



New Albany Board of Zoning Appeals Meeting Agenda
August 25, 2025, 6:30pm

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's website at <https://newalbanyohio.org/answers/streaming-meetings/>

I. Call to order

II. Roll call

III. Action on minutes July 28, 2025

IV. Additions or corrections to the agenda

Administer oath to all witnesses/applicants/staff who plan to speak regarding an application on tonight's agenda. "Do you swear to tell the truth and nothing but the truth."

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

VI. Cases

VAR-60-2025 Pavement Setback Variance

Variance to Business and Commerce L-GE zoning text Section III(B)(2) and Section III(B)(5) to reduce the required pavement setbacks for a property generally located at the southwest corner of the Beech Road and Miller Road intersection (PID: 095-111870-00.001).

Applicant: Beech Axis LLC, c/o Aaron L. Underhill

Motion of acceptance of staff reports and related documents into the record for VAR-60-2025.

Motion of approval for application VAR-60-2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VAR-61-2025 Hot Tub Variance

Variance to 1998 NACO C-PUD zoning text Section 3a.03(5)(b) to allow a hot tub to be constructed above ground and eliminate the fencing requirements at 7116 Tumblebrook Drive (PID: 222-002390).

Applicant: Joseph Erb

Motion of acceptance of staff reports and related documents into the record for VAR-61-2025.

Motion of approval for application VAR-61-2025 based on the findings in the staff report with the conditions listed in the staff report, subject to staff approval.

VII. Other business

VIII. Poll members for comment

IX. Adjournment



New Albany Board of Zoning Appeals
July 28, 2025, Meeting Minutes - DRAFT

I. Call to order

The New Albany Board of Zoning appeals held a regular meeting on Monday, July 28, 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.

II. Roll call

Those answering the roll:

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

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

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

III. Action on minutes June 23, 2025

Chair LaJeunesse asked if there were any corrections to the minutes.

Hearing none, Board Member Jacob moved for approval of the June 23 meeting minutes. Chair LaJeunesse seconded the motion. Upon roll call: Mr. Jacob yes, Mr. Schell yes, Ms. Samuels yes, Mr. LaJeunesse yes. Having four yes votes, the motion passed and the June 23, 2025 meeting minutes were approved as submitted.

IV. Additions or corrections to the agenda

Chair LaJeunesse asked if there were any additions or corrections to the agenda. Planning Manager Christian answered none from staff.

Chair LaJeunesse administered the oath to all present who would be addressing the board.

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

Chair LaJeunesse asked if there were any visitors present who wished to address the board for an item not on the agenda. Hearing none, he introduced the first case and asked to hear the staff report.

VI. Cases

VAR-41-2025 Amgen Sign Variance

Variance to codified ordinance 1169.16(d) to exceed sign area requirements for Amgen located at 4150 Ganton Parkway (PID: 094-106644-00.000).

Applicant: CRB Group c/o Jon Ficken

Planner Sauter delivered the staff report.

Board Member Jacob recalled the prior discussions on this application. He noted that it was not unlikely that the board will be asked to consider a similar request in this and other locations and asked whether there was discussion related to future signs.

Planner Sauter responded yes. She continued that staff planned to address that issue later on the agenda in the sign code workshop under Other business.

Board Member Jacob asked whether the options the applicant is exploring are in the realm of the possible changes to the code.

Planning Manager Christian responded that staff took an extensive look around this area and beyond and discovered that 200 feet, the current sign limit, is generous. For that reason, and considering the setback requirements, staff believes the variance path is the right path for this application.

Board Member Schell remarked that it was helpful to know that staff would be recommending sticking with the 200 foot limit, and confirmed with staff that the 9-ft sought by the applicant would exceed anything previously approved by the board.

Board Member Jacob moved to admit the staff reports and related documents into the record for VAR-41-2025. Board Member Schell seconded the motion.

Upon roll call: Mr. LaJeunesse yes, Mr. Schell yes, Ms. Samuels yes, Mr. Jacob yes. Having four yes votes, the motion passed and the staff reports and related documents were admitted to the record for VAR-41-2025.

Chair LaJeunesse asked the applicant whether he would like to speak.

Applicant Jon Ficken stated they would like the 9-ft, but they want to be in New Albany and the 8-ft is tolerable.

Board Member Samuels confirmed the setback

Chair LaJeunesse moved to approve the 8-foot sign which fits within precedent. Board Member Jacob seconded the motion.

Upon roll call: Mr. LaJeunesse yes, Mr. Jacob yes, Ms. Samuels yes and she noted that the setback was the reason for her approval, Mr. Schell yes. Having four yes votes, the motion passed and VAR-41-2025 permitting an 8-ft sign was approved.

The board thanked the applicant and staff for improving the application and wished the applicant good luck.

Chair LaJeunesse introduced the next case and asked to hear the staff report.

VAR-53-2025 6994 Kindler Drive Easement Variance

Variance to codified ordinance 1165.04(b)(3)(b) to allow a deck to encroach into a platted easement located at 6994 Kindler Drive (PID: 222-002830).

Applicant: PDF Builders

Planner Blackburn delivered the staff report.

Board Member Jacob noted that the applicants have indicated they are willing to execute a hold harmless agreement and to accept liability for any damage.

Chair LaJeunesse confirmed that staff complied with neighbor notice requirements.

Applicant Brandon Meckly, PDF Builders, spoke in support of the application. He explained that this is not a deck it is a paver patio on a gravel base. It is sloped away from the house to give proper drainage.

There was discussion of the size of the patio and the location of the drainage pipe underneath the patio.

Planner Blackburn stated that engineer and architect stated that it is likely that part of the line is under the patio.

There was discussion of the plantings. The applicant agreed that the plantings would go away if the patio was permitted.

Board Member Samuels discussed the spirit and intent of the code and asked whether the neighbors would be affected if the patio is permitted.

Planner Blackburn responded that the line runs through other yards but the applicant's yard is the endcap of the pipe.

There was discussion of the location of the pipe.

Planning Manager Christian remarked that the city engineer said the drawings were not clear; the application proposed a longer but smaller overall encroachment.

Board Member Jacob moved to accept the staff reports and related documents into the record for VAR-53-2025. Board Member Schell seconded the motion.

Upon roll call: Mr. Jacob yes, Mr. Schell yes, Ms. Samuels yes, Mr. LaJeunesse yes. Having four yes votes the motion passed and the staff reports and related documents were admitted into the record for VAR-53-2025.

Board Member Schell remarked that the letter indicated that other properties are encroaching.

Planning Manager Christian responded that, unfortunately that is the case. He explained that people build patios without permission. Code enforcement proceedings in New Albany are complaint driven. Staff does not seek out code violations. He continued that, if this application is approved, staff recommends a condition of approval that it not be on the line.

The applicant, Noelle Hertline, stated she was comfortable with that condition.

Mr. Meckly, architect for the project, said he was not sure what the pipe was that was being discussed.

Planning Manager Christian reiterated that the rendering were unclear regarding the location of the drainage pipe and clarified that prior to building the applicant must show that the patio will not be installed over the drainage pipe.

Chair LaJeunesse stated that it is a reasonable request to be sure that the new patio is not built over the pipe.

Council Member Shull remarked that this board has traditionally heard many applications for decks and patios in the Links. It is very challenging. He noted that utility box is off to the left. When the city is indemnified any future owner will know because it will be noted on the deed. Hopefully you will never need it but you never know. The flow of the water seemed to indicate

that there will not be an issue, however prudence dictates that these conditions are imposed. He expressed his understanding to the applicants and acknowledged that this is a tough neighborhood and always has been.

Board Member Schell confirmed that the applicant was comfortable with the conditions in the staff report.

Chair LaJeunesse administered the oath to Ms. Hertline.

Ms. Hertline agreed to the conditions in the staff report and the additional condition that nothing shall be installed over the drainage pipe.

There was further discussion of the condition of approval – that the applicant is responsible for demonstrating that no part of the patio is constructed over the drainage pipe.

Board Member Schell moved to approve VAR-53-2025 subject to the findings in the staff report with the conditions in the staff report and the following additional condition:

4. The applicant cannot install any part of the patio over the drainage pipe.

Chair LaJeunesse seconded the motion. Upon roll call: Mr. Schell yes, Mr. LaJeunesse yes, Jacob yes, Ms. Samuels yes. Having four yes votes the motion passed and VAR-53-2025 was approved.

The board wished the applicants good luck.

Chair LaJeunesse introduced the first and only item of other business and asked to hear from staff.

VII. Other business

1. City Code Amendment: C.O.1169 Display Signs and Outdoor Advertising—Commercial Wall Sign Workshop
Planner Saumenig delivered the staff report.

Board Member Samuels stated that she appreciated staff's work and stated that she thought this was a much improved approach.

Board Members agreed.

Board Member Jacob asked when this would be presented to the Planning Commission.

Planner Saumenig answered August 18th.

Hearing no further questions, Chair LaJeunesse thanked staff and polled the members for comment.

VIII. Poll members for comment and adjournment

Hearing no comment from the members, and having completed their agenda, Chair LaJeunesse moved to adjourn the July 28, 2025 meeting of the New Albany Board of Zoning Appeals. Board Member Schell seconded the motion.

Upon roll call: Mr. LaJeunesse yes, Mr. Schell yes, Ms. Samuels yes, Mr. Jacob yes. Having four yes votes, the meeting was adjourned at 7:15 p.m.

Submitted by Deputy Clerk Madriguera, Esq.

Appendix

VAR-41-2025

Staff Report

Record of Action

VAR-53-2025

Staff Report

Record of Action



**Board of Zoning Appeals Staff Report
June 23, 2025 Meeting**

**AMGEN
SIGN VARIANCE**

LOCATION: 4150 Ganton Parkway (PID: 094-106644-00.000)
APPLICANT: CRB Group c/o Jon Ficken
REQUEST: Variance to C.O. 1169.16(d) to allow the size of a wall sign to be 522.5 square feet where code permits a maximum of 200 square feet.
ZONING: Limited General Employment (L-GE)
STRATEGIC PLAN: Mixed Use
APPLICATION: VAR-41-2025

Review based on: Application materials received May 20, 2025, and updated June 2, 2025.

Staff report prepared by Lauren Sauter, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to C.O. 1169.16(d) to allow the size of an illuminated wall sign to be 522.5 square feet where code permits a maximum of 200 square feet. The sign is proposed for the Amgen building located at 4150 Ganton Parkway in the Licking County portion of the New Albany International Business Park.

The property received variances in August of 2023 via VAR-81-2023 for two wall signs to exceed area and lettering height requirements. The signs are identical in appearance and size, which were approved to be 98 square feet when code allowed a maximum of 75 square feet. The signs are located on the south building façade and the west building façade.

II. SITE DESCRIPTION & USE

The site is generally located north of Ganton Parkway, west of Beech Road SW, and south of State Route 161 and Worthington Road SW. The site can be accessed from both Ganton Parkway and Worthington Road SW, with its primary façade oriented south toward Ganton Parkway. The property is located on 63.69 +/- acres, and it is located in the New Albany International Business Park and surrounded by similarly zoned and used properties.

III. EVALUATION

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

Criteria

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

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

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

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

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

III. ASSESSMENT

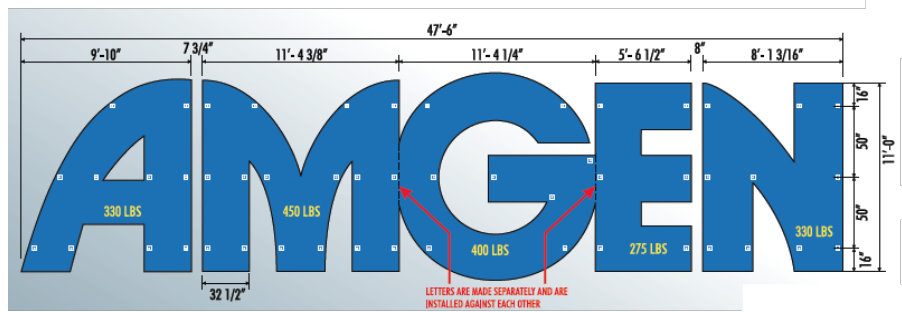
Considerations and Basis for Decision

Variance to C.O. 1169.16(d) to allow the size of a wall sign to be 522.5 square feet where code permits a maximum of 200 square feet.

