



# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 22, 2021

#### **1. BZA CASE PLN2021-00219; 341 S. Jefferson Street**

A Bulk Variance application to allow additional signage on a building that exceeds the maximum allowable sign coverage within the Urban Business District at 341 S. Patterson Street within an Urban Business (UBD) Zoning District. The applicant seeks a variance to allow the installation of a 17'-0" x 9'-0" electronic messaging board on the south elevation of the building.

**Applicant:**

KAP Signs  
David Williams  
7464 Webster Street  
Dayton, Ohio 45414

**Owner:**

K12 Gallery for Young People  
341 S. Jefferson Street  
Dayton, Ohio 45402

**Existing Land Use and Zoning:**

Art studio and gallery; Urban Business District (UBD)

**Surrounding Land Use and Zoning:**

**North:** Urban Business District (UBD)  
**South:** Urban Business District (UBD)  
**East:** Urban Business District (UBD)  
**West:** Urban Business District (UBD)

**Land Use Priority Board:**

Greater Downtown

**Planning District:**

Midtown

**Planning Staff Contact:**

Susan Vincent

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Ms. Vincent presented the case.

The applicant seeks a variance to allow the installation of a 17'-0" x 9'-0" electronic messaging board on the south elevation of the building at 341 S. Jefferson Street within an Urban Business (UBD) Zoning District on a building that exceeds the maximum allowable sign coverage.

Ms. Vincent explained that while some of the graphics on the exterior of the building qualify as “building signage,” none of it could be called a traditional sign. She further explained that a variance is required to formally recognize and make legal the amount of existing signage in addition to allowing the addition of the 17’ x 9’ electronic sign.

Ms. Vincent explained that the case does not require approval for the electronic nature of the sign – electronic signs are allowed by right within the UBD – and that staff believe such a sign is appropriate at this location and meets existing precedent for electronic signs in the City’s UBD and CBD. The electronic sign will further the organization’s mission to promote and support local artists and will not display moving images. The proposed electronic sign will be installed on the southern façade of the building facing the surface parking lot, is not visible from any residential areas, and will automatically dim in the evening.

### **Public Comment**

The Greater Downtown Priority Land Use Board met on Monday, Jun 7, 2021, with the majority of members voting in favor of recommending approval of the application as submitted. No additional public comments were received.

### **Staff recommendation**

Staff recommends APPROVAL of the variance application with the following condition:

1. That the wall area behind the new electronic sign shall be painted so as to incorporate the new sign into the overall design of the building’s graphics and to prevent visual conflicts.

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### **Public Testimony**

The applicant, David Williams, KAP Signs, 7464 Webster Street, Dayton, Ohio, was given the opportunity to speak. Mr. Williams shared KAP Signs background and involvement on the project. He stressed K12’s willingness to do whatever is required to meet regulations for approval of the sign. He further explained the technical specs for the requested electronic sign (10mm Watchfire board with a 9’ x 17’ viewing area).

Mr. Martin asked if the board would have audio or video. Mr. Williams explained that it would not have audio and that video is not allowed per code.

The Director and CEO, Jerri Stanard, K12 Gallery and Tejas, 341 S. Jefferson St, spoke on the mission of the organization and how the requested electronic board would further that mission.

Mr. Brand asked for the applicant’s opinion regarding ability to meet the staff’s condition to “calm” the area where the board would be installed. Ms. Stanard shared the organization’s willingness to paint the area behind the proposed sign location to cover existing graphics while incorporating the sign into the overall design..

Gavin Jennings, Board President, K12 Gallery and Tejas, 341 S. Jefferson St, shared that KAP Signs is discounting the cost of the sign significantly for K12.

**Board Discussion**

Mr. Ciani shared his opinion that K12 is close to the arts area downtown and so the amount of exterior graphics and the addition of the electronic sign fits within the theme of the district. Mr. Bement appreciated the staff condition to ensure the sign is incorporated into the overall composition of the exterior building graphics.

