



Commissioner John O'Grady • Commissioner Paula Brooks • Commissioner Marilyn Brown
President

Economic Development & Planning Department
James Schimmer, Director

Franklin County Board of Zoning Appeals

Franklin County Courthouse
Commissioner's Hearing Room – 26th Floor
Columbus, OH 43215

Monday, August 15, 2016
1:30 p.m.

1. Call roll for board members
2. Introduction of staff
3. Swearing in of witnesses
4. Approval of minutes from the July 18, 2016 meetings
5. New Business:

i. VA-3857 – Brad Fisher

Owner/Applicant:	William Young
Township:	Franklin Township
Site:	1085 Forest Drive (PID #140-001112)
Acreage:	0.47 acres
Zoning:	Restricted Urban Residential District (R-8)
Utilities:	Public water and wastewater
Request:	Requesting a Variances from sections 502.022 and 513.012(1(b)) of the Franklin County Zoning Resolution to legitimize the construction of an above ground swimming pool and deck that fail to meet the pool location and yard space requirements in an area zoned Restricted Urban Residential (R-8).

ii. VA-3858 – Brad Fisher

Owner/Applicant:	Rebecca McGrath-Hinkle
Township:	Pleasant Township
Site:	5612 Cedar Drive (PID #230-002420)
Acreage:	0.11 acres
Zoning:	Rural District
Utilities:	Private water and public wastewater
Request:	Requesting a Variance from section 650.162(a) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool that will be located in the Big Darby Creek Watershed Riparian Setback in an area zoned Rural.

iii. VA-3859 – Brad Fisher

Owner/Applicant:	Matthew & Ashley Barnhart
Township:	Norwich Township
Site:	4850 Bellann Rd. (PID # 201-000011)
Acreage:	0.61 acres
Zoning:	Limited Suburban Residential District (R-2)
Utilities:	Private water and wastewater
Request:	Requesting a Variance from sections 306.042 and 513.012(2(b)) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool and deck that will not be located completely to the rear of the primary structure and will exceed the allowable 20% lot coverage in an area zoned Limited Suburban Residential (R-2).

iv. VA-3860 – Brad Fisher

Applicant:	Kristin Rosan
Owner:	Charles Pullins
Township:	Mifflin Township
Site:	3063 & 3065 Morse Rd. (PID # 190-004181)
Acreage:	1.14 acres
Zoning:	Community Service District (CS)
Utilities:	Public water and wastewater
Request:	Requesting a Variance from Sections 502.022, 670.083(a),670.083(e), 670.083(f), 670.083(g), 670.083(h(5), 670.085(b), 670.086(c(6)), 670.088(g(3(b))), 670.0812(a), 670.0812(c) and 670.0816(b) of the Franklin County Zoning Resolution to allow the development of a commercial site that will fail to meet the following requirements: yards space, building design standards, sign setback, landscaping and screening, vehicle parking and circulation, and pedestrian circulation system on a lot subject to the Smart Growth Overlay in an area zoned Community Service(CS).

6. Adjournment of Meeting to September 19, 2016



Commissioner John O'Grady • **Commissioner** Paula Brooks • **Commissioner** Marilyn Brown
President

Economic Development & Planning Department
James Schimmer, Director

**MINUTES OF THE
FRANKLIN COUNTY BOARD OF ZONING APPEALS**

Monday, July 18, 2016

The Franklin County Board of Zoning Appeals convened on the 26th floor, Franklin County Courthouse, 373 South High Street, Columbus, Ohio, 43215, on Monday, July 18, 2016.

Present were:

Gary Dever, Chairperson
Christopher Baer, Vice Chairperson
Tim Guyton
Nancy Hunter
Paula Armentrout

Franklin County Development Department members,
Jenny Snapp, Assistant Director, Franklin County Economic Development and Planning
Matt Brown, Planning Administrator
Brad Fisher, Planner

Chairperson Dever opened the meeting.

The first order of business being the roll call of members, the introduction of staff, and the swearing in of witnesses.

The next order of business was the approval of the minutes from the June 20, 2016, meeting. Mr. Guyton made a motion to approve the minutes of the June 20, 2016, meeting. The motion was seconded by Ms. Hunter. The motion was approved by a five-to-zero vote.

OLD BUSINESS:

The next item of business being Case No. VA-3852. The owner is Orient Doph XII, LLC. The applicant is JAS Group, Inc. The township is Pleasant Township, and the site is located at 6732 Lambert Road. It is 2.18 acres in size and is served by private water and private wastewater. Mr. Guyton made a motion to remove Case No. VA-3852 from the table. It was seconded by Mr. Baer. The motion was approved by unanimous vote.

Mr. Brown presented the case to the Board of Zoning Appeals. At Staff's request, the case is requested to be dismissed without prejudice upon discovery that the Smart Growth Overlay does not apply to this section of Harrisburg Pike. Ms. Hunter made a motion to dismiss Case No. VA-3852 without prejudice at Staff's request. It was seconded by Ms. Armentrout. The motion was approved by a five-to-zero vote.

OLD BUSINESS:

The next item of business being Case No. AP-3856. The owner is Plumbers and Pipefitters Local No. 189. The applicant is Bogden Architects, Inc. The township is Clinton Township. It is located at 1226 through 1250 Kinnear Road. It is 4.87 acres in size and is served by public water and wastewater. It is zoned Limited Industrial (LI). The request is an appeal to allow the expansion of a Nonconforming Use in an area zoned Limited Industrial (LI). Mr. Fisher read and presented the case to the Franklin County Planning Commission. Mr. Guyton made a motion to approve Case No. AP-3856 with the four Staff conditions. It was seconded by Mr. Baer. The motion was approved by a five-to-zero vote.

There being no further business coming before the Franklin County Board of Zoning Appeals, Mr. Baer made a motion to adjourn the meeting. It was seconded by Mr. Guyton.

By unanimous vote, the meeting was adjourned at 1:47 p.m.

Minutes of the July 18, 2016, Franklin County Board of Zoning Appeals hearing were approved this 15th day of August, 2016.

Signature



Commissioner John O’Grady • Commissioner Paula Brooks • Commissioner Marilyn Brown
President

Economic Development & Planning Department
James Schimmer, Director

STAFF REPORT

Board of Zoning Appeals
August 15, 2016

Case VA-3857

Prepared by: Brad Fisher

Applicant/Owner:	William S. Young
Agent:	Abraham Law Offices
Township:	Franklin Township
Site:	1085 Forest Drive (PID #140-001112)
Acreage:	0.47-acres
Zoning:	Restricted Urban Residential (R-8)
Utilities:	Public water and wastewater
Request:	Requesting a Variances from sections 502.022 and 513.012(1(b)) of the Franklin County Zoning Resolution to legitimize the construction of an above ground swimming pool and deck that fail to meet the pool location and yard space requirements in an area zoned Restricted Urban Residential (R-8).

Summary

The applicant is requesting a variance to legitimize the construction of an above ground swimming pool and deck that fail to meet the pool location and side yard setbacks in an area zoned Restricted Urban Residential (R-8). Staff recommends approval with conditions.

Description of the Request

The subject site is located on the southwest corner of Forest Drive and Laurel Avenue. The site consists of an existing 2,005 square foot home, 900 square foot detached garage, 133 square foot front porch and 320 square foot rear deck on 0.47 acres.

The applicant has constructed a pool and deck with a total foot print of approximately 995 square feet. The pool and deck have been built in the side yard, three feet away from the western property line and is intended for therapeutic purposes.

Surrounding Area

The area surrounding the subject site is zoned Restricted Urban Residential (R-8) and used for residential purposes.

Comprehensive Plan

The Southwest Area Plan, adopted in 2009, includes a Future Land Use Map and Urban Design Standards which include Guidelines and Strategies to help guide development. The Plan recommends the area for Low Density Residential uses with corresponding zoning districts of Suburban Residential (R-4) and

Restricted Urban Residential (R-8). A guideline under Policy B in the Plan states that new residential development should be consistent and compatible with the land use, density and pattern of the surrounding area. The Strategy for the aforementioned Guideline recommends that new developments should have features that contribute to a healthy lifestyle, encourage social interaction and sustain property values, such as play areas and front porches.

As indicated in the Plan and called out by residents, no recreation centers existed within the planning area's borders as of 2009, which would supply residents with amenities, such as a public pool. As of 2009, Dodge Recreation Center offered the nearest public pool, 2.9 miles north east.

The applicant's property and proposed project adheres to the Southwest Area Plan recommendations, maintaining a low density residential character.

Staff Review

Variance from Section 502.022- Yards not otherwise required

- Yard space not otherwise required but shall be five (5) feet or more in width.
 - The deck is three (3) feet from the southwest property line.

Variance from Section 513.012(1(b))- Above ground swimming pool location

- The swimming pool shall be located completely to the rear of the principal structure.
 - The pool is located in a side yard, not completely to the rear of the principal structure.

Technical Review Committee Agency Review

Expressed no concerns

Staff Analysis– Section 810.41:

The Franklin County Zoning Resolution identifies five criteria in Section 810.041 that must be satisfied to approve a variance request:

- 1) *Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district;*
 - » The applicant indicated that due to his poor health and physical condition, access to a swimming pool for therapeutic purposes is needed. The applicant further stated that there is not enough space behind the house to accommodate the pool.
 - » Staff does not believe that the applicant's health concerns are a special circumstance or condition; however, the properties unique configuration is a special circumstance that limits the area for a pool.
- 2) *A literal interpretation of the provisions of this Zoning Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Resolution;*
 - » The applicant indicated that the layout of the property is not physically conducive to put a therapeutic pool behind the home.
 - » Staff notes that while the pool and deck are not located completely to the rear of the principle structure, the applicant has placed the pool and deck as far to the rear of the principle structure as possible.
- 3) *The special conditions and circumstances do not result from the action of the applicant;*
 - » The applicant indicated that health concerns include arthritis, poor circulation and heart trouble, which were not a result of actions by the applicant.
 - » Staff's identified special circumstance of the property's configuration does not result from actions of the applicant.

- 4) *Granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Resolution to other lands or structures in the same Zoning District;*
 - » The applicant indicated that adjacent property owners are in support of the variance and believe the variance would not result in special privilege denied to others.
 - » No letters of support have been supplied by the applicant.

- 5) *Granting the variance will not adversely affect the health or 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;*
 - » Staff believes that granting the variances will not adversely affect any of the above.
 - » Staff also believes the pool and deck have been located as far to the rear of the property as space will allow, while keeping with the design of the home and neighborhood.

Recommendation

Staff recommendation is that the BZA *approve with conditions* a Variance from Sections 502.022 and 513.012(1(b)) of the Franklin County Zoning Resolution to allow the applicant to legitimize the construction of the above ground swimming pool and deck that fail to meet the pool location and yard space requirements in an area zoned Restricted Urban Residential (R-8).

1. The applicant must apply for and receive a Certificate of Zoning Compliance.

Resolution

For your convenience, the following is a proposed resolution:

(a) **Proposed Resolution for Request:**

_____ moves to approve a Variance from Sections 502.022 and 513.012(1(b)) of the Franklin County Zoning Resolution as outlined in the request above for the applicant identified in Case No. VA-3857.

Seconded by: _____

Voting:

Findings of Fact

For your convenience, the following are proposed findings of fact:

If the resolution fails for lack of support, the following are proposed findings of fact for adoption by the BZA:

_____ moves that the basis for denying the applicant’s request for the Variance from Sections 502.022 and 513.012(1(b)) of the Franklin County Zoning Resolution as outlined in the request above for the applicant identified in Case No. VA-3857 results from applicant’s failure to satisfy the criteria for granting a variance under Section 810.041.

Seconded by: _____

Voting:

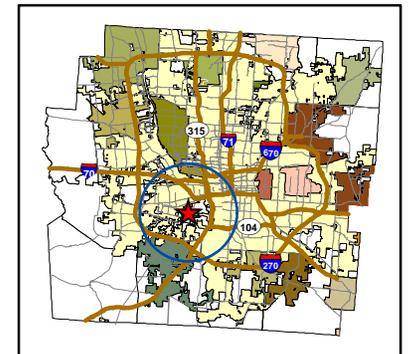


VA-3857

Requesting a Variance from sections 502.022 and 513.012(1(b)) of the Franklin County Zoning Resolution to legitimize the construction of an above ground pool and deck that fail to meet the pool location and yard space requirements in an area zoned Restricted Urban Residential (R-8).

0.47 Acres
Franklin Township

-  1085 Forest Drive
-  Parcels
-  Streets



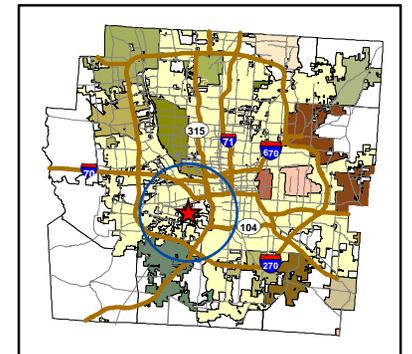


VA-3857

Requesting a Variance from sections 502.022 and 513.012(1(b)) of the Franklin County Zoning Resolution to legitimize the construction of an above ground pool and deck that fail to meet the pool location and yard space requirements in an area zoned Restricted Urban Residential (R-8).