The following should be considered in the decision of the board:

1. C.O. 1169.16(d) states that wall signs in commercial and warehousing sub-districts may have an area of one square foot per linear foot of building frontage, not to exceed 200 square feet. The linear footage of the building’s frontage exceeds 200 square feet, so the 200-square-foot maximum applies. The proposed 522.5-square-foot wall sign will exceed code by 322.5 square feet. Additionally, the building has two existing wall signs that are 98 square feet and identical in appearance to the proposed wall sign. The applicant proposes to install one wall sign on the north elevation, facing Worthington Road SW and State Route 161.
2. It does not appear that the essential character of the immediate area will be altered if the variance is granted. The site is located in the New Albany Business Park District, where many buildings with similar uses have large signs. The building’s approximately 1,000-foot setback from State Route 161 and 800-foot setback from Worthington Road SW reduces the visual impact of the wall sign.

3. Granting of the variance would result in a sign significantly larger than any previously approved by the Board of Zoning Appeals. The largest variance to sign size previously approved by the board was approved in April 2021. Amazon requested a wall sign at 297 square feet for a building approximately 1,271 feet long and approximately 50 feet in height. The square footage for the façade was 63,550 square feet, and the sign was less than 1% of the façade.



Proposed signage.

4. The variance request may be substantial because of the sign's size relative to the building façade. The square footage of the north building face is approximately 23,542 square feet. The 522.5-square-foot wall sign would comprise 2.22% of the building façade, which is a larger sign-to-façade ratio than any previously approved by the Board of Zoning Appeals.
 - a. Sign variances have historically been approved for wall signs with areas up to and around 1% of the façade area. A 1% sign-to-façade ratio on this building façade would result in a wall sign with an area of 235.42 square feet, which will still require a variance but may not be a substantial request.
 - b. One of the largest ratios of a wall sign to its building façade previously approved by the board was approved in 2024. AmplifyBio requested a wall sign that comprised 1.35% of the building façade. The sign was 215 square feet on an elevation that was 47,880 square feet. For the proposed Amgen sign, a 1.35% sign-to-façade ratio would result in a wall sign with an area of 317.82 square feet, which will still require a variance but may not be a substantial request.
 - c. If the wall sign were to meet code requirements with an area of 200 square feet, the sign-to-façade ratio would be 0.85%.
 - d. The north elevation of the building is approximately 415 feet in width and 59 feet at its tallest point. The building is 239,572 square feet in total area. If the applicant were to install a wall sign that met code requirements, it may appear under-scaled and out of place on the larger building. A large sign would appear to be appropriately scaled in relation to the size of the building, but the board should consider the size and scale of signs that it has historically approved or denied.
5. The spirit and intent of the zoning code is preserved when a sign is appropriately scaled and designed for the building on which it is located. The city sign code requires signs to "integrate with the building/site on which they are located and adjacent development in scale, design, and intensity. For example, large signs are best suited for buildings with larger massing." Based on sign sizes and scales that have historically been approved by the board for wall signs on adjacent and nearby buildings, an appropriately scaled sign may be closer to a 1.35% sign-to-façade ratio.
6. Granting the variance will not adversely affect the health, safety, or general welfare of persons living in the immediate vicinity.
7. Granting the variance will not adversely affect the delivery of government services.

IV. SUMMARY

This site is located in the New Albany Business Park and surrounded by similarly zoned and used properties, many of which use largely scaled signage as well. The large size of the structure and

the large setback of the elevation on which the sign is proposed may warrant a larger sign than permitted by city code. However, the proposed sign is significantly larger in square footage and sign-to-façade ratio than any previously approved by the board. The applicant may be able to reduce the size of the wall sign while still meeting its original purpose and functionality.

V. ACTION

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

Move to approve application VAR-41-2025.

Approximate Site Location:



Source: NearMap



Community Development Department

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

Dear Jon Ficken,

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

Thursday, June 26, 2025

The New Albany Board of Zoning Appeals took the following action on 05/28/2025 .

Variance

Location: 4150 Canton Parkway

Applicant: Jon Ficken,

Application: PLVARI20250041

Request: Variance to codified ordinance 1169.16(d) to exceed sign area requirements for Amgen located at 4150 Canton Parkway (PID: 094-106644-00.000).

Motion: To Approve

Commission Vote: Motion Tabled, 5-0

Result: Variance, PLVARI20250041 was Tabled, by a vote of 5-0.

Recorded in the Official Journal this June 26, 2025

Condition(s) of Approval:

Staff Certification:

Sierra L Saumenig

Sierra Saumenig
Planner



**Board of Zoning Appeals Staff Report
July 28, 2025 Meeting**

**AMGEN
SIGN VARIANCE**

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APPLICANT: CRB Group c/o Jon Ficken
REQUEST: Variance to C.O. 1169.16(d) to allow the size of a wall sign to be 522.5 square feet where code permits a maximum of 200 square feet.
ZONING: Limited General Employment (L-GE)
STRATEGIC PLAN: Mixed Use
APPLICATION: VAR-41-2025

Review based on: Tabled application materials received May 20, 2025, and June 2, 2025.
New application materials received June 30, 2025, and July 8, 2025.

Staff report prepared by Lauren Sauter, Planner

I. REQUEST AND BACKGROUND

The applicant requests a variance to C.O. 1169.16(d) to allow the size of an illuminated wall sign to be 522.5 square feet where code permits a maximum of 200 square feet. The sign is proposed for the Amgen building located at 4150 Ganton Parkway in the Licking County portion of the New Albany International Business Park.

The property received variances in August of 2023 via VAR-81-2023 for two wall signs to exceed area and lettering height requirements. The signs are identical in appearance and size, which were approved to be 98 square feet when code allowed a maximum of 75 square feet. The signs are located on the south building façade and the west building façade.

This application was tabled at the Board of Zoning Appeals meeting on June 23rd, 2025. This is the second hearing for VAR-41-2025. The applicant has provided alternative sign dimensions for the Board's consideration, which can be found in the Assessment section of this staff report. Changes to this staff report from the June 23rd hearing are underlined.

II. SITE DESCRIPTION & USE

The site is generally located north of Ganton Parkway, west of Beech Road SW, and south of State Route 161 and Worthington Road SW. The site can be accessed from both Ganton Parkway and Worthington Road SW, with its primary façade oriented south toward Ganton Parkway. The property is located on 63.69 +/- acres, and it is located in the New Albany International Business Park and surrounded by similarly zoned and used properties.

III. EVALUATION

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

Criteria

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

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

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

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

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

III. ASSESSMENT

Considerations and Basis for Decision

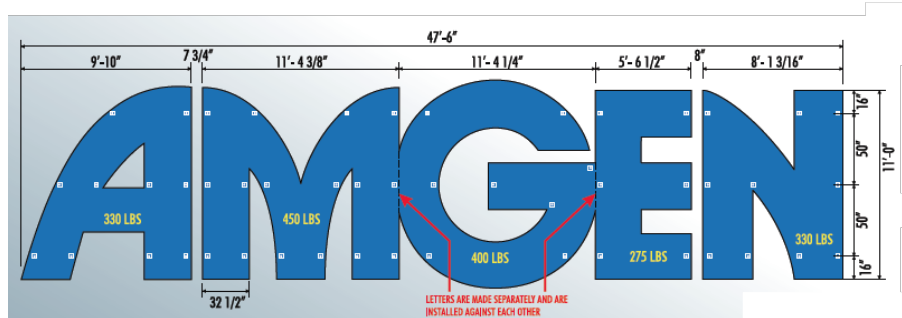
Variance to C.O. 1169.16(d) to allow the size of a wall sign to be 522.5 square feet where code permits a maximum of 200 square feet.

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1. C.O. 1169.16(d) states that wall signs in commercial and warehousing sub-districts may have an area of one square foot per linear foot of building frontage, not to exceed 200 square feet. The linear footage of the building’s frontage exceeds 200 square feet, so the 200-square-foot

maximum applies. The proposed 522.5-square-foot wall sign will exceed code by 322.5 square feet. Additionally, the building has two existing wall signs that are 98 square feet and identical in appearance to the proposed wall sign. The applicant proposes to install one wall sign on the north elevation, facing Worthington Road SW and State Route 161.

2. It does not appear that the essential character of the immediate area will be altered if the variance is granted. The site is located in the New Albany Business Park District, where many buildings with similar uses have large signs. The building's approximately 1,000-foot setback from State Route 161 and 800-foot setback from Worthington Road SW reduces the visual impact of the wall sign.
3. Granting of the variance would result in a sign significantly larger than any previously approved by the Board of Zoning Appeals. The largest variance to sign size previously approved by the board was approved in April 2021. Amazon requested a wall sign at 297 square feet for a building approximately 1,271 feet long and approximately 50 feet in height. The square footage for the façade was 63,550 square feet, and the sign was less than 1% of the façade.



Proposed signage.

4. The variance request may be substantial because of the sign's size relative to the building façade. The square footage of the north building face is approximately 23,542 square feet. The 522.5-square-foot wall sign would comprise 2.22% of the building façade, which is a larger sign-to-façade ratio than any previously approved by the Board of Zoning Appeals.
 - a. Sign variances have historically been approved for wall signs with areas up to and around 1% of the façade area. A 1% sign-to-façade ratio on this building façade would result in a wall sign with an area of 235.42 square feet, which will still require a variance but may not be a substantial request.
 - b. One of the largest ratios of a wall sign to its building façade previously approved by the board was approved in 2024. AmplifyBio requested a wall sign that comprised 1.35% of the building façade. The sign was 215 square feet on an elevation that was 47,880 square feet. For the proposed Amgen sign, a 1.35% sign-to-façade ratio would result in a wall sign with an area of 317.82 square feet, which will still require a variance but may not be a substantial request.
 - c. If the wall sign were to meet code requirements with an area of 200 square feet, the sign-to-façade ratio would be 0.85%.
 - d. The north elevation of the building is approximately 415 feet in width and 59 feet at its tallest point. The building is 239,572 square feet in total area. If the applicant were to install a wall sign that met code requirements, it may appear under-scaled and out of place on the larger building. A large sign would appear to be appropriately scaled in relation to the size of the building, but the board should consider the size and scale of signs that it has historically approved or denied.
5. The spirit and intent of the zoning code is preserved when a sign is appropriately scaled and designed for the building on which it is located. The city sign code requires signs to "integrate with the building/site on which they are located and adjacent development in scale, design, and intensity. For example, large signs are best suited for buildings with larger massing." Based on sign sizes and scales that have historically been approved by the board

for wall signs on adjacent and nearby buildings, an appropriately scaled sign may be closer to a 1.35% sign-to-façade ratio.

6. Granting the variance will not adversely affect the health, safety, or general welfare of persons living in the immediate vicinity.
7. Granting the variance will not adversely affect the delivery of government services.
8. The applicant has provided alternatives to the 11-foot-tall, 522.5-square-foot sign for the Board's consideration:
 - a. A 9-foot-tall sign. This option is 349 square feet and comprises 1.48% of the building façade. This option exceeds the size of the largest sign variance approved by the board, which is 297 square feet, and exceeds the largest known sign-to-façade ratio approved by the board, which is 1.35%.
 - b. An 8-foot-tall sign. This option is 283 square feet and comprises 1.20% of the building façade. This option does not exceed the size of the largest sign variance approved by the board, which is 297 square feet, and does not exceed the largest known sign-to-façade ratio approved by the board, which is 1.35%.
 - c. A 7-foot-tall sign. This option is 199 square feet and comprises 0.84% of the building façade. This option would meet zoning code requirements and would not necessitate a variance.

