

Planning Report

Thursday, March 21, 2013

Shier Rings Road - Sertek – Side Yard Setback and Off-Site Parking Variances

Case Summary

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| Agenda Number | 1 |
| Case Number | 13-015V |
| Location | 6399 Shier Rings Road The site is 11.8-acres on the south side of Shier Rings Road, west of the intersection with Avery Road. |
| Proposal | Variance 1: allow a building to be located on the side property line with a zero lot line setback when a minimum side yard of 20 feet is required by the Technology Flex District; Variance 2: allow required parking to be accommodated off-site Section 153.203(A). |
| Request | Non-Use (Area) Variance Requires review and approval by the Board of Zoning Appeals based on the review criteria of Zoning Code Section 153.231. |
| Applicants | Thomas Irelan, Avery Lake Investments LLC. |
| Planning Contact | Tammy Noble-Flading, Senior Planner. |
| Contact Information | (614) 410-4649; tnoble-flading@dublin.oh.us |
| Planning Recommendation | Approval of a variance from Section 153.044(2)(c) to allow a building to be located within the required side yard setback. Approval of a second variance from Section 153.203(A) to allow the minimum off-street parking required, per Code, to be accommodated off-site. Based on Planning's analysis the requested variances meet all of the required non-use (area) variance standards and therefore, Planning is recommending approval. |



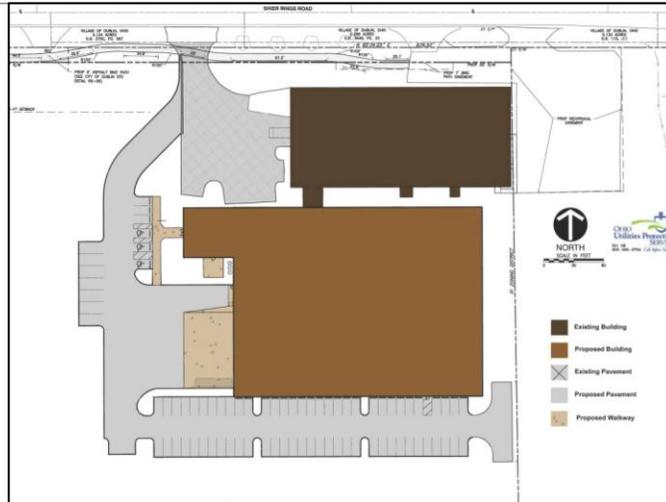
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|  <p>City of Dublin</p> | <p>13-015V Non-Use (Area) Variance Sertek 6399 Shier-Rings Road and 6233 Avery Road</p> | <p>0 150 300 Feet</p>  |
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| Facts | |
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| Site Description | <ul style="list-style-type: none"> • 11.8-acre site. • Frontage: Shier Rings Road - 950 feet; Avery Road - 580 feet. • Eight driveways from both roadways; five on Shier Rings Road and three on Avery Road. • The site has two zoning districts that apply industrial/research and development standards to the west portion of the site and commercial standards to the east. • Existing vegetation along the south and west property lines. |
| Zoning | TF, Technology Flex District and CC, Community Commercial District (split zoning). |
| Surrounding Zoning and Uses | North: ID-1, Innovation District; office uses East, south and west: TF, Technology Flex District; office uses. |
| Site Features | <ul style="list-style-type: none"> • Four existing buildings; three facing Avery Road and one facing Shier Rings Road. • Existing surface parking around each building. |
| Proposal | <p>The applicant is proposing a phased construction process which includes splitting the existing lot into two lots with the west portion to be sold to a separate owner. Once the property is sold, a two phase construction process will follow. The following describes the planned development of the site.</p> |
| <i>Lot Split</i> | <p>The lot will be split into two developable tracts of land of 6.017 acres (to west) and 5.489 acres (to east). This split will occur where the two zoning districts divide the lot and will provide a clear zoning line. Each parcel will meet frontage requirements. This lot split variance is based on the existing location of the building along Shier Rings Road and the building's associated parking to the west (see graphic). There will also be a small, third parcel of land that will be dedicated as right-of-way to the City.</p> |



Facts

Phase I



A building permit has been submitted for the construction of a second building on Tract 1 (west) directly south of the existing building. The 50,000-square-foot building will expand the existing operations of Sertek Incorporated. The expansion will include 71 new parking spaces south of the

building. This new parking area will ultimately eliminate the need for the off-site parking which is the second variance associated with this request.