0.47 Acres
Franklin Township

-  1085 Forest Drive
-  Parcels
-  Streets





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President

Economic Development & Planning Department
James Schimmer, Director

STAFF REPORT

Board of Zoning Appeals
August 15, 2016

Case VA-3858

Prepared by: Brad Fisher

Applicant/Owner:	Rebecca McGrath-Hinkle
Township:	Pleasant Township
Site:	5612 Cedar Dr (PID #230-002420)
Acreage:	0.11 acres
Zoning:	Rural
Utilities:	Private water and public wastewater
Request:	Requesting a Variance from section 650.162(a) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool that will be located in the Big Darby Creek Watershed Riparian Setback in an area zoned Rural.

Summary

The applicant is requesting a Variance from Sections 650.0162(a) to allow the construction of an above ground pool within the Big Darby Creek Watershed Riparian Setback. Staff recommends **approval with conditions.**

Description of the Request

The applicant’s property is located on the east side of Cedar Drive, approximately 322 feet north of the Big Darby Creek in Pleasant Township. The site contains a 1,441 square-foot single-family residence built in 1927, a 557 square foot accessory building, and a 108 square foot accessory building. The applicant is proposing to construct a 576 square-foot, above ground swimming pool to the east of the home. The entire property is located in the Big Darby Creek Watershed riparian setback.

Surrounding Area

The area surrounding the applicant’s property is located within the Rural District. The area features single-family homes to the north, south, east and west. The Big Darby Creek is located farther to the south. The majority of the area is located in the Big Darby Creek Watershed Riparian Setback.

Comprehensive Plan

The Pleasant Township Comprehensive Plan, adopted in 2009, includes two maps to guide development: a Future Land Use map and a Conservation Strategy Tiers map. The Future Land Use map states that the subject site is environmentally-sensitive and shows stream buffer on the entire site. Construction is not recommended in the stream buffer. The Conservation Strategy Tiers map does not rate the site area as it consists of existing development. Tiered lands are the most environmentally sensitive areas recommended for protection, with this site not being one of them.

The Big Darby Accord Watershed Master Plan, adopted in 2006, also includes two maps to guide development: a Proposed General Land Use Map and a Conservation Strategy Map. The Proposed General Land Use Map shows the subject site as a Residential Suburban High Density area. The Conservation Strategy Map shows the site as Existing Development.

The applicant's request does not keep with the Pleasant Township Comprehensive Plan land use recommendations but does keep with the Big Darby Accord Watershed Master Plan recommendations.

Staff Review

Variance from Section 650.162(a) – Prohibited Uses in Riparian Setbacks (Construction):

- Construction of buildings or structures of any kind or size within the Big Darby Watershed Riparian Setback is prohibited.
 - The applicant is requesting to construct a 32 by 18 foot (576 square-foot) above ground swimming pool within the Big Darby Creek Watershed Riparian Setback
 - The net increase in impervious area on the lot will be 576 square-foot

Technical Agencies

Franklin County Soil and Water Conservation

Based on the area of disturbance, a mitigation ration of two to one (2:1) is required. The proposed area of disturbance is 578 square feet in size; therefore mitigation of 1,156 square-foot is needed to off-set the impact of the proposed development. Planting 11- 1” to 2” native species trees in the lowest available zone is recommended.

Staff Analysis

Section 650.20(a) – Variances Within Riparian Setbacks:

- The Franklin County Board of Zoning Appeals may grant a variance to Section 650 provided the following conditions are satisfied.
 - 1) *In determining whether there is unnecessary hardship with respect to the use of a property or practical difficulty with respect to maintaining the riparian setback as established in this regulation, such as to justify the granting of a variance, the Board must consider the potential harm or reduction in riparian functions that may be caused by a proposed structure or use.*
 - » The proposed development will not inflict a negative impact on the riparian setback, nor will it reduce the setback area's effectiveness in supplying riparian functions. A net increase in impervious area of .12 percent is proposed. Pending the applicant properly mitigating the proposed disturbance, the proposal will not harm or reduce the riparian functions.
 - 2) *The Board may not authorize any structure in a Zoning District other than those authorized in the underlying Zoning District.*
 - » Above ground swimming pools are permitted in the Rural zoning district.
 - 3) *Variances are void if not implemented within one (1) year of the date of issuance.*
 - » A Certificate of Zoning Compliance may only be issued for an approved variance within the period of one (1) year from the date of final approval by the Board of Zoning Appeals. If a variance has not been used within one (1) year of its issuance, meaning there has not been active and substantial improvement to a property in accordance with a valid variance, then the variance shall expire and no work may commence without either renewing the variance or receiving a new variance approval from the Board of Zoning Appeals.

Section 650.20(b) – Variances Within Riparian Setbacks:

- In making a determination under Section 650.20(a), the Board must consider the following, in addition to the findings required in Section 810.041 of the Franklin County Zoning Resolution.
 - 1) *The native vegetation of the property.*

- » The proposal will require the removal of multiple apple trees that are non-fruit producing with dying branches.
- 2) *The extent to which the requested variance impairs the flood control, erosion control, water quality protection, or other functions of the riparian setback*
 - » Working with the Franklin Soil and Water Conservation District, the applicant must mitigate any impacts of the proposed development to maintain the integrity and functionality of the riparian setback.
- 3) *Soil-disturbing activities permitted in the riparian setback through variances must minimize clearing to the extent possible and must include the use of Best Management Practices (BMPs) necessary to minimize erosion and control sediment. Prior to any soil-disturbing activity, the applicant must consult with Franklin Soil and Water.*
 - » The applicant will be required to consult with the Franklin Soil & Water Conservation District to limit clearing and, minimize erosion and control sediment.
- 4) *The degree to which the presence of significant impervious cover, or smooth vegetation such as maintained lawns, in the riparian setback compromises its benefits to any waterway.*
 - » The applicant must mitigate the additional impervious area from the development.

Section 810.041 – Approval of Variance:

- 1) *That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same Zoning District.*
 - » The applicant indicated that neighboring properties have constructed similar pools.
 - » Staff notes that the entire area is located in the riparian setback, with no area on the property that can be developed with out variances.
- 2) *That a literal interpretation of the provisions of this Zoning Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Resolution.*
 - » The applicant indicates that a literal interpretation of the riparian setback standards would deprive the applicant of rights enjoyed by others in the area.
 - » Staff agrees that the applicant would be deprived of rights enjoyed by others in the area.
- 3) *That the special conditions and circumstances do not result from the action of the applicant.*
 - » Staff notes that the Big Darby Creek Watershed Riparian Setbacks were adopted in 2008, after the applicant purchased the property, with the entire property located in the riparian setback.
- 4) *That granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Resolution to other lands or structures in the same Zoning District.*
 - » Granting the riparian setback variance request will not confer privilege to the applicant as other properties, wholly contained in the riparian setback enjoy the use of personal pools.
- 5) *That granting the variance will not adversely affect the health or 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.*
 - » Pending review and approval of the applicant’s required mitigation, the proposed construction will not be detrimental to the surrounding area.

Recommendation

Staff recommends **approval with conditions** of a Variance from Section 650.162(a) of the Franklin County Zoning Resolution to allow the construction of an above ground pool in the Big Darby Creek Watershed Riparian Setback with the following conditions:

1. The applicant must apply for and receive approval of a Certificate of Zoning Compliance for the proposed above ground pool from the Franklin County Economic Development and Planning Department.
2. The applicant must submit information with the Certificate of Zoning Compliance application demonstrating mitigation in compliance with the Ohio EPA General Permit, the proposed method

of mitigation is to be reviewed and approved by the Franklin Soil and Water Conservation District and Franklin County Economic Development and Planning Department.

Resolution

For your convenience, the following is a proposed resolution for the Variance request from Section 650.162(a):

Proposed Resolution for Request from 650.162(a):

_____ moves to approve a Variance from Section 650.162(a) of the Franklin County Zoning Resolution as outlined in the request above for the applicant identified in Case No. VA-3858.

Seconded by: _____

Findings of Fact

For your convenience, the following are proposed findings of fact:

If the resolution fails for lack of support, the following are proposed findings of fact for adoption by the BZA:

_____ moves that the basis for denying the applicant's request for a Variance from Section 650.162(a) of the Franklin County Zoning Resolution as outlined in the request above for Case No. VA-3858 results from the applicant's failure to satisfy the criteria for granting a variance under Sections 650.20(a), 650.20(b) and 810.041.

Seconded by: _____

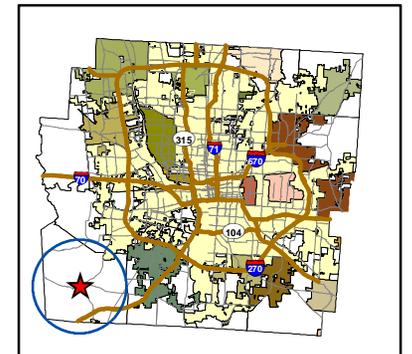


VA-3858

Requesting a Variance from section 650.162(a) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool that will be located in the Big Darby Creek Watershed Riparian Setback in an area zoned Rural.

0.11 Acres
Pleasant Township

-  5612 Cedar Drive
-  Parcels
-  Streets





VA-3858

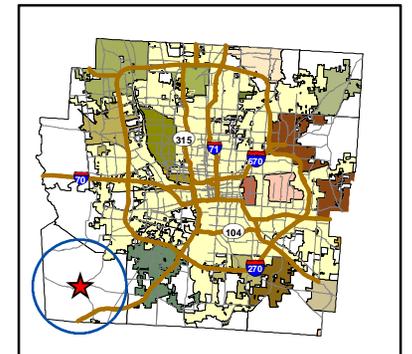
Requesting a Variance from section 650.162(a) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool that will be located in the Big Darby Creek Watershed Riparian Setback in an area zoned Rural.

0.11 Acres
Pleasant Township

 5612 Cedar Drive

 Parcels

 Streets





RECEIVED
JUN 16 2016
Franklin County Planning Department
Franklin County, Ohio

RECEIVED
JUL 06 2016
VA-3858
Franklin County Planning Department
Franklin County, OH

Garage
VA-116-2207
6/22/2016

CEDAR

Driveway

Driveway

Door

Seepage

Door

Above Ground Pool
18' x 7'
32'

From this site
Old Apple Trees will be Removed

Shed

36 feet

20 feet



0 10 20 40 Feet

1 inch = 20 feet

Plan B



Commissioner John O’Grady • Commissioner Paula Brooks • Commissioner Marilyn Brown
President

Economic Development & Planning Department
James Schimmer, Director

STAFF REPORT

Board of Zoning Appeals
August 15, 2016

Case VA-3859

Prepared by: Brad Fisher

Applicant/Owner:	Matt Barnhart
Agent:	Peter Albanese
Township:	Norwich Township
Site:	4850 Bellann Road (PID #201-000011)
Acreage:	0.61-acres
Zoning:	Limited Suburban Residential District (R-2)
Utilities:	Private water and wastewater
Request:	Requesting a Variance from sections 306.042 and 513.012(2(b)) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool that would not be located completely to the rear of the principal structure, and a deck and home addition that will exceed the allowable 20% lot coverage in an area zoned Limited Suburban Residential (R-2).

Summary

The applicant is requesting a variance to allow for the construction of an above ground swimming pool, deck and home addition that fail to meet the pool location and lot coverage in an area zoned Limited Suburban Residential (R-2). Staff recommends denial.

Description of the Request

The subject site is located south of Hayden Run Road, east of Dublin Road and west of the Scioto River. The site consists of an existing home that has a 4,376 square foot footprint, including an attached garage and a 600 square foot detached garage. The entire rear yard has a steep decline from the rear building line leading to the Scioto River. The applicant is proposing to construct a pool to the side of the home, and a deck and home addition to the side and rear of the home. The pool has been recommended for the applicant’s child, who has been diagnosed with autism spectrum disorder (ASD) by a medical professional.

Surrounding Area

The surrounding area, south of Hayden Run Road and east of Dublin Road, is zoned Limited Suburban Residential (R-2), and is Medium Density Residential in character.

Comprehensive Plan

No area plan exists at this time.

Staff Review

Variance from Section 306.042 – Development Standards for Limited Suburban Residential (R-2):

- Only one (1) principal use shall be permitted on a lot, and such lot shall not be covered more than twenty percent (20%) by structure.
 - The property with all of the proposed improvements will be at 27.9% lot coverage.
 - The proposed deck and pool would be approximately 2,250 square feet in size, covering an existing concrete patio that is 526 square feet in size and then an additional 1,724 square foot footprint on the property.

Variance from Section 513.012(2(b)) – Below ground swimming pool location:

- The swimming pool shall be located completely to the rear of the principal structure.
 - The pool located in a side yard, not completely to the rear of the principal structure.
 - The pool would be approximately 18 feet forward of the rear yard of the principal structure.

Technical Review Committee Agency Review

Expressed no concerns.