IV. SUMMARY

This site is located in the New Albany Business Park and surrounded by similarly zoned and used properties, many of which use largely scaled signage as well. The large size of the structure and the large setback of the elevation on which the sign is proposed may warrant a larger sign than permitted by city code. However, the proposed sign is significantly larger in square footage and sign-to-façade ratio than any previously approved by the board. The applicant may be able to reduce the size of the wall sign while still meeting its original purpose and functionality. The alternative versions of the proposed sign may allow a less substantial variance that fits the spirit and intent of the zoning code.

V. ACTION

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

Move to approve application VAR-41-2025.

Approximate Site Location:



Source: NearMap



Community Development Department

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

Dear Jon Ficken,

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

Thursday, July 31, 2025

The New Albany Board of Zoning Appeals took the following action on 07/28/2025.

Variance

Location: 4150 Ganton Parkway

Applicant: Jon Ficken

Application: PLVARI20250041

Request: Variance to codified ordinance 1169.16(d) to exceed sign area requirements for Amgen located at 4150 Ganton Parkway (PID: 094-106644-00.000).

Motion: To approve

Commission Vote: Motion Approval with Conditions, 4-0

Result: Variance PLVARI20250041 was Approval with Conditions by a vote of 4-0.

Recorded in the Official Journal this July 31, 2025.

Condition(s) of Approval:

- The sign area is 283 square feet.

Staff Certification:

Lauren Sauter

Lauren Sauter
Planner

NEW ALBANY
COMMUNITY CONNECTS US
Board of Zoning Appeals Staff Report
July 28, 2025 Meeting

6994 KINDLER DR
EASEMENT VARIANCE

LOCATION: 6994 Kindler Dr (PID: 222-002830)
APPLICANT: PDF Builders
REQUEST: Variance to C.O. 1165.04(b)(3)(b) to allow a deck to encroach a platted easement.
ZONING: New Albany Links C-PUD
STRATEGIC PLAN: Residential
APPLICATION: VAR-53-2025

Review based on: Application materials received on June 23, 2025

Staff report prepared by Kylie Blackburn, Planner.

I. REQUEST AND BACKGROUND

The applicant requests a variance to C.O. 1165.04(b)(3)(b) to allow a replacement of a deck to encroach 10 feet into a platted easement and to be 39 feet along the easement. The property has an existing patio that encroaches 17 feet into the platted easement and about 20 feet along the utility easement.

A similar request was approved in 2023 for 7034 Dean Farms Rd to allow a deck to extend into an easement (VAR-32-2023). It was approved with conditions by BZA requiring the homeowner to enter into a hold harmless agreement (or other legal mechanism) specifying that the property owner, and not the city, is responsible for any damages to the screened porch or deck in the event that a public or private utility provider needs to access the easement area and any impacts to neighboring surface drainage must be the responsibility of the homeowner to address. The condition includes that the agreement must be recorded with the deed.

II. SITE DESCRIPTION & USE

The 0.29-acre property is in section 5 of the New Albany Links subdivision and contains a single-family residential home that was built in 2003. 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

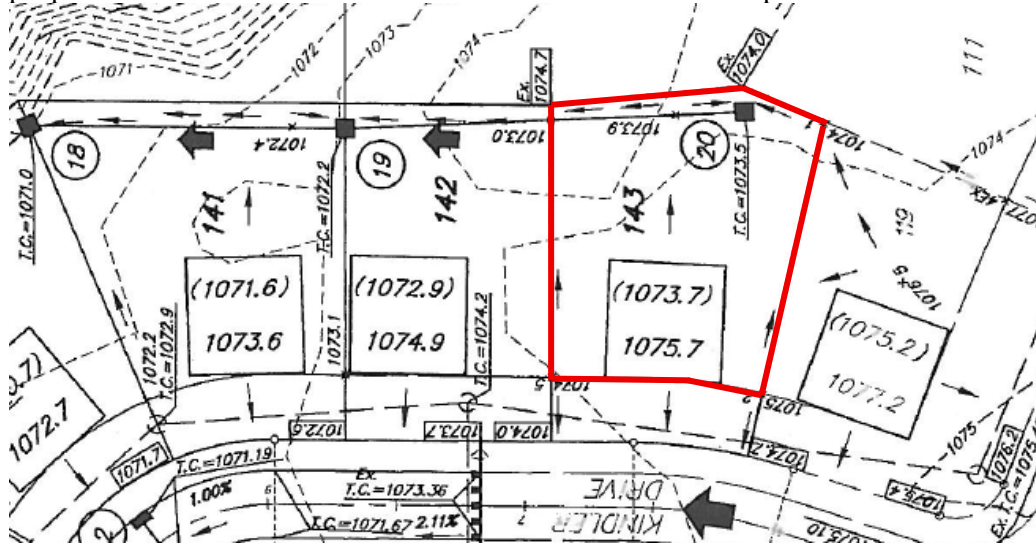
(A) Variance to C.O. 1165.04(b)(3)(b) to allow a patio to be located within a platted easement.

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 and side property lines. The engineering plans for the subdivision confirm that this easement is designated for general utilities and also serves as a surface stormwater drainage route.
2. The applicant is requesting a variance to allow a patio to encroach 10 feet (depth) into the easement with a total width of 39 feet. The easement is 20 feet deep and runs along the entire rear lot line, which is about 109 feet.
3. There is no special circumstance that exists with the property. The proposed patio will encroach less into the easement than the existing patio does. However, staff could not locate any records indicating that the existing patio was previously approved, and aerial imagery shows the patio has been in place since at least 2014. The applicant’s request seeks to bring the existing nonconforming patio into further compliance by requesting approval for a less intrusive patio.
 - In October 2019, modifications to section 1165 of the city’s Codified Ordinances were approved by City Council. The modifications included adding provisions to the city’s codified ordinances that patios and other recreational amenities are not permitted to be installed in easements. By adding this prohibition, a property

owner can now request a variance. Prior to the adoption of these code modifications city code was silent on easements, and patios and similar at-grade encroachments into easements were regulated only by plat notes, which typically state encroachments could only be approved by the city engineer. Plat notes provide no other mechanism for relief via a public process. The intent of this requirement is to protect property owners and to add an extra level of review for these types of encroachment requests.

4. The variance request does appear to be substantial. The city's engineering staff reviewed the application and confirmed that there is a stormwater line installed within the easement at present. Surface runoff from this property drains into the drain on site as well as following the grade of this easement, which subsequently channels water into adjacent properties until it reaches a stormwater inlet as shown in the picture below.



- City engineering staff noted that, since the lot is located at the end of the stormwater line, any encroachment would primarily impact on this property rather than on neighboring properties. However, they remain opposed to any construction over the stormwater line. The city's engineering staff also mentioned that no landscaping, especially trees, should be installed within the easement to ensure roots will not interfere with the underground lines and they do not disturb surface water flow on the site. Staff recommends a condition of approval that no landscaping shall be installed within the easement (condition #1).
5. The variance request does not appear to meet the spirit and intent of the zoning requirement, which is to provide protection for property owners in the event that the city or a private utility provider must gain access to the easement. While the applicant proposes to have the patio encroach less into the easement with the new patio design, it appears it will still be installed above existing public utility line. If a structure or other improvement is installed in an easement and the city or another utility provider needs to access the easement, those improvements may be taken down or partially removed in order to access utilities and the property owner is responsible for the expense of replacing or repairing the 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 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 (condition #2).
 6. The proposed patio, as shown in the plans, does not include any elevated surfaces that would obstruct the flow of water beyond what is already obstructed by the patio pavers themselves. Given that the patio is designed with minimal impact on drainage, it does not appear to hinder the flow of stormwater drainage within the easement. Staff recommends

a condition of approval that no vertical additions can be added to the area of the patio within the easement (condition #3).

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 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 deck if utilities need to be installed within the easement area in the future.

V. SUMMARY

The applicant proposes to install a patio within a platted easement by a 10-foot-deep encroachment. There is a stormwater line installed in the easement that the proposed patio seems to be set over. Although the new proposed patio encroaches less into the easement than the existing patio, it still appears that the stormwater line will be built over, therefore not meeting the spirit and intent of the code. The hold harmless agreement ensures that the applicant is aware that the city is not responsible for any damage to the patio in the event that the easement area must be accessed 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-53-2025 with the following conditions (conditions of approval may be added).

1. That no landscaping shall be installed within the easement
2. 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.
3. That no vertical additions can be added to the area of the patio within the easement.

Approximate Site Location:



Source: NearMap



Community Development Department

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

Dear PDF Builders LLC,

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, July 29, 2025

The New Albany Board of Zoning Appeals took the following action on 07/28/2025 .

Variance

Location: 6994 KINDLER DR

Applicant: PDF Builders LLC,

Application: PLVARI20250053

Request: Variance to codified ordinance 1165.04(b)(3)(b) to allow a patio to encroach into a platted easement located at 6994 Kindler Drive (PID: 222-002830).

Motion: To Approve

Commission Vote: Motion Approval with Conditions, 4-0

Result: Variance, PLVARI20250053 was Approval with Conditions, by a vote of 4-0.

Recorded in the Official Journal this July 29, 2025

Condition(s) of Approval:

1. That no part of the patio can be built over the storm sewer line.
2. That no landscaping shall be installed within the easement.
3. 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.
4. That no vertical additions can be added to the area of the patio within the easement.

Staff Certification:

Kylie Blackburn
Planner



**Board of Zoning Appeals Staff Report
August 25, 2025 Meeting**

BEECH AXIS LLC SETBACK VARIANCES

LOCATION: Generally located at the southeast corner of Beech Road and Miller Road (PID: 095-111870-00.001).

APPLICANT: Beech Axis, LLC c/o Aaron L. Underhill

REQUEST: (A) Variance to zoning text section III(B)(2) to allow pavement to encroach 49 feet into the required 185-foot pavement and building setback along Beech Road.
(B) Variance to zoning text section III(B)(5) to allow pavement to encroach 10 feet into the required 25-foot pavement and building setback at the rear of the property.

ZONING: L-GE, Business and Commerce Zoning District

STRATEGIC PLAN: Employment Center

APPLICATION: VAR-60-2025

Review based on: Application materials received July 25, 2025

Staff report prepared by Jay Henderson, Planner

I. REQUEST AND BACKGROUND

The applicant requests the following variances for a proposed speculative industrial warehouse/distribution facility.

- (A) Variance to zoning text section III(B)(2) to allow pavement to encroach 49 feet into the required 185-foot pavement and building setback along Beech Road.
- (B) Variance to zoning text section III(B)(5) to allow pavement to encroach 10 feet into the required 25-foot pavement and building setback at the rear of the property.

II. SITE DESCRIPTION & USE

The 24.06-acre site is generally located at the southeast corner of Beech Road and Miller Road in Licking County. The property is located in the Business and Commerce L-GE zoning district, which was reviewed and approved by the Planning Commission on September 19, 2022 (ZC-102-2022) and adopted by City Council on October 18, 2022 (O-29-2022). The properties directly north, south, east, and west of the site are zoned to permit commercial uses.

III. ASSESSMENT

The application complies with application submittal requirements in C.O. 1113.03 and is considered complete. In accordance with C.O. 1113.05(b), all property owners within 200 feet of the property in question have been notified of the request via mail.

