

18-044AA – ST. ALBANS PLACE DRIVEWAY APPEAL

Site Location

Northeast of the St. Albans Place cul-de-sac, approximately 300 feet north of the intersection with Greenstone Point.

Proposal

An Administrative Appeal (AA) of a determination by the Planning Director that a driveway be permitted to encroach one foot, three inches into the required three-foot setback.

Zoning

Planned Unit Development District, Muirfield Village, Oakhurst at Muirfield

Property Owner

George & Sharon Custer

Applicant/Representative

Gail Morrissey.

Applicable Lane Use Regulations

Zoning Code Section 153.231(F)

Staff Recommendation

A. Affirmation of the Planning Director's Decision.

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Case Managers

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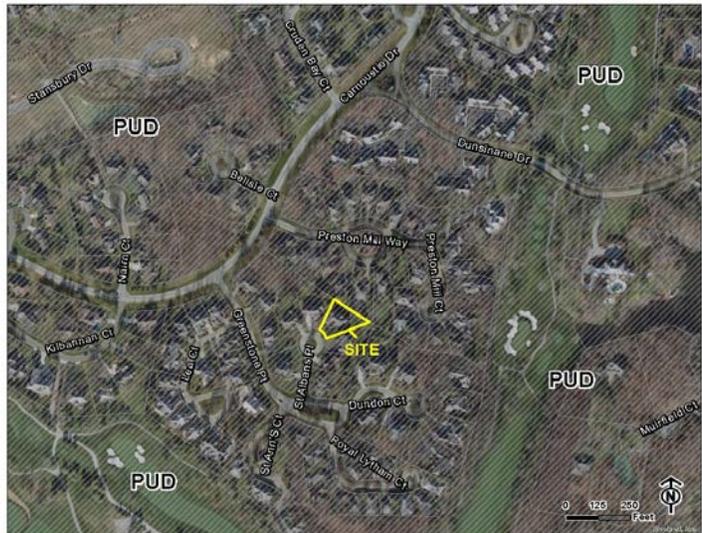
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Summary

The applicant is requesting the Board of Zoning Appeals reverse a determination by the Planning Director that a driveway be permitted to encroach one foot, three inches, at the greatest point, into the required three-foot side yard setback for a residential property located within the Muirfield Village Planned Unit Development District.

Zoning Map



Next Steps

If the requested appeal is affirmed by the Board, then the property owner is permitted to retain the approved driveway with the one foot, three inch encroachment into the three-foot side yard setback.

If the requested appeal is reversed by the Board, then the property owner would be required to either:

- a) File a new Certificate of Zoning Plan Approval (CZPA) for the driveway showing conformance with the required three-foot side yard setback and remove any portion of the driveway not meeting this requirement.
- b) File a Non-Use (Area) Variance to permit the driveway to encroach one foot, three inches into the required three-foot side yard setback.

1. Context Map

This property is located northeast of the St. Albans Place cul-de-sac, approximately 300 feet north of the intersection with Greenstone Point.



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2. Overview

A. Background

Phase 31 of Muirfield Village, Oakhurst at Muirfield, was platted in 1986 which included the dedication of St. Albans Place along with the platting of lots 1508-1517. City Council approved Ordinance #26-73 for a rezoning to PUD, Planned Unit Development District, Muirfield Village in 1973.

B. Site Characteristics

1) Natural Features

There are no natural features present on this site.

2) Historic and Cultural Facilities

There are no historic or cultural features on the site.

3) Surrounding Land Use and Development Character

- North, East, South, & West: PUD, Planned Unit Development District, Muirfield Village (Single-family Residential)

4) Road, Pedestrian and Bike Network

The site has frontage on St. Albans Place (± 45 feet). A shared-use path is located on the rear of the property providing connection to the adjacent properties as part of the bike network.

5) Utilities

The site is served by public utilities with sewer and water provided along the frontage from St. Albans Place.

C. Administrative Appeal

The Planning Division was contacted by the applicant (Exhibit A), Gail Morrissey, to verify modifications to a neighboring driveway received proper approval from the City of Dublin. Upon confirmation that the work was completed without a permit, staff contacted the property owners, George & Sharon Custer, regarding the work and outlined the appropriate procedure for reviewing the modifications. The property owners filed a Certificate of Zoning Plan Approval (CZPA) for driveway modifications including the replacement of the asphalt material for pavers and addition of a paver border running along the length of the driveway (Exhibit D). The proposal remained within the existing driveway area with only the paver border extending the limits of the original driveway. The CZPA application was received on May 17, 2018 and approved by staff on May 25, 2018.

Applications for CZPA's are an administrative review process that allow for specific review of residential or commercial improvements such as fences, patios, driveway modifications, and accessory structures under a certain size. Upon submittal of the application, staff reviewed the modifications for compliance with Zoning Code Section 153.210 – *Driveways*. During the review, staff identified that a portion of the paver border and driveway near the right-of-way encroached a maximum of one foot, three inches into a required three-foot side yard setback regulated under Zoning Code Section 153.210(B)(2). This encroachment was caused by the orientation of the driveway relative to the side property line, as shown on the

