

PLANNING REPORT

Board of Zoning Appeals

Thursday August 27, 2026

Ohio Sinus Institute

26-029V

<https://dublinohiousa.gov/bza/26-029/>

Case Summary

Address	5378 Avery Road
Proposal	Request for review and approval of a Non-Use (Area) Variance for three porte cochères to encroach the side yard setback and front yard setback on a 3-acre site.
Request	Review and approval of a Non-Use (Area) Variance under the provisions of Zoning Code Section 153.231.
Zoning	SO, Suburban Office and Institutional District
Planning Recommendation	<u>Approval of the Front Yard Non-Use (Area) Variance</u> <u>Disapproval of the Side Yard Non-Use (Area) Variance</u>
Next Steps	The Board of Zoning Appeals is the final reviewing body for this application. If approved by the BZA, the applicant can continue the permitting process through the Building Standards Division. If disapproved by the BZA, the applicant would be required to meet the front and side yard setbacks.
Applicant	Michael Maistros, Principal at New Avenue Architects & Engineers
Case Manager	Anthony Gilmore, Planner I (614) 410-4654 agilmore@dublin.oh.us



Community Planning and Development



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Site Location Map

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Site Features

- 1 Medical Office Building
- 2 Barn
- 3 Shed



1. Background

Project Request

This is a request for two Variances to permit three attached porte cochères to encroach the required minimum front and side yard setbacks. One porte cochère is proposed along the west elevation and would encroach into the required front yard setback, while two porte cochères are proposed along the south elevation and would encroach into the required side yard setback. The Board of Zoning Appeals is the determining body for this application.

Site Summary

The 3.0-acre site is located on the east side of Avery Road. The property is partially developed with a medical office building constructed in 2007, as well as an accessory barn and shed constructed in 2009.

Site Features

The property is located on Avery Road, which is classified as a major arterial roadway, and is a rectangular shaped lot. The lot is ± 273 feet in width and ± 479 feet in depth. The 4,152-sqft medical office building and associated parking lot are located on the western portion of the property and the 2,304-sqft barn on the northeast corner. The medical office building is considered a legal nonconforming structure, as it does not meet the current front setback requirements due to the future right-of-way width of Avery Road increasing over time. Aerial imagery depicts a shed immediately north of the barn; however, this structure is not identified on the applicant's site plan. A stormwater detention pond is located between the medical office building and barn. The site is generally flat with minimal vegetation on the site.

Process

A *Non-Use (Area) Variance* is an application intended for properties where strict enforcement of the applicable development standard is unreasonable, and there is evidence of practical difficulty in meeting the requirement. Variance applications should be reviewed on a case-by-case basis and based on the merits of the subject property/structure. This type of application is reviewed and determined by the BZA, which is the final determining body. Criteria are split between two different categories: A and B. All criteria of Category A are required to be met, while two of the four criteria in Category B are required to be met.

Should the Variance be approved, the applicant would be required to revise their Building Permit application, indicating they received approval from the BZA for all or specific porte cochères to encroach their respective setback requirements. Should the Variance be disapproved, the proposed building and associated structures must conform to the requirements of the Zoning Code.

History

The property was annexed into the City of Dublin in 1990 as a part of Ordinance 89-90 but retained Washington Township zoning for a number of years. A City sponsored rezoning initiative began in 2001 under case 01-110Z to provide an appropriate Dublin zoning classification to properties controlled by Washington Township prior to annexation. During that process, the Avery Road Farm Market was operating and previous property owners provided evidence that their township zoning classification was Neighborhood Commercial. In June 2007,

City Council approved Ordinance 26-07, rezoning the Southwest Quadrant (Area 1), which included the subject site, to R-1, Restricted Suburban Residential.

According to Franklin County Auditor records, the principal structure on the property was constructed in 2007, with an accessory barn added in 2009. In 2011, case 11-047MS, a Minor Subdivision, was administratively approved to split 3.00 acres from the 23.15-acre parent parcel, thereby creating the property's current configuration. At the time of lot split, dedication of right-of-way for Avery Road was not required; however, written correspondence from City Leadership noted, "should you or someone else pursue changes in the future, such as further development on the remainder of the site or major change to the existing office building, the City may be in a position to require dedication of right of way."

In 2017, the property owner submitted case 17-026Z, a request to rezone the 3.00-acre parcel from R-1, Restricted Suburban Residential District to, SO, Suburban Office and Institutional District. The rezoning was intended to facilitate the continued operation and expansion of the existing commercial medical use.

