CASE 2: 16-0250LC – Sunrise Academy – 5657 Scioto Darby Road
PARCEL NUMBER: 050-003005
APPLICANT: Islamic Society of Greater Columbus c/o Mark Denny, CDI Design Group, 1675 Gateway Circle, Grove City, Ohio 43123.
REQUEST: Review and approval of a conditional use under the provisions Code Chapter 1123 to permit an 8,452-square-foot addition to an existing school building.

BACKGROUND:
The site is 3.873 acres located at the southeast corner of Scioto Darby Road and Veterans Memorial Drive. The site consists of a private elementary school and includes three buildings totaling approximately 24,052 square feet. On May 29, 2001, the Board of Zoning Appeals denied a variance request to reduce the minimum building setback from 60 feet to 25 feet from Scioto Darby Road for a 19,200-square-foot building addition. On September 20, 2001, the Board of Zoning Appeals denied a variance request to eliminate the requirement to install public sidewalk along Scioto Darby Road. On August 17, 2006, the Board of Zoning Appeals approved a variance to reduce the minimum number of caliper inches for replacement trees.

The applicant is requesting approval of a conditional use to permit a 2,678-square-foot addition to an existing school building and a vehicular use area expansion to accommodate five parking spaces.

COMMISSION ROLE:
The Commission is to review the proposal for conformance to the provisions of Hilliard Code Chapter 1123. The Commission is to review the proposed use and its potential impact on its surroundings.

STAFF RECOMMENDATION:
Staff finds that a traffic impact study has not been submitted as required. Staff finds that the site is currently experiencing daily challenges related to the picking up of students which causes significant negative impacts on the through movement of vehicles on Veterans Memorial Drive and Scioto Darby Road. Staff finds that expanding the existing use will cause undue traffic congestion or hazards adjacent to the site along Veterans Memorial Drive and Scioto Darby Road. Based on these findings, consistent with the provisions of Hilliard Code Chapter 1123, staff cannot recommend approval of the proposed conditional use. Staff recommends that a traffic impact study and revised plans addressing the staff recommendations listed in the staff report be provided for review by staff and the Planning and Zoning Commission.

CONSIDERATIONS:
- The 3.873-acre site is triangular in shape with approximately 550 feet of frontage along Scioto Darby Road and 410 feet of frontage along Veterans Memorial Drive. It is zoned B-3, Institutions and Offices District. Elementary schools are conditional uses in the B-3 zoning district. To the south and east are single-family residences in the Colonial Lanes subdivision zoned R-2, Low/Medium Density Residential District. To the north, across Scioto Darby Road, are schools in the Hilliard City School District zoned S-1, Support Facilities District. To the west, across Veterans Memorial Drive, is a medical office building zoned S-1. The site has two existing access points on Veterans Memorial Drive.
- Code Section 1123.03 lists the following general standards for conditional uses:

- The proposed use will be consistent with the intent and purposes of the zoning code and the City of Hilliard Comprehensive Plan.
- The proposed use will comply with all applicable requirements of the zoning code, except as specifically altered in the approved conditional use.
- The proposed use will be compatible with the character of the general vicinity.
- The proposed use and site layout will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district. Due consideration will be given to the location and height of proposed buildings and structures, location and type of proposed fences or walls, location and screening of parking areas, and the location and type of proposed landscaping.
- The area and proposed use will be adequately served by essential public facilities and services, as applicable, such as highways, streets, police, and fire protection, drainage structures, refuse disposal, water and sewer. The applicant or landowner will be required to install public utilities, streets or other public infrastructure as required by the city, state or other agencies to applicable specifications that are necessitated by the conditional use development. Dedication of said public infrastructure may be required.
- The proposed use will not involve uses, activities, processes, materials, equipment or conditions of operation, that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odor or other characteristic not comparable to the uses permitted in the zoning district.
- The location and scale of the use, the nature and intensity of the proposed operations, the site layout and the relation of the proposed use to surrounding streets will not cause undue traffic congestion or hazards adjacent to the site or in the immediate vicinity beyond that which would be normally expected based on the existing pattern of uses and the planned character reflected in the city's Comprehensive Plan. Peak hour volumes, turning movements, existing street capacity, driveway spacing, sight distances and pedestrian traffic shall all be considered.