Staff Analysis– Section 810.41:

The Franklin County Zoning Resolution identifies five criteria in Section 810.041 that must be satisfied to approve a variance request:

- 1) *Special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district;*
 - » The applicant indicated that the elevation of the property is especially challenging due to the fact that it slopes very steeply toward the river. The applicant also explained that the location of the proposed pool requires the farthest distance possible from the river for their child's safety.
 - » Staff agrees that safety should be a factor when designing the pools location; however, staff notes that the neighboring properties to the north and south were able to meet swimming pool location requirements. Staff has visited the subject site and found the neighboring properties land formation to be comparable in reference to steep slope leading from the rear of the home toward the Scioto River.
 - » Staff notes that there is no special circumstance or condition identified by the applicant that limits their ability to meet the maximum lot coverage permitted.
- 2) *A literal interpretation of the provisions of this Zoning Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Resolution;*
 - » The applicant indicated that a literal interpretation would deprive them of the commonly shared right to locate a pool forward of the rear yard because of restrictive building conditions not shared by neighboring properties, along with a 40 feet setback restriction from the river.
 - » Staff has confirmed the property has restrictive building conditions; however, neighboring properties share the restrictive building conditions and building setback requirements from the river and have met swimming pool location standards.
- 3) *The special conditions and circumstances do not result from the action of the applicant;*
 - » The applicant indicated that the special conditions of having a home built on such a steep incline are being mitigated on their part by taking actions to build a safe and aesthetically pleasing outdoor living area with reinforced walls to support the structure.
 - » Staff notes that the property's configuration does not result from the applicant's actions.

- 4) *Granting the variance requested will not confer on the applicant any special privilege that is denied by this Zoning Resolution to other lands or structures in the same Zoning District;*
- » The applicant indicated that adjacent property owners are in support of the variance and believe the variance would not result in special privilege denied to others.
 - » No letters of support from neighboring properties have been received by staff.
- 5) *Granting the variance will not adversely affect the health or 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 applicant indicated that their son is autistic and has special needs. Hydrotherapy has been recommended by his Applied Behavioral Analysis (ABA) staff. The family pediatrician is also in support of having a pool for daily use to improve his gross motor skills and delopement behaviors.
 - » Staff believes that granting the variance will not adversely affect the health or safety of persons residing in the vicinity of the proposed development.

Recommendation

Staff recommendation is that the BZA deny a Variance from Sections 306.042 and 513.012(2(b)) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool, deck and room addition that would not be located completely to the rear of the primary structure and will exceed the allowable 20% lot coverage in an area zoned Limited Suburban Residential (R-2)

Resolution

For your convenience, the following is a proposed resolution:

(a) **Proposed Resolution for Request:**

_____ moves to approve a Variance from Sections 306.042 and 513.012(2(b)) of the Franklin County Zoning Resolution as outlined in the request above for the applicant identified in Case No. VA-3859.

Seconded by: _____

Voting:

Findings of Fact

For your convenience, the following are proposed findings of fact:

If the resolution fails for lack of support, the following are proposed findings of fact for adoption by the BZA:

_____ moves that the basis for denying the applicant’s request for the Variance from Sections 306.042 and 513.012(2(b)) of the Franklin County Zoning Resolution as outlined in the request above for the applicant identified in Case No. VA-3859 results from applicant’s failure to satisfy the criteria for granting a variance under Section 810.041.

Seconded by: _____

Voting:

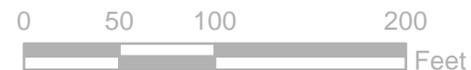
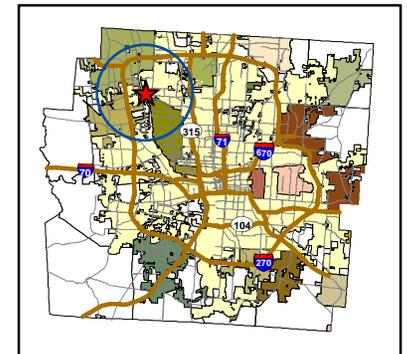


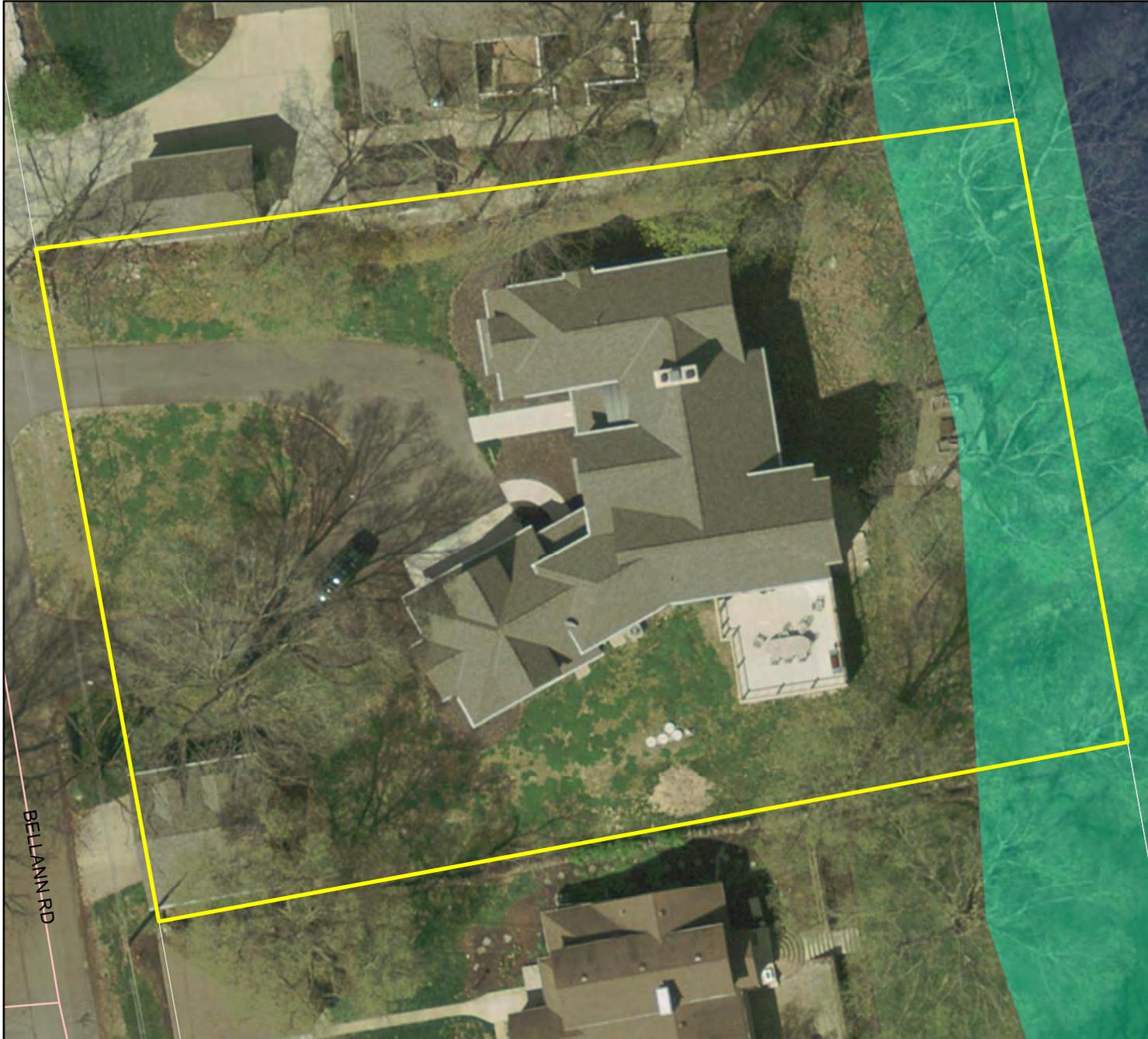
VA-3859

Requesting a Variance from sections 306.042 and 513.012(2(b)) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool and deck that will not be located completely to the rear of the primary structure and will exceed the allowable 20% lot coverage in an area zoned Limited Suburban Residential (R-2).

0.61 Acres
Norwich Township

-  4850 Bellann Road
-  Parcels
-  Streets
-  Floodway Fringe
-  Floodway



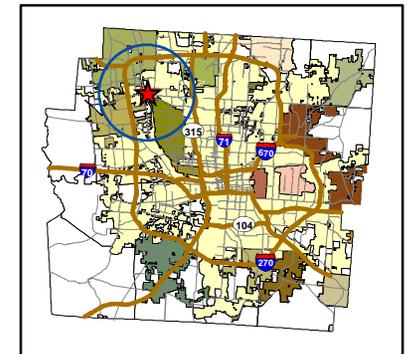


VA-3859

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0.61 Acres
Norwich Township

-  4850 Bellann Road
-  Parcels
-  Streets
-  Floodway Fringe
-  Floodway



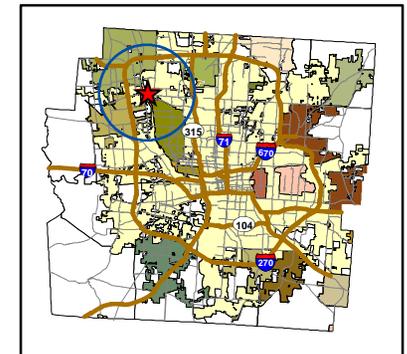


VA-3859

Requesting a Variance from sections 306.042 and 513.012(2(b)) of the Franklin County Zoning Resolution to allow the construction of an above ground swimming pool and deck that will not be located completely to the rear of the primary structure and will exceed the allowable 20% lot coverage in an area zoned Limited Suburban Residential (R-2).

0.61 Acres
Norwich Township

- 4850 Bellann Road
 - Parcels
 - Streets
 - Floodway Fringe
 - Floodway
- Zoning**
- Limited Suburban Residential





LANDMARK SURVEY GROUP, INCORPORATED

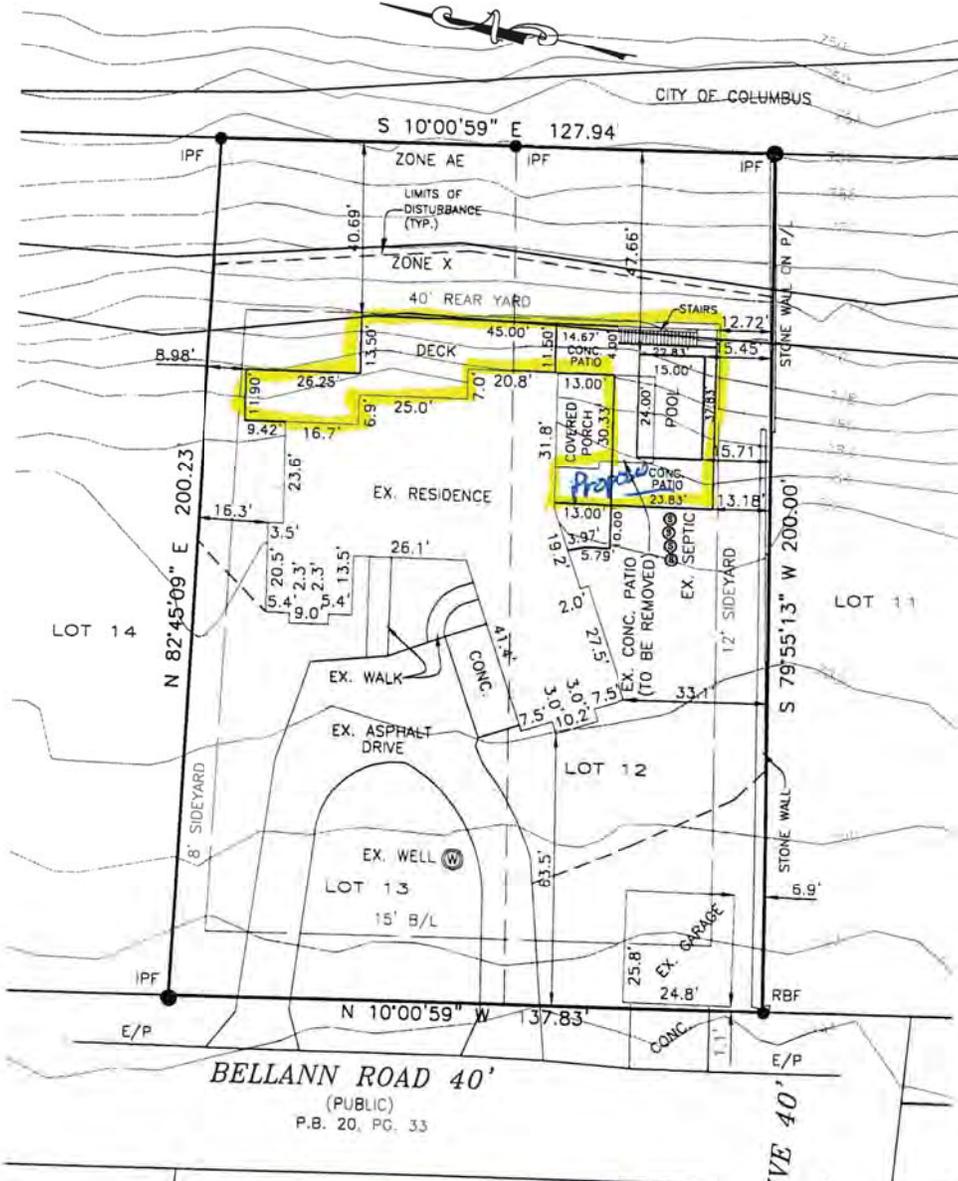
2099 WEST FIFTH AVENUE, COLUMBUS, OHIO 43212
PHONE: (614) 485-9000 FAX: (614) 485-9003

REVISIONS	DESCRIPTION
7/8/16	REVISE PER COMMENTS

ORDER NO. 185255

DATE: 7/1/16

FOR PETE ALBANESE HOUSE STYLE CUSTOM COUNTY OF FRANKLN
 LOT/SUBDIVISION LOT 12 AND 13 HAYDEN FALLS HEIGHTS CITY/TWP OF NORWICH
 ADDRESS 4850 BELLANN ROAD SCALE 1" = 30' DRAWN BY: DJH
 BK: 15 PG: 26



BASIS OF BEARINGS:
 THE BEARINGS SHOWN HEREON ARE BASED ON THE OHIO STATE PLANE COORDINATE SYSTEM, SOUTH ZONE, NAD 83 DATUM (2011), TAKEN FROM GPS OBSERVATION.