Zoning Requirements

The SO, Suburban Office and Institutional District is regulated by zoning code section 153.023. This district establishes side and rear yard setback requirements based on the proposed height of the structure and the length of the wall most nearly parallel to its respective lot line. All properties in the SO zoning district that are adjacent to a residential zoning district or Planned Unit Development (PUD) shall require a side yard and rear yard. Pursuant to Zoning Code Section 153.072(B), the required front building setback is measured from the centerline of the public right-of-way at a distance equal to the width of either the existing right-of-way or the proposed right-of-way identified in the most recently adopted Thoroughfare Plan, as amended. The Thoroughfare Plan identifies a future right-of-way width of 124 feet for Avery Road. Given the existing development pattern along the east side of Avery Road, it is anticipated that the majority of future right-of-way dedication and roadway widening will occur on the west side of the roadway.

Setback requirements for the subject property:

Minimum Front Yard Setback	124 feet (from center line)
Minimum Side Yard Setback (Southern Property Line)	54.33 feet
Minimum Rear Yard Setback	22.58 feet

The subject site and adjacent properties are also included in the Southwest Area Plan and are designated Mixed Use Neighborhood (MXN) on the Future Land Use Map. MXN is intended to support a mix of office, personal service, commercial, retail, and eating and drinking establishments as principal uses with single-family and multi-family residential as supporting uses.

2. Project

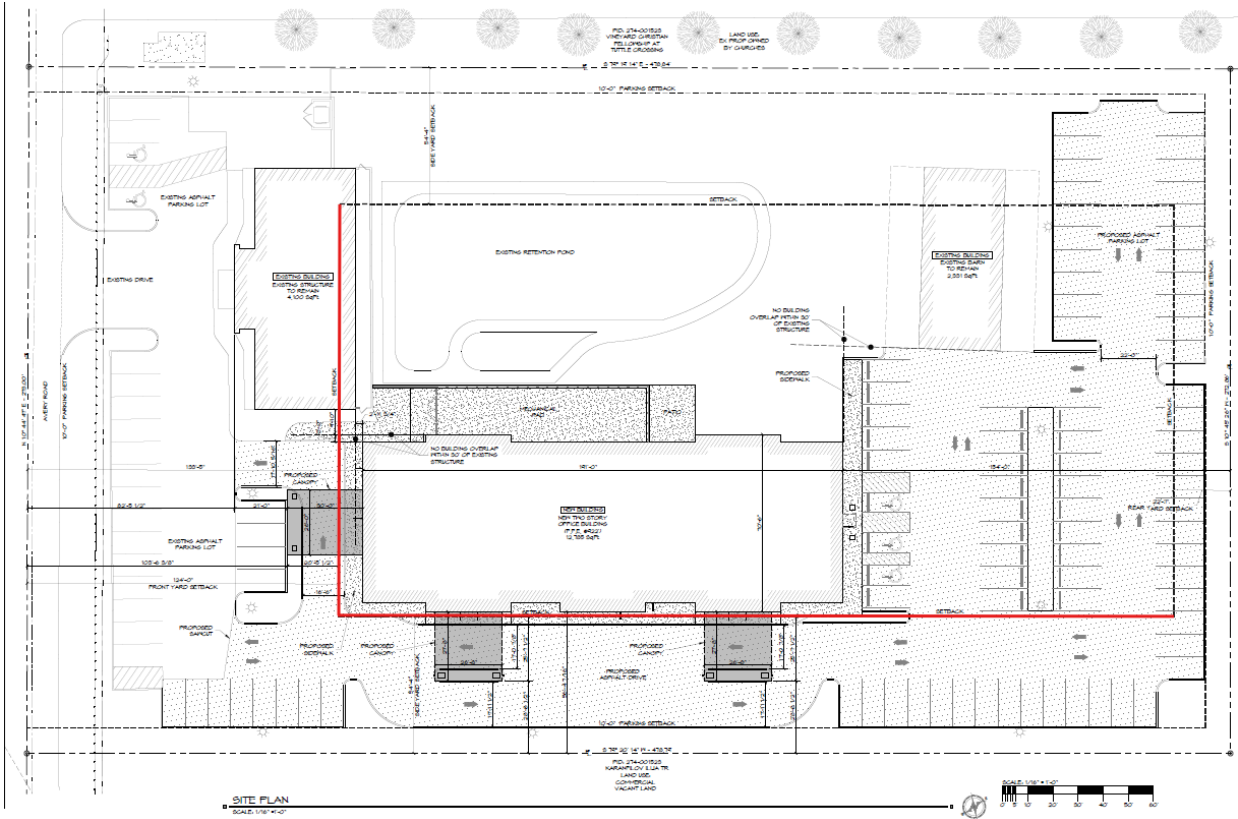
Summary

The applicant is requesting the following Variances for a new medical building:

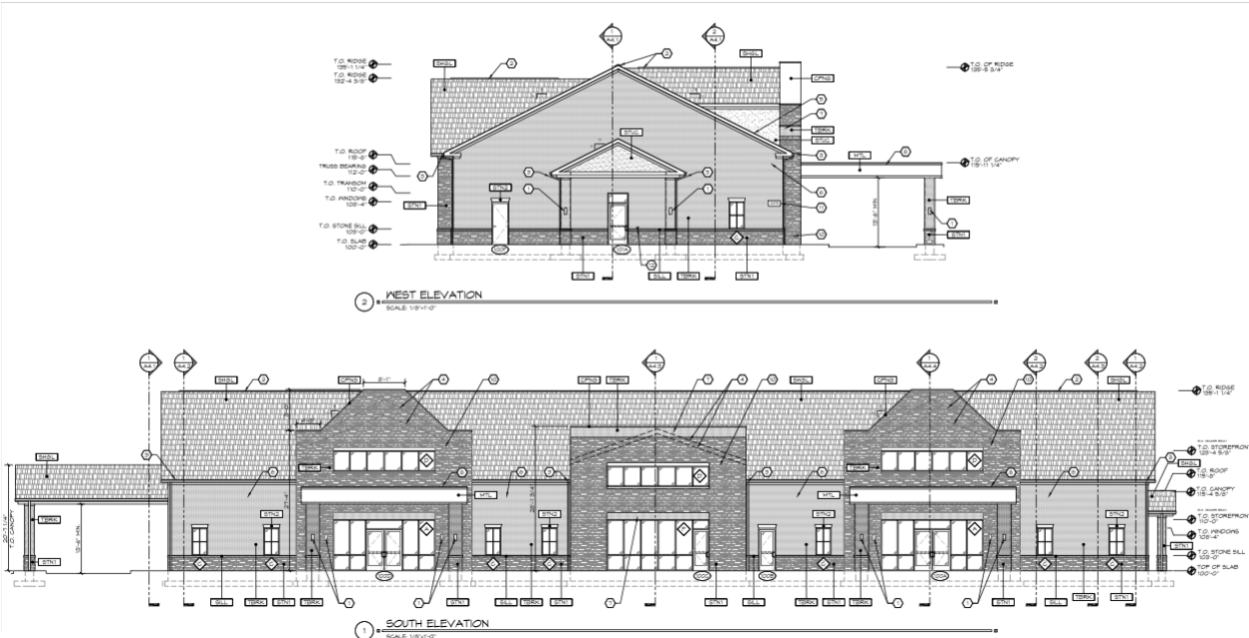
Variance #	Code Section	Requirement	Request
#1	153.072(B)	The minimum building setback line shall be established from the center line of that right-of-way a width of the right-of-way proposed in the most recent adoption of the Thoroughfare Plan and as amended.	To allow one porte cochère to encroach 20 feet and 6 inches into the 124-foot required front yard setback.
#2	153.026(C)(3)	The minimum side yard shall not be less than one-fourth the sum of the height of the structure and the length of the wall most nearly parallel to side lot line, but in no case less than 15 feet.	To allow two porte cochères to encroach 25 feet and 8 inches into the 54-foot, 4-inch required side yard setback.

The applicant is requesting two setback Variances to construct three attached porte cochères on a new medical office building. The applicant has provided a statement addressing the reasoning for the request. The applicant states these porte cochères are necessary to provide covered patient drop-off areas, including accommodation for ambulance access, and to ensure safe and weather-protected entry for patients.

