



Board of Zoning Appeals
March 20, 2024 - 6:00 PM
233 South Main Street, Monroe, Ohio

Call to Order

- Roll Call

Approval of Minutes

- January 11, 2024 Meeting Minutes

Old Business

New Business

- BZA-2024-1— Consideration of a variance application from Home Depot regarding screening requirements for a hydrogen refueling area.

Adjournment



**Board of Zoning Appeals Minutes
January 11, 2024
233 South Main Street, Monroe, Ohio**

Call to Order

Mr. Adam, Chair, called the meeting to order at 6:00 p.m.

Roll Call

Board of Zoning Appeals members present: Lorenzo Adam, Joshua Mason, Mike Morris, Matt Romito, Casey Walters

Staff members present: Tom Smith, Development Director; Kameryn Jones, Assistant Director of Development; Jameson Cole, Planner; Michelle Layman, Planning and Zoning Specialist.

Election of Officer Positions

Mr. Adam asked for nominations for Board of Zoning Appeals Chair. Mr. Mason moved to nominate Mr. Adam. Seconded by Mr. Romito. Voice vote. Motion carried.

Mr. Adam asked for nominations for Vice Chair. Mr. Mason moved to nominate Mr. Walters. Seconded by Mr. Romito. Voice vote. Motion carried.

Mr. Adam asked for nominations for Secretary. Mr. Romito moved to nominate Mr. Mason. Seconded by Mr. Adam. Voice vote. Motion carried.

Adjournment

Mr. Mason moved to adjourn; seconded by Mr. Romito. Voice vote. Motion carried.

The Board of Zoning Appeals meeting adjourned at 6:03 p.m.

Respectfully submitted,

Michelle Layman
Planning and Zoning Specialist



CITY OF MONROE
Inter-Office Correspondence

TO: Members of the Monroe Board of Zoning Appeals
FROM: Kameryn Jones
Assistant Development Director

DATE: March 20, 2024

RE: Information Packet for **March 20, 2024**, Board of Zoning Appeals Meeting at 6:00 p.m.

I. BZA-2024-1— Consideration of a variance application from Home Depot regarding screening requirements for a hydrogen refueling area.

A. Background:

- Mitchell Cummings, on behalf of Home Depot, has applied for variance regarding the use of slats and chain link fencing to satisfy the screening requirements for mechanical equipment.
- The property owned by Home Depot is 56 acres and is zoned H-1 High Industrial.
- The applicant wishes to use slats, which are prohibited, and an existing chain link fence to satisfy the screening requirements surrounding their new hydrogen refueling area.
- The existing black coated chain link fence with barbed wire was installed in accordance with the approved site plan. The approved site plan was signed on June 17, 2008.



