



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

**I. Call to order**

The New Albany Board of Zoning Appeals held a regular meeting on Monday, November 24, 2025 in the New Albany Village Hall. Chair LaJeunesse called the meeting to order at 6:30 p.m. and asked to hear the roll. Thereupon the following members answered:

Mr. LaJeunesse	present
Mr. Jacob	present
Ms. Samuels	present
Mr. Wood	present
Mr. Schell	present
Council Member Shull	present

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

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

**II. Action on minutes October 27, 2025**

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

Hearing none, Board Member Jacob moved for approval of the October 27, 2025 meeting minutes. Board Member Wood seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. Wood yes, Mr. LaJeunesse yes, Ms. Samuels yes, Mr. Schell yes. having five yes votes, the motion passed and the minutes were approved as submitted.

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

Chair LaJeunesse administered the oath to all present who wished to address the board. Thereafter he introduced the first and only case on the agenda and asked to hear the staff report.

**VI. Cases**

**VAR-86-2025 Pool Setback Variance**

Variances to C.O. 1173.02 (c) and C.O. 1165.04 (b)(3)(b) to reduce the required pool setbacks and to encroach into an easement at 7503 Ogden Woods Boulevard (PID: 222-001254-00).

**Applicant: James Roth**

Planner I Blackburn delivered the staff report.

Chair LaJeunesse asked if there was additional information since the prior meeting when the application was tabled.

Planner I Blackburn indicated the location of additional landscaping.

Chair LaJeunesse asked the board if they had questions for the applicant.

Board Member Samuels moved to admit the staff reports and related documents into the record for VAR-86-2025. Board Member Schell seconded the motion.

Upon roll call: Ms. Samuels yes, Mr. Schell yes, Mr. Jacob yes, Mr. Wood yes, Mr. LaJeunesse yes. having five yes votes the motion passed and the staff reports and related documents were admitted to the record for VAR-86-2025.

Board Member Wood further reviewed and confirmed the landscaping changes.

Board Member Schell asked whether additional letters of support had been received.

Planner I Blackburn answered yes and responded that they were on the dias.

Council Member Shull confirmed the location of the property and fence lines.

Council Member Shull remarked that it appeared as if all of the landscaping is in the easement.

Board Member Jacob noted that the project will not be visible from the street.

Applicant James Roth clarified that flipping the design would result in the project being visible from the street and would create complexity with the location of the steps. He stated that he attempted to call the neighbors, Mr. and Mrs. Lee multiple times. Although they never actually spoke, Mr. Lee responded that his position had not changed.

Chair LaJeunesse recognized the neighbor, Jason Lee. Mr. Lee stated that he was not surprised that other neighbors supported this project, they were not impacted like his property is impacted. He remarked that he understood Mr. Roth's desire for a pool. He himself had searched hard for a property that would accommodate a pool. He asserted that installation of this pool would decrease the value of his property and would set precedent in this neighborhood. If this is approved, nothing will prevent the neighbors from asking for the same thing.

Chair LaJeunesse asked how Mr. Lee's property value would be decreased.

Mr. Lee explained that it would decrease the set back area. He remarked that there is room for a smaller pool.

Chair LaJeunesse stated that there was precedent for encroachment with the approval of the existing patio.

Mrs. Lee stated that she was fine with the existing patio. She does not oppose the existing encroachment of the patio, but a pool brings more noise. She wants the neighbors to use their yard, but some lots are too small for a pool. She remarked that the existing trampoline is already noisy.

Board Member Wood asked if the diminished value argument had been researched.

Mr. Roth explained that he reached out to three realtors and they said that the neighbors having a pool negated the diminished value argument. He stated that they will always be respectful of the neighbors and there will be no difference in noise from the trampoline.

Board Member Schell asked for the location of the additional landscaping.

Mr. Roth indicated the location on the site plan and further explained that they planned to work with the city engineer.