LEGEND
 ● RBF 5/8" REBAR FOUND
 ● IPF 3/4" IRON PIN FOUND

LOT AREA=26577 S.F.
 EXISTING HARDSCAPE AREA= 6378 S.F.
 PROPOSED HARDSCAPE AREA= 2670 S.F.
 REMAINDER= 17529 S.F.
 PERCENT COVERAGE= 34%

BUILDER TO INSTALL AND MAINTAIN EROSION CONTROL THROUGHOUT ALL PHASES OF CONSTRUCTION. FIELD MODIFICATIONS MAY BE NECESSARY.

FLOOD NOTE:
 ACCORDING TO FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAPS NUMBER 39049C0153K, WITH AN EFFECTIVE DATE OF JUNE, 17 2008, THE SUBJECT TRACT IS LOCATED IN ZONE X (AREAS DETERMINED TO BE OUTSIDE OF THE 0.2% ANNUAL CHANCE FLOODPLAIN), ZONE 'X', AREAS OF 0.2% ANNUAL CHANCE FLOOD, AND ZONE AE, BASE ELEVATION 771 FEET.



VA-3859



WE HEREBY CERTIFY THAT THE FOREGOING PLOT PLAN WAS PREPARED FROM INFORMATION PROVIDED BY THE CLIENT AND DATA OBTAINED FROM ENGINEERED SUBDIVISION PLANS. THIS PLOT PLAN IS TO BE USED BY THE CLIENT FOR THE SOLE PURPOSE OF OBTAINING A BUILDING PERMIT. THE USE OF THE PLOT PLAN FOR ANY OTHER USE IS STRICTLY PROHIBITED.

Scott D. Grunde 7/8/16
 SCOTT D. GRUNDE, P.S.
 REGISTERED SURVEYOR NO. 8047 DATE

NOTE:
CONTRACTORS TO VERIFY ALL DIMENSIONS, ELEVATIONS, AND
EXISTING CONDITIONS PRIOR TO INITIATING CONSTRUCTION
AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES

RECEIVED

JUL 12 2016

Franklin County Planning Department
Franklin County, OH

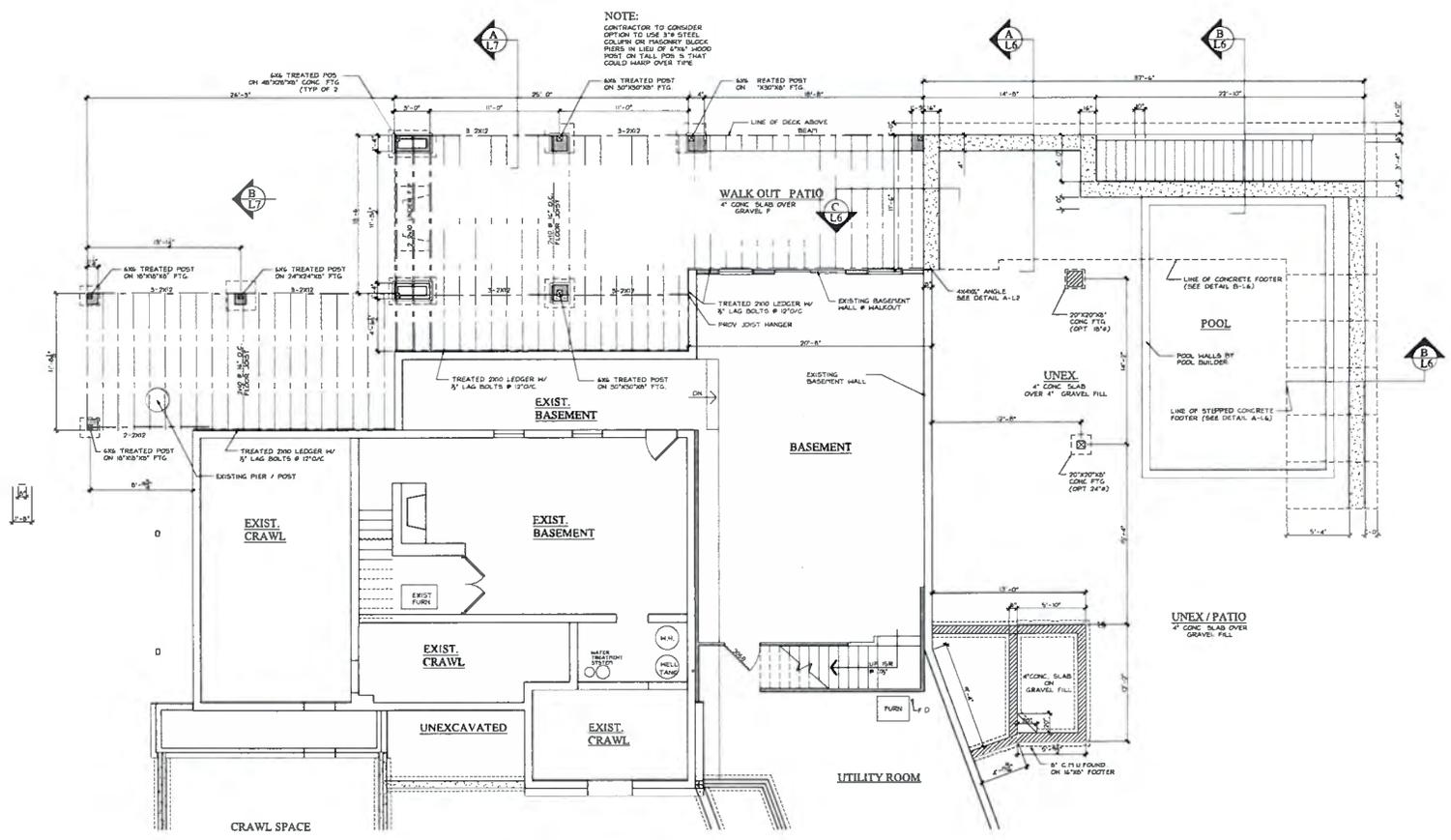
VIA-3859

NEW 12" POURED CONC. WALL

4X4X1/2" ANGLE ATTACHED VERTICALLY TO
EXISTING FOUNDATION WALL W/ 3/4" Ø
EXPANSION BOLTS @ 24" O/C. PROVIDE
1/2" Ø HEADED STUDS @ 24" O/C ON ANGLE
TO BE EMBEDDED IN NEW CONC. WALL

EXISTING BASEMENT 2X6 STUD WALL
EXISTING BASEMENT POURED WALL

(A) FOUNDATION CONNECTION DETAIL
1/2"=1'-0"



FOUNDATION PLAN
1/4"=1'-0"

DATE ISSUED: 11/09/06
REVISIONS:

1. CONTRACTOR TO VERIFY ALL DIMENSIONS, ELEVATIONS, AND EXISTING CONDITIONS PRIOR TO INITIATING CONSTRUCTION AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES

DESIGN DIRECTIVE
RESIDENTIAL DESIGN

**THE BARNHART RESIDENCE
LANDSCAPE PROJECT
4850 BELLAN ROAD
COLUMBUS, OHIO 43221**

DESIGN DIRECTIVE
RESIDENTIAL DESIGN

4800 REED RD
SUITE 102
COLUMBUS, OHIO
43221-1880
(614) 755-1027
design@ddi.com

PREPARED BY: [Signature]
DATE: [Date]

FOUNDATION PLAN
SHEET
1-2

NOTE
 CONTRACTORS TO VERIFY ALL DIMENSIONS, ELEVATIONS, AND
 EXISTING CONDITIONS PRIOR TO INITIATING CONSTRUCTION
 AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES.

DATE: 08/20/2024
 REVISIONS:
 NO. DESCRIPTION
 1.0 CONTRACTOR TO VERIFY ALL DIMENSIONS, ELEVATIONS, AND EXISTING CONDITIONS PRIOR TO INITIATING CONSTRUCTION AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES.
 DESIGN DIRECTIVE RESIDENTIAL DESIGN



THE BARNHART RESIDENCE
 LANDSCAPE PROJECT
 4850 BELLANN ROAD
 COLUMBUS, OHIO 43221

DESIGN DIRECTIVE
 RESIDENTIAL DESIGN
 4800 REED RD
 SUITE 202
 COLUMBUS, OHIO
 43212-1880
 (614) 726-1927
 design@ddrcl.com

PRELIMINARY
 BUILDING
 CONSTRUCTION

ELEVATIONS
 SHEET
 L-4



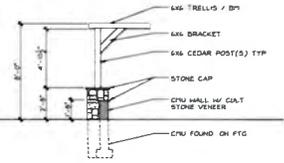
RIGHT ELEVATION

1/4"=1'-0"



FRONT ELEVATION

1/4"=1'-0"



TYP. POST DETAIL

1/4"=1'-0"

NOTE
 CONTRACTORS TO VERIFY ALL DIMENSIONS, ELEVATIONS AND
 EXISTING CONDITIONS PRIOR TO STARTING CONSTRUCTION
 AND NOTIFY THE ARCHITECT OF ANY DISCREPANCIES

DATE: 08/20/2014
 REVISIONS:

1. CONTRACTOR TO
 VERIFY ALL DIMENSIONS, ELEVATIONS AND
 EXISTING CONDITIONS PRIOR TO STARTING
 CONSTRUCTION AND NOTIFY THE ARCHITECT
 OF ANY DISCREPANCIES

DESIGN DIRECTIVE
 RESIDENTIAL DESIGN

THE BARNHART RESIDENCE
 LANDSCAPE PROJECT
 4850 BELLANN ROAD
 COLUMBUS, OHIO 43221

DESIGN DIRECTIVE
 RESIDENTIAL DESIGN
 4850 REED RD
 SUITE 322
 COLUMBUS, OHIO
 43221-1860
 (614) 752-1027
 design@directivedesign.com

PREPARED BY
 DRAWING
 CONSTRUCTION

ELEVATIONS
 SHEET
 L-5



LEFT ELEVATION
 1/4"=1'-0"



REAR ELEVATION
 1/4"=1'-0"

RECEIVED

JUL 12 2016

Franklin County Planning Department
Franklin County, OH



Pathfinder

A lifetime of meaningful progress.

VIA-3859

July 11, 2016

To whom it may concern,

I'm writing this letter in support of the plan submitted for the Barnhart's backyard.

Their 4-year old son, Bobby, is diagnosed with autism spectrum disorder (ASD). I am the behavior analyst overseeing Bobby's intensive intervention. The most serious problem behavior that we are addressing with Bobby is elopement or wandering, specifically towards the river in the backyard. Our data indicates that Bobby will leave a safe area and go towards the water within 1 minute and 30 seconds of reduced adult attention. That means that unless an adult is actively engaging with Bobby, not just monitoring him from close-by, he will attempt to run away and get in the river. It is very difficult to provide Bobby with the level of attention required to keep him safe.

Bobby's parents are working with me and my team to teach Bobby alternative behaviors and to use his language to request access to the river. I'm confident our interventions will decrease the frequency of Bobby's attempts to access the river, but it will take a very long time and lots of practice. Bobby's parents have also installed extra locks on all doors leading outside and they have an alarm system that chimes whenever an exterior door is opened. They have also sent Bobby to several swim instructors to ensure that he has the necessary skills to survive in the water should he make it there without an adult. Swim lessons have been difficult due to Bobby's other problem behaviors such as aggression and non-compliance. Some teachers have said that they cannot teach him. Additionally, Bobby has a service dog to help keep him away from the water. This family is doing everything in their power to ensure that their child has a safe environment, but nothing is foolproof.

I feel that their plans for the backyard would provide an extra barrier from the house to the river that could buy someone enough time to stop Bobby should he make it outside alone. The pool they are proposing will also provide a controlled way to access water. It will also allow my intervention team the opportunity to work on the swim skills that Bobby needs to be safe in the water.

Please contact me with any questions you may.

Sincerely,

DocuSigned by:

815EB5CCBEAE4EC...

