



City of Dublin Board of Zoning Appeals

# Planning Report

Thursday, August 29, 2013

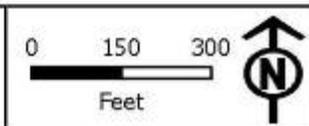
## **BRE – 6377 Emerald Parkway Lot Coverage and Parking Setbacks**

### Case Summary

Agenda Number	3
Case Number	13-085V
Location	6377 Emerald Parkway West side of Emerald Parkway approximately 375 feet south of Rings Road.
Proposal	The proposal is to allow this site to exceed maximum lot coverage and permit parking areas to encroach into the minimum parking setbacks required by Code.
Request	Non-Use (Area) Variances Variances to maximum lot coverage of 70% and minimum parking setbacks for Emerald Parkway which requires review and approval by the Board of Zoning Appeals based on the review criteria of Zoning Code Section 153.231.
Applicants	Linda Menerey, EMH&T.
Owners	Tom Burdi, BRE/COH OH LLC.
Planning Contact	Tammy Noble-Flading, Senior Planner.
Contact Information	(614) 410-4649; tflading@dublin.oh.us
Planning Recommendation	<b>Approval: Variance for Lot Coverage and Parking Setback</b> Planning is recommending approval for a variance to Section 153.071 to allow a site that exceed the maximum lot coverage permitted for a commercial site by 4%; and a variance to Section 153.072 to allow a site to encroach into the minimum parking setback for Emerald Parkway by 15 feet. This recommendation is based on the fact that the application meets all the review criteria of Section 153.231.



13-085V  
Lot Coverage and  
Parking Setback Variance  
6377 Emerald Parkway



Facts	
Site Description	<ul style="list-style-type: none"> <li>• 5.64 acre site.</li> <li>• Frontage: 604 feet along Emerald Parkway.</li> <li>• Site shares internal drive aisles with office use to the north.</li> <li>• Site has access to Emerald Parkway at two locations; one at the northern portion of the site, at the intersection with Glendon Court, and the second at the southern portion of the site.</li> </ul>
Zoning	SO, Suburban Office District
Surrounding Zoning and Uses	North: Zoned Suburban Office District; offices East: Suburban Office District; Dublin Post Office and an office South: City of Columbus jurisdictions with office uses West: PUD, Planned Unit Development; Brighton Woods Condominiums
Site Features	<ul style="list-style-type: none"> <li>• Site is developed with a two-story, 24,109 square foot office building.</li> <li>• 389 parking spaces including 7 handicap spaces.</li> <li>• 1.69 acres of pervious surface (green space).</li> <li>• This portion of Emerald Parkway has a 100-foot right-of-way based on the Thoroughfare Plan. The right-of-way determines the setback requirements for the site.</li> </ul>
Proposal	<p>Lot Coverage: The applicant is requesting a variance to maximum lot coverage requirements for a site that will have 74% lot coverage, whereas 70% is the maximum permitted for commercial sites.</p> <p>Parking Setback: The applicant is also requesting a variance to the minimum parking setback along Emerald Parkway. The required parking setback is 30 feet. The request is to permit the parking areas to be 15 feet.</p> <p>After right-of-way acquisition, the site is non-conforming in terms of lot coverage and parking setback. The applicant is concerned that financing options may be affected by the non-conforming status of the site, and therefore is requesting the variances to legitimize the proposed conditions of the site.</p>

Details	
Lot Coverage	
Process	Zoning Code Section 153.231(C)(3) allows the Board of Zoning Appeals to approve requests for non-use (area) variances where the Board finds that there is evidence of a practical difficulty on the property, limiting conformance to the strict requirements of the Zoning Code. The Board must make findings that the required review standards have been satisfied (refer to the last page of this report for the full wording of the review standards).