Criteria

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

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

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

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

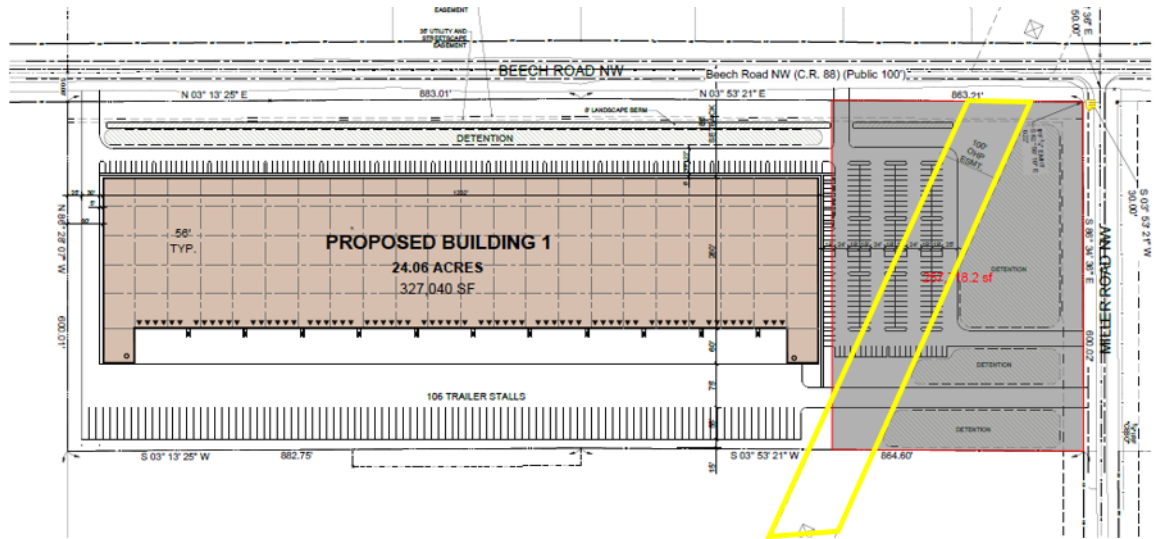
8. *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.*
9. *That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights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

IV. EVALUATION

(A) Variance to zoning text section III(B)(2) to allow a building to encroach 49 feet into the required 185-foot building and pavement setback along Beech Road.

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

1. The applicant is requesting a variance to allow a portion of the parking and drive aisle for a proposed speculative warehouse building to encroach 49 feet into the required 185-foot building and pavement setback along Beech Road.
2. There are special conditions and circumstances of this property that do not apply to other properties in the same zoning district that provide justification for the variance request. The property is rectangular, with a portion of the property featuring a 100-foot overhead electrical easement (Shown in yellow below) that limits the buildable area for structures to approximately 5.91 acres.



Conceptual site plan

3. The variance can be seen as substantial; however, if the applicant/owner can meet the Beech Road North Landscape and Design Guidelines and C.O. 1171.08 Wet and Dry Stormwater Basins, the variance would be in keeping with requirements. There are no residentially zoned properties surrounding the site.
 - a. The applicant states that the pavement encroachment in this area is needed to accommodate private vehicular access and associated parking. The applicant provided that the setback variance along Beech Road would be reduced by 21% (139 feet).
 - b. The applicant has also stated that the setback along the east side of Beech Road south of Jug Street has a minimum pavement setback of 100 feet from the centerline, and the 139 feet being requested would exceed that requirement.
4. The variance preserves the “spirit and intent” of the zoning requirement. When this zoning district was adopted, the intent of providing larger setbacks along principal arterial roadways was to ensure that there was adequate space along the road to provide landscaping and establish the roadway character, and to provide architectural standards for proposed buildings. The applicant provided a conceptual site plan, and it appears that the roadway character will be preserved.
5. It does not appear that the essential character of the neighborhood will be altered if the variance is granted. While the pavement areas may be closer to the road, the proposed setback is still significant and the zoning text for this site contains the same requirements as other New Albany Business Park zoning texts. The proposed building will not encroach into the setback, which will keep the universal standard for properties in the zoning text. All surrounding properties are zoned for commercial use.
6. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of people 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.
7. The owner purchased the property as it is configured today in June 2025, which was a part of the Amazon Data Services campus.

(B) Variance to zoning text section III(B)(5) to allow a paved area to encroach 10 feet into the required 25-foot rear building & pavement setback.

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

1. The applicant is requesting a variance to allow pavement to be located approximately 15 feet from the eastern boundary of the site. The zoning text states that the minimum building and pavement along this property line is 25 feet unless it is adjacent to a property where residential uses are permitted.

2. The adjacent parcel to the west is owned by Amazon Data Services, which primarily consists of uses internal to the building and has a reduced amount of activity outside of the structure.
3. The property has special conditions and circumstances that do not apply to other properties in the same zoning district that provide justification for the variance request, being that the property is rectangular compared to the surrounding properties. The variance request does not appear to be substantial. Additional properties in the same zoning district have greater lot sizes, which can provide the owner flexibility to construct a facility with similar uses. Additionally, the board has previously approved similar requests for pavement and building setbacks of 25 feet.
4. It does not appear that the essential character of the neighborhood will be altered if the variance request is granted. While the applicant is encroaching on the required setback, the adjacent property is zoned for commercial use, and currently, there are no residentially zoned properties adjacent.
5. It does not appear that the variance would adversely affect the delivery of government services, affect the health and safety of people 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.
6. The variance request would allow the property owner to construct a permitted building within a zoning district that consists of larger sites zoned for similar uses.

V. HISTORY

There have been similar applications heard by the Board of Zoning Appeals since 2017.

1. The BZA approved a variance at 9200 Smith's Mill Road in 2017 to allow the pavement setback to be 5 feet along the eastern property line, where the code requires a minimum of 50 feet. The application was approved with conditions that enhanced landscaping should be installed to provide extra screening between properties. The surrounding area consisted of commercial uses.
2. In 2020, the BZA approved a variance at 8982 Innovation Campus Way to allow a paved walkway to encroach the required 25-foot pavement setback along Innovation Campus Way. The variance was approved with the condition that the paved area at the office entrance must be connected into the proposed walkway. The surrounding parcels consist of commercially zoned properties.
3. The BZA approved a variance in 2021 at 8400 Smith's Mill Road to allow a building to be located 40 feet into the 100-foot required building setback along the rear and side property lines. All surrounding properties were commercially zoned.
4. In 2022, the BZA approved a variance at 13411 Worthington Road NW to reduce the minimum pavement and building setback from 50 feet to 25 feet. The reduced setback was stated to only be on three sides and not along Worthington Road.

VI. SUMMARY

The applicant/owner did not create the narrow configuration through a lot split. To make the best use of the property, the applicant is requesting variances for the pavement and building setbacks. A 100-foot overhead utility easement limits the use of the northernmost portion of the site for building placement, further constraining their desired building design. The purpose of the building and pavement setback along Beech Road is to provide adequate space for enhanced landscaping, which offers visual screening and helps establish the roadway's character. The applicant has confirmed with staff that stormwater management and landscaping requirements will be met. Additionally, there are no residential-zoned properties surrounding the site that could have an impact.

VII. ACTION

Should the Board of Zoning Appeals find that the application has sufficient basis for approval, the following motions would be appropriate (The Board of Zoning Appeals can make one motion for all variances or separate motions for each variance request):

Move to approve application VAR-60-2025 with conditions (additional conditions of approval may be added).

1. The Beech Road North Landscape and Design Guidelines are met.
2. Zoning Code section 1171.08 Wet and Dry Stormwater Basins are met.

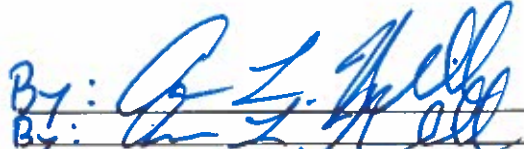
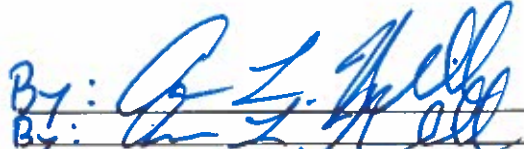
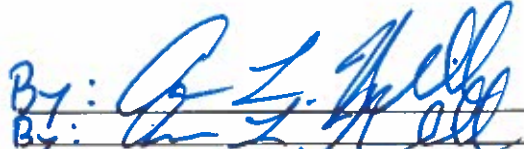
Approximate Site Location:



Source: NearMap



Community Development Planning Application

Submission	Submit planning applications and all required materials via email to planning@newalbanyohio.org																									
	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>785 Beech Road SW</u>																									
	Parcel Numbers <u>095-111870-00.001</u>																									
Project Information	Acres <u>24.06±</u>	# of lots created _____																								
	<table border="1"><thead><tr><th>Choose Application Type</th><th>Description of Request:</th></tr></thead><tbody><tr><td>☐ Appeal</td><td>Variance to reduce the minimum required rear</td></tr><tr><td>☐ Certificate of Appropriateness</td><td>yard pavement setback from 25 feet to 15 feet.</td></tr><tr><td>☐ Conditional Use</td><td>Variance to reduce the minimum required pavement</td></tr><tr><td>☐ Development Plan</td><td>setback from the centerline of Beech Road</td></tr><tr><td>☐ Plat</td><td>from 185 feet to 136 feet.</td></tr><tr><td>☐ Lot Changes</td><td></td></tr><tr><td>☐ Minor Commercial Subdivision</td><td></td></tr><tr><td>☐ Zoning Amendment (Rezoning)</td><td></td></tr><tr><td>☐ Zoning Text Modification</td><td></td></tr></tbody></table>		Choose Application Type	Description of Request:	☐ Appeal	Variance to reduce the minimum required rear	☐ Certificate of Appropriateness	yard pavement setback from 25 feet to 15 feet.	☐ Conditional Use	Variance to reduce the minimum required pavement	☐ Development Plan	setback from the centerline of Beech Road	☐ Plat	from 185 feet to 136 feet.	☐ Lot Changes		☐ Minor Commercial Subdivision		☐ Zoning Amendment (Rezoning)		☐ Zoning Text Modification					
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Contacts	<table border="1"><thead><tr><th colspan="2">Applicant Information</th><th colspan="2">Property Owner Information</th></tr></thead><tbody><tr><td>Name</td><td>Beech Axis LLC</td><td>Name</td><td>Beech Axis LLC</td></tr><tr><td>Address</td><td>c/o Aaron Underhill, Esq</td><td>Address</td><td>c/o Aaron Underhill, Esq</td></tr><tr><td>City, State, Zip</td><td>aaron@uhlfirm.com</td><td>City, State, Zip</td><td>aaron@uhlfirm.com</td></tr><tr><td>Phone Number</td><td>8000 Walton Pky Stu120</td><td>Phone Number</td><td>8000 Walton Pky Stu 120</td></tr><tr><td>Email</td><td>New Albany, OH 43054</td><td>Email</td><td>New Albna, Oh 43054</td></tr></tbody></table>		Applicant Information		Property Owner Information		Name	Beech Axis LLC	Name	Beech Axis LLC	Address	c/o Aaron Underhill, Esq	Address	c/o Aaron Underhill, Esq	City, State, Zip	aaron@uhlfirm.com	City, State, Zip	aaron@uhlfirm.com	Phone Number	8000 Walton Pky Stu120	Phone Number	8000 Walton Pky Stu 120	Email	New Albany, OH 43054	Email	New Albna, Oh 43054
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Phone Number	8000 Walton Pky Stu120	Phone Number	8000 Walton Pky Stu 120																							
Email	New Albany, OH 43054	Email	New Albna, Oh 43054																							
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.																									
	<table><tr><td>Signature of Owner</td><td>By: </td><td>Date: <u>7/24/25</u></td></tr><tr><td>Signature of Applicant</td><td>By: </td><td>Date: <u>7/24/25</u></td></tr></table> Aaron Underhill, Attorney for owner/ applicant		Signature of Owner	By: 	Date: <u>7/24/25</u>	Signature of Applicant	By: 	Date: <u>7/24/25</u>																		
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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