Overhead View of Site



Surrounding Zoning



Southbound on Union Road



Looking southwest towards the hydrogen fuel area from Union Road



Looking east towards the hydrogen fuel area from Gateway Blvd

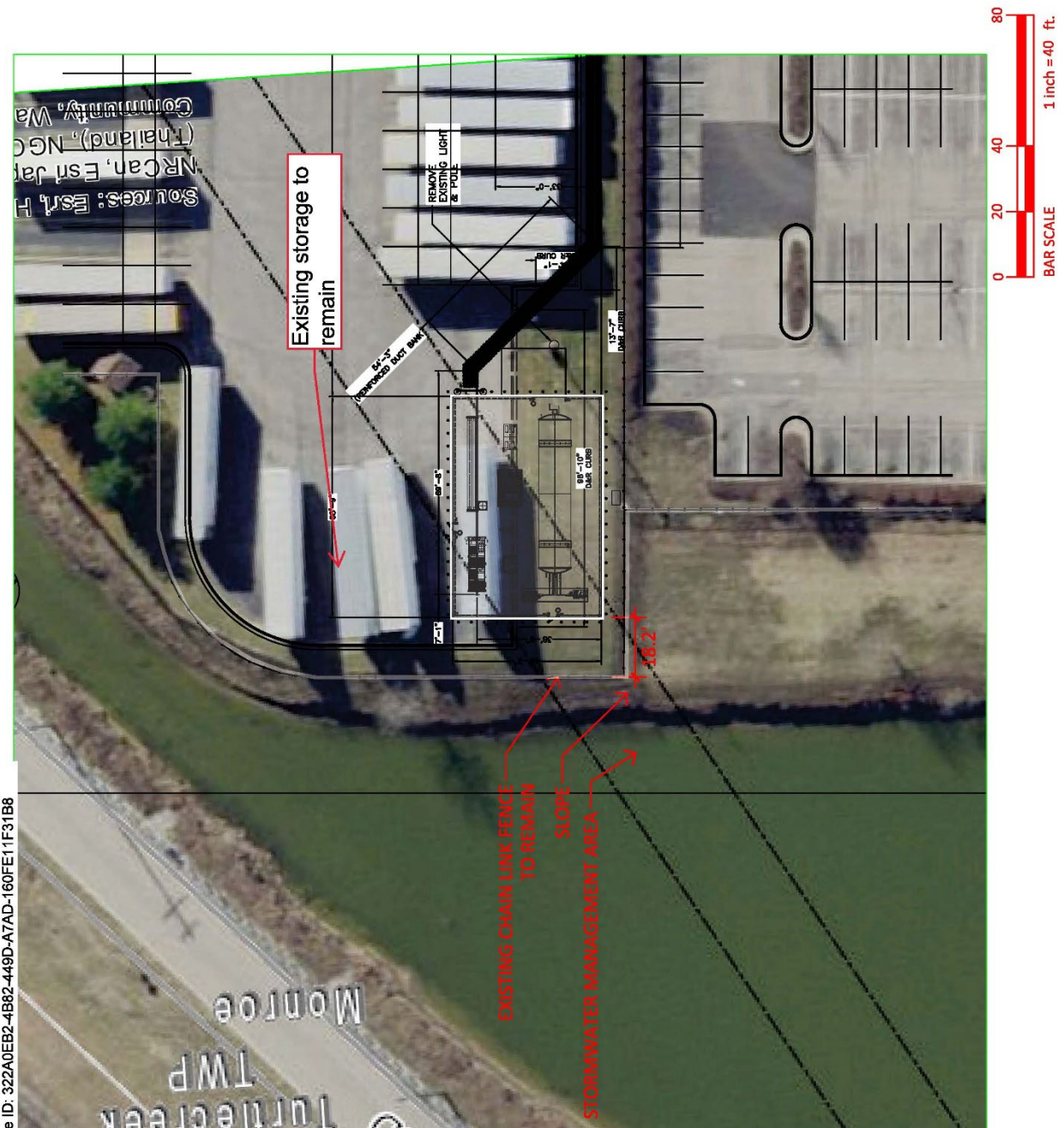
B. Variance Purpose:

- A variance from the requirements of this code may be granted by the BZA when the BZA determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this code.

C. Variance Request:

- To allow the use of slatting material woven into the existing chain link fence to satisfy the screening requirements for mechanical equipment.
- Section 1212.05(B)(3) Landscape Material Standards outlines this requirement as the following:

(3) Chain link fences with or without wooden or synthetic slat material shall not be allowed when used to satisfy the requirements of this chapter.



e ID: 322A0EB2-4B82-449D-ATAD-160FE11F31B8

Proposed Site Plan

D. Review Criteria:

The following factors shall be considered and weighed by BZA to determine practical difficulty. Staff's findings are listed after each criterion:

- ***Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures, or conditions.***

This property is similar to other H-1 Heavy Industrial properties in Park North in terms of lot size and size of area. Home Depot is one of two H-1 Heavy Industrial lots within the City that are surrounded by a detention pond and are similar in that they are both in close proximity to detention ponds.

- ***Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance.***

The property may yield a reasonable return and be of beneficial use without the requested variance.

- ***Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures.***

The variance requested is substantial because this sets a precedent for all industrial sites within the City when it comes to screening larger mechanical equipment in the future. The request is not the minimum necessary to make use of the land and structures.

The applicant has stated that they believe that using the existing fence in addition to synthetic slats is the minimum necessary to meet a fire code requirement outlined in NFPA 2 2016 Table 8.3.2.3.1.6(A) regarding combustible solids and to screen the hydrogen fuel area from public view.