Analysis	Lot Coverage
Variance Request	The variance request, if approved, would permit a development site that exceeds the maximum lot coverage permitted for a commercial site by 4%.
<b><i>ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET</i></b>	
(1) <i>Special Conditions</i>	<p><b>Standard Met</b>  The site is narrow and has an unusual circular shape in the northeast corner of the site based on its proximity to the roundabout at Emerald Parkway and Glendon Court. These conditions make all of the existing space, for parking and open space, important to maintain the operations of the site. The green space, although not located on site, continue to provide stormwater management for the site and allow adequate drainage, so that runoff does not occur within the road way.</p>
(2) <i>Applicant Action/Inaction</i>	<p><b>Standard Met.</b>  The actions prompting the request are based on land acquisition by the City of Dublin. This action was not prompted by, or a result of, actions or inactions of the applicant.</p>
(3) <i>No Substantial Adverse Effect</i>	<p><b>Standard Met.</b>  The site will operate in the same manner as before the right-of-way was purchased by the City of Dublin. The building will not be affected, nor will parking or access points be changed. No changes to the operation of the site noticed by the general public. Therefore there will be no adverse effects to employees, visitors, or the general public.</p>
<b><i>AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET</i></b>	
<p>(1) <i>Special Privileges</i></p> <p>(2) <i>Recurrent in Nature</i></p> <p>(3) <i>Delivery of Governmental Services</i></p> <p>(4) <i>Other Method Available</i></p>	<p><b>Three Standards Met.</b> The following standards have been reviewed with the finding that at least two of the four Standards have been met.</p> <p>(1) <b>Standard Met.</b>  All sites affected by right-of-way acquisition are afforded the same opportunity to apply for variances, if needed. Granting variances will not provide special privileges to the property owners.</p> <p>(2) <b>Standard Met.</b>  It is not uncommon for developed sites to become non-conforming based circumstances that impact the site. This essentially ensures the site is legal, in terms of zoning, and does not typically require a variance process. Based on these facts, the request is not recurrent in nature.</p> <p>(3) <b>Standard Met.</b> The request will not impact the delivery of governmental services.</p> <p>(4) <b>Standard Met.</b> The only other method available to meet current zoning regulations for lot coverage is to eliminate hardscape from</p>

Analysis	Lot Coverage
	<p>the site which would most likely be parking spaces. The site appears to need the existing parking for the site to accommodate their use, therefore this would negatively impact the operations of the site and is therefore, is not a viable alternative for the applicant.</p>

Details	Parking Setback
Process	<p>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).</p>
Variance Request	<p>The minimum parking setback for Emerald Parkway is 30 feet from the existing right-of-way. The parking setback will be 15 feet from existing right-of-way, therefore the applicant is requesting a variance for parking that encroaches the parking setback by 15 feet.</p>

Analysis	Parking Setback
Variance Request	<p>The variance request, if approved, would permit a developed site to encroach in the parking setback by 15 feet.</p>
<p><b><i>ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET</i></b></p>	
(1) <i>Special Conditions</i>	<p><b>Standard Met.</b>  The site is narrow and has an unusual circular shape in the northeast corner portion of the site based on its proximity to the roundabout at Emerald Parkway and Glendon Court. These conditions make all of the existing space, for parking and open space, important to maintain the operations of the site. The green space, although not located on site, continue to provide stormwater control for the site and allow adequate drainage, so that runoff does not occur within the road way.</p>
(2) <i>Applicant Action/Inaction</i>	<p><b>Standard Met.</b>  The actions prompting the request are based on land acquisition by the City of Dublin. This action was not prompted by, or a result of, actions or inactions of the applicant.</p>

Analysis	Parking Setback
(3) <i>No Substantial Adverse Effect</i>	<p><b>Standard Met.</b>  The site will remain operationally the same, before and after the right-of-way is purchased by the City of Dublin. The building will not be impacted, nor will parking or access points be changed for the site. For the generally public, the site will not noticeably be impacted by the changes to the site, therefore there will not be adverse impact to the employees, visitors, or the general public.</p>
<b><i>AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET</i></b>	
<p>(1) <i>Special Privileges</i></p> <p>(2) <i>Recurrent in Nature</i></p> <p>(3) <i>Delivery of Governmental Services</i></p> <p>(4) <i>Other Method Available</i></p>	<p><b>Three Standards Met.</b> The following standards have been reviewed with the finding that at least two of the Standards have been met.</p> <p>(1) <b>Standard Met.</b>  All sites that are impacted by right-of-way acquisition are afforded the same opportunity to apply for variances, if needed. Granting variances will not provide special privileges to the property owners and if fact, only benefits the site if the site were redeveloped.</p> <p>(2) <b>Standard Met.</b>  It is not uncommon for developed sites may become non-conforming based circumstances that impact the site. This essentially ensures the site is legal, in terms of zoning, and does not typically require a variance process. Based on these facts, the request is not recurrent in nature.</p> <p>(3) <b>Standard Met.</b>  The request will not impact the delivery of governmental services</p> <p>(4) <b>Standard Met.</b>  The only other method available to meet current zoning regulations for lot coverage is to eliminate hardscape from the site. Based on the site design, eliminating hardscape would most likely mean eliminating parking spaces to meet the current lot coverage of the Zoning Code. This would negatively impact the operations of the site and is therefore, is not a viable alternative for the applicant.</p>

Recommendations	Approval
<p>Lot Coverage and Parking Setback Variances</p>	<p>Based on Planning's analysis the requested variances meet the required non-use (area) variance standards, approval is recommended for variances from Section 153.071 to allow a site that exceeds the maximum lot coverage of 70%, and Section 153.072 to allow parking that encroaches 15 feet into the required parking setback of Emerald Parkway.</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.*