- The proposal is to construct a 2,678-square-foot addition to the northwest side of the building located closest to the intersection of Scioto Darby Road and Veterans Memorial Drive. According to the proposed plans, this will result in a total of 26,730 square feet of floor area for the overall school. The proposed lot coverage by buildings is approximately 16 percent. The proposed floor plan shows a new lobby, reception office, library, 4 new classrooms, and a storage room. Building elevation drawings have not been submitted. A rendering shows the proposed addition will feature roof forms, exterior materials, and colors that are consistent with the existing building.
- For elementary schools, the Zoning Code requires one parking space per teacher, employee, or administrator, in addition to the requirements for places of assembly such as auditorium, gymnasium, or stadium. For gymnasiums, the Zoning Code requires one parking space for every 3 persons allowed within the maximum occupancy load as established by the City fire and building codes. **Staff recommends that the plans be revised to show floor plans for each building and to specify the minimum parking requirements per Code.** The proposed site plan shows a total of 43 existing parking spaces including 2 handicap accessible spaces, plus 5 future parking spaces located on the east side of the building to be expanded. The existing parking spaces located on the north side of the building to be expanded are setback approximately 10 feet from the Scioto Darby Road right-of-way line. The proposed 5 future parking spaces are shown approximately 23 feet from the Scioto

Darby Road right-of-way line. The Zoning Code requires a minimum 20-foot-wide perimeter landscape area between the vehicular use area and any public street. The landscape area shall be planted with 2 large or medium trees and 30 deciduous or evergreen shrubs per 100 linear feet. **Staff recommends that the plans be revised to demonstrate conformance to the provisions of the Code.**

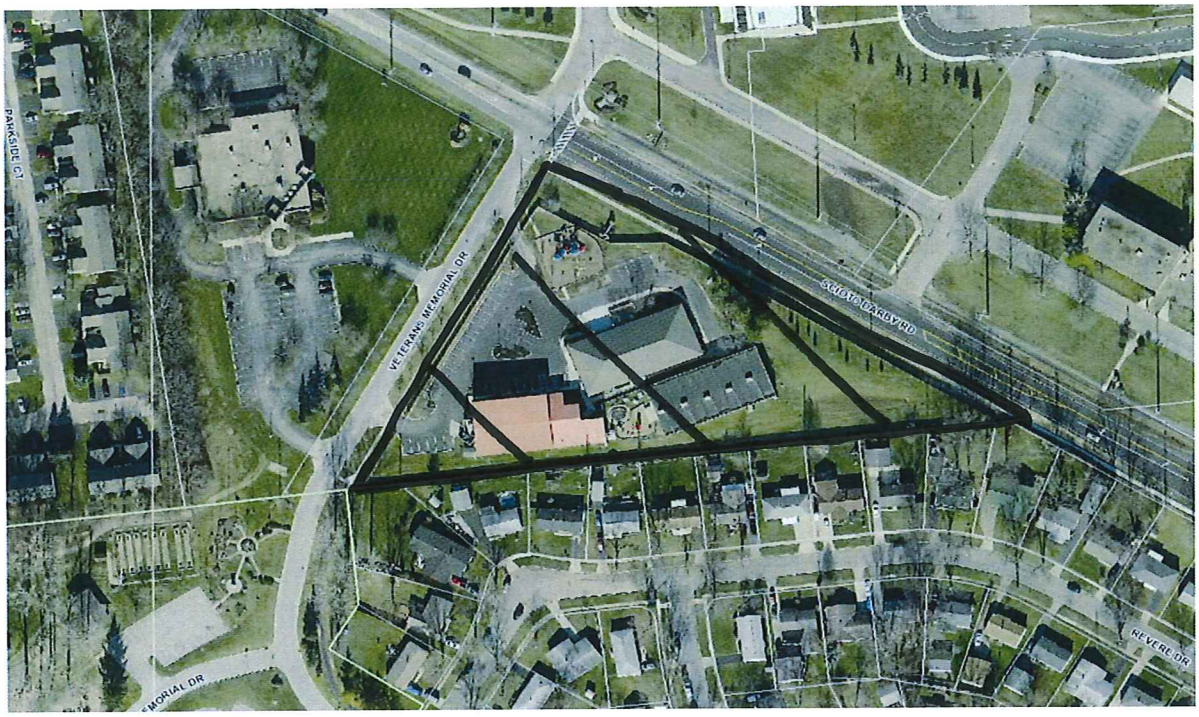
Traffic and Access Issues:

- A traffic impact study was not submitted with this application. Staff finds that a traffic impact study is critical to determine if the proposal meets the applicable standards in the Zoning Code and satisfies each of the general standards listed in Hilliard Code Section 1123.03. The site currently experiences daily challenges during peak student pick-up times. During these times, vehicles typically line up in the northeast-bound lanes of Veterans Memorial Drive while school buses are on the site. As school buses exit the site, vehicles in the southwest-bound lanes of Veterans Memorial Drive waiting to make left turns into the site typically result in negative impacts on the through movement of vehicles on Veterans Memorial Drive and Scioto Darby Road. Staff finds that the proposal could result in undue congestion and hazards adjacent to the site on the public rights-of-way.

Signage:

- No signage has been proposed with this application.

Case 2: 16-0250LC - Sunrise Academy



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Board of Zoning Appeals
Tuesday, May 29, 2001
7:30 p.m. – Council Chambers

President Saunders reconvened the Board of Zoning Appeals May meeting at 7:30 p.m. on Tuesday, May 29th.

Board members present were: Mr. Gilmore, Mr. Grove, Mr. Moeller, President Saunders, Mr. Sims, and Mr. Boshane.

Mr. Breibach was absent (excused).

Members of the administration in attendance were: Mr. Talentino and Mr. Bringardner.

Ms. Rushley was present representing City Council.

President Saunders sworn-in the people in the room that planned on testifying tonight to tell the truth.

Mr. Bringardner commented that Mr. Grove asked him about a bid that the company he works for bid for a project at 5657 Scioto Darby Road, and his firm did not obtain that contract. That does not present any problem with Mr. Grove voting on this case tonight.

Case 1: #01-0008AC – Sunrise Academy – 5657 Scioto Darby Road
APPLICANT: Islamic Society of Greater Columbus, 5657 Scioto Darby Road, Hilliard, Ohio 43026; c/o Ali Alghothani and Susan Gellman, 1550 Old Henderson Road, Suite E-260, Columbus, Ohio 43220.
REQUEST: Review and approval of a variance from Hilliard Code Section 1127.08 to reduce the minimum required building setback from 60 feet to 25 feet from the proposed right-of-way line on the City's Thoroughfare Plan for Scioto Darby Road for a 19,200 square-foot additional building.

Mr. Talentino presented a staff report. In the Board member's packet was information on the history of this project along with a staff report. A plan for the Islamic School at full build-out, requested by the Board at the last meeting, was also included in the packets. Other plans that had been previously submitted by the applicant prior were not to scale. The applicant is asking for a reduction in setback from 60 feet to 25 feet along Scioto Darby Road. Staff still finds that there are options that can accommodate the proposed addition and any future additions on-site without a variance, (please reference the staff revised plans.) Staff is also submitting that the applicant has not demonstrated that the setback requirement imposes a substantial burden on the religious exercise of Sunrise Academy. For these reasons staff is respectfully recommending disapproval of the proposal based on the finding that the provisions of section 1111.06(a) of the Hilliard Zoning Code concerning variances are not met.

Ms. Susan Gellman, 341 South Third Street, Suite 301, Columbus, Ohio 43215 representing Sunrise Academy thanked the members of the Board of Zoning Appeals for holding this special meeting for her clients. She distributed a color rendering of the Islamic School's future plans. She noted the following:

- The school did comply by giving the Board members their future plans;
- These buildings are connected and arranged for the protection and safety of the school children;
- The playground area in Mr. Talentino's plan is not functional for the children;
- These buildings are not just logo's on a piece of paper, this is the future place where children will spend a lot of their time;
- Her clients are asking for the 25 feet at just one spot, not the whole width of the property line;
- Other variances have been granted in the historic district of Hilliard;
- The Board of Zoning Appeals encouraged the school to find a compromise position and her clients have been working hard at doing that; and
- Mr. Talentino's plan won't work because the gym is a two-story building.

President Saunders invited any other testimony.

Mr. Ahmad Al-Akhras thanked the board member for holding this special meeting. He has worked with Mr. Talentino and the City of Hilliard in the past. He is a member of the Islamic School Board and Assistant Director of Transportation with Mid-Ohio Regional Planning Commission. He emphasized that the school's future plans will not impact the future widening of Scioto Darby Road. Although they are encroaching in the set-back, it is just a small amount of encroachment in one place.