- ***Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance.***

Most but not all buildings within Park North use black plastic-coated chain link fencing around secured areas such as truck docks, but not for screening purposes. Slats are not permitted.

The applicant has stated that they want to maintain the chain link fence while adding slats to meet the screening requirements while also meeting NFPA 2 2016 Table 8.3.2.3.1.6(A) combustible solids such as vinyl, wood fencing, vegetation, must be 100' from the bulk liquid hydrogen system.

Staff has previously suggested utilizing brick or stone to create a screening wall that could satisfy both the screening requirement and the fire code concern.

- ***Whether the variance would adversely affect the delivery of governmental services such as water, sewer, and refuse pickup.***

The variance would not adversely affect the delivery of governmental services.

- ***Whether special conditions or circumstances exist as a result of actions of the owner.***

The requested variance is due to the building of a hydrogen refueling area for Home Depot which now requires screening of mechanical equipment.

- ***Whether the property owner's predicament can feasibly be removed through some method other than a variance.***

The applicant could install a masonry wall in the same position as the existing fencing which would meet the requirements of the code.

- ***Whether the spirit and intent behind the code requirement would be observed and substantial justice done by granting a variance.***

The spirit and intent behind the code regarding the use of solid walls or fencing for screening and the prohibition of slats is to ensure long-lasting, durable, and quality product that enhances the community. Chain link does not screen structures and the upkeep of slat material has historically been a concern. The visibility of this structure and the associated screening from Union Road is a concern.

- ***Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.***

The granting of this variance may provide this applicant with a special privilege because the applicant would be able to utilize screening material not permitted elsewhere in the City. The City has not allowed other uses with this type of project to use this combination of materials to satisfy these requirements.

E. Department Comments:

- Public Works/Engineering: No comment.
- Police Department: No comment.
- Fire Department: No comment.

F. Public Comments:


- None received as of March 15, 2024.

G. Staff Recommendation:

- As a reminder, a variance from the requirements of this Code may be granted by the Board of Zoning Appeals when the Board determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this Code.
- Staff's review and recommendation are based on Code interpretations as well as the potential for precedents that could affect overall enforcement of City standards and regulations. The BZA's approval, denial, or modification is not required to be based on all the above criteria being met. No single factor listed above may control and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Staff **does not make a recommendation** regarding the variance request. Notwithstanding, the City of Monroe Development Department does understand certain conditions of the site that make it difficult to strictly apply the code while also following requirements from the National Fire Protection

Association. The site is unique in that the site has frontages along Gateway Boulevard and Union Road, making it and the hydrogen fueling area more visible from the street than typical. Additionally, the location of the detention pond restricts the placement of screening further away from the structure. However, there may be other solutions available to the applicant through the code that meet both requirements.

| | | |
|---|---|---|
|  <p style="text-align: center;">Application for a Variance</p> <p>Monroe Development Department 233 South Main Street, Monroe, Ohio 45050 Phone: 513-539-7374 planning@monroeohio.org www.monroeohio.org</p> | For Staff Use Only | |
| | Submittal Date: <input type="checkbox"/> 1/31/2 | |
| | Date Application Determined Complete: | |
| | Date of BZA Review: | |
| | Fee Paid: RES/AG- \$300 COMM- \$500 | Staff Initials: <input type="checkbox"/> GB |
| Application/Case Number: <input type="checkbox"/> 20240044 | | |

Variance Review Information

1. The variance review procedure and review requirements are established in Section 1203.08 of the Monroe Planning and Zoning Code.
2. There are separate review criteria for an area/dimensional variance (a request to vary any numerical or dimensional requirement in the code) and for a use variance (a request to have a use approved that is not otherwise allowed in the applicable zoning district. The applicant must demonstrate a practical difficulty for an area/dimensional variance or an unnecessary hardship for a use variance.
3. Approval of a variance does not guarantee any other approvals (e.g., site plan or zoning permit reviews). The applicant shall be responsible for applying for any other necessary permits or reviews.
4. Applicants shall obtain a zoning compliance inspection within one year of a variance approval or the approval shall be voided.
5. The application fee for a variance is \$300 for a residential or agricultural use and \$500 for all other uses, due at the time the application is submitted.