Chair LaJeunesse asked for the location of the pool utilities and confirmed that the city engineer would be approving their location.

Mr. Roth indicated the location and explained that it is in the general area of the neighbors' pool equipment. He stated that safety was prudential and further confirmed that the neighbors to the west had approved the location of the pool equipment.

Chair LaJeunesse asked for further questions or comments.

Hearing none, Board Member Jacob moved to admit the documents including the newly submitted documents. Board Member Wood seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. Wood yes, Ms. Samuels yes, Mr. Schell yes, Mr. LaJeunesse yes. Having five yes votes, the motion passed and the documents motion as revised was passed.

Chair LaJeunesse moved for approval of VAR-86-2025 based on the findings in the staff report with the conditions in the staff report, subject to staff approval. Board Member Wood seconded the motion.

Upon roll call: Mr. LaJeunesse yes, Mr. Wood no, Mr. Jacob yes, Ms. Samuels yes with comment, to wit: this was a contentious situation between neighbors, the *Duncan* factors were present in this situation. This is a finite rubric as noted in the staff report. Mr. Schell yes, noting that he voted yes due to the prior approval of the patio. Having four yes votes and one no vote, the motion passed and the variance was granted.

Board Member Wood explained that he voted no because he did not find that the *Duncan* factors weighed in favor of approval. He further noted that the ordinances treat patios and pools differently.

The board thanked all present and wished them good luck.

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

Board Member Jacob offered his congratulations to Board Member Schell on his recent election to the Plain Township Trustees. He thanked him for his tireless work and excellent example.

#### **IX. Adjournment**

Having completed their agenda and having no further business, Board Member Samuels moved to adjourn the meeting. Board Member Wood seconded the motion.

Upon roll call: Ms. Samuels yes, Mr. Wood yes, Mr. LaJeunesse yes, Mr. Jacob yes, Mr. Schell yes. Having five yes votes, the motion passed and the November 24, 2025 meeting of the New Albany Board of Zoning Appeals was adjourned.

Submitted by: Deputy Clerk Madriguera, Esq.

#### **Appendix**

#### **VAR-86-2025**

#### **Staff Report and related documents**

#### **Record of Action**



COMMUNITY CONNECTS US

Board of Zoning Appeals Staff Report  
November 24, 2025 Meeting

**7503 OGDEN WOODS BLVD  
POOL VARIANCES**

LOCATION: 7503 Ogden Woods Blvd (PID: 222-001254-00)  
 APPLICANT: James Roth  
 REQUEST: (A) Variance to C.O. 1173.02 (c) to reduce the required 15-foot pool setbacks and variance  
 (B) Variance to C.O. 1165.04 (b)(3)(b) to encroach into a 20-foot easement  
 ZONING: R-4 Single-Family Residential District  
 STRATEGIC PLAN: Neighborhood Residential  
 APPLICATION: VAR-86-2025

Review based on: Application materials received on October 9 and 13, and November 7, 2025  
*Staff report prepared by Kylie Blackburn, Planner I*

This case was originally heard and tabled by the Board of Zoning Appeals on October 27, 2025. Following that meeting, the applicant reviewed alternative design options but ultimately chose to proceed with the original proposal. All application materials remain unchanged from the previous meeting, except for an updated narrative statement provided by the applicant.

**I. REQUEST AND BACKGROUND**

The applicant is requesting the following variances:

- (A) Variance to C.O. 1173.02 (c) to reduce the required 15-foot pool setback from any property line.
- (B) Variance to C.O. 1165.04 (b)(3)(b) to encroach 9 feet into the 20-foot easement on the rear of the property.

The property has an existing patio that received a variance from the Board of Zoning Appeals to encroach the same distance into the existing easement on September 28, 2020 (VAR-70-2020).

**II. SITE DESCRIPTION & USE**

The .40-acre property is in section 6 of the New Albany Country Club, zoned R-4, and contains a single-family residential home that was built in 1993. The property is surrounded by single-family residential homes.