LEGAL DESCRIPTION OF PROPERTY

Situated in the State of Ohio, County of Licking, City of New Albany, Lot 27, Quarter Township 2, Township 2, Range 15, United States Military Lands, being part of a 89.240 acre tract (Parcel III), conveyed to Amazon Data Services, Inc. of record in Instrument Number 202301170000954, and part of a 4.283 acre tract (Parcel VI), conveyed to Amazon Data Services, Inc. of record in Instrument Number 202311020020200, and being all of a 2.114 acre tract (Parcel II), conveyed to Amazon Data Services, Inc. of record in Instrument Number 202404020005327, and being more particularly described as follows:

BEGINNING FOR REFERENCE at a mag nail found at the centerline intersection of Beech Road NW (C.R. 88) (Public 100' R/W) and Miller Road NW (T.R. 89) (Public 60' R/W),

Thence South 86° 34' 36" East, with the centerline of said Miller Road NW, a distance of 50.00 feet to a point;

Thence South 03° 53' 21" West, through the right of way of said Miller Road NW, a distance of 30.00 feet to a 3/4" iron pipe found with "EMHT" cap (South 62° 50' 10" East a distance of 0.22 feet) at the Northwest corner of said 89.240 acre tract and being the TRUE POINT OF BEGINNING;

Thence South 86° 34' 36" East, with the Northerly line of said 89.240 acre tract, and the Southerly right of way line of said Miller Road NW, as conveyed to the City of New Albany Ohio in Instrument Number 202212190029536, a distance of 600.02 feet to an iron pin set;

Thence South 03° 53' 21" West through said 89.240 acre tract, a distance of 864.60 feet to an iron pin set in the Northerly line of said 4.283 acre tract;

Thence South 03° 13' 25" West, through said 4.283 acre tract and said 89.240 acre tract, a distance of 882.75 feet to an iron pin set in the Southerly line of said 89.240 acre tract;

Thence North 86° 28' 07" West, with the Southerly line of said 89.240 acre tract, a distance of 600.01 feet to a 3/4" iron pipe found with "EMHT" cap at the Southwest corner of said 89.240 acre tract;

Thence North 03° 13' 25" East, along the Westerly lines of said 89.240 acre tract, said 2.114 acre tract, said 4.283 acre tract and the Easterly line of said Beech Road NW as conveyed to the City of New Albany Ohio in Instrument Number 202212190029536, passing an 3/4" iron pipe found with "EMHT" cap at a distance of 347.97 feet, a total distance of 883.01 feet to an iron pipe found with "EMHT" cap at the Northwest corner of said 4.283 acre tract;

Thence North 03° 53' 21" East, continuing with said right of way and with the Westerly line of said 89.240 acre tract, a distance of 863.21 feet to the TRUE POINT OF BEGINNING containing

24.060 acres, more or less, of which 17.993 acres is out of said 89.240 acre tract and 4.013 acres is out of said 4.283 acre tract,

Subject to all covenants, restrictions, reservations and easements contained in any instrument of record pertaining to the above described tract of land.

All iron pins set are 5/8" x 30" rebar with "CESO" cap;

Based on an actual field survey performed under my direct supervision in December 2024.

The bearings shown above are based on the Ohio State Plane Coordinate System, South Zone, NAD 83 (2011).

2

AFFIDAVIT OF FACTS

I, Aaron L. Underhill, in my capacity as attorney for the applicant listed on the variance application pertaining to 24.06+/- acres known as Licking County Auditor Parcel Number 095-111870-00.001, being first duly sworn, do hereby state and depose the following:

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

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

Further Affiant sayeth not.

By: 
Aaron L. Underhill
Attorney, Underhill & Hodge LLC

STATE OF OHIO
COUNTY OF FRANKLIN SS.

The foregoing instrument was acknowledged before me on the 24th day of July 2025, by Aaron L. Underhill, who acknowledged the foregoing signature to be his voluntary act and deed.


Notary Public

My Commission Expires: 1-26-30



ELIZABETH CARON
Notary Public, State of Ohio
My Commission Expires
January 26, 2030

APPLICANT:

BEECH AXIS LLC
7887 E BELLEVIEW AVE STE 745
DENVER CO 80111

PROPERTY OWNER:

BEECH AXIS LLC
7887 E BELLEVIEW AVE STE 745
DENVER CO 80111

ATTORNEY:

AARON UNDERHILL
8000 WALTON PARKWAY STU 120
NEW ALBANY, OH 43054

**SURROUNDING PROPERTY
OWNERS:**

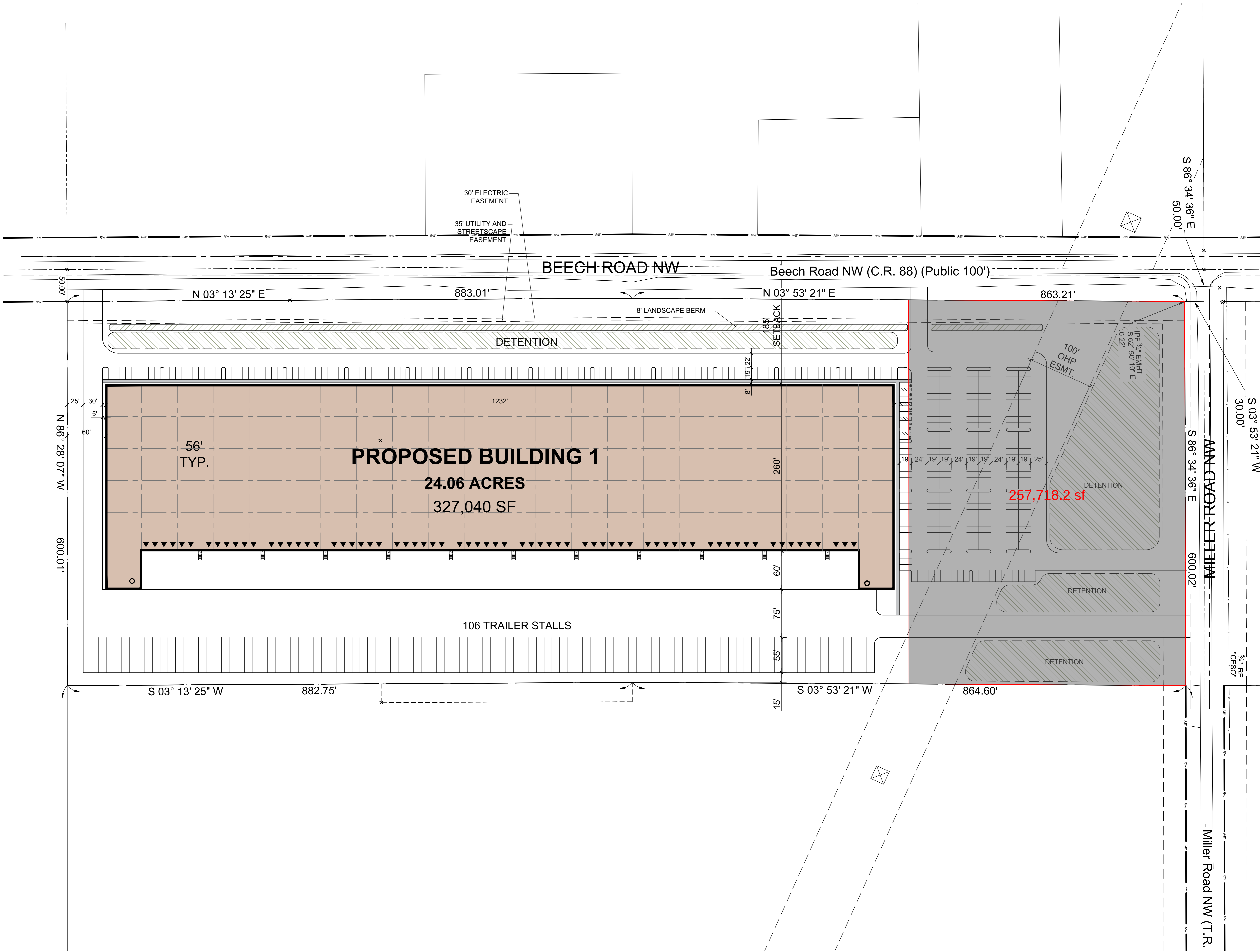
QTS NEW ALBANY IV LLC
12851 FOSTER ST
OVERLAND PARK KS 66213

AMAZON DATA SERVICES INC
GENERAL COUNSEL
PO BOX 81226
SEATTLE WA 98109

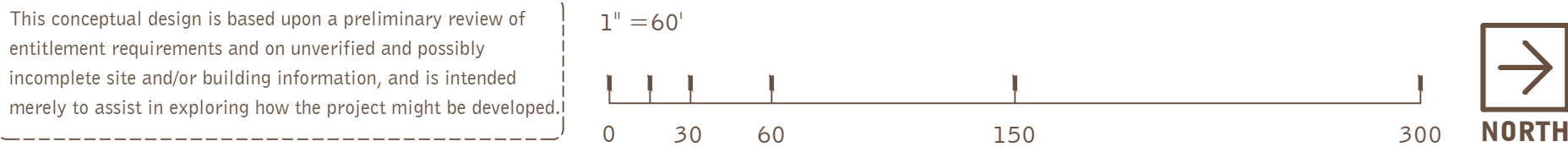
MBJ HOLDINGS LLC
8000 WALTON PKWY STE 200
NEW ALBANY OH 43054

BROWNING MARIE CAROLYN
3715 BEECH RD NW
JOHNSTOWN OH 43031

MICROSOFT CORPORATION
RYAN LLC
PO BOX 29510
SCOTTSDALE AZ 85255



PROJECT DATA:			
SITE AREA:			
GROSS:		24.06 AC	1,048,098 SF
DETECTION:		@ 8%	80,271 SF
NET:			22.22 AC
			967,827 SF
BUILDING FOOTPRINT:			
BUILDING USE:			
WAREHOUSE			320,499 SF
OFFICE		@ 2%	6,541 SF
COVERAGE:			
GROSS:			31%
NET:			34%
PARKING REQUIRED:			
WAREHOUSE		1/1000 SF	320 STALLS
OFFICE		1/250 SF	26 STALLS
TOTAL			347 STALLS
PARKING PROVIDED:			
AUTO:			359 STALLS
			@1.1/1000 SF
			8 STALLS
TRAILER:			106 STALLS



scheme: MP10.0

Conceptual Site Plan

Beech Road Industrial
Beech Road NW, New Albany, Ohio

WARE MALCOMB

SNR-0077-00
07.8.2025

SHEET
1

VARIANCE APPLICATION SUPPORTING STATEMENT

BEECH AXIS LLC

Variance Requests

Two requested variances will apply to real property located generally to the southeast of and adjacent to the intersection of Beech Road and Miller Road, specifically Licking County Auditor Parcel Number 095-111870-00.001 (the “Property”). The two requested variances are to:

- (a) Reduce the required minimum pavement setback as measured from the centerline of Beech Road from 185 feet to 136 feet; and
- (b) Reduce the required rear yard pavement setback from 25 feet to 15 feet.

The Property contains +/-24.06 acres. Originally part of the Amazon Data Services data center campus, it was acquired by the applicant/property owner, Beech Axis LLC, in June 2025. The applicant/owner is an affiliated business entity controlled by Panattoni Development Company (“PDC”), which is one of the largest privately held real estate development companies in the world. PDC has successfully developed more than 610 million square feet of industrial, office, and retail space in more than 310 cities. See <https://www.panattoni.com/capabilities/development-services/>.

The Property is zoned L-GE, Limited General Employment in the Business and Commerce Zoning District, which was approved in 2022. The applicable zoning limitation text provides a minimum building and pavement setback requirement of 185 feet as measured from the centerline of Beech Road. The text also provides for a minimum building and pavement setback of 25 feet from the rear parcel line. The applicant is planning to improve the Property with a speculative industrial warehouse and/or distribution facility, which is a permitted use. The building is being planned with a size and with dimensions which are necessary to meet market demands (see accompanying site plan).¹ The design and square footage have been proven to be in demand and highly functional across numerous developments completed by PDC throughout the country. By their nature, these types of facilities are typically rectangular (and not irregular) in shape to provide for efficient internal movement of goods and supplies to and from multiple truck bays for loading and unloading.

