text Amendment                   |   | 600.00        |  |
| Plat – Road Preliminary                             |   |               |  |
| Planning fee  |   | 350.00        |  |
| Engineering fee                                     | no lots on either side of street        | 1.00 / LF     |  |
|   | lots on one side of street              | .50 / LF      |  |
|   | Minimum fee                             | 1,000.00      |  |
| Plat – Road Final                                   |   |               |  |
| Planning fee  |   | 350.00        |  |
| Engineering fee                                     | no lots on either side of street        | 1.00 / LF     |  |
|   | lots on one side of street              | .50 / LF      |  |
|   | Minimum fee                             | 1,000.00      |  |
| Plat – Subdivision Preliminary                      |   |               |  |
| Planning  |   | 650.00        |  |
|   | Plus each lot                           | 50.00 / each  |  |
| Engineering fee                                     | 1-25 lots                               |               |  |
|   | (minimum fee \$1,000.00)                | 155.00 / each |  |
| Engineering fee                                     | 26 – 50 lots                            | 3875.00       |  |
|   | Each lot over 26                        | 75.00 / each  |  |
| Engineering fee                                     | Over 51 lots                            | 5750.00       |  |
|   | Each lot over 51                        | 50.00 / each  |  |



# Fees & Submittal Requirements

## Plat – Subdivision Final

|                 |                                       |              |       |
|-----------------|---------------------------------------|--------------|-------|
| Planning        |                                       | 650.00       | _____ |
|                 | Plus each lot                         | 15.00 / each | _____ |
| Engineering fee | 1-25 lots<br>(minimum fee \$1,000.00) | 155.00 /each | _____ |
| Engineering fee | 26-50 lots                            | 3875.00      | _____ |
|                 | Each lot over 26                      | 75.00 / each | _____ |
| Engineering fee | Over 51 lots                          | 5750.00      | _____ |
|                 | Each lot over 51                      | 50.00 / each | _____ |

## Lot Changes

200.00

## Minor Commercial Subdivision

200.00

## Vacation (Street or Easement)

1200.00

## Variance

Non-single family, commercial, subdivision, multiple properties

600.00

Single Family residence

250.00

In conjunction with Certification of Appropriateness

100.00

## Extension Request

0.00

## Zoning

Rezoning - First 10 acres

700.00

Each additional 5 acres or part thereof

50.00 / each

Rezoning to Rocky Fork Blacklick Accord

250.00

Text Modification

600.00

## Easement Encroachment

800.00

## Revised Variance Request Letter

|                                 |                                      |
|---------------------------------|--------------------------------------|
| Owner                           | <a href="#">JENKINS VINCE M</a>      |
|                                 | <a href="#">JENKINS JULIE B</a>      |
| Owner Mailing /                 | 21 EALY CROSSING S                   |
| Contact Address                 | NEW ALBANY OH 43054                  |
| Site (Property) Address         | 21 S EALY CROSSING                   |
| Legal Description               | NEW ALBANY COUNTRY CLUB              |
|                                 | SEC 22 EALY CROSS LOT 1              |
| Calculated Acres                | .75                                  |
| Legal Acres                     | 0                                    |
| <b>Parcel ID: 222-004142-00</b> | <b>Map Routing: 222-N052GI-00200</b> |
|                                 | <b>21 S EALY CROSSING</b>            |

This letter is submitted in support of a request for a zoning variances to waive the requirement for a fence around a proposed pool. The proposed installation is a 160-square-foot shallow soaking pool and hot tub—modestly sized and intended for relaxation rather than recreation. This is only slightly larger than the 100-square-foot threshold that typically triggers the fencing requirement.

In accordance with the zoning requirement outlined in the Ealy Crossing development, *Subarea A, Section VI. Architectural Standards: f. Swimming Pool/Spas*: “All swimming pools/spas shall be located in the rear yard, within the building line of the site, completely enclosed by fencing and screened from adjoining properties,” we confirm that the proposed pool will be located entirely within the rear yard and building lines. While we are requesting a variance from the fencing requirement, we will fully comply with the screening requirement. We will implement natural screening consistent with what others in the community have used, ensuring the pool is completely unseen from any line of sight from adjoining properties.

We believe the variances are justified based on several important considerations, most notably the enhanced safety provided by an ASTM-compliant automatic pool cover, which exceeds the effectiveness of traditional fencing.

While the property can still be used for residential purposes without the variance, the addition of a pool significantly enhances its value and usability. Requiring a fence, however, may diminish the aesthetic and functional design intended for the space, limiting its full

## **Revised Variance Request Letter**

potential and reducing the return on investment. Given the modest size of the pool, the impact of the variance is minimal.