Basic Project and Site Information

| | | |
|---|---|---------------------------------------|
| Project Address: 500 Gateway Blvd Monroe, OH 45050 | | |
| County: <input type="checkbox"/> Butler | <input checked="" type="checkbox"/> Warren | Total Lot Area: ~56 Acres |
| County Tax Parcel ID: 11052000200 | | |
| Project/Development Name: Home Depot RDC 5082 | | |
| Existing Zoning District: H-1 Heavy Industrial District | | |
| Variance Type: | <input checked="" type="checkbox"/> Area/Dimensional Variance | <input type="checkbox"/> Use Variance |

Applicant Information

| | |
|--|---------------------|
| Applicant Name: Mitchell Cummings | |
| Contact Person: Mitchell Cummings | |
| Contact Address: 968 Albany Shaker Rd, Latham, NY 12110 | |
| Contact Phone Number: 518-925-2471 | Contact Fax Number: |
| Contact E-Mail: mcummings@plugpower.com | |
| Property Owner Name: Kelly Adkins - Prologis | |

The applicant may attach a separate sheet of a paper with contact information for additional people, if necessary (e.g., additional owners, registered engineer, landscape architect, etc.). The same contact information shall be provided for each contact name.

Project Address or Tax Parcel ID: 500 Gateway Blvd Monroe, OH 45050 / 11052000200

Additional Project Information**1) Please describe, in detail, the proposed uses and/or the proposed development.**

This permitted Plug Power is a green hydrogen (GenFuel) installation at the Home Depot Distribution Center and supports Home Depot's ongoing distribution activities by providing clean fuel cell power for material handling activities. The project includes an exterior concrete pad with a liquid hydrogen tank and associated equipment, underground piping to the building, roof mounted piping (mounted flush), and interior fuel dispensers for forklifts.

2) Identify what variances are being sought including the applicable code sections, required dimensions, or the established standard.

Section 1212.05(B)(3) Landscape Material Standards - (3) Chain link fences with or without wooden or synthetic slat material shall not be allowed when used to satisfy the requirements of this chapter.

If there is a requirement of screening at this pre-existing non-confirming property, then this variance request is to allow for the use of slat material to satisfy the requirements of this chapter due to spatial and code (NFPA 2 2016) constraints.

3) What are the characteristics of the property that prevent you from meeting the minimum requirements of the planning and zoning code?

- Lot is too narrow
 Lot is too small
 Lot is too shallow
 The soil or subsurface is unique to the lot
 The shape of the lot
 Building or lot elevation
 Topography
 Other (Describe in #4 below.)

4) Explain how items checked above prevent the reasonable use of the property under the existing requirements.

The permitted and constructed Plug Power project is located inside the existing site-wide chain link fence (to remain) at an existing trailer storage area and adjacent to an existing stormwater management area (the adjacent slope begins about 18' from the pad fence). The approximate distance from the pad to the road is over 115' with some shade trees located close to the trailer storage area at sporadic intervals. The adjacent slope to the stormwater area and the setback requirements of NFPA 2 to combustible materials severely limit the options for screening. According to NFPA 2 2016 Table 8.3.2.3.1.6(A), combustible solids, such as vinyl or wood fencing and vegetation, must be 100' from the bulk liquid hydrogen system (Group 3 line item 12), as a result there is not enough space between the pond and the pad to add vinyl/wood fencing or vegetation. The existing site grades adjacent to the stormwater management area do not allow for the construction of a screening berm.

5) Explain how the property cannot yield a reasonable return or whether there can be any beneficial use of the property without the variance.

Section 1212.05(B)(3) Landscape Material Standards requires use of one of the following for screening: (1) existing vegetation, (2) walls and fences, (3) earth mounds, or (4) plants. There is no dense (1) existing vegetation. The spatial constraints between the existing trailer storage area and the stormwater management area do not allow for (3) earth mounds. These same spatial requirements combined with the safety and/or code requirements of NFPA 2 do not allow for use of (4) plants and combustible (2) wall or fence materials.

Project Address or Tax Parcel ID: 500 Gateway Blvd Monroe, OH 45050 / 11052000200

Additional Project Information Continued

6) Will the granting of the variance request(s) be consistent with the surrounding neighborhood and will the variance request(s) negatively impact or impair the essential character of the area?

