



PLANNING REPORT

Board of Zoning Appeals

Thursday, December 14, 2023

VILLAGE AT INVERNESS COMMERCIAL CONDOS 23-122V

<https://dublinohiousa.gov/bza/23-122>

Case Summary

Address	7211-7243 Inverness Ct, Dublin, OH 43017
Proposal	Non-use (area) Variances for an office complex that does not meet the minimum building setback, minimum parking setback, maximum lot coverage, and minimum parking count due to right-of-way adjustments.
Request	Review and approval for three Non-Use (Area) Variances under the provisions of Zoning Code Section §153.231(H).
Zoning	SO, Suburban Office and Institutional District
Planning Recommendation	<u>Approval of four Non-Use (Area) Variances</u>
Next Steps	The Board of Zoning Appeals (BZA) is the final reviewing body for this application. If approved by the BZA, the site can be maintained as is.
Applicant	Megan O'Callaghan, City Manager of Dublin
Case Manager	Zach Hounshell, Planner II (614) 410-4652 zhounshell@dublin.oh.us

Site Location Map

23-122V | Village at Inverness



Site Features

- 1 Existing Office Complex



1. Background

Background

The 2.5-acre site is zoned SO, Suburban Office and Institutional and is located southwest of the intersection of Bright Road and Sawmill Road. The site has vehicular access from Bright Road via Inverness Court. The site is fully developed with six, 2-story office condominium buildings, and 125 parking spaces between 3 separate parking lots throughout the development.

Site Information

Natural Features

The site is fully developed with mature street trees along Sawmill Road to the east.

Nonconforming Site

The site currently contains nonconforming structures and pavement when reviewed against the Suburban Office and Institutional District requirements. The site was developed prior to the current development requirements, which constitutes the site to fall under the definition of a *Nonconforming Structure*. Zoning Code Section 153.004(C)(2) addresses nonconforming structures and development as follows:

“Structures and/or accessory development, which by reason of size, type, location on the lot, or otherwise in conflict with the regulations of the zoning district in which they are located may be altered, reconstructed or extended only in such manner that the alteration, reconstruction or extension will comply with the development standards of the zoning district in which the structure and/or accessory development is located. Such alteration, reconstruction or extension shall include such additional development and compliance with the development standards of the zoning district as would be required of a new structure and/or accessory development to the extent practicable and so that the spirit and intent of the development standards are accomplished.”

Since the property is being modified by right-of-way acquisition of the City of Dublin, the size of the site will be modified and make the site more nonconforming than it currently is. Variances are required to maintain the site in its current capacity as it will become less conforming to the current requirements than current conditions.

2. Proposal

The applicant is requesting a Non-Use (Area) Variance for the following code sections:

Variance #	Code Section	Requirement	Request
#1	153.072(B) – Building Setback Lines	Along every street right-of-way a building line shall be established from the center line of that right-of-way a distance equal to the width of the existing right-of-way or the width of the right-of-way proposed in the most recent adoption of the Thoroughfare Plan.	To allow a 1.5-foot setback for principal and accessory structures where 80 feet is required along Sawmill Road.

#2	153.072(C) – Parking Setback from Public ROW	Open parking or loading spaces shall be permitted to extend into the required building setback for not more than a distance equal to 40% of the required building setback distance. Parking areas shall be at least 15 feet from any established or proposed right-of-way or private street easement.	To allow a 1.5-foot parking setback where 48 feet is required along Sawmill Road; and a 7.5-foot parking setback where 30 feet is required along Bright Road.
#3	153.071(B)(4)(a) – Lot Coverage	Structures, parking, driveways, vehicular use areas, service areas, pedestrian areas, and other hard-surfaces or paved areas shall not cover more than 70% of the total lot area.	To allow up to 76-percent impervious surface on the development where a 70-percent maximum is required.
#4	153.212 – Minimum Number of Parking Spaces Required	Administrative/Business Office – 1 space per 250 SQFT	To allow 120 parking spaces for an office complex where approximately 127 spaces are required.