The variance is not substantial in nature. The request is limited to waiving the fence requirement while maintaining safety through alternative measures such as an ASTM F1346-compliant automatic pool cover, motion alarms, and secure access points. These alternatives not only meet many safety standards but are often more effective than traditional fencing in preventing unauthorized access. Importantly, these measures do not alter the property's use or structure.

The variance will not alter the essential character of the neighborhood. In fact, it will help preserve the open, cohesive aesthetic of the Ealy Crossing community. The pool will be designed with landscaping and natural screening to maintain visual harmony. No adverse effects are anticipated for adjoining properties, and the open design may even enhance the neighborhood's appeal.

The variance will not interfere with the delivery of government services. Emergency access, utility lines, and public infrastructure will remain unaffected, as shown in the accompanying drawings. The pool area will be clearly marked and accessible for any necessary inspections or emergency response.

At the time of purchase, the property owner was not fully aware of the specific fencing requirement for pools. The intent was always to further develop the property over time by incorporating a friendly, open recreational space. The fencing requirement was discovered during the planning phase, after the purchase.

While a fence could technically be installed, it would conflict with the intended design and the architectural harmony of the neighborhood. Alternative safety measures provide a more effective and aesthetically appropriate solution, making the variance the most reasonable path forward for the current and future property owners and surrounding neighbors.

The spirit of the zoning requirement is to ensure safety and neighborhood integrity. By implementing alternative safety measures, the variance upholds this intent. Granting the variance allows for a safe, attractive, and functional community amenity, thereby achieving substantial justice.

The community of Ealy Crossing is unique within New Albany. Special conditions and circumstances exist that are peculiar to the land and structure involved, as well as surrounding dwellings. This variance request is, in part, intended to maintain the continuity of the Ealy Crossing community through shared architectural alignment. The layout and design promote visual continuity, making fencing uniquely disruptive in this context.

A rote, literal interpretation of the Zoning Ordinance in this case would deprive the applicant of the ability to maintain architectural harmony and enjoy the same design freedoms as others in the district. Other properties may have pools with less restrictive safety requirements or were developed before current codes. Enforcing a literal

## **Revised Variance Request Letter**

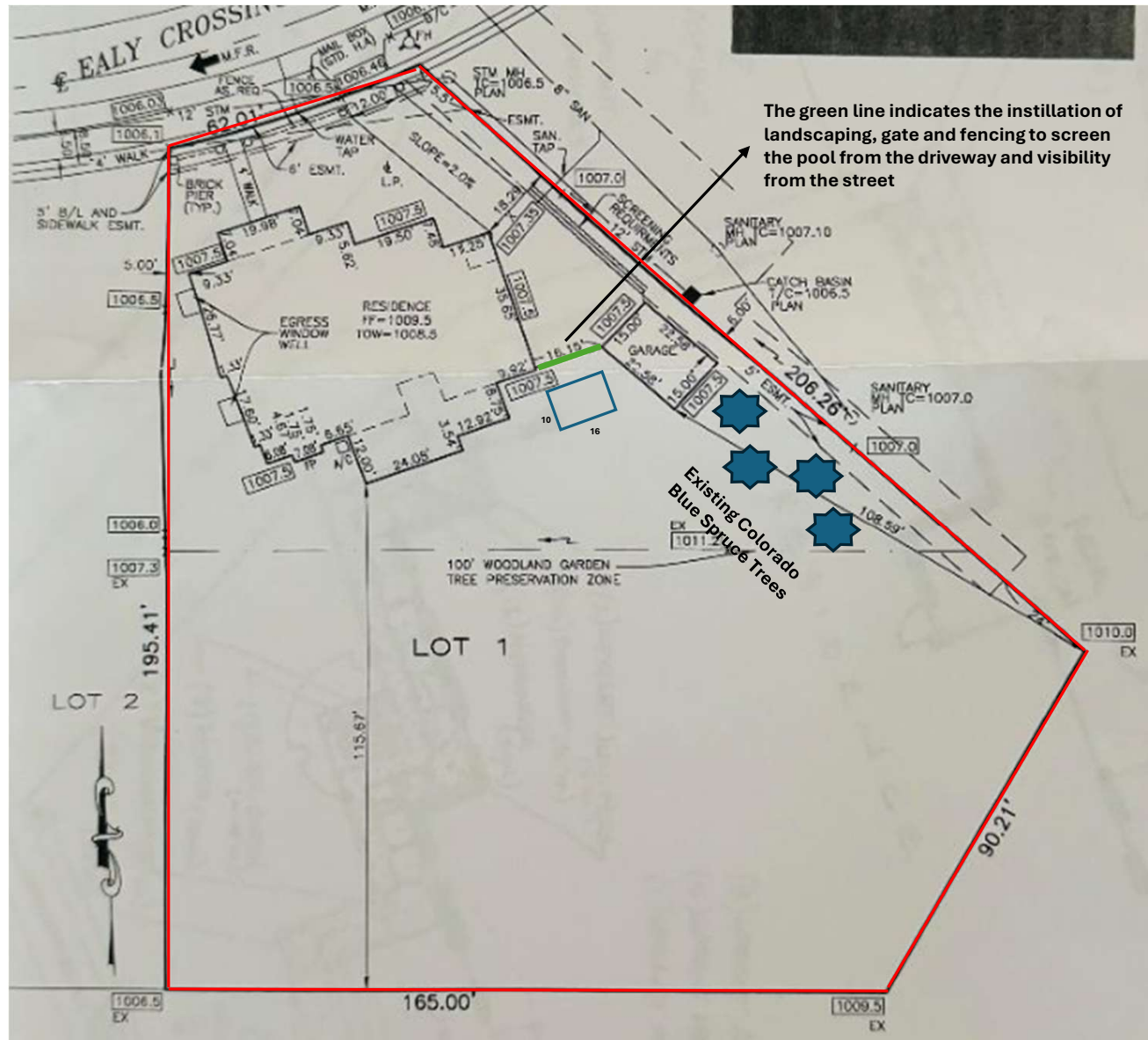
interpretation would create an undue burden and limit the property's use compared to similar developments.