Mr. Talentino stated that instead of 60 feet outside of the right-of-way, they are proposing 25 feet outside that right-of-way. Regarding road design, the City would like to ideally have 120 feet of right-of-way, but since the City's current Thoroughfare doesn't provide for that, they are proposing to squeeze it into 100 feet. He stated that the setback is outside the right-of-way. Their proposal encroaches 35 feet into that required setback.

Mr. Boshane asked about a reference made at the last meeting by the City's Traffic Engineer, Ms. Schamp, that a utility may purchase or lease an easement that was inside of the setback in addition to the right-of-way.

Mr. Talentino answered in the affirmative. American Electric Power normally would like at least a 25-foot-wide easement area to put their poles in.

Mr. Ali Alghothani stated he is the engineer on this project. He would like to talk about the right-of-way and the setback, and the utilities and the electricity, and also the transportation within the school. There is an existing right-of-way, which he pointed out for the Board members, which is 25 feet from the centerline from the roadway. He is a roadway engineer, and he has just finished a roadway design with ODOT. The sidewalk is within the right-of-way, and that right-of-way includes the utility. What they are

asking for is just a small section of encroachment into the setback. This expansion will accommodate about 60 new students for the school. The materials for the addition will match the existing building. It will not be metal, but stucco.

Mr. Khaled Shammut stated he is the architect on this project. In previous meetings, the Islamic School looked at every possibility of fitting their expansion plans onto this site. This site is not easy to work with. They appreciate all the work and help that Mr. Talentino has given them. Yes, Mr. Talentino's plan fit onto the site, but from an architectural viewpoint, his plans do not work. He stressed that they are conscience about aesthetics and they would like to see things done the right way. Regarding the curb cuts, it may work with one curb cut instead of two; they are not holding the City's to any agreement on the curb cuts on this drawing.

Mr. Boshane asked Mr. Shammut if he is a registered architect?

Mr. Shammut answered no.

Mr. Boshane asked if the person doing these drawings who sealed these as an engineer, how much experience does he had in doing actual school building design.

Mr. Alghothani answered he is a Ph.D., and he has 23 years of experience in central Ohio, doing buildings, schools, bridges, roadways, and silo's.

Mr. Boshane asked how many schools?

Mr. Alghothani stated he has done many back home, here in this country, this school is the only one.

Mr. Boshane stated he is also an architect, and he is looking at this plan and he sees how many students in this complex? How many students overall in this plan?

Mr. Alghothani stated approximately 325 students.

Mr. Boshane commented that from his past experience a building like this needs more acreage to be properly designed. Everything seems to be jammed together into this site. The building, whether it is rotated or not, still does not convinced him that building is the best choice for this site. He is here tonight to make a decision on the variance, but from what he sees in this plan, the design is too jumbled.

Mr. Sims noted that when he went by the Islamic School today and there were many children from the school playing at the City Park and at the site next door.

Mr. Shammut stated that they were probably on a field trip.

Mr. Sims expressed a concern for this site supporting that many more students. He asked legal counsel if this variance is just for this one spot of encroachment.

Mr. Bringardner commented the way the request is worded, the applicant is asking for a variance across the entire line.

Mr. Shammut noted that they can work with the City staff, and just ask for the variance in just that one spot.

Mr. Gilmore agreed with Mr. Sim's point about occupancy of the school now and the amount of room available on this site. He has observed at least seven times school children playing at the site next door, which is not zoned for a school.

Mr. Moeller asked a question regarding the orange area on the plan; there is a dotted line that shows if the building is rotated it will be out of the setback area.

Mr. Shammut answered that dotted line is just for show, on that plan.

Mr. Moeller stated that if you moved that building there would only be a six or seven foot encroachment instead of 35 feet, is there a problem with doing that?

Mr. Shammut stated that did not escape them, but the playground would be an issue with that design. One of the critical things in rotating the building this way will kill some of the playground area.

Mr. Moeller explained that they would still have the same square footage and they will have lost nothing.

Mr. Boshane commented that if they were to turn that building, he just did a quick scan of their allowable area, and their open perimeter increased, but when you actually do it, the building will be a little less in square footage. The actual square footage will be reduced. He would question their numbers in this building.

Mr. Grove explained that it's a building code issue. They are allowed certain open perimeters per building code.