The parcel that constitutes the Property is itself rectangular in shape, with its length running north-south. This condition means that the only possible orientation of this type of building is for its length to be running in the same direction. In order to maximize the aesthetics of the building as viewed from both Beech Road and Miller Road, loading bays and trailer parking have been placed on the rear of the parcel facing eastward. The logistical and spatial needs for large trucks dictate the need for loading spaces and a drive lane with the dimensions shown of the site plan to allow for adequate truck turning radii. In addition, keeping in mind the desire to shield unhitched semi-trailers from view from public streets, the only logical location for their parking is also along the rear of the lot.

A 100-foot wide electric easement crosses the northern portion of the Property at an angle, and high voltage electric transmission lines exist within the easement. Buildings are not permitted to be constructed within the easement area, while parking and pavement are allowed. The size and angle of the easement as it runs through the property effectively cause over 5.91 acres to be unusable for purposes of placing a

¹ The site plan being provided shows conceptual “placeholder” locations for detention areas and landscaping. These are for illustrative purposes only, and approval of the variances will not constitute approval of these elements of the plan, which will comply with applicable requirements of the underlying zoning and Codified Ordinances.

building, or just under 25% of the site. This prohibits the building from being further elongated to provide its necessary square footage while shrinking the width of the structure.

The Codified Ordinances provide the factors to be considered when reviewing a variance application. Section 1113.06 provides that a variance shall be approved if the findings are made which are detailed in subsections (a) through (e) thereof (detailed below). Additionally, in *Duncan v. Middlefield* (1986), 23 Ohio St.3d 83, the Ohio Supreme Court provided factors to be weighed in addition to that required by local code. It should be noted that the case provides for a weighing of factors. Not all of them must be met and no single factor controls. The test is described as being a determination of the existence of a “practical difficulty.”

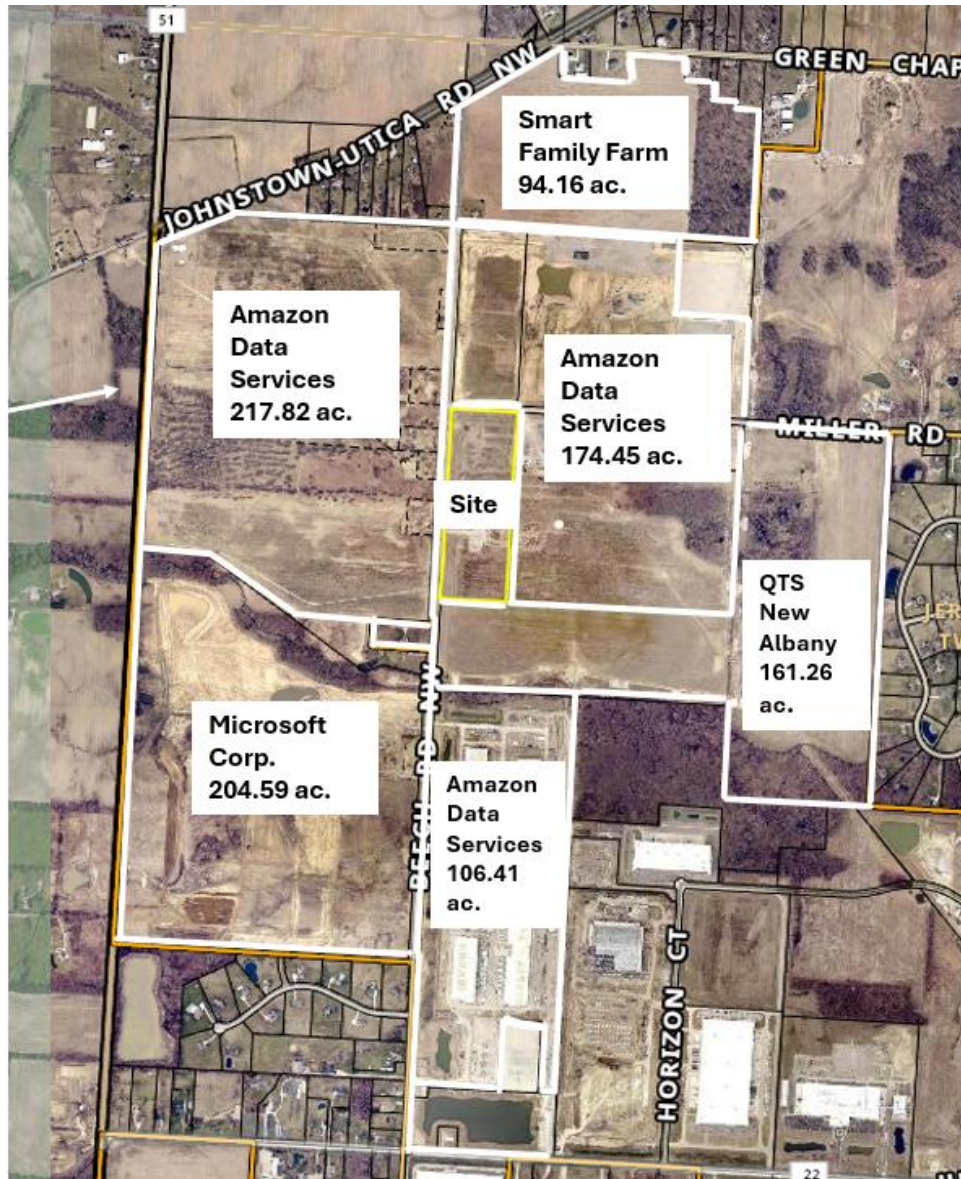
Codified Ordinances - Factors

The factors that are to be considered when reviewing a variance request pursuant to Codified Ordinances Sections 1113.06(a)-(e) are in bold below, with each being followed by an analysis of that factor in the context of this variance request.

(a) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district.

In the GE, General Employment District, Section 1153.04(d) of the Codified Ordinances provides for a minimum rear yard setback of 25 feet for buildings and pavement, and so does the limitation text that applies to the Property. The Codified Ordinances do not provide a minimum required building and pavement setback from a frontage street. Applicable L-GE zoning limitation texts for the Beech Road corridor provide for the minimum 185-foot setback from the centerline of Beech Road for all property on the east and west sides of Beech Road between Jug Street on the south and U.S. Route 62 on the north. To the south of Jug Street all of the way southward to State Route 161 on the east side of Beech Road, various applicable L-GE District zoning texts (or PUD, Planned Unit Development texts which allow GE uses) require only a minimum pavement setback of 25 feet or 50 feet from the edge of right-of-way for Beech Road, which equates to 75 feet or 100 feet from the centerline where the right-of-way extends (at most) 50 feet from the right-of-way centerline. Similarly, on the west side of Beech Road along this same stretch, the minimum pavement setback required in applicable zoning districts is either 40 feet or 50 feet from the edge of right-of-way.

The special conditions which exist here are the combination of the shape and size of the parcel and the existence of an angled overhead electric transmission line easement and improvements. Other property owners in the area which are subject to the same setback requirements own much larger amounts of acreage than are contained within the Property (24.06 acres), providing much greater flexibility for building placement and giving them multiple options for meeting the minimum setback:



(b) That a literal interpretation of the provisions of the Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the Zoning Ordinance.

A literal interpretation of the zoning provision in this case deprives the property owner of rights commonly enjoyed by other properties in the same zoning district. L-GE zoning districts that apply to properties south of Jug Street provide for significantly less minimum setback requirements from Beech Road, ranging from 75 feet to 100 feet as measured from the right-of-way centerline, while the variances requested here will still provide for 139 feet of pavement setback on the Property as measured from the centerline. Other properties which are subject to the same front and rear setback requirements are parts of large existing or future campuses which are owned (or planned to be owned) by data center developers and operators. The sizes and shapes of the other properties eliminate the practical difficulties which apply to the Property, and the uses or planned uses of the other properties lend themselves to larger setbacks for security and other purposes.

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

The current applicant did not own the property at the time the zoning was approved. The previous owner of the Property, Amazon Data Services, Inc., decided to sell the Property and determined the parcel boundaries while retaining ownership of significant acreage around it. The type of facility being proposed has many programmatic elements that are driving the need for the variance, such as size and dimensional requirements that the market for this type of use will demand. Reducing building square footage and squeezing building width will not allow the facility to be suitable for end users. The transmission line easement was not created by the Property owner. These factors, in combination with the aesthetic desires and precedent in the City which create a strong preference for hiding loading areas from public view, have yielded special conditions. None of these conditions were the result of direct action by the applicant.

(d) That granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Ordinance to other lands or structures in the same zoning district.

No special privileges will be granted to the applicant as a result of these variances. In fact, the grant of the variance will merely bring the applicant the ability to construct a building in line with market demands which is possible on other similarly zoned properties. Numerous L-GE zoning limitation texts provide for front setbacks which are well less than will be provided on the Property if the variances are granted, not only where they apply to Beech Road but also to other major thoroughfares. A reduced rear setback will only impact property which contains or will contain other industrial-type uses.

(e) That granting the variance will not adversely affect the health and safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or injurious to private property or public improvements in the vicinity.

The variances will have no adverse effects on health and safety and will not in any manner affect the public welfare or be injurious to private property or public improvements. The front setback variance will allow a setback condition that still exceeds the vast majority of the required minimum setbacks of other L-GE zoning districts in the City. Those lesser setbacks are often applied to areas with much heavier traffic than in the area near the Property (for instance, near the Beech Road interchange at State Route 161). As to the rear yard setback, the adjacent owner is Amazon Data Services, Inc., which is planning data center uses for its site. Those uses will not be impacted by a reduced rear yard setback on the Property, as they typically are uses which are limited to the interior of buildings and have relatively few activities outside of structures and relatively minimal employee and visitor traffic.

Duncan v. Middlefield Factors

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

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

There can be some beneficial use of the Property without the variances, but without them it will not realize the same benefits as other properties with the same or similar zoning classifications. Unlike other property owners which have much larger tracts of land, this site consists of only 24 acres with a rectangular shape. It is squeezed by the large front setback requirement and the existing electric transmission line easement. In an effort to request as little of a front setback variance as possible, the applicant is seeking relief from the rear setback requirement as well. In other words, the variance for rear setback relief allows for the front setback variance request to be reduced by a corresponding 10 feet.

Perhaps the site could be developed with an alternative use such as offices or data centers. However, new office construction is rare in today's market. Data center developers typically seek larger sites with opportunities to construct several buildings and with much more room for site planning flexibility. Therefore, the applicant's proposed use is the most likely to yield a return not only to it, but also to the City in the nearest term. This return is also prefaced on having the ability to construct a facility that meets the needs and expectations of the market.

(2) Whether the variance is substantial;

These variances are not substantial. The variances seek to reduce the required pavement setback from Beech Road by roughly 21%. They do not seek to place a large building closer to the street. The variance will permit only pavement associated with parking and private vehicular access to be located closer to Beech Road. Applicable landscaping and buffering requirements include mounding and substantial landscaping within the setback. These will largely obscure any visual impacts. The 10-foot reduction in the rear setback allows the front setback reduction request to be 10 feet less than if the rear setback remained at 25 feet.

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

The variance will not alter the essential character of the area. Impacts to the adjacent street and properties off-site will be minimal or non-existent. Any impacts to visuals from Beech Road will be mitigated by mounding and landscaping.

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

The variance will not adversely affect the delivery of governmental services. It will have no impact on any of them. Arguably, by accommodating an industrial warehouse and/or distribution facility on property that otherwise was anticipated to be developed with data center uses, there is a positive impact by providing less consumption of water and sanitary sewer services.

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

The current property owner could have researched the required setbacks prior to purchasing the Property and therefore had knowledge of the restriction.