The special conditions and circumstances do not result from the action of the applicant. The need for a variance arises from the property's design and community goals, not from any action or oversight by the applicant.

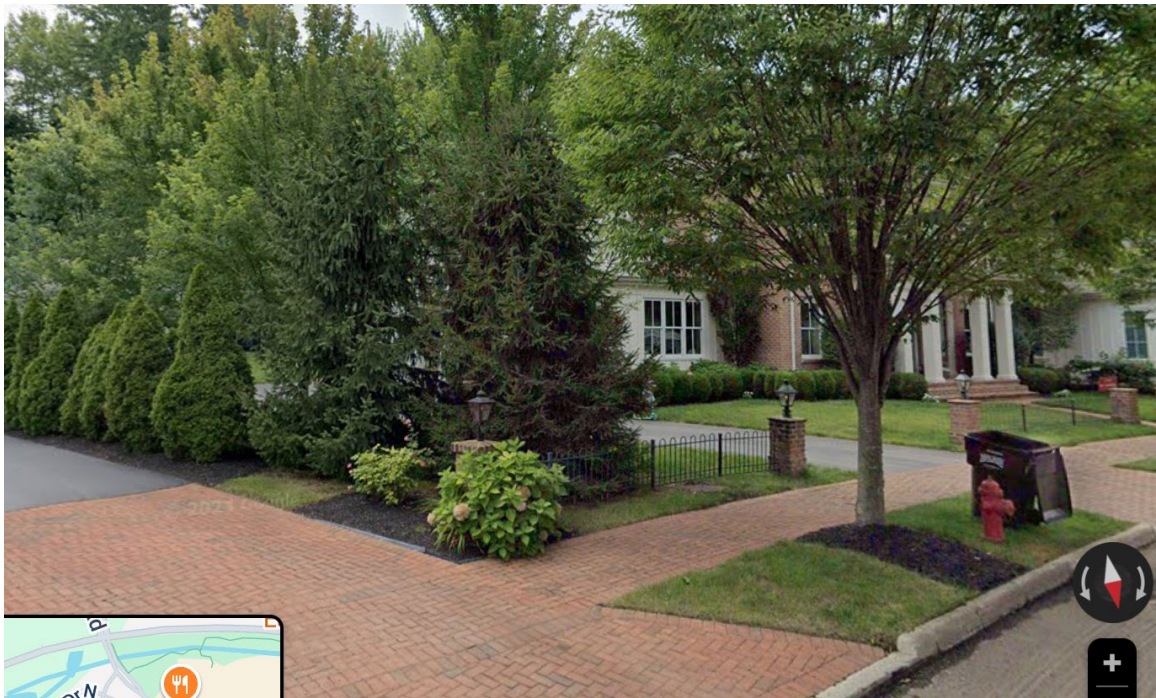
Granting the variance will not confer any special privilege. It simply allows for a reasonable and safe alternative to a standard requirement, consistent with the intent of the zoning code.