Mr. Boshane stated that based on turning that building, that could push the building back more and they might not even need much of an encroachment, maybe only one foot.

Mr. Gilmore asked Mr. Talentino a question, schools are permitted uses in B-3 zoning districts and required minimum yard depths in the B-3 zoning districts are 50 feet in front, 30 feet in the rear, and 20 on each side. Where would that 50 feet be measured from?

Mr. Talentino stated that front setbacks are measured from the right-of-way line.

Mr. Gilmore stated that would require 50 feet from the right-of-way line for the front yard in the B-3 district.

Mr. Talentino added that since Scioto Darby Road is designated in the Thoroughfare Plan as a major road, the Code would require a setback of 60 feet in this case.

President Saunders invited further public testimony. He reminded the Board members that they are here tonight to determine if this application has demonstrated under the Hilliard Zoning Code that this variance is necessary.

Mr. Grove commented that he did a quick sketch of this tonight, making a connection between the colored plan distributed tonight and the staff plan of May 24th. His plan takes the gym back out of the front and put it back where the gym was at the end of the cafeteria, and still rotating the orange building. It maintains a small courtyard in between the cafeteria and the existing building, and bringing the parking more towards the front. On this rough sketch, the plan seems to fit. He invited the applicant to take a look at his plan. With his plan, the applicant will need two curb cuts, but one could be exit only.

Ms. Gellman commented that her clients would love to look at that plan. With any plan that does not require a variance, they would not need to be there tonight. She reminded the Board of Zoning Appeals of a new standard due to a new federal law on the books, called RLUIPA. That law requires this Board or any other government body to meet the strictest standards that government is required to meet. The denial of a variance must demonstrate a compelling government interest. The widening of Scioto Darby Road hasn't happened yet, and there is nothing to say that the centerline has to stay exactly where it is. Variances have been granted in the Old Hilliard area to preserve cultural aesthetics, why one part of Hilliard, but a different cultural area does not justify a variance. Because the Islamic School is a religious use, it has a different set of standards, due to this federal law. She talked to AEP today on the phone and they said that 25 feet is not set in stone. The RLUIPA law needs to be considered in making this decision.

Mr. Gilmore asked has the building already been purchased?

Ms. Gellman stated yes.

Mr. Gilmore added that this building was purchased before asking for a variance from the City of Hilliard.

Ms. Gellman stated that is correct.

Mr. Glimore requested that information be included in the public record of this meeting.

Mr. Talentino stated that parking variances have been granted in Old Hilliard, but not variances to reduce required building setbacks along major thoroughfares.

Mr. Bringardner read from the federal law that Ms. Gellman was referring to, "No government shall impose or implement a land use regulation in a manner that imposes a substantial burden on the religious exercise of a person including a religious assembly or institution unless the government demonstrates that imposition of the burden on that person, assembly or institution is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling government interest." He stated that the main point of this law is that the government shall not treat a religious institution on less than equal terms than a non-religious assembly or institution. The constitution of the United States, if they produce prima fascia evidence to support a claim alleging a violation of the free exercise clause, or a violation of section 2 of RLUIPA, the government shall bear the burden of persuasion on any element of the claim except that the plaintiff, (in this case the applicant) shall bear the burden of persuasion on whether the law, including the regulation or government practice that is challenged by the claim substantially burdens the plaintiff's exercise of religion. He has not heard anything of significance on this issue of encroachment that would substantially burden the plaintiff's exercise of religion, in terms of size of the buildings or number of students they can have.

Ms. Gellman stated that this board is not the place where constitutional questions would be argued or decided. The record is made tonight, and she would like it noted that RLUIPA federal law does exist.

President Saunders asked for any final comments from the board, applicant or staff.

Mr. Grove asked the applicant, when investigating his sketch layout, are they still set on the Board making the decision on the plan they submitted or are they still open to working with the City staff to work something out.

After meeting with her client briefly, Ms. Gellman commented that her client feels they have tried to work on this a number of times already, and the plan submitted tonight is the best they can do. This is a minimal encroachment they are asking for.

President Saunders, hearing nothing further, called for a motion.