Yes No Please explain your rationale below.

The project character is consistent with the existing use of the property and the character of the area (within the heavy industrial zone, and adjacent to the light industrial zone and the Warren Correctional Institution).

7) To the best of your knowledge, is the difficulty or hardship described in this application self-imposed? Are the circumstances surrounding the request the result of the actions of the owner?

Yes No Please explain your rationale below.

No, the hardship is not self-imposed. The green hydrogen station was proposed at an existing facility and a pre-developed site with existing an stormwater management area. The project is meant to provide affordable green-energy solutions for the existing material handling systems, thereby reducing the use of lead acid batteries and reducing the use of the existing electrical grid. The project is inside the preexisting non-conforming parcel, including inside the existing site-wide security fencing.

8) Identify how the proposed variance application will protect the surrounding properties from any negative impacts (e.g., noise, light, traffic, etc.)

Only safety lighting is included in the project, and includes fixtures which are downcast. The project has no traffic impact as there is only a hydrogen delivery approximately 1 times every one to two weeks. There is no visual impact to surrounding properties as the character of the project is in keeping with the current use of the area, the tank and pad is of a similar size, color, and shape of the existing trailer storage. There is no adverse impact of noise to residential properties, as the project is adjacent to other industrial properties and some 3000' away from the Warren Correctional Institution.

Project Address or Tax Parcel ID: 500 Gateway Blvd Monroe, OH 45050 / 11052000200

Additional Project Information Continued

9) Are the variance request(s) substantial and the minimum necessary to make possible the reasonable use of the land and/or structures on the property?

Yes No Please explain your rationale below.

The request is the minimum necessary because it allows the project to remain visually consistent with the surrounding heavy industrial area. Additionally, the project is inside the preexisting non-conforming parcel, including inside the existing site-wide security fencing.

10) Will the granting of the variance impact governmental services such as water, sewer, refuse pickup, safety services, etc.?

Yes No Please explain your rationale below.

Water, sewer, and refuse pickup are not applicable or required for the project. Lack of visual screening has no impact of safety services, while the use of materials for screening that are not code compliant would cause a safety issue.

11) Explain how the property owner s predicament cannot be feasibly removed through another method other than a variance.

The required types of screening required by 1212.05 are in conflict with the site topography and the safety requirements and setbacks set forth in NFPA 2. Section 1212.05 cannot be met without a variance.

Project Address or Tax Parcel ID: 500 Gateway Blvd Monroe, OH 45050 / 11052000200

Additional Project Information Continued

12) Would the spirit and intent behind the code requirement be observed and substantial justice done by the granting of the requested variance(s)?

Yes No Please explain your rationale below.

The Planning and Zoning Code, Chapters 1201-1217, discuss the need for visual consistency with other development elements. The proposed green hydrogen pad is small compared with the amount of existing trailer storage and the existing chain link fencing (all to remain). In the case of this project, a solid barrier to meet the screening requirements at the proposed pad will be inconsistent with the existing perimeter of the site, thereby not meeting the spirit and intent of visual consistency of Chapter 1201-1217.

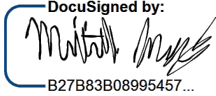
13) Would the granting of the variance(s) requested confer on the applicant any special privilege denied by the code regulation(s) to other lands, structures, or buildings in the same zoning district?