Phase II



Phase II proposes the demolition of the existing building along Shier Rings Road and the construction of a 25,000-square-foot addition directly north of the Phase I building. The proposed addition will meet all required development standards of the TF, Technology Flex District including the required side yard setback which is

the first variance associated with this request.

Details

Variances

Process

Zoning Code Section 153.231(C)(3) allows the Board of Zoning Appeals to approve requests for non-use (area) variances only in cases where the Board finds that there is evidence of a practical difficulty present on the property, limiting conformance to the strict requirements of the Zoning Code. The Board shall make a finding that the required review standards have been appropriately satisfied (refer to the last page of this Report for the full wording of the review standards).

| Details | Variances |
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| Variance Requests | <p>Variance 1: The Dublin Zoning Code requires that all buildings have a minimum side yard required in each zoning district. Section 153.044(2)(c) requires that the existing building located within the TF, Technology Flex District have a minimum side yard of twenty feet. The applicant is requesting a variance from this requirement to allow the existing building to be located on the property line with a zero side yard setback.</p> <p>Variance 2: Section 153.203(A) of the Zoning Code requires that all required parking be located on the same site as the use. The applicant is requesting a variance from this requirement to allow a portion of the required parking to be located off-site. An easement agreement has been established to ensure use of the off-site parking, as well as maintenance, is in effect through the completion of the Phase I construction process.</p> |

| Analysis | Variance 1: Side Yard Setback |
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| Variance Request | The variance request, if approved, would permit the existing building to be located on the property line with a zero side yard setback. |
| ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET | |
| (1) Special Conditions | <p>Standard Met. This standard requires there be special conditions and circumstances peculiar to the land or structure which are not applicable to other lands or structures in the same zoning district whereby the literal enforcement of the requirements of this Chapter would involve practical difficulties.</p> <p>The site is a large tract of land with significant frontage on two roadways that allow the parcel to be easily subdivided. Furthermore, the site’s two zoning classifications are not found on a single parcel. This lot division provides a logical location for the parcel to be subdivided and permits a clear line where development standards are applied.</p> |
| (2) Applicant Action/Inaction | <p>Standard Met. The development of the site occurred prior to the owner acquiring the land in August 2007. The existing features of the site and location of the buildings were established without action, or inaction of the applicant, therefore this standard is met.</p> |
| (3) No Substantial Adverse Effect | <p>Standard Met. Setback requirements are intended to provide spatial separation between buildings and uses. The proposed parcel to the east (Tract 2) is zoned CC, Community Commercial District. This district requires significant setback requirements based on the length and height of buildings adjacent to the adjoining property line. This setback requirement on Tract 2 will allow setbacks that will meet the Code’s intent and purpose. Therefore, no adverse effect will result from the variance request.</p> |

| Analysis | | Variance 1: Side Yard Setback |
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| <i>AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET</i> | | |
| (1) Special Privileges | <p>Two Standards Met. The following standards have been reviewed and found that standards two and three have been met.</p> <p>(1) Standard Met. The property has unique characteristics that include size, amount of frontage, dual zoning classifications and existing infrastructure. Proposals for similar requests would be reviewed similarly therefore no special privileges will be provided to the applicant as part of this approval process.</p> | |
| (2) Recurrent in Nature | <p>(2) Standard Met. The Board of Zoning Appeals has not reviewed similar requests for variances to the Zoning Code; therefore, this issue is not recurrent in nature. Split zoning classifications are fairly rare in the city.</p> | |
| (3) Delivery of Governmental Services | <p>(3) Standard Met. The site will be required to maintain fire separation and other safety regulations that ensure proper governmental services (fire protection, emergency services, etc). Therefore, this proposal will not impede governmental service and the standard is met.</p> | |
| (4) Other Method Available | <p>(4) Standard Not Met. The applicant does have other methods of subdividing the land that includes dividing the parcel into two parcels that meet current zoning regulations. In doing so, the newly created parcel will keep the zoning classifications that would require a rezoning. Although a lengthy process, this method is possible.</p> | |