The Variance requests are required due to right-of-way acquisition by the City of Dublin for roadway improvements to Sawmill Road and Bright Road. The site currently is permitted as a nonconforming site, but is being modified to be more nonconforming than it currently stands. The modification to Sawmill Road requires the removal of 5 parking spaces, increases the lot coverage on the site, decreases the building setback, and decreases the parking setbacks.

As this and similar situations are being created by the roadway improvements, the City of Dublin is acting as the applicant to determine if the Board of Zoning Appeals will allow the nonconforming zoning created by the infrastructure improvements to become conforming through the variance process.

3. Site Plan



4. Plan Review

Zoning Code Section 153.231(H)(2) allows the Board of Zoning Appeals to approve requests for non-use (area) variances only in cases where the Board finds there is evidence of a practical difficulty present on the property, and that the findings required in Zoning Code Section 153.231(H) have been satisfied.

Criteria A | Non-Use (Area) Variance Analysis - Section 153.231(H)(2)(a)

All three criteria are required to be met:

Criteria	Review
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.	#1, 2, 3, 4: Criteria Met. The site is fully developed and operational. Updates to the zoning code and modifications to right-of-way overtime have created special conditions where the site would not meet current zoning requirements.
2. That the variance is not necessitated because of any	#1, 2, 3, 4: Criteria Met. The Variance requests are prompted by the right-of-way acquisition, not by the actions or inactions of the current property owner.

Criteria	Review
<p>action or inaction of the applicant.</p> <p>3. Granting the variance will not cause a substantial adverse effect to the property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied.</p>	<p>#1, 2, 3, 4: Criteria Met. The site will operate in the same manner as before the right-of-way changes are made. There will be no adverse effects to employees, visitors, or the general public.</p>

Criteria B | Non-Use (Area) Variance Analysis - Section 153.231(H)(2)(b)

At least two of the following criteria are required to be met:

Criteria	Review
<p>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.</p>	<p>#1, 2, 3, 4: Criteria Met. 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. 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.</p>	<p>#1, 2, 3, 4: Criteria Met. It is not uncommon for developed sites to become nonconforming based on right-of-way acquisition and roadway improvements. To address this issue, the Zoning Code allows these uses to legally operate as a nonconforming structure (includes buildings and parking areas). Therefore, there is code modifications that would be necessary to rectify this occurrence. In this instance, the City of Dublin has elected to process a variance application to prevent any financing or insurance issues that can occur when a structure is deemed nonconforming.</p>
<p>3. The variance would not adversely affect the delivery of governmental services.</p>	<p>#1, 2, 3, 4: Criteria Met. The request will not impact the delivery of governmental services and in fact, allows a public improvement project to proceed.</p>
<p>4. The practical difficulty could not be eliminated by some other method, even if the solution is less convenient or most costly to achieve.</p>	<p>#1, 2, 3, 4: Criteria Met. The only other method available to meet current zoning regulations is to renovate the existing building and eliminate parking to meet the setback requirements. Renovation of the existing building would result in a significant loss of</p>

Criteria	Review
	square footage and associated site modifications. This would significantly impair the operations of the site and is therefore not a reasonable alternative.

5. Recommendation

Planning Recommendation: #1 (Building Setback)

Planning Staff recommends **Approval** of the Non-Use (Area) Variance to Zoning Code Section 153.072(B) to allow a 1.5-foot setback for principal and accessory structures where 80 feet is required along Sawmill Road.

Planning Recommendation: #2 (Parking Setback)

Planning Staff recommends **Approval** of the Non-Use (Area) Variance to Zoning Code Section 153.072(C) to allow a 1.5-foot parking setback where 48 feet is required along Sawmill Road; and a 7.5-foot parking setback where 30 feet is required along Bright Road.

Planning Recommendation: #3 (Lot Coverage)

Planning Staff recommends **Approval** of the Non-Use (Area) Variance to Zoning Code Section 153.071(B)(4)(a) to allow up to 76-percent impervious surface on the development where a 70-percent maximum is required.

Planning Recommendation: #4 (Parking Count)

Planning Staff recommends **Approval** of the Non-Use (Area) Variance to Zoning Code Section 153.212 to allow 120 parking spaces for an office complex where approximately 127 spaces are required.