

# MEETING MINUTES



## Board of Zoning Appeals

City Hall • 3800 Municipal Way • Hilliard, Ohio 43026  
and Live-Streaming on YouTube

Thursday, August 18, 2022 | 7:00 pm

### CALL TO ORDER

President Piper called the Regular Meeting of Board of Zoning Appeals to order at 7:00 PM.

### PLEDGE OF ALLEGIANCE TO THE FLAG

President Piper led the Board and attendees in the Pledge of Allegiance.

### ROLL CALL

Attendee Name:	Title:	Status:
President Matthew Piper	President	Present
Vice President Aaron Epling	Vice President	Present
Steve Donato	Member	Present
James Martin	Member	Present
Greg St. Clair	Member	Present
Arthur Steele	Member	Present
Bobby Stepp	Member	Present

**Staff Members Present:** Planning Director John Talentino; Planning Manager Carson Combs; Administrative Assistant Nicole Starrett; Council Representative Peggy Hale.

**Others Present:** Cynthia Tomm and Tony Jao, 3394 Woodland Drive, Hilliard, OH 43026 representing BZA-22-27; Troy Reynolds, 995 West 3<sup>rd</sup> Avenue, Columbus, OH 43212 representing BZA-22-28; Tom Warner 781 Science Blvd., Suite 100, Gahanna, OH 43230 representing BZA-22-28; Phil Moorehead, 720 E. Broad St., Columbus, OH 43215 representing BZA-22-28; Andrew Ong, American Structurepoint, 2550 Corporate Exchange Drive, Suite 300, Columbus, OH 43231, representing BZA-22-29; Dylan Rusk representing BZA-22-29.

### APPROVAL OF MEETING MINUTES – July 21, 2022

President Piper made a motion to approve the July 21, 2022, meeting minutes. The motion was seconded by Mr. St. Clair.

<b>Status:</b>	Approved (7-0)
<b>Ayes:</b>	President Piper, Vice President Aaron Epling, Mr. Steve Donato, Mr. James Martin, Mr. Greg St. Clair, Mr. Bobby Stepp, Mr. Arthur Steele

### CHANGES TO THE AGENDA (requests for postponements, withdrawals, or change in order of cases)

Mr. Combs confirmed there were no changes to the agenda.

### OATH TO TELL THE TRUTH

President Piper administered the Oath to Tell the Truth.

**CASE 1: BZA-22-27 – TOMM RESIDENCE – 3394 Woodland Drive**

**PARCEL NUMBER:** 053-000086 (Heritage Preserve Section 1 Phase 2 – Lot 43)

**APPLICANT:** Cynthia Tomm, 3394 Woodland Drive, Hilliard, OH 43026.

**REQUEST:** Review and approval of a variance to Hilliard Code Section 1121.02(d)(1)(l) to permit a wooden decorative fence along a secondary front lot line in lieu of a required aluminum/wrought iron style decorative fence.

[Mr. Combs provided the staff report.]

**BACKGROUND:**

The site is located along Woodland Drive approximately 850 feet west of Blue Heron Drive. The 0.286-acre parcel is Lot #43 of the Heritage Preserve subdivision located west of Audubon Avenue in the center of the development. The site and all surrounding properties within the subdivision are zoned PUD, Planned Unit Development District. This particular lot backs onto the central woodland reserve and is adjacent to the pedestrian connector and street green/pocket park on Woodland Drive. At its July 21, 2022, regular meeting the Board of Zoning Appeals granted a variance to Hilliard Code Section 1121.02(d)(5) to permit a pool with an automatic cover in lieu of a fence with self-closing and self-locking gate. While the property was in the process of obtaining a fence permit for an ornamental fence installed without a permit by the previous owner, it was not recognized during the Board discussion or preliminary review of the permit that due to the unique nature of the lot a variance is necessary for the style of fence.