**Board Decision**

A motion was made by Mr. Bement and seconded by Mr. Brand, and carried to determine that there is a preponderance of reliable, probative and substantial evidence to make the specified findings required under R.C.G.O. 150.120.10 (D)(1) and approve the application as submitted for Variance with the following condition:

1. That the wall area behind the new electronic sign shall be painted so as to incorporate the new sign into the overall design of the building's graphics and to prevent visual conflicts.

Mr. Bement	Yes	Ms. Tingle	Abstained
Mr. Brand	Yes	Ms. Patterson	Yes
Ms. Graham	Absent	Mr. Ciani	Yes
Mr. Martin	Yes		

Approved by the Board of Zoning Appeals June 22, 2021

Tony Kroeger, Secretary  
Board of Zoning Appeals

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# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 22, 2021

#### 2. BZA CASE # 2021-00233 – 1400 Webster St.

A **Conditional Use** application to construct a DIY skate park and a **Variance** request to reduce the minimum setback from 60 feet to 15 feet on the former tennis courts in Claridge Park, a City of Dayton-owned 5-acre park at 1400 Webster St. in an Open Space zoning district.

<b>Applicant</b>	The Collaboratory; David Schweitzer P.O. Box 10506 Dayton, OH 45402
<b>Owner</b>	City of Dayton 101 W. Third St. Dayton, OH 45402
<b>Existing Land Use and Zoning:</b>	OS; Open Space
<b>Surrounding Land Use and Zoning:</b>	<b>North/South/East/West:</b> I-2, General Industrial with single- and multi-family residences to the north and east <b>Southwest:</b> EGC, Eclectic General Commercial and the Salvation Army Dayton Kroc Center
<b>Land Use Committee:</b>	Northeast
<b>Planning District:</b>	McCook Field
<b>Planning Staff Contact:</b>	Jen Hanauer

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Ms. Hanauer presented the case, a DIY skate park that represents a partnership between the City and a local nonprofit, The Collaboratory. The location for the proposed skate park is on the former tennis courts in the northeast section of Claridge Park in the McCook Field planning district. The park sits along Webster Street between Leonhard and Lamar. The former tennis courts have not been in use for many years as evidenced by the missing nets and cracks in the surfacing that would require repair if they were to be used again as tennis courts. While the park is zoned Open Space, the surrounding area is zoned General Industrial even though the area is largely residential to the north and east. Ms. Hanauer believes this is because when Lehman Electronics occupied the site to the northwest of the park in the World War II era, housing and green space were added for the factory workers, and it has remained in the same configuration since that time. The tennis courts are surrounded by a 10-foot fence that will remain. Claridge Park also has a basketball court, playground equipment, an under-programmed ball diamond, and a structure that is currently functioning as a food pantry. Ms. Hanauer showed before and after photos of the tennis courts from when the applicant organized a cleanup in order to demonstrate dedication to the project.

Ms. Hanauer described the unique combination of characteristics that contributed to the selection of Claridge Park as the proposed site for a DIY skate park. It is City-owned, it has a paved surface that could be re-purposed, it is under-utilized, and the new use would be a good fit for the neighborhood. Ms. Hanauer cited the support of McCook Field neighborhood president Jerry Bowling as the most heavily weighted factor in the selection of Claridge Park.

Concerns voiced at the Northeast Priority Land Use Board meeting included noise, hours of operation, and parking. At the meeting, the applicant, Dave Schweitzer, gave a presentation that addressed his history of trying to get a skate park built in the City and also answered each of the board's questions. According to Mr. Schweitzer, skate parks create less noise than a little league game. Hours of operation would be in line with all City parks, which is essentially from dawn to dusk. No additional lighting is planned, and skateboarding in the dark is not generally done. While there is no parking along Lamar, Claridge Park has a parking lot, and there has been some discussion in the neighborhood of seeking funds to add pull-in parking along Leonhard. Support amongst the board members was enthusiastic, and they voted unanimously in favor of recommending approval.