| Analysis | | 2: Off-Site Parking |
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| Variance Request- | The variance requests, if approved, would permit required parking to be provided off-site. | |
| <i>ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET</i> | | |
| (1) Special Conditions | <p>Standard Met. This standard requires there be special conditions and circumstances peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district whereby the literal enforcement of the requirements of this Chapter would involve practical difficulties.</p> <p>The site's two zoning classifications are not commonly found in the city. While this lot division line is in a logical location, it does separate the existing building from its associated parking area. The zoning classifications and existing infrastructure constitute special conditions that are unique to this parcel of land therefore the standard is met.</p> | |
| (2) Applicant Action/Inaction | <p>Standard Met. The development of the site occurred prior to the owner acquiring the land in August 2007. The existing features of the site and location of the infrastructure were established without action, or inaction of the applicant, therefore this standard is met.</p> | |

| Analysis | | 2: Off-Site Parking |
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| (3) No Substantial Adverse Effect | <p>Standard Met. The use of the existing parking area has been formalized in an easement agreement amongst the current, and proposed, property owners to ensure continued use of the parking area until such time as the new parking area (associated with Phase 1) is completed. This will ensure that the parking area is accessible to Sertek and there will be no adverse effect to either property owners or the surrounding community.</p> | |
| <i>AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET</i> | | |
| (1) Special Privileges | <p>Three Standards Met. The following standards have been reviewed the variance request and concluded that all standards #2 and #3 have been met.</p> <p>Standard Met. The property has unique characteristics that include size, amount of frontage, dual zoning classifications and existing infrastructure. Proposals for similar requests would be reviewed similarly therefore no special privileges will be provided to the applicant as part of this approval process.</p> | |
| (2) Recurrent in Nature | <p>Standard Met. The Board of Zoning Appeals have not reviewed similar requests for variances to the Zoning Code, therefore this issue is not recurrent in nature.</p> | |
| (3) Delivery of Governmental Services | <p>Standard Met. The variance request will have no impacts on the delivery of governmental services therefore, this standard is met.</p> | |
| (4) Other Method Available | <p>Standard Not Met. The 6.017 acre tract (Tract 1) does have additional space to construct a parking area that would meet Code. The issue prompting the variance is the timing of the project, specifically the proposed lot split versus the construction of Phase 1. Based on the fact that this construction will begin in the next several months and will replace the off-site parking, associated with this request, the applicant has pursued the variance. Although the proposal does provide a more economical and efficient remedy to the parking requirements, other methods are available.</p> | |

| Recommendation | | Approval of Variances |
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| Variances for Side Yard Setback and Off-Site Parking | <p>Based on Planning’s analysis the requested variances meet all of the required non-use (area) variance standards, therefore approval is recommended.</p> <p>Variance 1: Approval of a variance from Section 153.044(2)(c) to allow a building to be located within the required side yard setback.</p> <p>Variance 2: Approval of a variance from Section 153.203(A) to allow the required off-street parking to be off-site.</p> | |

NON-USE (AREA) VARIANCES

Section 153.231(H)(1) Variance Procedures

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable development requirements of this Code unreasonable and, therefore, the variance procedure is provided to allow the flexibility necessary to adapt to changed or unusual conditions that meet the standards of review for variances. In granting any variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with the Zoning Code.

Non-Use (Area) Variances. Upon application, the Board of Zoning Appeals shall only approve a request for a non-use variance only in cases where there is evidence of practical difficulty present on the property in the official record of the hearing, and that the findings required in (a) and (b) have been satisfied with respect to the required standards of review (refer to the last page of this Report for the full wording of the review standards):

(a) That all of the following three findings are made:

- (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 whereby the literal enforcement of the requirements of this Chapter would involve practical difficulties. Special conditions or circumstances may include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter or amendment; or by reason of exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure; or by reason of the use or development of the property immediately adjoining the property in question.*
- (2) *That the variance is not necessitated because of any action or inaction of the applicant.*
- (3) *Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this Chapter.*

(b) That at least two of the following four findings are made:

- (1) *That a literal interpretation of the provisions of the Zoning Code would not confer on the applicant any special privilege or deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter.*
- (2) *The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.*
- (3) *The variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage).*
- (4) *The practical difficulty could be eliminated by some other method, even if the solution is less convenient or most costly to achieve.*