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City of Dublin Board of Zoning Appeals

Planning Report

Thursday, August 29, 2013

BRE – 6500 Glendon Court
Lot Coverage, Parking and Sign Setbacks

Case Summary

Agenda Number	4
Case Number	13-089V
Location	6500 Glendon Court The site is east side of Emerald Parkway, south of the intersection with Glendon Court.
Proposal	The proposal is to allow a site to exceed maximum lot coverage, allow parking to encroach into the minimum parking setback, and permit a sign to encroach into the minimum setback.
Request	Non-Use (Area) Variances Variances to maximum lot coverage to allow a site that exceed coverage by 6%, encroach into the minimum parking setbacks for Emerald Parkway and Glendon Court by 15 feet, and encroach into the 8 foot minimum setback for a ground sign. This 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	**Approval: Variance for Lot Coverage, Parking and Sign Setbacks** 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 6%; • A variance to Section 153.072 to allow a site that does not meet the minimum parking setback for Emerald Parkway and Glendon Court by 15 feet; and • A variance to Section 153.164 to allow a ground sign that does not meet the minimum setback by 8 feet.

This recommendation is based on the fact that the application meets all the review criteria of Section 153.231.

City of Dublin

13-089V
Lot Coverage, Parking and
Sign Setback Variance
6500 Glendon Court

0 150 300
Feet

Facts	
Site Description	• 5.49 acre site. • Approximately 500 feet of frontage along Emerald Parkway and 400 feet along Glendon Court. • Limited access is provided along Emerald Parkway, at the southern portion of the site, and full access is provided to Glendon Court. • The site has internal access drives that provide access and shared parking with site to the south which is in the City of Columbus.
Zoning	SO, Suburban Office District
Surrounding Zoning and Uses	All of the surrounding zoning districts are Suburban Office District with office uses, with the exception of the property to the south which is in the City of Columbus and used for offices.
Site Features	• Four-story, 134,720 square foot office building. • 323 parking spaces including 12 handicap spaces. • 4.15 acres of pervious surface (green space). • This portion of Emerald Parkway has a 100-foot right-of-way based on the Thoroughfare Plan and Glendon Court has a 60 foot right-of-way. This right-of-way distance determines the setback requirements for the site, which is part of the subject of this request.
Proposal	The applicant is requesting variances for: • Maximum lot coverage requirement for a site that will have 76% lot coverage, where 70% is permitted; • Minimum parking setback requirements to allow parking 15 feet from the existing right-of-way, where 30 feet is required; and • Minimum setback requirements for a freestanding sign that will be at the right-of-way line, where an 8 foot setback is required. The site currently meets the provisions of the Zoning Code but will be nonconforming after the City of Dublin acquires right-of-way along Emerald Parkway and Glendon Court. The applicant is concerned that financing options may be affected by the nonconforming status of the site, therefore is requesting the variances to legitimize the proposed conditions of the site.

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 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).
Variance Request	The applicant is requesting a variance from Section 153.071 of the Zoning Code to allow a site that exceeds the maximum lot coverage requirements of a commercial site. Code requires a maximum lot coverage for commercial site of 70%, and 76% lot coverage is requested.

Analysis	**Lot Coverage**
Variance Result	The variance request, if approved, would permit an existing lot to have lot coverage that exceeds the maximum lot coverage permitted by Code. The percent of lot coverage is increasing due to the City purchasing land for right-of-way acquisition, which is currently open space for the site.
ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET	
(1) *Special Conditions*	**Standard Met** The site used shared access drives from Emerald Parkway, and parking areas with the property to the south. This interdependence between the two uses is the only method of ensuring both users can provide necessary accommodations for their site. This condition makes eliminating hardscape (parking area) to accommodate lot coverage issues an impractical action for the applicant to take.
(2) *Applicant Action/Inaction*	**Standard Met.** 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.