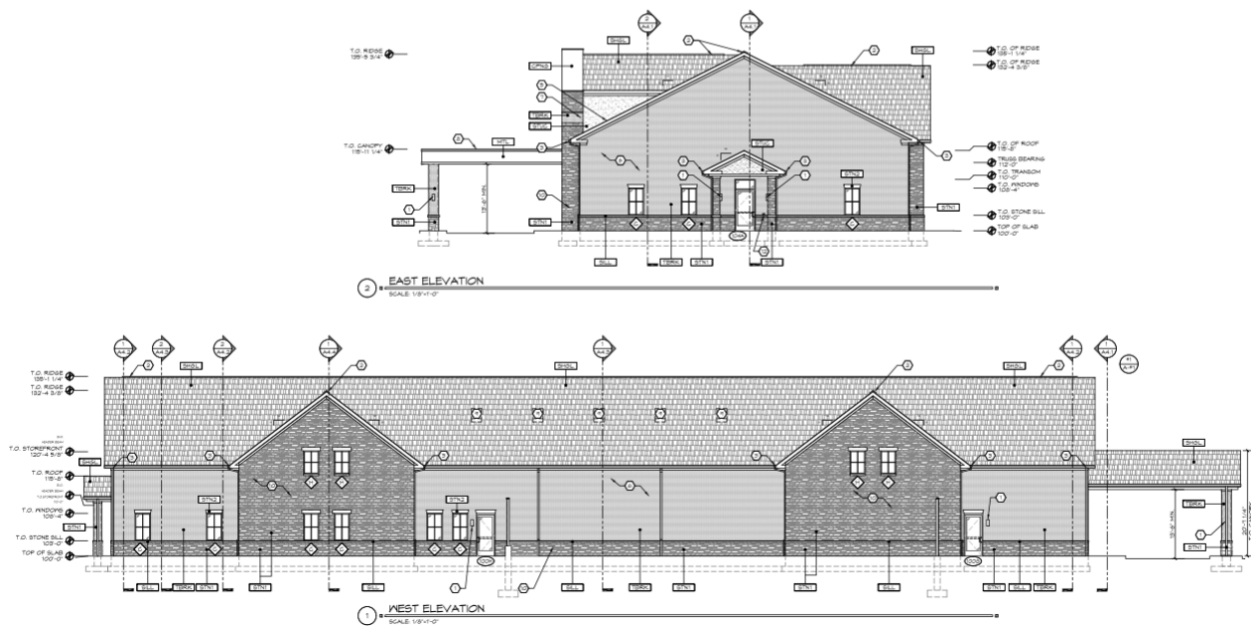
The areas shaded in dark grey on the site plan highlight the proposed porte cochères. Building elevations show heights, proportions, and architectural details.



Site Plan



East and South elevations



East and North (improperly labeled West) elevations

3. Plan Review

Non-Use (Area) Variance

All three of the following criteria are required to be met:

Criteria A	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 - Criterion Met: While the proposed porte cochère would encroach into the front yard setback, it would not be forward of the existing structure on the site, which became nonconforming based on the application of the future right-of-way width. It would also not alter the location/setback of the existing parking between the building and the street. #2 - Criterion Not Met: There are no special conditions or circumstances that prohibit the development of the site without the need for the southern encroachments. The site has normal geometry, is generally flat, and the existing layout follows normal development patterns. Since the proposal involves the construction of a new structure, the layout could be adjusted to meet the required setbacks.
2. That the Variance is not necessitated because of any action or inaction of the applicant.	#1 - Criterion Met: The expansion of the Avery Road future R.O.W. to 124 feet from the existing 60 feet is significant and not considered an action or inaction of the applicant.

Non-Use (Area) Variance

All three of the following criteria are required to be met:

Criteria A	Review
	#2 - Criterion Not Met: The property was initially developed under Washington Township zoning; however, subsequently a lot split and rezoning were requested by the property owner. The request is necessitated based on current zoning requirements and the proposed size, placement, and design of the new building based on the lot split obtained several years ago.
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.	#1 - Criterion Met: Permitting the proposed porte cochère to encroach the front yard setback requirement does not increase the site's current non-conformance. The front yard setback encroachment of the existing principal structure exceeds what is proposed for the new building. #2 - Criterion Not Met: Side yard setbacks in this zoning district are intended to preserve clear buffers between commercial districts and residential districts/PUDs. Permitting multiple structures to encroach the required side yard setback would materially impair the intent and purpose of those requirements.

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

Criteria B	Review
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.	#1 and #2 - Criterion Not Met: Allowing multiple structures that encroach into the front and side yard setbacks will confer special privileges to the applicant that are not provided to other properties zoned SO. These requirements are consistent throughout the zoning district where properties are adjacent to residential zoning districts or PUDs.
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.	#1 and #2 - Criterion Met: The request is not recurrent in nature and does not require modifications to the Code.

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

Criteria B	Review
3. The Variance would not adversely affect the delivery of governmental services.	#1 and #2 - Criterion Met: This request would not impact the delivery of government services.
4. The practical difficulty could not be eliminated by some other method, even if the solution is less convenient or most costly to achieve.	#1 and # 2 - Criterion Not Met: The site layout and building design can be modified to meet the requirements of the code. Additionally, a lot line adjustment may lessen the impact of setback requirements on the development as proposed.

Recommendation

Planning Recommendation #1 – Front Yard Setback: Approval of the Non-Use (Area) Variance to permit one porte cochère to encroach 20 feet and 6 inches into the front yard setback.

Planning Recommendation #2 – Side Yard Setback: Disapproval of the Non-Use (Area) Variance to permit two porte cochères to encroach 25 feet and 8 inches into the side yard setback.