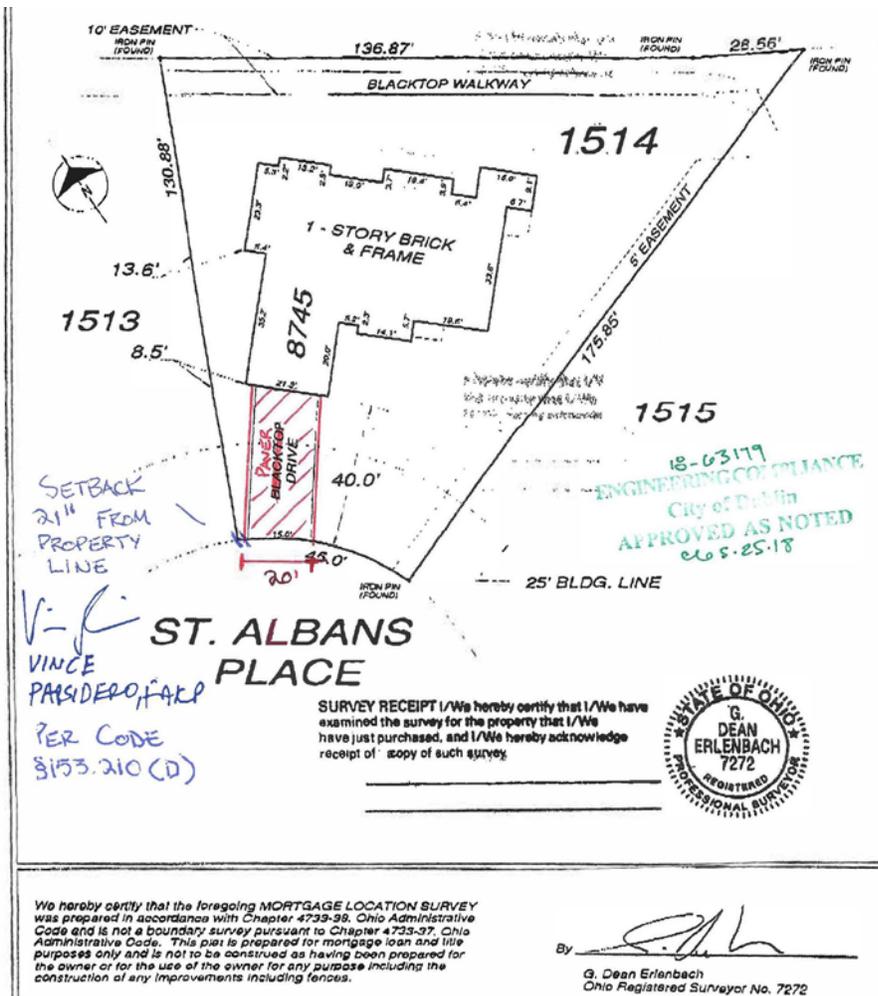
site plan. Exceptions to requirements of the driveway section of the zoning code are outlined in Section 153.210(D) which states:

“Exceptions to divisions (B) and (C) above require review and approval by the Director of Land Use and Long Range Planning or designee(s). Appeals may be made to the Board of Zoning Appeals in accordance with §153.231(F).”

In reviewing the proposal, the Director determined that although the driveway no longer conformed to the three-foot setback, a setback was still provided at one foot, nine inches at the closest point with the remainder of the driveway adhering to or exceeding the setback requirement. With the exception warranted under Zoning Code Section 153.210(D), the Director signed the CZPA application that was approved and forwarded to the property owners on May 25, 2018.

The applicant was notified of the approval of the CZPA on May 29, 2018 including the exception being made for the encroachment. The applicant, being the adjacent property owner, is requesting an Administrative Appeal to the Board of Zoning Appeals to reverse the Planning Director’s decision to permit the one foot, three inch encroachment into the side yard setback.

3. Site Plan



4. Criteria Analysis

Zoning Code Section 153.231(F) states that an appeal may be taken from any person or any governmental department affected or aggrieved, and review any order, requirement, decision or determination where it is alleged by the appellant that there is error or misinterpretation in any order, requirement, decision, grant or refusal made by an administrative official or body charged with the enforcement and administration of this Code.

In deciding the appeal, the Board is to determine whether or not the decision that was made was done so using the proper requirements and standards in this Code. The Board is limited to the information that was available to the administrative official or body who made the decision being appealed. Additional testimony is not appropriate.

After a determination that the administrative official or body making the decision did so improperly, the Board may reverse or affirm, wholly or partly, or may modify, the order, requirement, decision or determination appealed from, and may make an order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the administrative official or body from whom the appeal was taken.

A. Administrative Appeal to the Board of Zoning Appeals Basis of Decision [§153.231(F)]

1) **The Board shall determine whether or not the decision that was made was done so using proper requirements and standards in this Code.**

Standard Met. The zoning code clearly regulates that any exception to a driveway regulation requires review and approval by the Director. This code provision gives the Director the discretion to determine if a proposal warrants an exception to the code based on the information submitted for review. As this process was included in the zoning code as part of the administrative review for driveway modifications, it is Staff's interpretation that the Director was acting within the requirements and standards of the zoning code when permitting the one foot, three inch encroachment.

Council, by adopting Section 153.210(D) to permit the Director to grant administrative exceptions in the limited context of the driveway setbacks, illustrates its intent that these matters were not to be subject to the variance process or criteria. Council authorized the use of the administrative exception to address unique circumstances such as this. The Director's decision should be reversed only if the Board determines that the Director abused his discretion under Section 153.210(D). An abuse of discretion is more than an error of judgement, but is instead an unreasonable, arbitrary, or capricious decision.

5. Recommendation

Planning recommends that the Board of Zoning Appeals **affirm** the Director's determination that the driveway be permitted to encroach one foot, three inches, at the greatest point, into the required three-foot side yard setback for a residential property.