Additional public comment was received by staff in the form of letters. Adam Smith, a member of the Southeast Priority Land Use Board, wrote that he supports the project based on his experiences as part of the skateboarding community and believes that a skate park would have a lasting, positive impact on the area. Mr. Bowling wrote a letter of support following several discussions with the applicant and the residents who would be across the street from the skate park. Ms. Hanauer reiterated that community support is essential for this project. While the surrounding area is zoned General Industrial and so the skate park is not subject to as many requirements per the City's Zoning Code as it would be in area zoned residential, it has been very important to the applicant, the neighborhood president, and City staff that the nearby neighbors are on board with the project, which has so far been the case.

Ms. Hanauer explained the challenges of the City allowing a third party to build potentially dangerous obstacles on City-owned property. A Memorandum of Understanding has been written and is being reviewed by the City's Department of Law. The MOU makes clear what is the City's responsibility and what is the applicant's responsibility. To protect Mr. Schweitzer as an individual, he partnered with The Collaboratory, which has hired Mr. Schweitzer as an unpaid project manager. The Collaboratory will be the responsible party with which the City will enter an agreement, and Mr. Schweitzer will be the point of contact for the project. The MOU addresses, amongst additional items, maintenance, repairs, hazard mitigation, and indemnification.

Staff recommends approval of the Conditional Use and Variance as submitted with the following condition:

1. A Memorandum of Understanding between the City of Dayton and the applicant shall be in place prior to construction.

A skate park in an area zoned Open Space requires a Conditional Use. From the standards for a Conditional Use, Ms. Hanauer called out sections A, B, and E. Addressing section A, Ms. Hanauer stated that the proposed DIY skate park would be located on a section of Claridge Park that has been tennis courts for more than 80 years, and a rehabilitation and reuse of the property as a park amenity would improve existing conditions and be harmonious with the prevailing intended character of the general vicinity. Regarding public health and safety as it pertains to section B, Ms. Hanauer stated that the skate park will be regularly inspected by Public Works. Section E states that the conditional use will be minimally impacted in the future by surrounding

uses permitted by right, and Ms. Hanauer stated that the surrounding area is zoned for general industrial uses that would not be impacted by a skate park.

As the north side of Claridge Park facing Lamar is considered the side yard, a variance is required for the setback. The City's Zoning Code requires 60 feet, but the proposed setback for the skate park is 15 feet. Ms. Hanauer explained that the applicant is seeking this variance because the former tennis courts at Claridge Park meet the unique set of criteria for a DIY skate park, namely that they are a paved, under-utilized portion of a City-owned property. Ms. Hanauer stated that while there are other locations that fit these criteria, the deciding factor for this location was that it has the support of the neighborhood. Ms. Hanauer stated that while it is possible that the City could eventually rehabilitate or tear down the under-utilized tennis courts, it is unknown at this time when resources would become available to make that a reality. A DIY skate park is an opportunity for the space to be activated now. The list of the purposes for the regulation of Open Space in the City's Zoning Code includes the preservation, protection, and enhancement of lands set aside for public open space and the accommodation of a wide variety of open spaces. Ms. Hanauer stated that granting a variance in this case will observe the spirit and intent behind the zoning requirement by diversifying the outdoor recreation options available to the community.

Mr. Ciani asked what DIY stands for. Ms. Hanauer answered that it stands for "do it yourself."

Mr. Martin asked why The Collaboratory is only required to provide insurance during construction. Ms. Hanauer answered that per the Ohio Revised Code, skate parks are "skate at your own risk," and as long as the skateboarding obstacle remain in good repair, any injuries sustained while using that feature of the park would not result in liability for the City as the owner of the property. Ms. Hanauer explained that this is the reason the MOU is detailed regarding the maintenance and repair of the skateboarding obstacles. Mr. Bazalak added that after construction, the skate park will be an open park like any other park.