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

A variance is the only practical means to remedy the property owner's predicament. For reasons provided throughout this statement, a redesign of the proposed facility is impractical and will result in it being unbuildable, given future tenants' expectations. The electric transmission easement and lines which run through the site are not going to be relocated by the easement holder, given the expense and the importance of the infrastructure to the broader area.

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

The spirit and intent of the underlying zoning requirement will be observed and substantial justice will be done by granting the variance. Presumably, the front setback requirement arises from a preferred aesthetic condition along Beech Road based on anticipated construction of large-scale buildings. The applicant seeks no relief from the required building setback. Landscaping and mounding will be provided along the Beech Road frontage, obscuring visibility for most (if not all) of the parking and pavement between the front of the planned building and Beech Road and therefore preserving the desired aesthetic. The rear yard setback variance remains adequate given the known nature of development and uses off-site and to the east of that property line. Substantial justice will be done by granting these variances by eliminating barriers to a sound development plan that is possible on other sites without them.



**Board of Zoning Appeals Staff Report
August 25, 2025 Meeting**

**7116 TUMBLEBROOK DRIVE
HOT TUB VARIANCE**

LOCATION: 7116 Tumblebrook Drive (PID: 222-002390)
APPLICANT: Joseph Erb
REQUEST: (A) Variance to C-PUD zoning text Section 3a.03(5)(b) to allow a hot tub to be above ground.
(B) Variance to C-PUD zoning text Section 3a.03(5)(a) to allow a hot tub to be screened by landscaping in lieu of fencing.
ZONING: Village Homes District C-PUD (Planned Unit Development District)
STRATEGIC PLAN: Residential
APPLICATION: VAR-61-2025

Review based on application materials received July 25, 2025, and updated August 6, 2025.

Staff report prepared by Lauren Sauter, Planner.

I. REQUEST AND BACKGROUND

The applicant is requesting the following variances for a hot tub:

- (A) Variance to Village Homes District zoning text Section 3a.03(5)(b) to allow a hot tub to be constructed above ground.
- (B) Variance to Village Homes District zoning text Section 3a.03(5)(a) to allow a hot tub to be screened by landscaping in lieu of fencing.

The proposed above-ground hot tub is approximately 57.51 square feet (7 feet and 7 inches in both length and width) and 3 feet and 1.5 inches in height. It is proposed to be located in the rear yard of the property.

II. SITE DESCRIPTION & USE

The 0.23-acre property is located in Hampsted Village (Section 10) at the western boundary of New Albany. The area is zoned for residential Comprehensive Planned Unit Development (C-PUD) and is surrounded by similar residential uses and an agricultural (AG) district to the west. The site includes a single-family home, an existing patio, a 20-foot easement along the rear property line, and a 12-foot easement along the western property line.

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.*

Zoning Text

The property is located within Subarea A, Village Homes West, of the 1998 NACO C-PUD entitled “Village Homes District Plan.” Section 3a.03(5) provides the following regulations for “Swimming Pools/Spas:”

1. *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. *All swimming pools/spas shall be in-ground construction. The swimming pool/spa equipment shall be within the enclosure and completely screened from adjoining properties.*
3. *Spas may be constructed as part of the house. Spas may be permitted, provided they are completely screened from adjoining properties by fencing or landscaping.*

Any regulations set in the C-PUD that conflict with the New Albany codified ordinances will supersede the codified ordinances. Any other pertinent regulations in the codified ordinances apply in addition to those of the C-PUD.

IV. EVALUATION

The proposed hot tub will require variances to two sections of the Village Homes District zoning text. The hot tub is in compliance with all other applicable sections and chapters of the C-PUD zoning text and the Planning and Zoning Code of the New Albany Code of Ordinances.

(A) Variance to Village Homes District zoning text Section 3a.03(5)(b) to allow a hot tub to be constructed above ground.

The following information should be considered in the Board's decision:

1. The Village Homes District zoning text Section 3a.03(5)(b) requires all swimming pools and spas to be in-ground construction. The swimming pool/spa equipment shall be within the enclosure and completely screened from adjoining properties.
2. The applicant proposes a 57.51-square-foot above-ground hot tub. The applicant states that the hot tub will be completely screened from adjoining properties and it is thus in compliance with the rest of Section 3a.03(5)(b).
3. Existing landscaping largely screens the rear yard from neighboring properties. Additional landscaping is proposed primarily along the rear and eastern property lines.
4. The applicant states that the hot tub will sit on a concrete pad that has been constructed under the pavers to allow a more fluid look with the patio and to protect the property.
5. Per C.O. 1173.02(c), the setback for pools and spas from any lot line is 15 feet. The hot tub is proposed to be just over 34 feet away from the rear lot line and just over 18 feet away from the eastern side lot line.
6. The essential character of the neighborhood would not be altered if the variance request is granted. The existing and proposed landscaping around the rear yard provides screening so that any visual impacts are contained within the site.
7. The variance preserves the spirit and intent of the zoning requirement, which is to minimize the visual impact of pools and spas and their equipment on adjacent properties and the public right-of-way. The hot tub is located just behind the primary building and will be screened by existing and proposed landscaping from adjacent properties and any public right-of-way. Additionally, the hot tub is proposed to be constructed in a manner that allows "a more fluid look with the patio," thus improving the visual cohesion and reducing the visual impact of the hot tub on the paved terrace.
8. The variance could be substantial due to the lack of precedence of related variances being heard or voted on by the Board of Zoning Appeals or Planning Commission. However, if this property was zoned as residential (no PUD), an above-ground hot tub would be permitted. Since the PUD text imposes stricter regulations, a variance is required.
9. Two variances proposing above-ground hot tubs have been heard since 2017:
 - a. In May of 2020, the Planning Commission approved, with conditions, a variance request to the Saunton zoning text to allow a 97.5-square-foot swim spa to be constructed above ground (VAR-23-2020). The conditions of approval were:
 - i. The spa be encompassed inside the deck, subject to staff approval;
 - ii. Fencing or railing be installed around the deck area;
 - iii. A gate matching the fencing or railing be installed; and
 - iv. Additional landscaping will be installed, subject to staff approval.
 - b. In December of 2021, the Planning Commission tabled a variance request to the Nottingham Trace zoning text to allow a spa to be constructed above ground (VAR-120-2021). Voting members requested the applicant determine whether he could refund the above-ground spa in favor of an in-ground spa and tabled the application to provide him time to do so. The application was withdrawn.
10. Granting the variance would not adversely affect the delivery of government services.
11. Granting the variance would not adversely affect the health and safety of people residing or working in the vicinity of the proposed hot tub.

(B) Variance to Village Homes District zoning text Section 3a.03(5)(a) to allow a hot tub to be screened by landscaping in lieu of fencing.

The following information should be considered in the Board's decision:

1. The Village Homes District zoning text Section 3a.03(5)(a) requires all swimming pools and spas to 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 utilizing existing and proposed landscaping as screening in lieu of a fence that completely encloses the spa. The hot tub will be located in the rear yard, located within the building line of the site, and screened from adjoining properties, and is thus in compliance with the rest of Section 3a.03(5)(a).
3. Existing landscaping largely screens the rear yard from neighboring properties. Additional landscaping is proposed primarily along the rear and eastern property lines.
4. There is no existing or proposed fence on the property.
5. There is no existing or proposed swimming pool on the property.
6. The essential character of the neighborhood would not be altered if the variance request is granted. The existing and proposed landscaping around the rear yard provides screening so that any visual impacts are contained within the site.
7. It is uncertain whether the variance preserves the spirit and intent of the zoning requirement. Fence regulations for pools and spas are typically intended for safety and controlled access. Landscape screening will not effectively prevent entry into the yard from adjacent properties; however, if variance A is approved by the Board, an above-ground hot tub may mitigate some of the safety concerns of an in-ground swimming pool or spa. Additionally, the applicant states the hot tub will be covered at all times while not in use.
8. The variance could be substantial in that only one variance has been requested since 2017 or prior to allow a spa to be constructed without required fencing. Further, the Planning Commission and Board of Zoning Appeals have historically taken careful consideration of special circumstances and the Duncan factors in coming to a decision for variances to pool fence requirements.
9. Granting the variance would not adversely affect the delivery of government services.
10. Granting the variance could adversely affect the health and safety of people residing or working in the vicinity of the proposed hot tub.

V. HISTORY

There have been numerous variance requests for pools to be permitted without required fencing that have been heard by the Board of Zoning Appeals or the Planning Commission since 2007:

- *2007 – Denied – Board of Zoning Appeals – Variance to allow a pool cover for a residence on 15.6 acres in Illmington.*
The BZA cited safety and liability concerns as reasons for denying the variance request.
- *2010 – Denied – Board of Zoning Appeals – Variance to allow a pool cover for a home on a 0.5-acre parcel in Fenway.*
The BZA cited safety and liability concerns for denying the variance request.
- *May 28, 2014 – Approved – Board of Zoning Appeals – Variance to allow a pool cover in-lieu of a fence for 14 New Albany Farms Road.*
The BZA stated that the size of the property (19.9 acres), proximity to other parcels, and limited access due to private streets create special conditions and circumstances which are peculiar to the land that result 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.
- *September 22, 2014 – Approved – Board of Zoning Appeals – Variance to allow a pool cover in-lieu of a fence for 6 New Albany Farms Road.*
The BZA stated that 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.

- *April 18, 2016 – Approved – Planning Commission – Variance to allow a pool cover in-lieu of a fence that meets code requirements 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 and that there are special circumstances, including substantial screening, limited access due to the private golf course, an existing horse fence, a large property size, a lack of neighbors 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 noted a 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-inch and 44-inch 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 18th.
- The pool cover is certified annually by the homeowner.

- *October 17, 2016 – Approved – Planning Commission – Variance to allow landscaping and pool netting in-lieu of a fence that meets code requirements on 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 and the pool 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), a horse fence, the property owners' intent 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 the property would have a reasonable return without the variance, the variance appears substantial, the essential character of neighborhood would not change, property owners were aware of the restrictions, the original permit showed code-complaint fence, and it 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.

- *May 18, 2020 – Approved – Planning Commission – Variance to allow a pool cover for a residence in-lieu of a fence that meets code requirements for 7010 Lambton Park Road.*

The applicant proposed to install a 44-inch-high horse fence along the eastern property line which, in addition to a creek and heavily wooded area, provided an appropriate barrier to access that aligned with 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-to-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.
- *2022 – Tabled – Board of Zoning Appeals – Variance to allow a pool cover for a residence on 6.5 acres in lieu of a fence at 8323 Central College Road.*
The basis of the table was the applicant working with staff to figure out alternative measures to provide unimpeded access. The application was withdrawn by the applicant following the hearing.
- *July 21, 2025 – Denied – Planning Commission – Variance to allow a pool cover in-lieu of a fence at 21 S Ealy Crossing.*
The applicant proposed a pool cover on a 160-square-foot pool in addition to a gate to block access from the driveway and additional screening along the side yards. The 0.75-acre lot includes a 100-foot tree preservation zone encompassing the rear of the property. Voting members cited safety concerns due to uncontrolled access, especially due to the comparably smaller size of the lot and its location in the Village Center.

VI. SUMMARY

The applicant proposes a hot tub that is constructed above ground and uses landscaping to screen the rear yard in lieu of fencing requirements. Adding landscaping to that which already exists on the lot will screen the hot tub from outside of the property, preserving the character of the neighborhood and reducing the spa's visual impact. While landscaping achieves visual screening, it may not satisfy safety standards intended by the fencing requirement, though granting variance A to allow the hot tub to be above ground may reduce some safety risks.