**CONSIDERATIONS:**

- Hilliard Code Section 1121.02(d)(5)(a) states that “Fences shall not be located past the build-to line of the main structure on the parcel, except that on a corner lot, an aluminum/wrought iron style fence shall be permitted to pass the build-to line parallel to the secondary front lot line by half the linear distance between the build-to line, and shall not be greater than forty-eight inches in height.”
- The existing decorative split rail fence was installed without a permit by the previous owner and did not disclose that fact during the purchase of the property. As part of their swimming pool variance request that was heard by the Board at its last meeting, the property owner has worked to resolve the outstanding issue by applying for a fence permit and being highly cooperative.
- Because the fence is a decorative split rail instead of aluminum/wrought iron, the style of fence does not comply. This fact was not caught during discussions about the pool cover variance. The location of the fence meets Code requirements.
- The location of this property adjacent to a rectangular pocket park within the street, creates a unique circumstance for this lot within the Heritage Preserve subdivision. The fence along the property line in question is highly landscaped and significantly screened from the public street.

**STAFF RECOMMENDATION:**

Staff finds that the proposed variance meets the intent of the Code to provide a decorative style of fence along a secondary street frontage that maintains open views. The street configuration of this lot is unique to the city, and the property owner is working to resolve permit issues that were unknowingly created by a prior landowner. The proposed fence does not negatively affect the surrounding properties or neighborhood and based on these findings, staff recommends approval of the requested variance.

[END OF REPORT | BZA-22-27]

Mr. Combs indicated this was a double fronted lot and the split rail fence was installed by a previous homeowner. Hilliard City code calls for wrought iron or aluminum design for pool enclosure. The fence is located properly, but is not the style permitted by Code. He indicated this meets the spirit and intent of the code to provide decorative fencing with open views; it is simply a matter of material type.

President Piper indicated split rail fencing is seen throughout the Heritage Preserve community and may be the only type allowed. He inquired if wrought iron or aluminum is allowed, as per the HOA.

In testimony, Mr. Jao presented exhibits clarifying the HOA deed restrictions. Mr. Jao indicated this is an inherited issue and the current fence was installed in 2017. He also noted that there are about 40 houses on Woodland with the same type of split fence.

Mr. St. Clair inquired if the wire mesh will remain; It was confirmed.

Mr. Martin asked for clarification regarding the pool enclosure code circled in Mr. Jao's exhibits that states that aluminum or wrought iron only to enclose a swimming pool, as per the HOA deed restrictions. Mr. Combs clarified that the variance would allow the homeowner to keep the split fence enclosure, which is common to Heritage Preserve.

Mr. Talentino indicated that most of the fence meets code. The portion along the second frontage needs the variance. Mr. Martin also stated that code does not allow for two different types of fencing in the same run. Mr. Talentino agreed.

President Piper made a motion (seconded by Mr. Martin) to approve the variance to allow the split fence in lieu of aluminum or wrought iron Hilliard Code Section 1121.02(d)(5)(a) as proposed.

<b>Status:</b>	Approved (7-0).
<b>Mover:</b>	President Matthew Piper
<b>Secunder:</b>	Mr. James Martin
<b>Ayes:</b>	President Matthew Piper, Vice President Aaron Epling, Mr. Bobby Stepp, Mr. Greg St. Clair, Mr. James Martin, Mr. Steve Donato, and Mr. Arthur Steele.

**CASE 2: BZA-22-28 – BLANK DENTAL – 5330 Cemetery Road**

**PARCEL NUMBER:** 050-000100

**APPLICANT:** Blank Spaces LLC, 5330 Cemetery Road, Hilliard, OH 43026; c/o Chris Huber, Advanced Civil Design, 781 Science Boulevard, Gahanna, OH 43230.

**REQUEST:** Review and approval of variances to the following Hilliard Code Sections:

- 1) Section 1111.04(g)(1)(A) to permit parking and drive aisles forward of the building within the Pedestrian Oriented Sub District and Section 1111.03(b) to reduce the front yard parking setback within the B-1 District from 30 feet to 7 feet;
- 2) Section 1111.03(b) to reduce the rear parking setback from 20 feet to 6 feet;
- 3) Section 1111.04(d)(2) to reduce required sidewalk width from 6 feet to 5 feet for an existing public walk and from 5 feet to 3 feet for a pedestrian walkway connector;
- 4) Section 1125.04(i) to reduce the required number of replacement tree inches from 67 to 12;
- 5) Section 1125.05(b) to reduce required perimeter landscaping from 10 feet to 6.5 feet at the rear property line; 10 feet to 0 feet along the side property lines; and 20 feet to 7 feet at the front property line;
- 6) Section 1125.05(c) to waive interior landscaping requirements for parking; and
- 7) Section 1127.04(b)(3) to decrease required two-lane aisle from 24 feet to 20 feet and a one-way aisle from 14 feet to 13 feet.