MOTION

Mr. Gilmore moved to approve a variance from Hilliard Code Section 1127.08 to reduce the minimum required setback from 60 feet to 25 feet along Scioto Darby Road for a 19,200 square-foot addition to an existing school building with the following conditions, the variance is for this one building only:

1) That a sidewalk be provided compliance with Hilliard Code Section 909.04(a) along Scioto Darby Road be put in place;
2) That any materials used for the new structure match and conform to the existing building to be supervised by the City and approved by the City prior to construction; and
3) Landscaping be reviewed and approved by the City Arborist.

Mr. Grove seconded the motion.

No one voted in the affirmative:

Those who voted in the negative:

Gilmore	Moeller	Boshane
Grove	Sims	Saunders

The motion failed.

With no further business to come before the Board, upon the motion of Mr. Gilmore, seconded by Mr. Moeller, President Saunders adjourned the meeting at 9:18 p.m.

President Saunders

Judy Perry, City Clerk

further and incorporating the new drawings submitted tonight for the 9-foot by 9-foot-porch with skirting and including all materials as shown on the plans tonight.

Mr. Breibach seconded the motion.

Those who voted in the affirmative were:

Breibach	Moeller	Sims
Grove	Saunders	Boshart

The motion passed 6-0.

Case 8: #01-0037AC – Sunrise Academy – 5657 Scioto Darby Road
Parcel Number: 050-003005
APPLICANT: Islamic Society of Greater Columbus, c/o Ali Alghothani, 1910 Bethel Road, Columbus, Ohio 43220.
REQUEST: Review and approval of a variance from Hilliard Code Section 909.04 to eliminate the requirement to install public sidewalk along Scioto Darby Road.

Mr. Talentino gave a staff report including slides of the site, which is located at the southeast corner of Scioto Darby Road and Veterans Memorial Drive (formerly Cherry Tree Lane). The existing 8,040-square-foot building is occupied by an Islamic school, Sunrise Academy. On May 29, 2001, the Board of Zoning Appeals disapproved a variance request to reduce the minimum building setback from 60 feet to 25 feet from the proposed right-of-way on the City's Thoroughfare Plan for Scioto Darby Road for a 19,200-square-foot building addition to an existing school. Although the site is triangular in shape, it is large enough (3.873 acres) to accommodate additional development and still meet all Code-required development standards. Staff finds that there are no unique physical circumstances or conditions associated with this property that require a variance to enable reasonable use of the property. Staff finds that any hardship has been created by the appellant. Staff finds that granting a variance would be detrimental to the public welfare. Staff respectfully recommends disapproval of the proposal based on the finding that the provisions of Section 1111.06(a) of the Zoning Code concerning variances are not met.

President Saunders sworn-in the testimony of Mr. Ali Alghothani to tell the truth as he was not present at the beginning of the meeting.

Mr. Alghothani, Islamic Society of Greater Columbus, 1910 Bethel Road representing the applicant stated that according to City Code, sidewalks are required on new developments, and that Sunrise School is not a new development, it is an expansion of an existing building. This does not have anything to do with the previous issue of the setback. There is sidewalk along the west side of the school, the only place there isn't sidewalk is along Scioto Darby. Other sites along Scioto Darby don't have sidewalk, and

he is wondering why the City is asking Sunrise Academy to have sidewalk. The plans are not completed yet for the road widening. He urged the Board to grant this variance.

Mr. Talentino stated that he is not familiar with other sites, as that was before his time being employed by the City. According to the City Code, sidewalks must be along all public streets.

President Saunders asked if the City is planning on enforcing the Code and requiring all locations within the City of Hilliard to have sidewalks.

Mr. Talentino stated as far as he is aware, the City Engineer's office is working on requiring all locations to have sidewalks.

Mr. Breibach stated that since the issue of "new development" is an issue; he asked legal counsel if this site would be defined as "new".

Mr. Bringardner stated that the City Code doesn't define "new development" so it becomes a matter of interpretation. His opinion as Legal Counsel for the City of Hilliard is that Sunrise Academy would be defined as new development.

Mr. Sims stated that back when this changed hands from the Public Library, shouldn't the City have required the sidewalk at that time. Didn't someone realize that when Sunrise was putting up the fence, they were cutting off access to the public sidewalk.

Mr. Bringardner stated yes, they did, but under the City ordinances there wasn't a restriction on the fence. The City's interest in this was to have the best looking fence under the circumstances with limited ability to have actual enforcement on it.

Mr. Sims stated that with the sidewalk being blocked by the fence, after dark it could be a safety hazard. Along the lines of "new development," as far as that is concerned it is a new development or it wouldn't be in front of them tonight.