With the implementation of alternative safety measures, the variance will not compromise health or safety. According to Pool Guard USA, high-quality pool covers—especially automatic ones—are designed to meet ASTM safety standards and are capable of withstanding the weight of a child or pet, effectively preventing accidental falls. These covers are made from durable materials like UV-stabilized polyethylene, vinyl, or mesh, and offer consistent protection when the pool is not in use. Automatic covers, in particular, offer one-touch operation, making them more likely to be used consistently compared to fences, which can be left open or climbed over. While fences provide a physical barrier, they are not foolproof. In contrast, pool covers eliminate all risk of unintended access when in use, as the pool is completely covered and inaccessible.

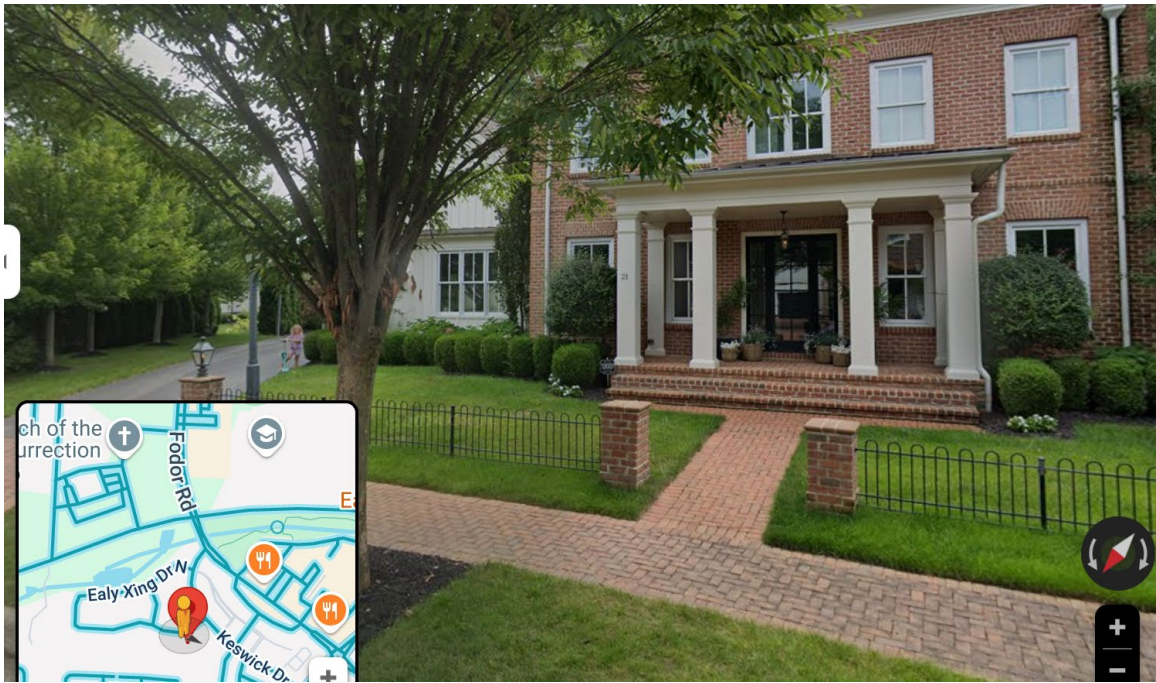
We respectfully request that the variance be granted in recognition of the unique conditions of the property, the superior safety measures proposed, and the desire to maintain the architectural integrity of the Ealy Crossing community.











**PROPERTY OWNERS WITHIN 200 FEET**

Susan Widman

181 Keswick Drive

New Albany, OH

John Fraim

189 Keswick Drive

New Albany, OH

Marcia Kristie

197 Keswick Drive

New Albany, OH

Evan Beane

172 Keswick Drive

New Albany, OH

Aaron Schockett

7714 Ogden Woods Blvd

New Albany, OH

Vickram Marballi

7704 Ogden Woods Blvd

New Albany, OH



Leah Levinson

7694 Ogden Woods Blvd

New Albany, OH

James Riepenhoff

7618 Alpath

New Albany, OH

John McClelland

7626 Alpath Rd

New Albany, OH

Emily Miller

7610 Alpath Rd

New Albany, OH

Jacob Worley

16 Ealy Crossing S

New Albany, OH

Heath Horning

14 Ealy Crossing S

New Albany, OH

Mark Debellis

19 Ealy Crossing S

New Albany, OH