[Mr. Combs provided the staff report.]

## BACKGROUND:

The site consists of 0.55 acre located on the north side of Cemetery Road between Lattimer Street and Franklin Street. The property is zoned B-1, Neighborhood Business District, which allows for a range of low intensity commercial and office uses. The property is also located in the ***Pedestrian Oriented Sub District*** as outlined in Section 1111.04 of the Code, which sets additional development standards to ensure high visual quality and pedestrian-focused mobility along traditionally auto-oriented corridors such as Cemetery Road. The property is the former location of the Leaping Learners Childcare Center and includes a 3,780-square-foot office building and a front parking lot with two curb cut access drives from Cemetery Road. On November 20, 2021, the Planning and Zoning Commission approved a sign variance that permits signage to be a minimum distance of 5 feet from the right-of-way line. On August 11, 2022, the Planning and Zoning Commission approved a Level “B” Site Plan for the proposed improvements and monument sign. This is a request for variances that address constraints associated with landscaping, buffering and sidewalk requirements.

## CONSIDERATIONS:

- The proposed improvements include renovating the former daycare building and utilizing existing parking that is forward of the building. The applicant is proposing a parking expansion behind the building for employees with one-way circulation counter-clockwise around the building. Existing parking forward of the building currently exists partially within the right-of-way and the proposed site plan would remove pavement along Cemetery Road to provide buffering.
- *Front Parking Setbacks.* As part of major improvements to the site, the Code generally requires full compliance for the site. The variance requests for Section 1111.04(g)(1)(A) and Section 111.03(b) would permit the existing parking lot to remain with the removal of pavement to provide added landscape buffering along the right-of-way. Based on staff’s recommendation, initial plans have been changed to eliminate 5 spaces encroaching within the Cemetery Road right-of-way. Pavement in that area has been replaced with a 7-foot-wide landscape buffer and 2 parallel spaces. Additional pavement in the southwest corner of the existing lot will also be removed for landscaping and plans should be modified to show landscape compliance along the Cemetery Road frontage per Section 1125.05 of the Code.
- *Rear Parking Setbacks.* New parking to be constructed behind the building will encroach into the required 20-foot rear yard parking setback required in the B-1 District. In order to comply with parking width and to provide adequate turning radii, a reduction to 6 feet is necessary.
- *Public Sidewalk Width.* An existing 5-foot sidewalk is located along Cemetery Road. Section 1111.04(d)(2) requires 6-foot sidewalks for the Pedestrian Oriented Sub District, requiring a variance. Installation of a new wider sidewalk is not practical at this time.
- *Pedestrian Connections.* The site plan also indicates a 3- to 4-foot wide pedestrian walkway from Cemetery Road connecting to the building that utilizes a combination of existing sidewalk and striped pavement. *The Zoning Code requires a width of 5 feet, and staff recommends that plans be revised to comply as much as practicable.*
- *Tree Replacement.* Plans include the removal of 67 caliper inches as part of proposed improvements to the site. Replacement plans include 12 caliper inches. Based on the criteria for tree condition and prohibited species, staff recommends reducing the caliper inches if the Cemetery Road frontage is landscaped to comply with Code as much as practicable. Specifically, staff recommends adding a tree for the landscaped area located in the southwest corner of the property and adding shrubs in the buffer area.
- *Perimeter Landscape Buffer.* Code requires a 10-foot perimeter landscape buffer area along the side and rear property line, as well as a 20-foot buffer along Cemetery Road. Portions of the buffer area along the rear property line comply with Code, but portions require a reduction to 6.5 feet. Given constraints created by the building, staff recommends approval of this reduction. Plans show a variable buffer along

the west (side) property line that ranges from 1.63 feet to 3.63 feet. The east (side) property includes a buffer that ranges from 2.35 feet to 13.71 feet wide. Staff recommends that pavement along the side property lines be made more uniform to incorporate additional buffer space.