Elizabeth Henry, MS, BCBA, COBA

Director, Behavior Analytic Services

Pathfinder Progress, LLC

ehenry@pathfinderprogress.com

614-615-5145



Commissioner John O’Grady • Commissioner Paula Brooks • Commissioner Marilyn Brown
President

Economic Development & Planning Department
James Schimmer, Director

STAFF REPORT

Board of Zoning Appeals
August 15, 2016

Case VA-3860

Prepared by: Brad Fisher

Applicant/Agent:	Kristin E. Rosan
Owner:	Charles O. Pullins
Township:	Mifflin Township
Site:	3063 & 3065 Morse Rd. (PID # 190-004181, 190-003741, 190-005136, 190-001158)
Acreage:	1.14 acres
Zoning:	Community Service (CS) District
Utilities:	Public water and wastewater
Request:	Requesting a Variance from Sections 502.022, 670.083(a),670.083(e), 670.083(f), 670.083(g), 670.083(h(5)), 670.085(b), 670.086(c(6)), 670.088(g(3(b))), 670.0812(a), 670.0812(c) and 670.0816(b) of the Franklin County Zoning Resolution to allow the development of a commercial site that will fail to meet the following requirements: yards space, building design standards, sign setback, landscaping and screening, vehicle parking and circulation, and pedestrian circulation system on a lot subject to the Smart Growth Overlay in an area zoned Community Service(CS).

Summary

The applicant is requesting variances to allow for the construction of a gas station that will fail to meet the minimum yard space, front building setbacks, building orientation, minimum building width, primary building entrance locations, canopy attachment to principal building, screened roof mounted equipment, sign setback, minimum trees in landscaped islands, parking location, number of parking spaces and sidewalk location on a lot that fails to meet the requirements subject to the Smart Growth Overlay. Staff recommends **approval with conditions** of the request from Sections 502.022, 670.083(a), 670.083(e), 670.083(f), 670.083(g), 670.083(h(5)), 670.085(b), 670.086(c(6)), 670.0812(a), 670.0812(c) and 670.0816(b) and **denial** of the requests from Section 670.088(g(3(b))). The reason for denial is that the applicant has failed to satisfy the criteria for granting a variance under Section 810.041 of the Franklin County Zoning Resolution and the request is inconsistent with recommendations from the Clinton-Mifflin Land Use Plan.

Description of the Request

The subject site is located at the southwest corner of the Morse Road and Westerville Road intersection, just northwest of Easton Town Center and east of Interstate 71. The subject site consists of property within four (4) separate tax parcels and is currently occupied by one (1) commercial building operated as

a used automotive retailer. The applicant is proposing to demolish the existing building and adjust the lot lines of the subject parcels to create a 1.14-acre site for purposes of developing a Circle K gas station and convenient store. The site is proposed to include a 4,036 +/- square foot convenience store and 3,252 square foot fueling canopy with 20 fueling stations.

Surrounding Area

Direction	Zoning	Land Use
North	Community Services (CS) & Community Commercial (CC) – (Blendon Twp)	Gas Station & School
South	Commercial – (City of Columbus)	Automotive Sales
East	Commercial – (City of Columbus)	Automotive Sales
West	Commercial – (City of Columbus)	Retail

Comprehensive Plan

The Clinton-Mifflin Township Land Use Plan, adopted in 2009, includes a Future Land Use Map and Focus Areas to help guide development. The Future Land Use Map recommends the area for Commercial Use, allowing for a full range of retail and office uses, plus multi-family housing and townhomes. The corresponding zoning districts include: Community Service (CS), Community Commercial (CC), Neighborhood Commercial (NC), Suburban Office (SO) and Multi-family Apartment (R-24).

The Plan recommended the adoption of land use and development regulations and the implementation of commercial overlays along Westerville Road. These regulations intend to set common boundaries for the use and appearance of future development with a goal toward achieving community-wide, economic success. Applying these commercial overlays require the placement of buildings closer to the street, locating parking to the sides and rear of buildings and provide landscaping.

The proposed development is consistent with the Future Land Use map recommendations; however, it does not meet the Mifflin Township recommendations for commercial site design.

Staff Review

Variance from Section 502.022 – Yards not otherwise provided:

- Yard space not otherwise required but provided must be five (5) feet or more from the property line.
 - The paved area to the southeast touches the property line.
 - The applicant’s intent is to allow access from the southeastern corner of the parcel, to an existing drive along Westerville Road that is in an ingress/egress easement
 - A variance is needed to allow for a zero (0) foot setback

Variance from Section 670.083(a) – Front setback along a primary street:

- The front building line setback for a building or structure shall be 25 +/- 2 feet.
 - The proposed setback of the convenience store (primary building) is 80 +/- feet from the edge of the public right-of-way along Westerville Road.
 - A variance of 55 +/- feet is required
 - The proposed setback of the convenience store (primary building) is 140 +/- feet from the edge of the public right-of-way along Morse Road.
 - A variance of 115 +/- feet is required

Variance from Section 670.083(e) – Building orientation:

- A principal building shall be oriented to address and be within 15 degrees of parallel to a primary street.

- The proposed building will be 24 degrees of parallel to Westerville Road; however, the building is parallel to Morse Road.
 - A variance is needed of 9 degrees of parallel to Westerville Road

Variance from Section 670.083(f) – Building width:

- The width of a principal building along a primary building frontage shall be a minimum of 60 percent of the lot width;
 - The building width is approximately 24 percent of the lot width along Westerville Road.
 - A variance is needed of 36 percent of the lot width
 - The building width is approximately 29.5 percent of the lot width along Morse Road.
 - A variance is needed of 30.5 percent of the lot width

Variance from Section 670.083(g) – Building entrance:

- A primary building frontage shall incorporate a primary entrance door.
 - A primary entrance door is not present along the building wall facing Westerville Road.
 - The applicant has requested the variance with regards to the safety and functionality of the business, providing a site design that would be in line with the surrounding gas station/convenience store locations that provide the above qualities to their employees and patrons

Variance from Section 670.083(h(5)) – Canopy:

- Any pickup unit or canopy shall be attached to the principal building and be located behind or to the side of the building.
 - The gasoline pump canopy will not be attached and will be located in front of the principal building.
 - The applicant has requested this variance to maintain a traditional site layout, promote safe vehicle and pedestrian accessibility and to remain competitive with similar uses in the area

Variance from Section 670.085(b) – Screening of Mechanical Equipment:

- All roof-mounted mechanical equipment shall be screened from public view to the height of the equipment.
 - The proposed building is 22.17 feet in height, while the roof-mounted equipment is 23.8 feet in height.
 - The applicant has completed a site-line study illustrating that the roof mounted equipment will not be visible within 100 feet of the northern and eastern elevations

Variance from Section 670.086(c(6)) – Ground sign location:

- The setback for a ground sign shall be a minimum of 15 feet from all property lines.
 - The proposed 84 square foot ground sign to the east of the Morse Road entrance is located 5 feet from the property line.
 - The applicant stated that this is the only location for signage due to the intersection and proposed drive aisle along Morse Road

Variance from Section 670.088(g(3(b))) – Landscape island trees:

- No less than 1 shade tree of 2 inches or more in caliper shall be provided in each landscaped island or peninsula.
 - No trees are proposed in the two (2) landscape islands.
 - Staff is recommending *denial* of this request due to the site plan indicating there is room for the proposed four (4) plant types, totaling 32 plantings, none of which include the required shade trees in the proposed landscaped island

Variance from Section 670.0812(a) – Parking setback:

- No parking lot, stacking space, loading space or circulation aisle is permitted between the principal building and a street centerline.
 - The applicant is proposing 20 parking spaces.
 - The applicant is also proposing to locate the gasoline fueling stations, which count as parking spaces and circulation aisles between the convenience store (principal building) and the primary streets.

Variance from Section 670.0812(c) – Number of parking spaces:

- A maximum of one (1) space for each two hundred fifty (250) square feet of gross floor area and a minimum equaling 65 percent of the maximum.
 - The proposed convenience store is 4,036 +/- square feet requiring a maximum of 17 and a minimum of 12 parking spaces. The applicant has proposed 20 spaces.
 - A variance is needed to allow an additional three (3) parking spaces

Variance from Section 670.0816(b) – Sidewalk circulation system:

- A pedestrian circulation system shall be created so that a pedestrian using a sidewalk along a public street can access adjacent buildings on paths delineated with markings, crosswalks, and/or other different materials, directing foot traffic and separating it from primary access drives.
 - The applicant has proposed a sidewalk and crosswalk that will be striped, traveling through the parking area/access drive.

Franklin County Technical Review Committee

The Franklin County Engineer's office

The site will continue to access Morse Road by way of one (1) existing entrance/exit. The Franklin County Engineer's Office, who maintains this section of Morse Road expressed no concerns with the variance request.

Franklin County Drainage Engineer

The applicant has submitted stormwater drainage plans. The Franklin County Drainage Engineer's Office expressed no concerns with the variance request.

Office and Franklin Soil and Water Conservation District

Expressed no concerns with the variance request.

Staff Analysis - Section 810.041:

Request from Sections 502.022, 670.083(a), 670.083(e), 670.083(f), 670.083(g), 670.083(h(5)), 670.085(b), 670.086(c(6)), 670.0812(a), 670.0812(c), 670.0816(b) and 670.088(g(3(b))) to allow the construction of a gas station and convenience store that will fail to meet the yard space, front setback, building orientation, building width, building entrance location, attached canopy, the screening of mechanical equipment, sign location, parking setback, the number of parking spaces, sidewalk circulation and landscaping requirements.

- 1) *That special conditions and circumstances exist which are peculiar to the structure/property involved which are not applicable to other structures/property in the same zoning district;*
 - » The use being heavily auto oriented makes developing a functional and sustainable site in accordance with the overlay standards extremely difficult. The location and design of the convenience store, fueling canopies and parking areas is necessary to promote safe vehicle and pedestrian circulation and to ensure that the business is able to operate competitively with other stations not required to develop to these standards.

- 2) *That a literal interpretation of the provisions of this Zoning Resolution would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Zoning Resolution;*
 - » The applicant indicated that a literal interpretation of the Zoning Resolution would prevent the development from maximizing its visibility, negatively impacting its opportunity to be prosperous.
 - » Staff notes that developing the property in compliance with the Smart Growth Overlay would be difficult using existing access drives and maintain a safe and functional vehicle and pedestrian circulation through the site.
- 3) *That the special circumstances and conditions of this request do not result from the action of the applicant;*
 - » The applicant indicated that special circumstances and conditions of this request have not been a result of their own, but are due to the configuration of the site.
 - » Staff notes that the special circumstances are a result of the use itself.
- 4) *That granting the variance requested will not confer on the applicant special privileges that are denied by this Zoning Resolution to other lands or structures in the same Zoning District;*
 - » The applicant indicated the corridor and surrounding areas have competing fuel establishments which are not designed to the same zoning standards Circle K will be held to, thus giving Circle K a competitive disadvantage.
 - » Staff notes that granting the variance requests will confer on the applicant the same privileges that have been allowed by similar uses in the Smart Growth Overlay.
- 5) *That granting the variance will not adversely affect the health or safety of persons residing or working in the vicinity of the proposed development, be materially detrimental to the public welfare, or be injurious to private property in the vicinity;*
 - » The applicant indicated that no adverse health and safety impacts are associated with these variances.
 - » Staff notes the proposal does add pedestrian infrastructure to the site and redevelops a site previously vacant and unable to service the community.

Recommendation

Staff recommendation is that the BZA **approve** a Variance from Sections 502.022, 670.083(a), 670.083(e), 670.083(f), 670.083(g), 670.083(h(5)), 670.085(b), 670.086(c(6)), 670.0812(a), 670.0812(c) and 670.0816(b) of the Franklin County Zoning Resolution to allow the construction of a gas station and convenience store that will fail to meet the yard space, front setback, building orientation, building width, building entrance location, attached canopy, the screening of mechanical equipment, sign location, parking setback, the number of parking spaces and sidewalk circulation requirements with the following conditions:

1. The applicant must apply for and receive a Certificate of Zoning Compliance from the Franklin County Economic Development and Planning Department.
2. The applicant shall provide proof of a valid, executed cross access easement prior to the issuance of a Certificate of Zoning Compliance.
3. The applicant shall resolve all outstanding maneuverability and access concerns with the Franklin County Engineer's Office and the City of Columbus. Any changes or modifications to the site must be detailed on the approved site plan prior to the issuance of a Certificate of Zoning Compliance.
4. The applicant shall demonstrate compliance with all standards by receiving approval from the Franklin County Engineer's Office and City of Columbus prior to conducting any work within the public right-of-way.
5. The applicant shall obtain all required permits from the Mifflin Township Building and Fire Departments and the State of Ohio before beginning any earth disturbing activities and secure all required inspections prior to occupying the building.

Staff recommendation is that the BZA **deny** a Variance from Sections 670.088(g(3(b))) to allow the development of a gas station and convenience store that will fail to meet the number of landscape island shade trees requirements. The reasons for denial are:

1. The request fails to meet the criteria for granting a variance under Section 810.041.

Resolution

For your convenience, the following is a proposed resolution for staff's recommendation of **approval**:

(a) **Proposed Resolution for Request:**

_____ moves to approve a Variance from Sections 502.022, 670.083(a), 670.083(e), 670.083(f), 670.083(g), 670.083(h(5)), 670.085(b), 670.086(c(6)), 670.0812(a), 670.0812(c) and 670.0816(b) of the Franklin County Zoning Resolution as outlined in the request above for the applicant identified in Case No. VA-3860 with the conditions in staff's recommendation.