Mr. Breibach added that his thought is also that Sunrise Academy is a new development.

President Saunders agreed that his interpretation is that the applicant is new development.

Mr. Alghothani stated that he would disagree; this is an expansion of an existing building, not "new development."

President Saunders stated that he would echo the concern that he hopes the City is enforcing all sites equally, but at this time the Board has this application before them.

President Saunders invited public testimony.

Mr. John Smith stated that there has always been a sidewalk at this location before Sunrise Academy cut off the public sidewalk for those citizens going into Municipal Park and the Senior Center. Now citizens have to walk around onto a grassy hill, which isn't right.

Mr. Grove commented that regarding previous discussions about other sites without sidewalks, the public school across the street has a special zoning class of S-1.

Mr. Sims noted that is a safety issue for the general public, sidewalks should be provided for the citizens of Hilliard.

MOTION
Mr. Breibach moved to disapprove case 8 #01-0037AC – Sunrise Academy – 5657 Scioto Darby Road for the requested variance from Hilliard Code Section 909.04 to eliminate the requirement to install public sidewalks along Scioto Darby Road with the determination from the Board that this case has been determined as new development.

Mr. Grove seconded the motion.

Those who voted in the affirmative were:

Breibach	Saunders
Grove	Boshane

Those who voted in the negative were:

Moeller	Sims

The motion passed 4-2 and the variance was denied.

President Saunders welcomed Mr. Beagle the new Legal Director to the City.

With no further business to come before the Board, upon the motion of Mr. Grove, President Saunders adjourned the meeting at 9:20 p.m.

President Saunders
Board of Zoning Appeals

Judy Perry
City Clerk

nature of the development that make it practically difficult to develop the property in strict conformity with the provisions of the Zoning Code, and that a variance is necessary to enable the reasonable use of the property. Staff finds that the hardship has not been created by the appellant. Staff finds that the variance will not alter the essential character of the neighborhood or district in which the property is located. Staff finds that the variance, if authorized, will represent the least modification possible of the regulation in issue. Based on these findings, consistent with Section 1331.04 of the Zoning Code, staff recommends approval of the variance with one condition.

President Saunders asked if this expansion would help to alleviate the terrible traffic problems at this site.

Mr. Talentino answered that the Planning and Zoning Commission just approved the overall site plan, which will help the traffic flow. The new plan creates a whole new row of parking on the existing site. Currently there is a cross connection, which will be taken away. None of the traffic problems at this site have caused any problems on the public right-of-ways. City staff has discussed traffic options with the operators of the daycare and believe this will be a good solution in the long run.

President Saunders invited public testimony. Hearing none, he called for a motion.

MOTION:
Mr. Moeller moved to approve case 1: 06-0015AR – Enchanted Care Learning Center – 4392 Davidson Road from Code Section 1133.01(A) to reduce the minimum access drive width and parking aisle width to 20 feet and Code Section 1331.04 to reduce the minimum number of caliper inches for replacement trees with the following condition:

1) That the minimum number of replacement trees shall be not less than the number that can reasonably be planted on the approved site without compromising the long-term health of the existing trees to be preserved and the proposed replacement trees, subject to staff approval.

Mr. Gilmore seconded the motion.

Vote: Mr. Worthington, yes; Mr. Boshane, yes; Mr. Moeller, yes; Mr. Gilmore, yes; President Saunders, yes.

The motion passed 5-0 and the variance was granted with the one above condition.

CASE 2: 06-0016AC – Sunrise Academy – 5657 Scioto Darby Creek Road
PARCEL#: 050-003005
APPLICANT: Sunrise Academy c/o Leah Mohiuddin, and Master Church Builders, c/o Marcia Shanefelt, 1667 Gateway Circle, Grove City, Ohio 43123.
REQUEST: Review and approval of a variance from Code section 1331.04 to reduce the minimum number of caliper inches for replacement trees.

Mr. Talentino presented a staff report. The site is 3.873 acres located at the southeast corner of Scioto Darby Road and Veterans Memorial Drive. The plans show a school

campus of three buildings totaling approximately 24,052 square feet of floor area. On May 29, 2001, the Board of Zoning Appeals denied a variance request to reduce the minimum building from the Scioto Darby Road right-of-way line from 60 feet to 25 feet for a building addition. The applicant recently constructed a gymnasium in the southwestern portion of the site resulting in the removal of eight trees. The applicant is requesting approval of a variance to reduce the minimum number of caliper inches for replacement trees to those shown on the proposed plan.