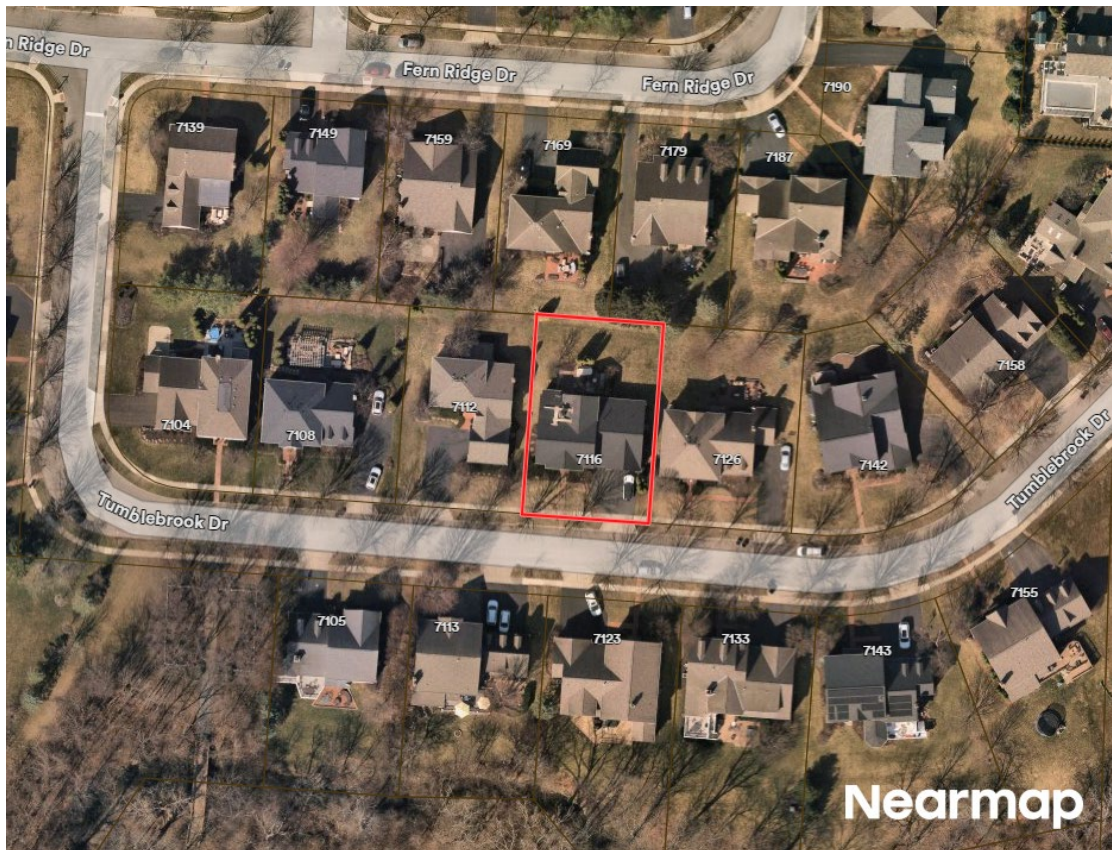
While there is little precedence for fencing variances to hot tubs, the Board of Zoning Appeals and the Planning Commission have heard numerous variances of a similar nature for swimming pools. The Board and Commission have historically reviewed these on a case-by-case basis and often consider factors such as the proximity of the property to other residences, public accessibility to the property, and the effectiveness of a cover in providing safety. The spa that was approved to be above ground in 2020 by the Planning Commission was larger than the proposed hot tub but was conditioned to have a fence and gate that fully enclosed it.

VIII. ACTION

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

Move to approve variance application VAR-61-2025 based on the findings in the staff report.

Approximate Site Location:



Source: NearMap

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 (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 250.00 250

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 _____

Erb Narrative Statement

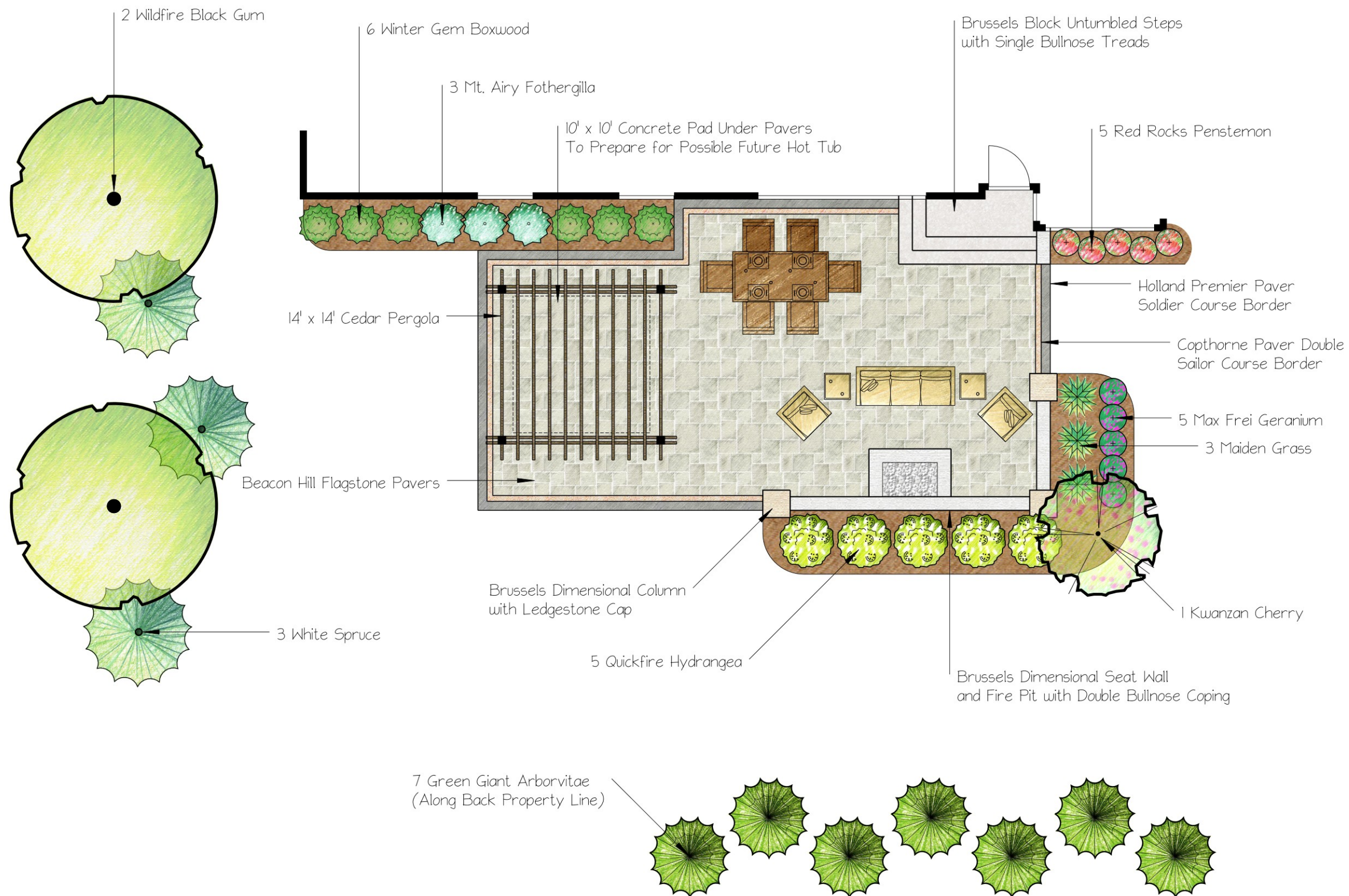
C.O. 1173 requires “swimming pools” to be inground and enclosed by a wall or fence.

The proposed hot tub will sit at the rear of the home aligned with the rear of the house allowing for complete privacy. The landscaping will fully screen the hot tub. The hot tub will not be visible from any point of view of the road. It will sit on a concrete pad that has been constructed under the pavers to allow for a more fluid look with the patio and to protect the property.

The hot tub is not as large as a swimming pool and is a reasonable size. It will be covered at all times when not in use. Other properties in New Albany have been approved for covers in lieu of fencing.

The variance would not substantially alter the essential character of the neighborhood and adjoining properties would not suffer a substantial detriment. The hot tub would be screened by the addition of substantial landscaping and trees included in the design of the backyard from the public right of way and adjoining properties. Other properties in neighborhoods very close to Hampsted have above ground hot tubs.

The above ground hot tub allows for more use of the homeowner’s property and is less invasive than an in ground hot tub. There are less safety issues with an above ground hot tub. Children and pets do not risk running around the property and falling into a spa that is in ground especially when it is not connected to a pool. For property value, an above ground hot tub can be easily removed for resell in the future. In addition, Joe suffered from a life-threatening infection in his spine in 2024 that has caused and will continue to cause life-long pain in his back. Along with regular physician care and physical therapy, this is another avenue to help alleviate pain.



BLUE OAK

PATIO & LANDSCAPE

No. Date Revision

Client :
Erb Residence

Address :
7116 Tumblebrook Drive
New Albany, OH 43054

Scale : 1" = 8'

Plan No. :

Designer : PMM

Editor :

Date : 3-26-24

473

80.00

34' 4"

5' 4"

Existing Patio

Hot Tub

18' 3"

125.00

405

222-002390

125.00

7116

80.00



TRANSFERRED

JAN 23 2019

CLARENCE E. MINGO II
AUDITOR
FRANKLIN COUNTY, OHIO

312

Conveyance
Mandatory- 619.00
Permissive- 519.00

CLARENCE E. MINGO II
FRANKLIN COUNTY AUDITOR

File No.: 04035-28-00

GENERAL WARRANTY DEED

Andrew I Abeles and Rachel I Abeles, husband and wife, for valuable consideration p
general warranty covenants to Joseph D Erb and Anastasia L Erb,

for and during their joint lives, remainder in fee simple to the survivor of them, whose tax
is: P.O. Box 20005, OWNSBORO, KY 42304
the following Real Property:

Situated in the State of Ohio, County of Franklin and in the City of ^{New Albany} ~~Columbus~~, and being br
described as follows:

Being Lot Number Four Hundred Five (405) of HAMPSTED VILLAGE SECTION 10, as the
numbered and delineated upon the recorded Plat thereof, of record in Plat Book 93, Page
Recorder's Office, Franklin County, Ohio.

Property Address: 7116 Tumblebrook Drive, New Albany, OH 43054

Parcel Number: 222-002390-00

Prior Instrument Reference: Instrument No. 201106270079619, of the Franklin County, O

Excepting from said general warranty covenants, all legal highways, restrictions, and
record, and taxes and assessments from the date of the closing.

Executed this 19th day of December, 2018.

Andrew I Abeles

Rachel I Abeles

State of Ohio, County of Franklin

The foregoing deed was acknowledged before me this 19th day of December
by Andrew I Abeles and Rachel I Abeles.

Notary Public
My Commission Expires

This instrument was prepared by:
Joseph E. Budde
Attorney at Law
259 W. Schrock Road
Westerville, OH 43081



Andrea M. Ignatius
Notary Public State of Ohio
My Commission Expires
October 1, 2022

Stewart Title Box
1072



HAMPSTED VILLAGE ASSOCIATION HVA

August 05, 2025

Joseph & Anastasia Erb
7116 Tumblebrook Dr.
New Albany OH 43054

RE: 7116 Tumblebrook Dr.
ARCHITECTURAL REVIEW SUBMISSION

Submission Approval

Dear Homeowner,

I am pleased to inform you that the Hampsted Village Association Architectural Review Committee has approved your submission for the listed project item(s):

Swimming Pool/Hot Tubs/Spas

The approval is contingent upon compliance with the specifications set forth in the approved application. If your change or addition requires a county, city or state permit, it is the responsibility of the homeowner to obtain this before starting construction.

Please retain this letter in your files. If you have any questions regarding this matter, please contact us at (614) 939-8600 or via email at bcross@ohioequities.com.

Sincerely,



Brandy Cross
Architectural Review Liaison
On Behalf Of Hampsted Village Association