Seconded by: _____

Voting:

Findings of Fact

For your convenience, the following are proposed findings of fact:

If the resolution fails for lack of support, the following are proposed findings of fact for adoption by the BZA:

_____ moves that the basis for denying the applicant's request for the Variance from Sections 502.022, 670.083(a), 670.083(e), 670.083(f), 670.083(g), 670.083(h(5)), 670.085(b), 670.086(c(6)), 670.0812(a), 670.0812(c) and 670.0816(b) as outlined in the request above for Case No. VA-3860 results from applicant's failure to satisfy the criteria for granting a variance under Section 810.041.

Seconded by: _____

Voting:

For your convenience, the following is a proposed resolution for staff's recommendation of **denial**:

(a) **Proposed Resolution for Request:**

_____ moves to approve a Variance from Sections 670.088(g(3(b))) of the Franklin County Zoning Resolution as outlined in the request above for the applicant identified in Case No. VA-3860.

Seconded by: _____

Voting:

Findings of Fact

For your convenience, the following are proposed findings of fact:

If the resolution fails for lack of support, the following are proposed findings of fact for adoption by the BZA:

_____ moves that the basis for denying the applicant's request for the Variance from Sections 670.088(g(3(b))) as outlined in the request above for Case No. VA-3860 results from applicant's failure to satisfy the criteria for granting a variance under Section 810.041 and the request is inconsistent with the recommendations of the Westland Area Interim Development Framework.

Seconded by: _____

Voting:

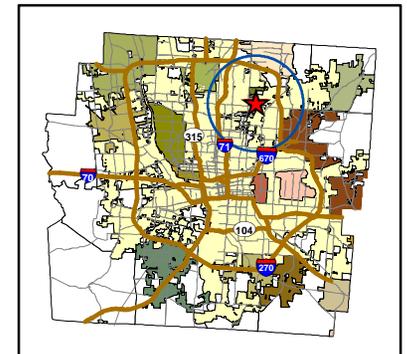


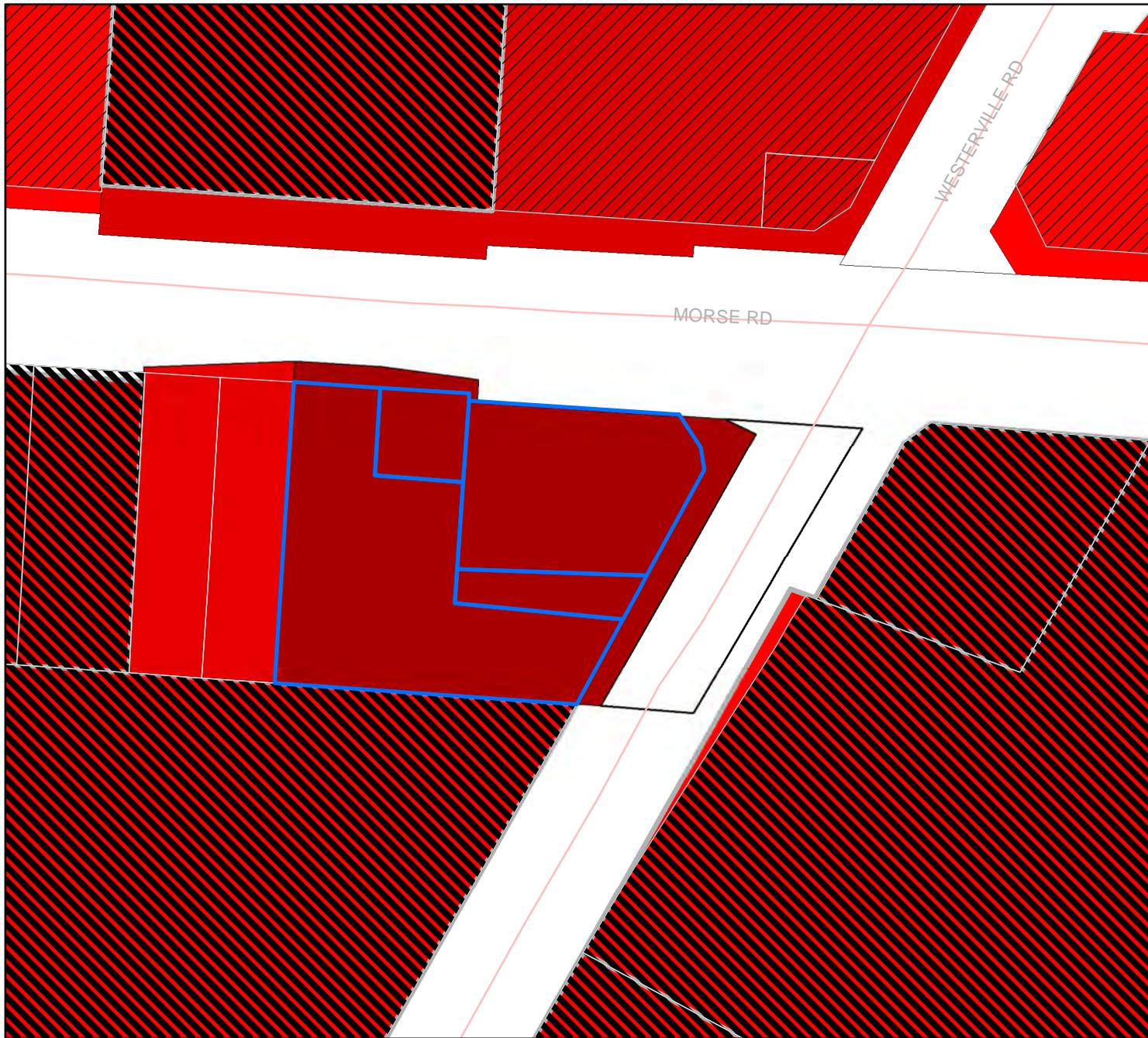
VA-3860

Requesting a Variance from Sections 502.022, 670.083(a), 670.083(e), 670.083(f), 670.083(g), 670.083(h)(5), 670.085(b), 670.086(c)(6), 670.088(g(3(b))), 670.0812(a), 670.0812(c) and 670.0816(b) of the Franklin County Zoning Resolution to allow the development of a commercial site that will fail to meet the following requirements: yards space, building design standards, sign setback, landscaping and screening, vehicle parking and circulation, and pedestrian circulation system on a lot subject to the Smart Growth Overlay in an area zoned Community Service(CS).

1.14 Acres
Mifflin Township

- 3063 & 3065 Morse Road
- Parcels
- Streets





VA-3860

Requesting a Variance from Sections 502.022, 670.083(a), 670.083(e), 670.083(f), 670.083(g), 670.083(h(5)), 670.085(b), 670.086(c(6)), 670.088(g(3(b))), 670.0812(a), 670.0812(c) and 670.0816(b) of the Franklin County Zoning Resolution to allow the development of a commercial site that will fail to meet the following requirements: yards space, building design standards, sign setback, landscaping and screening, vehicle parking and circulation, and pedestrian circulation system on a lot subject to the Smart Growth Overlay in an area zoned Community Service(CS).

1.14 Acres
Mifflin Township

3063 & 3065 Morse Road

Parcels

Streets

Columbus

Blendon Township

Zoning

Community Commercial

Community Service

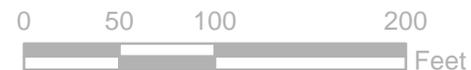
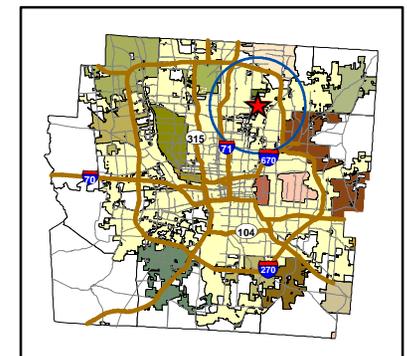
Columbus Zoning

Commercial

Blendon Zoning

Community Commercial

Community Service



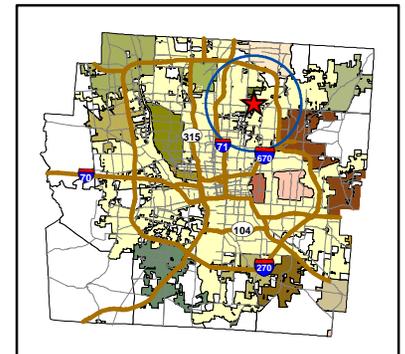


VA-3860

Requesting a Variance from Sections 502.022, 670.083(a), 670.083(e), 670.083(f), 670.083(g), 670.083(h)(5), 670.085(b), 670.086(c)(6), 670.088(g(3(b))), 670.0812(a), 670.0812(c) and 670.0816(b) of the Franklin County Zoning Resolution to allow the development of a commercial site that will fail to meet the following requirements: yards space, building design standards, sign setback, landscaping and screening, vehicle parking and circulation, and pedestrian circulation system on a lot subject to the Smart Growth Overlay in an area zoned Community Service(CS).

1.14 Acres
Mifflin Township

- 3063 & 3065 Morse Road
- Parcels
- Streets



PLANTING NOTES

- CONSULT PLANT LIST FOR PLANT SIZES AND SPECIFICATIONS.
- CONTRACTOR IS RESPONSIBLE FOR LOCATING AND PROTECTING ALL UTILITIES PRIOR TO INSTALLATION. NOTIFY OWNER IF FIELD CONDITIONS WARRANT ADJUSTMENT OF PLANT LOCATIONS.
- CONTRACTOR IS RESPONSIBLE FOR ALL PLANTS DRIVEN ON PLANS. PLANT LIST QUANTITIES ARE FOR CONVENIENCE ONLY.
- ALL SHRUB AND GROUND COVER BEDS (EXISTING AND NEW) TO BE MULCHED WITH A MINIMUM OF 2 INCHES OF DOUBLE SHREDDED HARDWOOD MULCH. ALL MULCH AREAS TO HAVE A WEED BARRIER INSTALLED.
- CONTRACTOR TO PROVIDE A FULL 1 YEAR GUARANTEE ON ALL PLANTS. INSTALLED AND PROMISE COMPLETE MAINTENANCE ON ALL WORK DONE. BEGINNING ON THE DAY OF APPROVAL FROM OWNER'S REPRESENTATIVE AND CONTINUING FOR A THREE MONTH PERIOD AT WHICH THE OWNER'S REPRESENTATIVE WILL DECLARE JOB ACCEPTANCE.
- EACH PLANTING TO BE FREE FROM DISEASE, INSECT INFESTATION AND MECHANICAL INJURIES AND, IN ALL RESPECTS, BE READY FOR FIELD PLANTING.
- ALL PLANTS TO CONFORM TO THE AMERICAN STANDARD FOR NURSERYMEN STOCK (ANSI-1988) IN REGARDS TO SIZING, GROWING AND B&B SPECIFICATIONS.
- PLANTING HOLES TO BE DUG A MINIMUM OF TWICE THE WIDTH AND 8-12 INCHES DEEPER THAN THE SIZE OF THE ROOT BALL OF BOTH SHRUB AND TREE AND TO BE AMENDED WITH ORGANIC SOIL CONDITIONER, I.E. NATURE'S HELPER OR PRO MIX.
- MIN. 6" CLEAN TOPSOIL TO BE PLACED ON ALL LANDSCAPE AREAS AND SLOPES 2:1 (H:V) OR FLATTER.
- ALL PLANTING ISLANDS ARE TO MATCH EXISTING UNLESS OTHERWISE NOTED.
- CONTRACTOR SHALL SUBMIT TO OWNER A IRRIGATION SYSTEM DESIGN THAT COVERS ALL NEW PLANTINGS. SYSTEM SHALL BE FED FROM THE PROPOSED ROADS.
- EXISTING GRASS TO BE REMOVED, IF PRESENT, AND TOPSOIL TO BE SPREAD SMOOTH AND HAND-RAKED TO REMOVE ALL ROOTS AND DEBRIS LARGER THAN 1 INCH IN DIAMETER PRIOR TO LAYING SOIL OR SEEDING.
- ALL MULCH BEDS SHALL HAVE A CHEMICAL BARRIER (SNAPSHOT) INSTALLED. START WITH WEED FREE SOIL.
- INSTALL CLEAN, WASHED SOIL WHERE INDICATED ON LANDSCAPING PLAN.
- ALL CHANGES TO DESIGN OR PLANT SUBSTITUTIONS ARE TO BE AUTHORIZED BY THE OWNER.
- TOPSOIL MIX TO BE 3 PARTS SCREENED TOPSOIL AND 1 PART ORGANIC MATERIAL, I.E. NATURE'S HELPER OR PRO MIX.
- MIN. 6" CLEAN TOPSOIL TO BE PLACED ON ALL LANDSCAPE AREAS AND SLOPES 2:1 (H:V) OR FLATTER.
- ALL PLANTING ISLANDS ARE TO MATCH EXISTING UNLESS OTHERWISE NOTED.
- CONTRACTOR SHALL SUBMIT TO OWNER A IRRIGATION SYSTEM DESIGN THAT COVERS ALL NEW PLANTINGS. SYSTEM SHALL BE FED FROM THE PROPOSED ROADS.