Mr. Talentino further added that he has been working with the City Arborist to get the right replacement trees, such as Upright Ginkgo's. Staff would like to continue to work with the applicants to recommend appropriate planting materials. The Shade Tree Commission met last night with respect to this plan, so that is why it was not mentioned in the written staff report. The Shade Tree Commission has some concerns about Red Sunset Maples, they don't grow well here in Ohio, and they suggested the Freeman Maple. The pear trees, same thing, they are fragile in the wind, so the Shade Tree suggested the Hawthorne would be a better tree variety. There are 21 deciduous replacement trees, they total 52 ½ caliper inches. There are ten evergreen replacement trees, and they are five feet tall as shown here, about 2 inches in caliper. That makes about 72-caliper inch range. There was approximately 100 caliper inches removed. The applicant has tried to design the site around the trees, and they are showing substantial plantings in several places, in conjunction with the fact this is a tough site because of its triangular shape, and the nature of the development already existing. With those findings, staff finds that there are unique physical circumstances associated with the site, including the triangular shape of the parcel, the number and size of the existing trees, and the nature of the development, that make it practically difficult to develop the property in strict conformity with the provisions of the Zoning Code, and that a variance is necessary to enable the reasonable use of the property. Staff finds that the hardship has not been created by the appellant. Staff finds that the variance will not alter the essential character of the neighborhood or district in which the property is located. Staff finds that the variance, if authorized, will represent the least modification possible of the regulation in issue. Based on these findings, consistent with Section 1111.06 of the Zoning Code, staff recommends approval of the variance with two conditions. Staff is interested in getting the right number of replacement trees without compromising the health of those trees, and then the second condition deals with getting some additional replacement trees between the gym and the south property line, especially ornamental trees to soften the site.

Mr. David Ciolek, Master Church Builders representing the applicant stated that the main thing he is trying to achieve is screening for the gymnasium. His only question regarding the staff conditions is the amount of space between that building and what is currently being used as a drainage swale. Because there is a downspout drain line there and he is not sure if there is enough room for plantings. He will agree to work with the City Arborist in working around these drainage issues. His only fear is on-going discussion with the City could delay the opening of the school in the fall.

President Saunders explained that depending on how the motion by the Board tonight is crafted would not be identifying specific trees, but leave that up to the City Arborist to work out which should not delay the project or the school opening.

Mr. Talentino added that staff wants to ensure that the trees will survive as well as not create any drainage issues, and he believes that can be accomplished soon. Mr. Ciolek agreed to work with the City Arborist.

Mr. Moeller asked a question regarding the new curb cut on Veteran's Memorial toward Scioto Darby, will that cause school buses not to park along Scioto Darby.

Mr. Ciolek stated that is the main reason why they have the second approach, was because of that. They worked closely with City Engineering Department in designing the site. It is designed so that buses can enter the property; unload the children, and exist the property at a second exit. Right now the school buses do stacked up on Scioto Darby.

President Saunders invited public testimony. Hearing none, he called for a motion.

MOTION:
Mr. Gilmore moved to approve case 2: 06-0016AC Sunrise Academy – 5657 Scioto Darby Creek Road for a variance from Code Section 1331.04 to reduce the minimum number of caliper inches for replacement trees with the following two conditions:

1) That the minimum number of replacement trees shall be not less than the number that can reasonably be planted on the approved site without compromising the long-term health of the existing trees to be preserved and the proposed replacement trees, subject to staff approval; and
2) That additional replacement trees be provided between the gymnasium building and the southern property line, subject to the approval of the City Arborist concerning species and location.

Mr. Boshane seconded the motion.

Vote: Mr. Boshane, yes; Mr. Worthington, yes; Mr. Moeller, yes; Mr. Gilmore, yes; President Saunders, yes.

President Saunders announced the motion passed and Sunrise Academy tree replacement was approved with the two above conditions.

Communications
Law Director Ms. DeDent noted for the record that the correct Hilliard Code Section for caliper inches for replacement trees is Code Section 1331.04.

With no further business to come before the Board, President Saunders adjourned the meeting at 7:30 p.m.

President Saunders Board of Zoning Appeals	Judy Perry, CMC City Clerk