- *Interior Parking Lot Landscaping.* Due to space constraints, proposed plans do not include interior landscaping required by the Code. Plans do not include landscape islands/peninsulas on the ends and the rear parking row includes more than 12 spaces or 100 feet requiring additional landscaping. Staff recommends that the Cemetery Road frontage be planted fully as an alternative.
- *Aisle Width Reductions.* As a smaller commercial property near Old Hilliard, the site has limited depth for parking, given the existing location of the building. Variances are requested to reduce two-way aisle width from 24 feet to 20 feet and one-way circulation on either side of the building is requested at 13 feet instead of 14 feet. These reductions are intended to balance necessary parking areas with landscape buffer space. Reductions of this nature have been common in the Old Hilliard area.

### STAFF RECOMMENDATION:

Staff finds that the proposed site improvements are generally consistent with the intent of the Code and will work to bring the existing site more into compliance with applicable development requirements. The proposed site plan will be a significant improvement to the existing conditions of the property and will not negatively impact the surrounding area. Based on these findings, staff recommends that the proposed variances be approved with the following ten conditions:

- 1) That the submitted plans be reconciled to include the evergreen shrub additions that surround all sides of the proposed monument sign;
  - 2) That the lighting plan be modified to limit illumination ten feet beyond the property line to no more than 1.2 footcandles;
  - 3) That submitted plans be modified to include perimeter and interior landscaping along Cemetery Road, subject to staff approval as identified in the staff report;
  - 4) That all necessary variances be obtained from the Board of Zoning Appeals;
  - 5) That a zoning certificate be obtained prior to occupancy for the change of use;
  - 6) That the plans conform to the stormwater management provisions of the City's Engineering Design Manual;
  - 7) That plans be revised to comply with width requirements for pedestrian connectors as much as practicable;
  - 8) That landscaping be provided along the Cemetery Road frontage to comply with Code as much as practicable in lieu of reduced tree replacement inches, subject to staff approval;
  - 9) That proposed pavement edges along the side property lines be made more uniform to incorporate additional landscape areas, subject to staff approval or that plans be brought back to the Board for reconsideration;
  - 10) That variances granted apply only to the proposed improvements and that future site modifications comply with Code.
- Conditions noted in blue as approved by the Planning and Zoning Commission on August 11, 2022, as part of the Level "B" site plan approval.
  - Conditions noted in orange are additional proposed conditions based on variance requests.

[END OF REPORT | BZA-22-28]

Mr. Combs noted as part of the report that several variances are necessary due to the age of the site.

Vice President Epling inquired if there were any water run off issues with most of the lot covered. Mr. Combs indicated that there are several ways to handle storm water management within the parking lot design. Mr.

Combs cited Condition #6 and mentioned that it would be addressed through Engineering as part of the permit process.

Mr. Martin indicated options might become expensive. Mr. Talentino indicated that it is not unusual to provide storm water plans with parking lot design once variances are voted upon. Mr. Talentino mentioned that they will be working with our City Engineers to address storm water plans, as well.

Mr. Martin inquired about trees and what may be removed. He was glad to see Tree #7 on the survey being maintained. He brought up concern about proximity of the pavement to the canopy. He cited the substantial variation for replacement inches from 67" to 12" in the variance requests. There are some good trees in spots that could work, but they're being called to be removed.

Mr. Talentino indicated the need for the dental office to maximize parking. Tree #7 he agreed could be impacted with the pavement. The proposal is to maximize the number of replacement trees on the site without compromising tree health. The proposal includes shrubs on side facing Cemetery Road to maintain greenspace with a line in the back to comply with the intent of the code to preserve some landscaping at edge so it is screened from adjacent properties.

Mr. Martin indicated the tree in the back left corner is marked for removal; however, it's in a spot where it might not become an issue; Mr. Talentino indicated it might become an issue because the pavement comes close. He mentioned that as part of this project, they wanted to maximize parking in the back so that additional greenspace could be placed in the front where it encroaches into the right of way.