**III. EVALUATION**

The application complies with application submittal requirements in C.O. 1113.03, and is considered complete. The property owners within 200 feet of the property in question have been notified.

*Criteria*

The standard for granting of an area variance is set forth in the case of *Duncan v. Village of Middlefield*, 23 Ohio St.3d 83 (1986). The Board must examine the following factors when deciding whether to grant a landowner an area variance:

All of the factors should be considered and no single factor is dispositive. The key to whether an area variance should be granted to a property owner under the “practical difficulties” standard is whether the area zoning requirement, as applied to the property owner in question, is reasonable and practical.

1. *Whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance.*
2. *Whether the variance is substantial.*
3. *Whether the essential character of the neighborhood would be substantially altered or adjoining properties suffer a “substantial detriment.”*
4. *Whether the variance would adversely affect the delivery of government services.*
5. *Whether the property owner purchased the property with knowledge of the zoning restriction.*
6. *Whether the problem can be solved by some manner other than the granting of a variance.*
7. *Whether the variance preserves the “spirit and intent” of the zoning requirement and whether “substantial justice” would be done by granting the variance.*

Plus, the following criteria as established in the zoning code (*Section 1113.06*):

8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.*
10. *That the special conditions and circumstances do not result from the action of the applicant.*
11. *That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.*
12. *That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.*

#### **IV. ASSESSMENT**

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

##### **(A) Variance to C.O. 1173.02 (c) to allow the pool and its appurtenances to be closer than 15 feet to the property line.**

1. Codified Ordinance Section 1173.02(c) prohibits pools and their appurtenances from being located closer than 15 feet to any property line.
2. The applicant is proposing to have the edge of the pool patio be 11 feet away from the rear property line and 5 feet from the east side property line. The pool equipment is proposed to be 3 ft 6 inches away from the west side property line and 8 feet from the rear property line.
3. There is a special circumstance that exists with the property. As currently situated on the site, the house is located less than 13 feet from the rear of the structure to the easement line, leaving little room for recreational amenities to be added without the need for a variance, regardless of the pool setback requirements.
  - However, approving this variance may set a precedent for other properties in the

area with similarly sized yards or existing easements, potentially leading to an increase in similar requests.

4. The variance request meets the spirit and intent of the zoning requirement. The primary purpose of the setback requirement is to ensure adequate separation between uses on adjacent properties. In this case, both neighboring properties have existing tree and landscape buffers that serve as natural screening. In addition, the proposed project will include the required pool fencing, further enhancing privacy and separation. These elements ensure that the pool and attached patio remain contained within the subject property's boundaries, while minimizing any potential impact on neighboring properties.
5. The requested variance along the rear property line does not appear to be substantial. The proposed pool patio will be set back 11 feet from the rear property line, resulting in a 4-foot encroachment into the required setback. This design decision was made to align the new construction with the existing patio, creating a more cohesive and aesthetically pleasing layout. The neighboring property to the rear features a swimming pool surrounded by landscaped screening and a code-compliant fence. Given these existing visual buffers, the proposed encroachment will not negatively impact the neighbor and may, in fact, complement the existing aesthetic.
  - The encroachments along the east and west property lines are more significant. On the west side, the pool equipment is proposed to be located 3 feet 6 inches from the property line, while the patio on the east side would encroach up to 5 feet. Both areas will be screened with landscaping and the required pool fencing to help mitigate visual impact on adjacent properties. It should be noted that the patio on the west side could potentially be reduced to lessen the degree of encroachment, if necessary.
6. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
7. Granting the variance would not adversely affect the delivery of government services.