### **Public Testimony**

David Schweitzer, 30 W. Babbitt St., explained his background with skateboarding and how it brought him to Dayton. He stated that for more than 20 years, he has been trying to get a skate park in the city. Following the 2018 tornadoes, Mr. Schweitzer realized that the availability of City resources for a skate park would remain limited for the foreseeable future and decided to pursue the DIY route. Mr. Schweitzer reviewed the many benefits to the community that a skate park provides. He expects a boom in popularity of skateboarding due to it being added as an event at this year's Olympic Games. In scouting possible locations, Mr. Schweitzer found the former tennis courts at Claridge Park and approached the City about a partnership.

Linda Fischbach, chairperson for The Collaboratory, representing executive director Peter Benkendorf, stated that Mr. Schweitzer and Ms. Hanauer gave a presentation at their board meeting, and they officially support the project and will be signing the MOU once it has gone through the review process. Ms. Fischbach said that the board is impressed by Mr. Schweitzer's enthusiasm and contacts in the skateboarding community.

Jerry Bowling the Third, 522 Herbert St., president of the McCook Field Neighborhood Association, is supportive of Mr. Schweitzer's efforts and grateful for the renewed focus from the City on Claridge Park. Mr. Bowling and the neighborhood support the project and request the board approve the applications.

**Board Discussion**

Mr. Bement stated that this looks like a clean application, and he appreciates the thought and effort that has gone into the project from all of the involved parties. He has no concerns.

Ms. Tingle stated that she thinks this project is well thought out and is a good idea.

Mr. Brand stated that the project sounds exciting.

**Board Decision**

A motion was made by Mr. Martin and seconded by Ms. Patterson, and carried to determine that there is a preponderance of reliable, probative and substantial evidence to make the specified findings required under R.C.G.O. 150.535 and R.C.G.O. §150.120.10 (D)(1) and approve the applications as submitted for a Conditional Use and Variance with conditions:

1. A Memorandum of Understanding between the City of Dayton and the applicant shall be in place prior to construction.

Mr. Bement	yes	Ms. Tingle	yes
Mr. Brand	yes	Ms. Patterson	yes
Ms. Graham	absent	Mr. Ciani	yes
Mr. Martin	yes		

Approved by the Board of Zoning Appeals on June 22, 2021.

Tony Kroeger, Secretary  
Board of Zoning Appeals

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# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 22, 2021

#### **3 BZA CASE PLN2021-00221; 320 E. Lincoln Street**

A request by the applicant, Jared Korman, to construct a 2-story detached single family residence for the property located at 320 E. Lincoln Street Dayton, OH 45402 in an MR-5 (Mature Single-Family) Zoning District. The applicant is requesting a bulk/area variance to reduce the required foundation height of the proposed single-family residence to roughly 8 inches. The foundation will be “slab on grade.” The code requires that newly constructed principal structures feature a raised foundation roughly equal in height to the foundation of adjacent structures.

<b>Applicant:</b>	Jared Korman 41 Green Street Dayton, Ohio 45402
<b>Owner:</b>	Manetic Home Services, LLC 41 Green Street Dayton, Ohio 45402
<b>Existing Land Use and Zoning:</b>	Vacant Home Site; MR-5
<b>Surrounding Land Use and Zoning:</b>	<b>North/South/East/West:</b> Single-Family; MR-5
<b>Land Use Priority Board:</b>	Downtown
<b>Planning District:</b>	South Park
<b>Planning Staff Contact:</b>	Jeff Green

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Mr. Green presented the case.

The subject property is within the Mature Residential (MR-5) Zoning District in the South Park planning district and is 0.114 acres in size. The property fronts E Lincoln Street, and also abuts a public alley in the rear. Presently, the property is largely vacant except for an existing garage located in the rear of the property.