- MULCH-DOUBLE SHRED HARDWOOD BARK
- HEAVY CONCRETE PAD & SIDEWALKS
- CONCRETE
- SOD

SYMBOL		ITEM	COMMON NAME	TYPE	SCIENTIFIC NAME	START SIZE	MATURE SIZE	QUANTITY
A	(Green oval)	SEEDING MIX	SEEDING MIX	E	SEEDING MIX	3 GAL. 24"	37" H"	24
B	(Red circle)	SARAWAK GOLD ANUBIS	SARAWAK GOLD ANUBIS	E	ANUBIS CORONATA	3 GAL. 24"	37" H"	2
C	(Red circle)	ROSE BURUNDY HARBURY	ROSE BURUNDY HARBURY	E	ROSE BURUNDY HARBURY	3 GAL. 24"	37" H"	53
D	(Red circle)	DWARF BROOMSPEE PRUCE	DWARF BROOMSPEE PRUCE	E	PRUNUS BRUNNIFLORA	3 GAL. 18/24"	37" H"	14
E	(Red circle)	UTAH HEAVY PINEAPPLE	UTAH HEAVY PINEAPPLE	D	IRIS VIRGINICA VITATA ANNU'	3 GAL. 24"	37" H"	23
F	(Red circle)	THUNDERBOLT PINE	THUNDERBOLT PINE	D	PERSEA CAROLINENSIS 'THUNDERBOLT'	2" DIA.	38" H"	19
G	(Red circle)	SILVER GOLD PALM	SILVER GOLD PALM	D	HEAVY SANDY GOLD	3 GAL. 24"	37" H"	33
H	(Red circle)	DWARF GLOBE BLUE SPINAC	DWARF GLOBE BLUE SPINAC	D	PERSEA CAROLINENSIS 'DWARF GLOBE'	3 GAL. 24"	37" H"	4

NOTES
 1. F = FERTILIZER P = PEACOCKS H = HEMLOCK
 2. LANDSCAPE PAINTS/PAINTS, COY. AMBITION - COY. - SOILING - STAR WHEEL 01 -
 3. SECTION OF PLANTING AIDS ARE SUBJECT TO CHANGE WITHOUT NOTICE

CIRCLE K
 CIRCLE K
 MIDWEST REGION
 4080 W. JONATHAN MOORE PIKE
 COLUMBUS, IN 47201

W
 Engineers - Planners - Surveyors
 Walnut Corporation
 6136 Broad Road - Marietta, Ohio 44266
 1-330-238-2889 - F330-238-0272

NO.	DATE	REVISION DESCRIPTION
1	11/28/15	SUBMITTED FOR ZONING PERMIT
2	03/16/16	ISSUED FOR FRANKLIN COUNTY PLANNING DEPT. COMMENTS DATE 03/16/16

MORSE RD. C.R. 17 (VARIABLE WIDTH)



SPECIFICATIONS FOR SODDING

- MATERIALS**
- SOD SHALL BE UNWATERED, DELIVERED AND INSTALLED WITHIN A PERIOD OF 48 HOURS. SOD NOT TRANSPORTED WITHIN THIS PERIOD SHALL BE INSPECTED AND APPROVED PRIOR TO INSTALLATION.
 - THE SOD SHALL BE FRESH AND COVERED DURING HAULING AND PREPARATION FOR PLACEMENT.
 - SOD SHALL BE MACHINE CUT AT A UNIFORM SOIL THICKNESS OF 0.75 INCHES. PLUGS OR RIBS 3 INCHES AT THE TIME OF CUTTING. MEASUREMENTS FOR THICKNESS SHALL EXCLUDE TOP GROWTH AND THATCH.

- SOIL PREPARATION**
- A SUBSOILER, FLOUNDER OR OTHER IMPLEMENT SHALL BE USED TO REDUCE SOIL COMPACTNESS AND ALLOW MAXIMUM INFILTRATION. HANDLING INFILTRATION WILL HELP CONTROL BOTH RUNOFF RATE AND WATER QUALITY. SUBSOILING SHALL NOT BE CONDUCTED ON SLOPING AREAS WHERE SOIL PREPARATION SHALL BE LIMITED ONLY TO WHAT IS NECESSARY FOR ESTABLISHING VEGETATION.
 - THE AREA SHALL BE GRADED AND TOPSOIL SPREAD WHERE NEEDED (SEE TOPSOILING).
 - SOIL AMENDMENTS:**
 - LIME-AGRICULTURAL GROUND LIMESTONE SHALL BE APPLIED TO ACIDIC SOILS AS RECOMMENDED BY A SOIL TEST IN LIEU OF A SOIL TEST. LIME SHALL BE APPLIED AT THE RATE OF 100 LB./5,000 SQ. FT. OR 2 TONS/AC.
 - FERTILIZERS-FERTILIZER SHALL BE APPLIED AS RECOMMENDED BY A SOIL TEST IN LIEU OF A SOIL TEST. FERTILIZER SHALL BE APPLIED AT A RATE OF 20 LB./5,000 SQ. FT. OR 800 LB./AC. OF 10-10-10 OR 15-15-15 ANALYSES.
 - THE LIME AND FERTILIZER SHALL BE WORKED INTO THE SOIL WITH A DISK HARROW, SPRING-TOOTH HARROW, OR OTHER SUITABLE FIELD IMPLEMENT TO A DEPTH OF 3 INCHES.
 - BEFORE LAYING SOD, THE SURFACE SHALL BE UNIFORMLY GRADED AND CLEARED OF ALL DEBRIS, STONES AND CLODS LARGER THAN 3/8" DIAMETER.

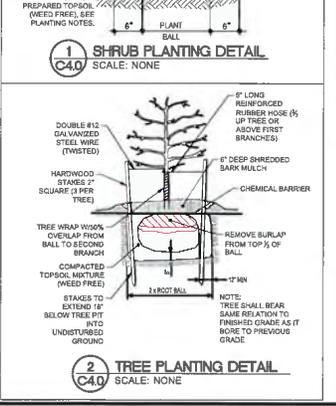
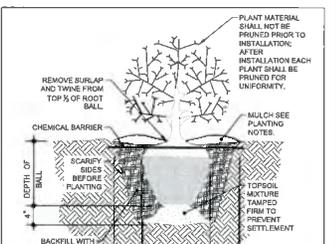
- SOD INSTALLATION**
- DURING PERIODS OF EXCESSIVELY HIGH TEMPERATURES, THE SOIL SHALL BE LIGHTLY WATERED IMMEDIATELY BEFORE LAYING THE SOD.
 - SOD SHALL NOT BE PLACED ON FROZEN SOIL.
 - THE FIRST ROW OF SOD SHALL BE LAID IN A STRAIGHT LINE WITH SUBSEQUENT ROWS PLACED PARALLEL TO AND TIGHTLY WEDGED AGAINST EACH OTHER. LATERAL JOINTS SHALL BE STAGGERED IN A BRICK-LIKE PATTERN. ENSURE THAT SOD IS NOT STRETCHED OR OVERLAPPED AND THAT ALL JOINTS ARE BUTTED TIGHT IN ORDER TO PREVENT VOIDS THAT WOULD DRY THE ROOTS.
 - ON SLOPING AREAS WHERE EROSION MAY BE A PROBLEM, SOD SHALL BE LAID WITH THE LONG EDGE PARALLEL TO THE CONTOUR AND WITH STAGGERED JOINTS. THE SOD SHALL BE SECURED WITH PEGS OR STAKES.
 - AS SODDING IS COMPLETED IN ANY ONE SECTION, THE ENTIRE AREA SHALL BE ROLLED OR TAMPED TO ENSURE SOIL CONTACT OF ROOTS WITH THE SOIL SURFACE. SOD SHALL BE WATERED IMMEDIATELY AFTER ROLLING OR TAMING UNTIL THE SOIL AND SOIL BULK BE BELOW THE SOIL SURFACE. THEREAFTER, THE OPERATIONS OF LAYING, TAMING AND IRRIGATING FOR ANY PIECE OF SOD SHALL BE COMPLETED WITHIN 8 HOURS.

- MAINTENANCE**
- IN THE ABSENCE OF ADEQUATE RAINFALL, WATERING SHALL BE PERFORMED ONLY FOR AS OFTEN AS NECESSARY DURING THE FIRST WEEK WITH SUFFICIENT QUANTITIES TO MAINTAIN MOIST SOIL TO A DEPTH OF 4+ INCHES.
 - AFTER THE FIRST WEEK, SOD SHALL BE WATERED AS NECESSARY TO MAINTAIN ADEQUATE MOISTURE AND ENSURE ESTABLISHMENT.
 - THE FIRST MOWING SHALL NOT BE ATTEMPTED UNTIL SOD IS FULLY ROOTED.

GRASS SPECIFICATION:

- GRASS SEED SHALL BE FRESH, CLEAN, DRY NEW-CROP SEED COMPLYING WITH THE ASSOCIATION OF GRASS SEED ANALYSTS RULES FOR TESTING SEEDS FOR PURITY AND GERMINATION TOLERANCES.
- A WEED BARRIER SHALL BE INSTALLED IN ALL MULCHED ISLAND BEDS.
- ALL AREAS TO BE SEEDED SHALL RECEIVE NO LESS THAN FIVE POUNDS OF SEED PER ONE THOUSAND SQUARE FEET. APPLY SEED AND PROTECT WITH STRAW MULCH AS REQUIRED FOR NEW LAWNS. GRASS SEED MIX SHALL CONSIST OF THE FOLLOWING:

SEED/LAWN MIXTURE	PROPORTION	NAME	MIN. %	MIN. % PURE SEED	MAX. % WEED SEED
50%	50%	Barn Bluegrass	80	85	0.50
30%	30%	Penn-Ten Fescue	80	89	0.50
15%	15%	Muhlenbergia + Perennial Ryegrass	90	89	0.50



PROPOSED CIRCLE K STORE #5707

3063 & 3065 MORSE RD.
 COLUMBUS, OH 43231

SCALE: 1" = 20'
 DATE: 10/25/2015
 DESIGNED BY: BSW
 DRAWN BY: BSW
 CHECKED BY: RWV
 FILE NAME: 140548-C4.dwg
 JOB NUMBER: 140448
 DRAWING TITLE: LANDSCAPING PLAN

C4.0

SITE PLAN



BLAIR COMPANIES
ARCHITECTURAL IMAGING
SIGNS • FIXTURES • LIGHTING

address: 5107 Kissell Avenue
Altoona PA 16601
telephone: 814.949.8287
fax: 814.949.8293
web: blaircompanies.com

project information

client: **CIRCLE K**
address: 3065 Morse Road
Columbus, OH 43213

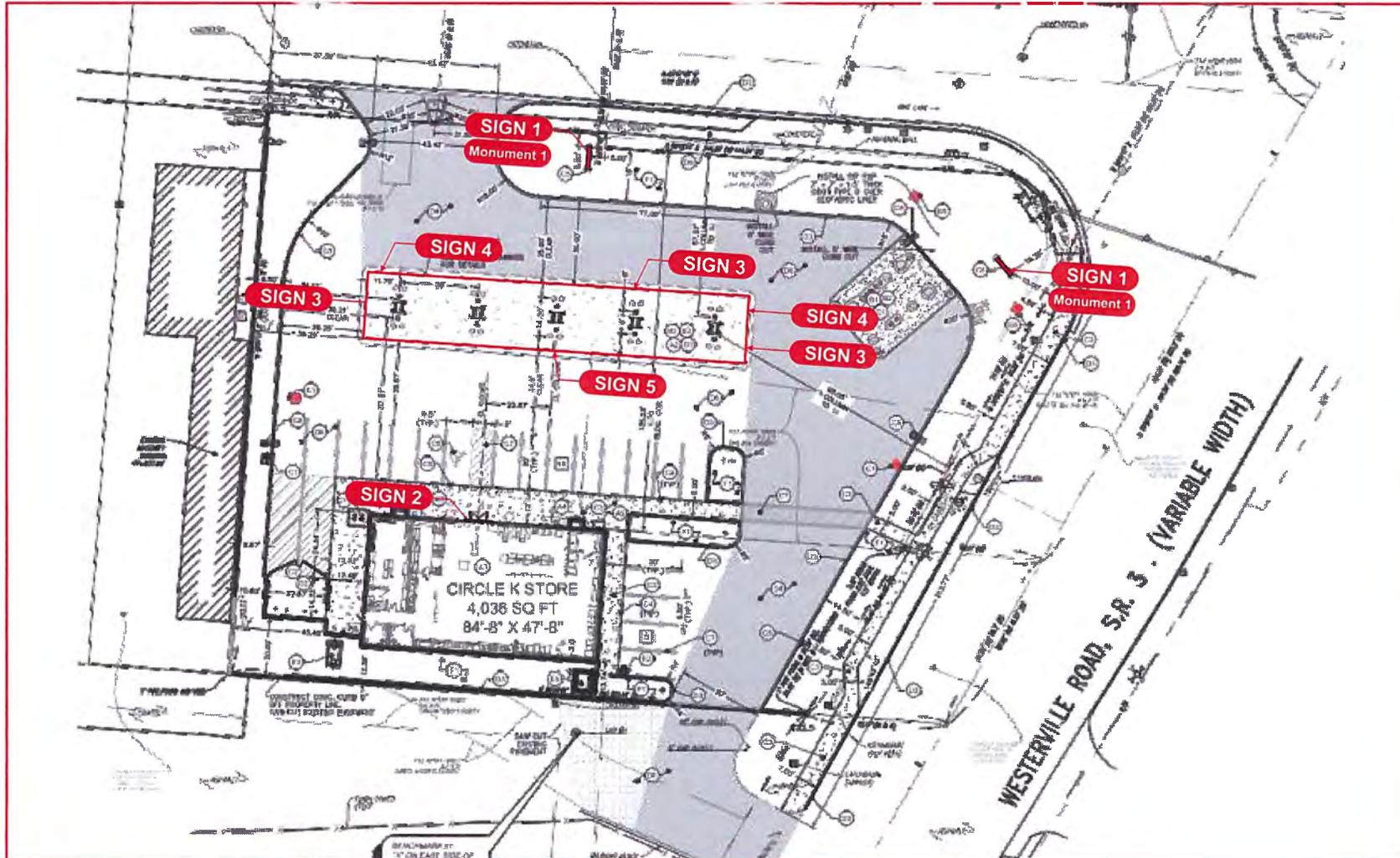
station id #: 5707
m number: 63215
date: 04.11.16
rendered: JJD
file name: CRK 63215-16
category:

revisions

- a. 04.20.16: Update Monument Sign
- b. 05.02.16: Update Monument Sign
- c. 05.03.16: Show 2 monument sign on location and updated Canopy dimension
- d. 05.06.16: Locate Monument on Site Plan
- e. 05.09.16: Update Site Plan
- f. 07.13.16: Update Canopy to 34" Wordmark

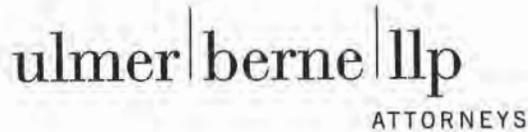
These drawings are not for construction. The information contained herein is intended to express design intent only.