**(B) Variance to C.O. 1165.04(b)(3)(b) to allow the pool and patio to be located in an easement.**

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

1. Codified Ordinance Section 1165.04(b)(3)(b) prohibits decks and other recreational amenities from being located in an easement. According to the subdivision's final plat, there is an existing 20-foot easement that runs along the rear property line.
2. The applicant is requesting a variance to allow the pool and patio to encroach 9 feet into the easement. The easement is 20 feet deep and runs along the entire rear lot line, which is about 115 feet. This is the same size encroachment that was approved for the existing patio on the property (VAR-70-2020), the applicant wants to keep the pool patio in line with the existing patio.
3. There is a special circumstance that exists with the property. As mentioned before, as the house sits on the site today, there is less than 13 feet off the rear of the house before hitting the easement, leaving little room for recreational amenities to be added without the need for a variance.
  - As previously mentioned, approving this variance may set a precedent for other properties in the area with similarly sized yards or existing easements, potentially leading to an increase in similar requests.
  - The house is also set back further on the property than the neighboring properties that share this rear yard easement, as seen with the red line in the image below.



4. The variance request does not appear to be substantial. The city’s engineering staff reviewed the application and confirmed that there are no public utilities installed in the easement. There are private utilities installed in the easement at the rear of the property and one electric utility line that runs from the back of the property to the home.
  - The pool patio will not be installed above any existing utility lines within the easement area.
5. The variance request meets the spirit and intent of the zoning requirement, which is to protect property owners in the event that the city or a private utility provider must gain access to the utility. While the applicant proposes installing the pool and patio within the easement, it will not be installed above any existing utility lines. If a patio or another structure is installed in an easement and the city or another utility provider needs to access the utility, the patio or other structure may be taken down or partially removed to access utilities, and the property owner is responsible for the expense of replacing or repairing the patio/structure. Staff recommends a condition of approval that the homeowner enter into a hold harmless agreement (or similar legal mechanism to be determined by the city engineer and/or attorney) specifying that the property owner, and not the city, is responsible for any damages to the pool or patio in the event that a public or private utility provider needs to access the easement (condition #1).
6. The City Engineer feels comfortable with the pool and patio addition, as it aligns with the existing patio. The engineer did note that adding any additional landscaping or other features within the easement could disrupt drainage across the site due to the slope of the easement area. Staff recommends a condition of approval that the applicant works with the City Engineer for landscaping within the easement (condition #2).
7. It appears that granting the variance will not adversely affect the health and safety of persons residing in the vicinity.
8. Granting the variance would not adversely affect the delivery of government services.
9. The city’s engineering staff reviewed the application and determined that there are no public utilities installed in the easement area, as mentioned before. Additionally, the hold harmless agreement will ensure that the city bears no responsibility for any damages to the pool or patio if utilities need to be installed within the easement area in the future.

## V. SUMMARY

The applicant proposes to install a pool and patio that will encroach 9 feet into a 20-foot-wide platted easement along the rear of the property, as well as encroaching on the 15-foot pool setback requirement. The proposed improvements will not be constructed over any existing utilities. The requested encroachment is consistent with a previously approved variance (VAR-70-2020) for the existing patio. Due to the limited space between the rear of the home and the start of the easement, the proposed layout allows for a functional design while maintaining alignment with existing conditions. Although the improvements will be located within the easement and setback, the absence of public utilities and the lack of interference with existing

lines support the requests. This request could cause a precedent for other properties in the area with similarly sized yards or existing easements. A hold harmless agreement will ensure that the applicant acknowledges the city is not responsible for any damage to the pool or patio should access to the easement be required in the future.