The applicant seeks to construct a new two-story house on the subject property. Per the plans submitted, the foundation will be “slab on grade” and will be roughly 8” inches in height of exposed foundation. Per the zoning code, the exposed foundation should be roughly equal to that of the adjacent structures. The exposed foundation heights for the adjacent structures are as follows:

Address	Rough Height	Structure
326 E Lincoln (Adjacent to North)	32”	2 - Story Building
316 E Lincoln (Adjacent to South)	8”	1 - Story Building
314 E Lincoln Street	16”	1 – Story Building
303 E Franklin	16”	2 – Story Building

As noted in the table above, the properties directly adjacent to the property (326 and 316 E Lincoln) have drastically different foundational heights. The main difference between these properties is whether they are 1 story or 2 story buildings. It should be noted that the property located at 303 E Franklin is a 2 story building with a foundational height of 16”, though the majority of 2 story structures along this section of E Franklin Street largely have foundational height of 32”.

Per the application submitted, the applicant notes that to construct the foundational height to meet code, it would be excessive in cost being “at least \$5,000.” The application states that they are investing in this area which is risky for the rate of return. It should be noted that there are some code compliance issues in this area, most notably being the adjacent property of 316 E Lincoln Street where a portion of the building has been damaged exposing the attic area and chimney. In conversation, the applicant also advised that the cost to build right now is extraordinarily high, given the nationwide housing shortage which has building supplies being priced higher incurring further costs.

The applicant, in their rationale for requesting approval, also notes that they should be granted approval for their requested variance, as “other builders of new homes have done in this area.” The applicant has specifically stated that 105 Pulaski as been granted approval for a similar variance. It should be noted that the applicant also owns 326 E Franklin and is currently undergoing rehabilitation.

**Public Comment**

The Downtown Priority Land Use Board met on Monday, June 7 with a 4-2 vote to recommend the application be approved. The priority board discussed the variance, and while there was some concern with the potential for different foundational heights compared to adjacent buildings, the board felt that given the status of some of the adjacent structures, that the proposed new home would be an improvement for the area. No further comments have been received.

**Staff recommendation**

Staff would recommend approval with the condition that the exposed foundation be 16” in height. This recommendation is based on the variety of foundation heights for nearby structures and believe it to be a good compromise.

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### **Public Testimony**

The applicant, Jared Korman, was given the opportunity to speak. He reiterated that a house nearby at 105 Pulaski Street was granted a similar variance and that the cost of building materials is a concern for him.

### **Board Discussion**

Mr. Martin asked for clarification regarding the variance being requested and questioned why a variance was necessary if the foundation would be the same as the house next door. Mr. Bement asked the applicant about the lack of windows on the side elevations of the house that was proposed in the site plan. Mr. Brand noted that the proposed infill house would be two stories and was not sure whether a smaller foundation would be appropriate. Ms. Tingle made note that the variance for the foundation height is lower than the average of the two foundational heights on the adjacent properties. Mr. Bement voiced his concern for the zoning code requiring an elevated foundation as it impedes accessibility.

### **Board Decision**

A motion was made by Mr. Bement and seconded by Mr. Brand, and carried to determine that there is a preponderance of reliable, probative and substantial evidence to make the specified findings required under R.C.G.O. 150.120.10 (D)(1) and approve the application as submitted for Variance with the following condition:

1. That the foundational height be 16”

Mr. Bement	Yes	Ms. Tingle	Yes
Mr. Brand	Yes	Ms. Patterson	Yes
Ms. Graham	Absent	Mr. Ciani	Yes
Mr. Martin	No		

Approved by the Board of Zoning Appeals June 22, 2021

Tony Kroeger, Secretary  
Board of Zoning Appeals

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# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 22, 2021

#### **4. BZA CASE PLN2021-00222; 326 E. Lincoln Street**

A request by the applicant, Jared Korman, to renovate a single-family detached residence as principal use/structure, and additional detached structure located within the established rear yard (on the same zoning lot), as an accessory dwelling unit at the property located at 326 E. Lincoln St. Dayton, OH 45402 in an MR-5 (Mature Single-Family) Zoning District. The applicant is requesting use variances to (1) have more than one dwelling unit constructed on a single zoning lot and (2) permit an accessory dwelling unit to be located on the property.