Analysis	**Lot Coverage**
(3) *No Substantial Adverse Effect*	**Standard Met.** 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 affected, nor will parking or access points be changed. The general public will not be noticeably affected by the changes to the site, therefore there will be no adverse impact to the employees, visitors, or the general public.
AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET	
(1) Special Privileges *(2) Recurrent in Nature* *(3) Delivery of Governmental Services* *(4) Other Method Available*	**Three Standards Met.** The following standards have been reviewed with the finding that at least two of the Standards have been met. (1) **Standard Met.** The site has been developed to share access drives, from Emerald Parkway, and shared parking areas with the property to the south. This interdependence between the two uses is the only method of ensuring both users can provide necessary accommodations for their site. As a unique circumstance, this confers no special privilege to the property. (2) **Standard Met.** It is not uncommon for developed sites to become nonconforming based circumstances that affect 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. (3) **Standard Met.** The request will not impact the delivery of governmental services. (4) **Standard Met.** The only other method available to meet current zoning regulations is to eliminate parking and replace it with open space to meet the current lot coverage requirement. The site is already under parked and reliant on the adjacent site to supplement their parking needs. Eliminating parking would significantly impair the operations of the site and is therefore, not a viable alternative.

Details	**Parking Setback**
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).
Variance Request	The applicant is requesting a variance from Section 153.072 to allow parking that encroaches into the minimum parking setbacks of Emerald Parkway and Glendon Court by a maximum of 15 feet.

Analysis	**Parking Setback**
Variance Result	The variance request, if approved, would allow a developed site to have parking that encroaches into the required parking setbacks by 15 feet.
ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET	
(1) *Special Conditions*	**Standard Met** The site has been developed to share access drives, from Emerald Parkway, and parking areas with the property to the south. This interdependence between the two uses is the only method of ensuring both users can provide necessary accommodations for their site and is unique in nature.
(2) *Applicant Action/Inaction*	**Standard Met.** 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.
(3) *No Substantial Adverse Effect*	**Standard Met.** 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 noticeably impacted by the changes to the site, therefore there will not be adverse impact to the employees, visitors, or the general public.

Analysis	**Parking Setback**
AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET	
(1) Special Privileges *(2) Recurrent in Nature* *(3) Delivery of Governmental Services* *(4) Other Method Available*	**Three Standards Met.** The following standards have been reviewed with the finding that at least two of the Standards have been met. (1) **Standard Met.** 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 (2) **Standard Met.** 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. (3) **Standard Met.** The delivery of governmental services will not be impacted. (4) **Standard Met.** The only other method available to meet Code would be to remove parking which would reduce the site below the minimum parking requirements of the Code. The parking is needed for the daily operations of the site, therefore reducing parking is not a viable option.

Details	**Sign Setback**
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).
Variance Request	The applicant is requesting a variance to Section 153.164 to allow a sign that, after right-of-way acquisition, will not meet the minimum setback required by Code. The Zoning Code requires a minimum setback for freestanding signs to be eight feet from the existing right-of-way. As proposed, the sign will be located on the right-of-way line which requires a variance of eight feet.

Analysis	**Parking Setback**
Variance Result	The variance request, if approved, would allow a freestanding sign to be located eight feet into the required setback.
ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET	
(1) *Special Conditions*	**Standard is Met** The site area has been reduced to accommodate additional right-of-way acquired for the Emerald Parkway improvement. This has reduced the setback of the existing sign.
(2) *Applicant Action/Inaction*	**Standard Met.** 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.
(3) *No Substantial Adverse Effect*	**Standard Met.** The applicant has worked with Engineering to ensure the sign will be out of the sight triangle for Emerald Parkway so that visibility will not be impaired. The sign is not interfering with the adjacent sidewalk which assures that the sign will not impede pedestrian traffic.
AT LEAST <u>TWO</u> OF THE FOLLOWING FOUR STANDARDS MUST BE MET	
(1) Special Privileges *(2) Recurrent in Nature* *(3) Delivery of Governmental Services* *(4) Other Method Available*	**Two Standards Met.** The following standards have been reviewed with the finding that at least two of the Standards have been met. (1) **Standard Met.** The sign setback has been to accommodate additional right-of-way acquired for the Emerald Parkway improvement. (2) **Standard Met.** It is not uncommon for developed sites to become nonconforming 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. (3) **Standard Met.** The request will not impact the delivery of governmental services. (4) **Standard is Not Met.** Although removing the sign would require the removal of landscaping and be a significant cost to the applicant, the sign could be relocated to meet Code.

Recommendations	**Approval**
Lot Coverage, Parking and Sign Setback Variances	Based on Planning's analysis the requested variance does meet the required non-use (area) variance standards, therefore approval of the following variances is recommended: • Allow a maximum lot coverage of 76%, where 70% is permitted; • Allow a parking setback of 15 feet from the existing right-of-way, where 30 feet is required; and • Allow a setback for a freestanding sign at the right-of-way line, where an 8 foot setback is required.

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 <u>all</u> 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 <u>two</u> 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.