This original design is the sole property of the Blair Companies, it cannot be reproduced, copied or exhibited, in whole or part, without first obtaining written consent from the Blair Companies.



SCALE: NTS





LORI PITTMAN HAAS

direct (216) 583-7432
direct fax (216) 583-7433
lpittman@ulmer.com

May 31, 2016

Via hand delivery

LeAnn Davis, Esq.
Underwriting Counsel and Commercial Escrow Officer
First American Title Insurance Company
National Commercial Services Division
1660 W. 2nd Street, Suite 700
Cleveland, OH 44113

Re: File #706833
Multiple parcels located at the corner of Morse Road and Westerville Road, Columbus, Ohio and known for street numbering purposes as 3065 Morse Road, 3063 Morse Road and 3061 Morse Road (collectively the "Property")

Escrow Instructions

Dear Ms. Davis:

As you know, I represent Mac's Convenience Stores LLC ("Circle K") with respect to the prospective purchase of the Property. Attorney Michael Schottenstein represents Automotive Distributors, Inc. ("Automotive"), the owner of the real property adjacent to the Property.

Circle K and Automotive have entered into a First Amendment to Easement Agreement (the "Amendment"), an executed original of which is enclosed herewith and is to be held in escrow by you pursuant to the terms of this letter. Your acceptance of this escrow shall constitute your agreement to perform your obligations as escrow agent in accordance with the terms and conditions of this letter.

You are authorized to hold the Amendment in escrow until either of the following has occurred:

- (1) Circle K notifies you in writing (which writing may be by email) with copy to Attorney Schottenstein that Circle K has terminated the purchase agreements for the Property in which event you are authorized to destroy the Amendment;

SKYLIGHT OFFICE TOWER
1660 WEST 2ND STREET, SUITE 1100
CLEVELAND, OHIO 44113-1448

firm
216.583.7000

fax
216.583.7001

Internet
www.ulmer.com

CLEVELAND

COLUMBUS

CINCINNATI

CHICAGO

ulmer | berne | llp
ATTORNEYS

LeAnn Davis, Esq.
May 31, 2016
Page 2

or

- (2) Circle K has notified you in writing (which writing may be by email) with a copy to Attorney Schottenstein that it intends to close on its purchase of the Property in which case you are authorized to do the following prior to or at Closing:
- a. Affix the legal description of the Property as Exhibit A to the Amendment;
 - b. Affix the legal description for the real property owned by Automotive as Exhibit B to the Amendment;
 - c. Affix the legal description of the modified easement area and a depiction of the modified easement area as Exhibit C to the Amendment, which modified easement area will be substantially the same as the area depicted on Exhibit A to this letter;
 - d. Circulate the fully-assembled Amendment to me and Attorney Schottenstein by email;
 - e. Pay to Automotive at Closing the sum of \$7,500 from immediately available funds to be delivered to you by Circle K prior to or at Closing;
 - f. Record the Amendment at Circle K's cost and expense.

Please acknowledge your agreement to these instructions by signing, dating and returning to us a copy of this letter to me and Attorney Schottenstein by electronic mail. My email address is lpittman@ulmer.com. Attorney Schottenstein's email address is MSchottenstein@keglerbrown.com.

Very truly yours,


Lori Pittman Haas


Michael Schottenstein *MSH*

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LeAnn Davis, Esq.
May 31, 2016
Page 3

Enclosure

ACCEPTANCE

Our agreement to these instructions are acknowledged and agreed to this _____ day of _____, 2016.

First American Title Insurance Company

By: _____

Its: _____

Date: _____, 2016

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ATTORNEYS

LeAnn Davis, Esq.
May 31, 2016
Page 4

Exhibit A



FIRST AMENDMENT TO EASEMENT AGREEMENT

This First Amendment to Easement Agreement ("**First Amendment**") is made this ____ day of _____, 2016 by AUTOMOTIVE DISTRIBUTORS, CO., INC., an Ohio corporation ("**Automotive**"), and MAC'S CONVENIENCE STORES LLC, a Delaware limited liability company ("**Circle K**") (Circle K and Automotive may be collectively referred to as the "**Parties**").

RECITALS:

A. As of the date hereof, Circle K is the prospective purchaser of certain real property located in the City of Columbus, County of Franklin and State of Ohio, as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the "**Circle K Property**").

B. As of the Effective Date (defined below), Circle K will be the owner of the Circle K Property.

C. As of this date hereof and as of the Effective Date, Automotive is the owner of certain real property contiguous to the Circle K Property as described in Exhibit B attached hereto and incorporated herein by reference (the "**Automotive Property**").

D. J&L Properties, the predecessor in interest of Circle K, and Automotive executed that certain Access Easement, dated as of April 16, 2003 and filed for record on May 6, 2003 as Document No. 200305060133923 of the Franklin County, Ohio Records (the "**Agreement**").

E. In conjunction with its development of the Circle K Property after the Effective Date, Circle K desires to amend the Agreement to modify the Easement Area (as defined in the Agreement) and adopt new Exhibit C that describes and depicts the modified Easement Area, as more fully described below, which Automotive is willing to do.

F. The Parties desire to modify the Agreement to incorporate the terms, provisions and conditions contained in this First Amendment.

All capitalized terms not otherwise defined in this First Amendment shall have the meaning ascribed to them in the Agreement.

Accordingly, the Agreement is hereby amended as follows:

1. EASEMENT AREA. All references to the Easement Area in the Agreement will hereinafter refer to the area described and depicted on Exhibit C attached to this First Amendment.

2. EXHIBIT C. All references to Exhibit C in the Agreement will hereinafter refer to the Exhibit C attached hereto and made a part hereof.

3. COSTS AND EXPENSES. All costs and expenses associated with the expansion of the Easement Area as provided herein, including, without limitation, recording fees, conveyance fees, construction costs, and the cost to obtain any necessary government approvals or to relocate any utilities (if applicable), shall be borne by Circle K. Circle K will indemnify and hold Automotive harmless from all claims, costs, fees, including reasonable attorney fees, including, which may be asserted against or incurred as a result of the acts of Circle K, or its agents, affiliates, employees or contractors, taken in connection with the expansion of the Easement Area as contemplated herein.

4. ATTORNEY FEES. Except as specifically provided for the contrary herein, each party shall be responsible for its own attorney fees incurred in connection with this First Amendment.

5. CONSIDERATION. As consideration for Automotive's agreement to enter into this First Amendment, Circle K shall deliver to Automotive, the sum of Seven Thousand Five Hundred and No/100 Dollars (\$7,500.00) payable in immediately available federal funds on or before the Effective Date.

6. NO OTHER AMENDMENTS. Except as amended or modified by this First Amendment, all terms and conditions of the Agreement shall remain in full force and effect.

7. REFERENCES TO AGREEMENT. Each reference to the Agreement that is made in the Agreement and in any other document or instrument shall, from and after the date of this First Amendment, be deemed to be a reference to the Agreement, as amended by this First Amendment.

8. SEVERABILITY. The invalidity or unenforceability of any provisions of this First Amendment shall not affect or impair the validity or enforceability of any other provision of this First Amendment.

9. COUNTERPARTS. This First Amendment may be executed in multiple counterparts, each of which shall be deemed to be an original and when taken together shall constitute one and the same document.

10. AUTHORITY. Each of the parties to this First Amendment represents and warrants that they are duly authorized, as property owner or as a representative of the applicable property owner, to execute this First Amendment.

11. EFFECTIVE DATE. The Effective Date of this First Amendment will be the date that this First Amendment is recorded in the Official Records of Franklin County, Ohio; provided that Circle K is the owner of the Circle K Property at the time this First Amendment is recorded.

IN WITNESS WHEREOF, this First Amendment is executed as of the date set forth on page 1.

Signatures appear on the following pages

Automotive Distributors, Co., Inc.
an Ohio corporation

By: *Joseph K. Clay*
Its: TRASURER/CFO

State of Ohio)
County of Franklin)

ss:

Before me, a notary public, in and for said county and state, personally appeared Joseph K. Clay, the CFO of Automotive Distributors, Co., Inc., an Ohio corporation, who acknowledged to me that he did execute the foregoing instrument and that the same is his free act and deed, and the free act and deed of said corporation.

IN TESTIMONY WHEREOF, I have subscribed my name and affixed my official seal this 17 day of March, 2016.

Kelley L Solomon
Notary Public

This instrument prepared by:

Lori Pittman Haas, Esq.
Ulmer & Berne LLP
1660 West 2nd Street, Suite 1100
Cleveland, Ohio 44113
Phone: 216-583-7000
2188772v3
32759-00120



KELLEY L SOLOMON
NOTARY PUBLIC
STATE OF OHIO
Comm. Expires
July 07, 2016
Recorded In
Franklin County

EXHIBIT A

Legal Description
Circle K Property

EXHIBIT B

Legal Description
Automotive Distributors, Co., Inc. Property

Situated in the State of Ohio, County of Franklin, City of Columbus, and being part of Quarter Township 2, Township 1, Range 17, United States Military Lands, and being part of an original 12.033 acre tract conveyed to R.E. Davis & R.F. Krouse in Deed Book 1922, Page 542, and being all of a tract of ground conveyed to Advisor's Agency, Inc. in Deed Book 3598, Page 451, Franklin County Recorder's Office, and being more particularly described as follows:

Beginning, for reference, at a railroad spike found marking the intersection of the centerlines of Morse Road and Columbus – Westerville Road (State Route 3).

thence South 26° 56' 00" West 290.74 feet, along the centerline of Columbus – Westerville Road, to a point marking a northeasterly corner of said 12.033 acre tract and the southeast corner of a 0.763 acre tract now owned by T. & C. Edwards (Deed Book 2929, Page 85);

thence North 89° 50' 00" West 50.26 feet, along the north line of said original 12.033 acre tract and the south line of said 0.763 acre tract, to an iron pin found marking the PRINCIPAL PLACE OF BEGINNING of the herein described tract;

thence South 26° 56' 00" West 346.68 feet, parallel with and 45 feet west of (measured at right angles) the centerline of Columbus – Westerville Road, to an iron pin found in the south line of said original 12.033 acre tract and in the north line of a 0.248 acre tract now owned by B.R. & J.R. Enterprises (Official Record 11691, E-07);

thence South 89° 50' 00" West 300.93 feet, along the south line of said original 12.033 acre tract and the north line of said 0.248 acre tract and a 4.923 acre tract now owned by B.R. & J.R. Enterprises (Official Record 11578, F-01), to an iron pin set marking the southeast corner of a 2.855 acre tract now owned by Automotive Distributors Co., Inc. (Official Record 12201, J-17);

thence North 00° 39' 00" East 316.58 feet, along the east line of said 2.855 acre tract, to an iron pin set marking a northeasterly corner of said original 12.033 acre tract, and the southwest corner of a 0.447 acre tract now owned by S.T. investing, Inc. (Official Record 2608, H-06);

thence South 89° 10' 00" East 454.42 feet, along a north line of said original 12.033 acre tract and the south lines of said 0.447 acre tract, and two (2) 0.298 acre tracts now owned by Villa Investment Co., and said 0.763 acre tract, to the principal place of beginning, containing 2.717 acres more or less, Subject to all easements and restrictions of record.

Basis of Bearings from Deed Book 3598, Page 451. All iron pins set capped "PARTRIDGE SURVEYING". A survey of the above-described tract was done by R.T. Partridge and Associates in July, 1992.

EXHIBIT C
Legal Description
of Ingress/Egress Easement Area

EXHIBIT C
Depiction of Ingress/Egress Easement Area