Mr. Talentino noted that a six-foot privacy fence or a combination of privacy fence, mounding and landscaping could also be used to meet Code requirements for screening; Mr. Martin indicated he wouldn't be comfortable with a fence within the buffer area.

Mr. Martin mentioned that potentially damaging the tree with pavement adjacency, unless the tree is prepared, and the roots are treated prior. He suggested removing parking to accommodate the tree.

President Piper asked to review the site again; and Mr. Combs explained the conditions along the west property line and in the back corner.

Tom Warner, Advanced Civil Design, explained the property to the north encroaches their property line. They are trying to provide a fair buffer. He also noted some of their air conditioning units are on this site. He said they wanted to reduce the drive aisle width in order to respect the other businesses.

Phil Moorehead, representing the applicant, explained that the tree in the corner of the lot is an invasive white Mulberry. It produces fruits that attract animals and produces litter; Mr. Martin concurred that is good reason to remove the tree.

Mr. Moorehead explained that the variance request for the tree inches are to remove two mulberries and a tree that is dying. He acknowledged that they would replace the other inches.

Mr. Talentino explained that that actual variance is to reduce replacement inches from 33.5" down to 12" because the replacement requirement is greater than 30 inches per acre and can be cut in half.

Mr. Martin inquired about protecting the large tree. Mr. Moorehead said they could do investigative excavation when preparing the parking lot to see if there are large roots that would be impacted.

With no public comment, Vice President Epling (seconded by President Piper) made motion to approve the seven variances listed in the staff report with the 10 conditions as provided for in the staff recommendation.

<b>Status:</b>	Approved with seven conditions (7-0).
<b>Mover:</b>	Vice President Aaron Epling
<b>Seconders:</b>	President Matthew Piper
<b>Ayes:</b>	President Matthew Piper, Vice President Aaron Epling, Mr. Bobby Stepp, Mr. Greg St. Clair, Mr. James Martin, Mr. Steve Donato, Mr. Arthur Steele.

### CASE 3: BZA-22-29 – OPPIDAN DATA CENTER – 4861 Edwards Farm Road

PARCEL NUMBER: 050-006545

**APPLICANT:** Wolpert Enterprises Limited, c/o Larry Wolpert, 2592 Canterbury Road, Columbus, OH 43221; Drew Johnson, Oppidan, 400 Water Street, Suite 200, Excelsior, MN 55331; and Andrew Ong, American Structurepoint, 2550 Corporate Exchange Drive, Suite 300, Columbus, OH 43231.

**REQUEST:** Review & approval of a variance to Hilliard Code Section 1121.02(d)(3) to permit security fencing within the front yard and to Section 1121.02(d)(4) to increase the maximum permitted fence height from six feet to eight feet for a perimeter security fence for an 89,954-square foot data center on 14.92 acres.

[Mr. Combs provided the staff report.]

## BACKGROUND:

The overall site consists of 26.88± acres located just north of Davison Road between I-270 and Edwards Farm Drive. The property is undeveloped agricultural land with freeway frontage that is zoned B-3, Office/Institutional District and permits data centers. On August 11, 2022, the Planning and Zoning Commission approved a lot split to create a ±14.92-acre parcel on the southern end of the parent property. The Planning and Zoning Commission reviewed the Level “B” Site Plan application and the motion to approve failed 3-3. Following discussion at the conclusion of the meeting, a motion to reconsider the case was approved by the Commission 5-1. The application will be reheard by the full Commission at their September meeting. Proposed is an 89,954-square foot data center that would be located on the southern 14.92± acres of the site. This is a request for variances to the fence code to permit the installation of security fencing as part of that development.