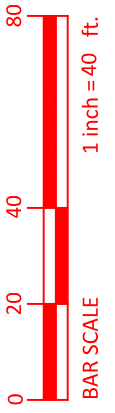
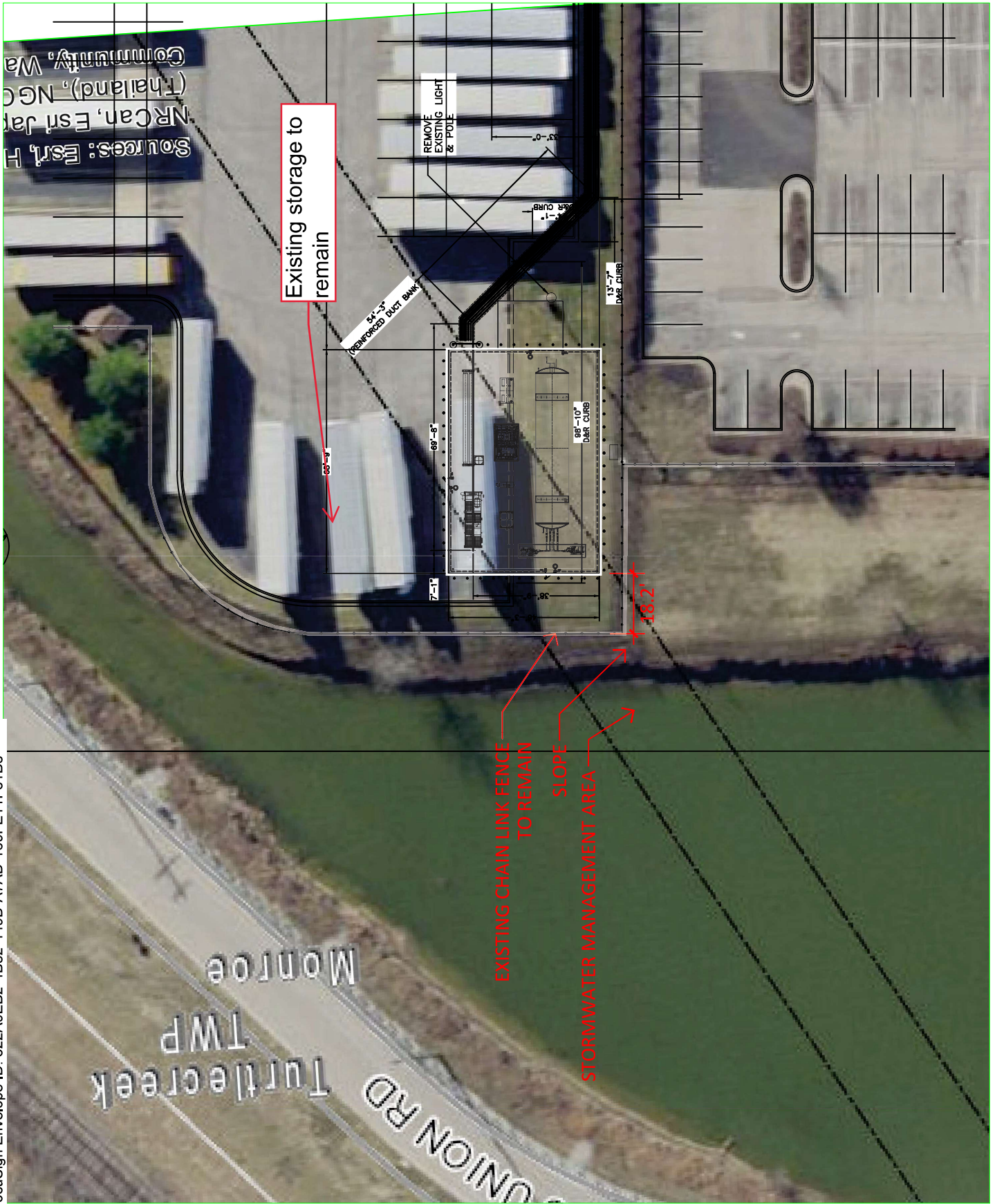
Yes No Please explain your rationale below.

This request is made specific to the existing topographic elements of this location, as well as the specific code requirements of NFPA 2.

Please feel free to add any other information or rationale related to the request in the box below or as an attachment.