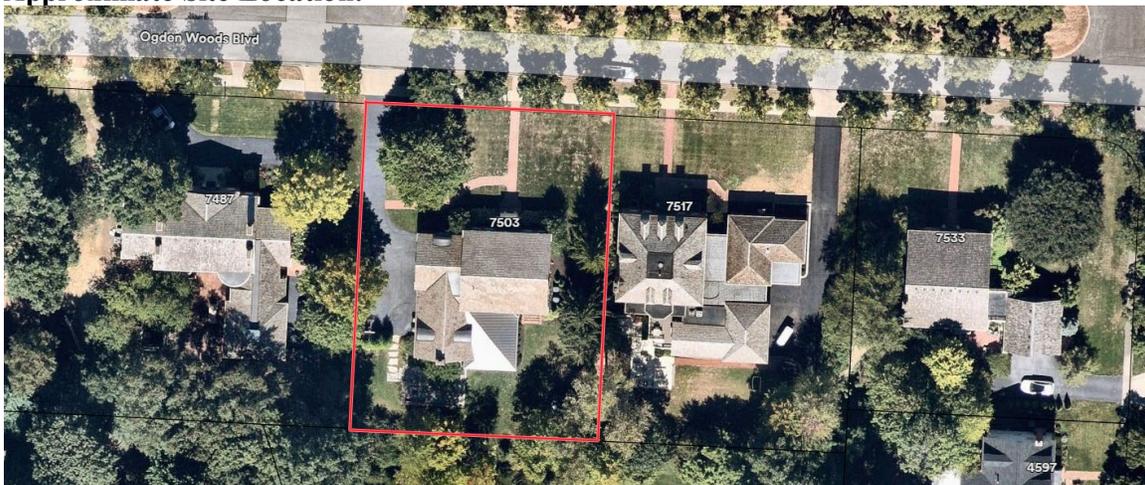
## VI. ACTION

Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motion would be appropriate (conditions may be added):

**Move to approve application VAR-86-2025 with the following conditions (conditions of approval may be added).**

1. The homeowner enter into a hold harmless agreement (or similar legal mechanism to be determined by the city engineer and/or attorney) specifying that the property owner, and not the city, is responsible for any damages to the patio in the event that a public or private utility provider needs to access the easement area prior to the issuance of a building permit and any impacts to neighboring surface drainage must be the responsibility of the homeowner to address.
2. That the applicant will work with the City Engineer for landscaping within the easement.

### Approximate Site Location:



Source: NearMap



## Community Development Department

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

Dear James Roth,

Attached is the Record of Action for your recent application that was heard by one of the City of New Albany Boards and Commissions. Please retain this document for your records.

This Record of Action does not constitute a permit or license to construct, demolish, occupy or make alterations to any land area or building. A building and/or zoning permit is required before any work can be performed. For more information on the permitting process, please contact the Community Development Department.

Additionally, if the Record of Action lists conditions of approval these conditions must be met prior to issuance of any zoning or building permits.

Please contact our office at (614) 939-2254 with any questions.

Thank you.



## Community Development Department

### Decision and Record of Action

Tuesday, November 25, 2025

The New Albany Board of Zoning Appeals took the following action on 11/24/2025 .

#### Variance

**Location:** 7503 OGDEN WOODS BL

**Applicant:** James Roth,

**Application:** PLVARI20250086

**Request:** Variances to C.O. 1173.02 (c) and C.O. 1165.04 (b)(3)(b) to reduce the required pool setbacks and to encroach into an easement at 7503 Ogden Woods Boulevard (PID: 222-001254-00).

**Motion:** To Approve with Conditions

**Commission Vote:** Motion Approval with Conditions, 4-1

**Result:** Variance, PLVARI20250086 was Approval with Conditions, by a vote of 4-1.

Recorded in the Official Journal this November 25, 2025

#### Condition(s) of Approval:

1. The homeowner enter into a hold harmless agreement (or similar legal mechanism to be determined by the city engineer and/or attorney) specifying that the property owner, and not the city, is responsible for any damages to the patio in the event that a public or private utility provider needs to access the easement area prior to the issuance of a building permit and any impacts to neighboring surface drainage must be the responsibility of the homeowner to address.
2. That the applicant will work with the City Engineer for landscaping within the easement.

Staff Certification:

Kylie Blackburn  
Planner