**Applicant:** Jared Korman  
41 Green Street  
Dayton, Ohio 45402

**Owner:** Manetic Home Services, LLC  
41 Green Street  
Dayton, Ohio 45402

**Existing Land Use and Zoning:** Single Family Dwelling; MR-5

**Surrounding Land Use and Zoning:** North/South/East/West: Single Family; MR-5

**Land Use Priority Board:** Downtown

**Planning District:** South Park

**Planning Staff Contact:** Jeff Green

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Mr. Green presented the case.

The subject property is within the Mature Residential (MR-5) Zoning District in the South Park planning district and is 0.0999 acres in size. The property fronts E Lincoln Street, and also abuts a public alley in the rear. Presently, the property currently has two structures on it: a 2-story house and an accessory building in the rear yard abutting the alley.

The applicant seeks to renovate single-family detached residence as principal use/structure, and additional detached structure located within the established rear yard (on the same zoning lot), as

an accessory dwelling unit at 326 E. Lincoln Street. The applicant is requesting variances to (1) have more than one dwelling unit constructed on a single zoning lot and (2) permit an accessory dwelling unit to be located on the property.

It should be noted that the existing accessory building, has been previously utilized as an ADU in the past. However, as the ADU was not permitted per the zoning code, once it became unused for a set amount of time, the ADU was no longer considered a permissible use with the applicant requiring a variance. If the ADU was continuously utilized, no variance would be required as it would be considered a legal non-conforming use.

Per the application submitted, the accessory building is structurally sound and can be renovated. The applicant is currently renovating the existing house on the lot and also owns 320 E Franklin with plans to construct a single-family house on that lot as well (Variance pending). The accessory building was originally designed and utilized as an ADU. It is recommended that a concrete pad be considered for placement for parking purposes either in front of, or to the side, of the ADU should it be approved.

It should be noted that planning staff is looking into the viability of conducting a text amendment to regarding the feasibility of allowing ADUs in the city, though no amendment has been formally placed for Plan Board's consideration.

#### **Public Comment**

The Downtown Priority Land Use Board met on Monday, June 7 and unanimously recommend the application be approved. No further comments have been received.

#### **Staff recommendation**

Staff would recommend approval with the condition that a concrete pad be placed in front of the proposed ADU for parking purposes. This recommendation is based on the existing accessory building being designed and utilized as an ADU in addition to staff looking at the possibility allowing ADUs in the city.

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#### **Public Testimony**

The applicant, Jared Korman, was given the opportunity to speak. He reiterated his willingness to place a two-car parking pad on the property or possibly more as he would like to maximize parking.

#### **Board Discussion**

Mr. Bement asked for clarification from staff on where the parking pad would be placed and asked Mr. Daugherty whether a parking pad with three parking spaces would be feasible. Mr. Brand noted that the application looks clean.

#### **Board Decision**

A motion was made by Mr. Brand and seconded by Ms. Tingle, and carried to determine that there is a preponderance of reliable, probative and substantial evidence to make the specified

findings required under R.C.G.O. 150.120.10 (D)(1) and approve the application as submitted for Variance with the following condition:

1. Concrete pad be placed for parking

Mr. Bement	Yes	Ms. Tingle	Yes
Mr. Brand	Yes	Ms. Patterson	Yes
Ms. Graham	Absent	Mr. Ciani	Yes
Mr. Martin	Yes		

Approved by the Board of Zoning Appeals June 22, 2021

Tony Kroeger, Secretary  
Board of Zoning Appeals

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