The project does not have a significant adverse visual impact, when considering the U.S. Bureau of Land Management Visual Resource Manual 8431 consideration of contrast rating. The existing view from Union Road is of bold geometric forms (the existing trailer storage) onsite, while the recently permitted and constructed project has equivalent bold geometric forms in the same area and with the same scale and color. The existing site-wide chain-link fence is between Union Road and the Plug project safety fence, interrupting the view of any would be screening, please see attached plan and image.

| | |
|---|---|
| Project Address or Tax Parcel ID: | |
| Certification and Signatures | |
| Applicant Signature - I certify that, to the best of my knowledge, the information contained in this form and within any attachments is correct and truthful. I understand that knowingly falsifying this information may be grounds for the denial or revoking of this application and any subsequent zoning permit or other review applications. | |
| Print Name: Mitchell Cummings | |
| Signature: |  <small>DocuSigned by: B27B83B08995457...</small> |
| Date: 01/15/2024 | |
| Property Owner Signature - If the property owner is not the named applicant on this form, the property owner shall sign the form below acknowledging that the applicant is an authorized agent of the property owner as it relates to proposed project. If the variance request affects multiple properties, a signature from each property owner is required. | |
| Print Name: Kelly Adkins - Prologis | |
| Signature: | <i>Kelly Adkins</i> |
| Date: 1/25/24 | |
| Note: A letter signed by the property owner, authorizing the applicant to act on their behalf may be submitted in lieu of the property owner's signature on this form. | |
| Submission Requirement Checklist | |
| Submittals shall include 8 copies (minimum of 11" x 17"). | |
| Additional copies may be required based on project specifics. | |
| Digital Submittal Requirements | |
| <input type="checkbox"/> | All document applications shall be submitted in an electronic format compatible (Adobe PDF) with the city's computer systems. |
| General Information | |
| <input type="checkbox"/> | Variance Application Form |
| <input type="checkbox"/> | Application fee |
| <input type="checkbox"/> | Copies of the plans and maps established below at a reasonable scale, as determined by the Development Department, to review the variance request. |
| <input type="checkbox"/> | Any additional information determined to be necessary by the Development Department. |
| Variance Site Plan | |
| <input type="checkbox"/> | Date, north arrow, scale, and a legend for all symbols – the plan shall be oriented with north to the top |
| <input type="checkbox"/> | All existing lot lines and parcel numbers for each lot subject to the variance request and all lots adjacent to the subject lot, including any across a street. |
| <input type="checkbox"/> | A survey, stamped and signed by a surveyor or engineer licensed in Ohio, documenting the exact boundaries and dimensions of the subject lot. |
| <input type="checkbox"/> | Boundaries and dimensions of all existing and proposed buildings and structures |
| <input type="checkbox"/> | All existing and proposed streets, rights-of-way, and related names |
| <input type="checkbox"/> | Identification of proposed variance (e.g., required setback and proposed setback, or maximum height and proposed height) |





Fence to remain

Plug pad location

Trailer storage to remain

Union Road

© 2024 Google



Existing fence to remain

Trailer storage to remain

Union Road

Google Earth

© 2024 Google

Imagery Date: 8/2022 39°26'13.03" N 82°19'14.32" W elev 94 ft 8 ft



February 21, 2024

RE: LEGAL NOTICE, Monroe Board of Zoning Appeals Hearing

Dear Property Owner,

Notice is hereby given of a public hearing before the Monroe Board of Zoning Appeals on Wednesday, March 20, 2024, at 6:00 PM in the City Council Chambers, 233 South Main Street, Monroe, Ohio 45050. The Board of Zoning Appeals will consider a variance application from Mitchell Cummings of Plug Power, 968 Albany Shaker Road, Latham, New York 12110, on behalf of Home Depot, a 55-acre site located at 500 Gateway Boulevard, Monroe, Ohio 45050, regarding the screening material requirements for a 3,300 square foot hydrogen fuel area located along the northern property line. The applicant requests to use a combination of chain-link fencing with synthetic slats to satisfy the screening requirements of mechanical equipment visible from all rights-of-way.

The public may appear at the public hearing, be heard, and submit evidence and written comments with respect to the application. Monroe will provide assistance to persons with disabilities, needing interpreters, other auxiliary aids, and services in order to participate in this meeting. Any request for such assistance must be made no later than 72 hours in advance of the meeting by contacting the Development Department at 539-7374 ext.1013.

All documentation regarding the requested variance can be viewed at the City of Monroe Development Department located at 233 S. Main Street, Monroe, Ohio 45050. Written comments can also be sent prior to the public hearing to the address listed above. Development Department staff is also available to answer any questions related to the requested variance and can be reached at 513-539-7374 ext. 1013.

Thank you



Jameson Cole
Planner
colej@monroeohio.org



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