## CONSIDERATIONS:

- *Site Overview.* The site is zoned B-3, Office/Institutional District, and data centers are a permitted use for that zoning classification. The site has access to Edwards Farm Road, which is a minor arterial with a 4-5 lane divided profile. To the east across Edwards Farm Road are “the pointe” apartments and the “All-About Kids” daycare and preschool zoned PUD, Planned Unit Development District. The site is bounded by Davidson Road and Smith Ditch to the south and I-270 to the west. To the north of this site is “the District” apartments within the City of Columbus.
- *Fence Placement.* Due to needed security for the project, fencing is proposed that will be forward of the building line. Proposed security fencing includes an 8-foot high fence that will fully enclose the building and vehicular use areas. Three other data center locations have been recently approved for development within the city. Other data center locations have either obtained fence variances or have received approval through the Planned Unit Development (PUD) process. Plans indicate a bump out of the fence around parking spaces and recommend that the location is adjusted to place the fence in a uniform line facing the street.
- *Fence Height.* Fence design for the project will be similar in style to the Amazon facility along Hayden Run Road at I-270. Details include a black aluminum/wrought iron style with outwardly curved top.



Height is generally limited to six feet for properties with office/business zoning; however, the 8-foot height is consistent with other secure data center facilities.

### STAFF RECOMMENDATION:

Staff finds that the data center proposed for this B-3 zoned property is permitted and generally complies with the intent and standards contained within the Code. Staff finds that the proposed security fencing necessary to encircle this sensitive land use and is consistent with the placement and design of other data facilities. The proposed fencing is generally consistent with the intent and spirit of the Code and will not have a detrimental impact to adjacent property owners or the general area. Based on these findings, staff recommends that the proposed fence variances be granted with the following three conditions.

- 1) That the applicant adheres to all conditions of approval from the Planning and Zoning Commission for the approved Lot Split and Level “B” Site Plan review;
- 2) That proposed fencing along Edwards Farm Road is revised in a uniform line; and
- 3) That a fence permit be obtained prior to construction.

[END OF REPORT | BZA-22-29]

Mr. Martin inquired if the sidewalk along the road was included in the scope of work; Mr. Combs clarified that Code requires street trees and sidewalk to be installed along the project site down to the corner of Edwards Farm and Davidson Roads. He noted it is not on the plans but will be required.

Mr. Martin inquired if trees would be in the way of the sidewalk and whether there will be trees between the sidewalk and road. Mr. Combs explained that the existing tree row would be behind the required sidewalk. He also stated that street trees would be located between the road and walk, which is typical.

Mr. Donato inquired about the fence condition to create a uniform line; Mr. Combs additional parking lot landscaping was necessary in the bay of parking along the building which resulted in adding spaces toward the street. As a result the fence was modified around the parking, and staff is recommending that the fence is placed at a uniform distance along the street.

Mr. Martin inquired about the exiting tree line to the south and if it would be impacted; Mr. Combs noted that the area is within the 100-year floodplain and the Stream Corridor Protection Zone (SCPZ).

Mr. Dylan Rusk and Mr. Andrew Ong were present for the applicant. They explained that the fence is high quality and has been used for security on previous projects.

With no public comment, President Piper (seconded by Mr. St. Clair), made a motion to approve the proposed variance to Hilliard Code Section 1121.02(d)(3) to permit security fencing within the front yard and to Section 1121.02(d)(4) to increase the maximum permitted fence height from six feet to eight feet with the following three conditions:

- 1) That the applicant adheres to all conditions of approval from the Planning and Zoning Commission for the approved Lot Split and Level “B” Site Plan review;
- 2) That proposed fencing along Edwards Farm Road is revised in a uniform line; and
- 3) That a fence permit be obtained prior to construction.

<b>Status:</b>	Approved (7-0).
<b>Mover:</b>	President Matthew Piper
<b>Secunder:</b>	Mr. Greg St. Clair
<b>Ayes:</b>	President Matthew Piper, Vice President Aaron Epling, Mr. Bobby Stepp, Mr. Greg St. Clair, Mr. James Martin, Mr. Steve Donato, Mr. Arthur Steele.



**PRESIDENT'S COMMUNICATION**

Mr. Combs noted that there may be two cases on the agenda for September. Mr. Talentino also introduced the City's new administrative assistant, Nicole Starrett.

**ADJOURNMENT – 7:42 PM**

President Piper motioned to adjourn and gaveled the meeting at 7:42 p.m.

**CERTIFICATION:**



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Nicole Starrett, Administrative Assistant / Clerk  
September 9, 2022

[END OF MINUTES | AUGUST 18, 2022]