



# City of Dayton

## Board of Zoning Appeals

### Minute Record Overview

June 28, 2022  
4:30 P.M.

Planning Resource Conference Room, City Hall  
101 W. Third Street, Dayton, Ohio

Members Present: Mr. David Brand, Mr. Tim Bement, Mr. Anthony Ciani, Ms. Jaqueline Patterson, Ms. Lisa Tingle

Members Absent: Mr. Patrick Martin, Ms. Diane Graham

Mr. Ciani called the meeting to order at 4:30 P.M. A motion was made and seconded to approve the minutes of the May 24, 2022 as submitted

---

**1. PLN2022-00123 – A Conditional Use request to establish a Type A daycare for 7-12 children in the Fairview planning district at 2233 Catalpa Dr.**

Applicant: Abundant Jubilee Childcare  
c/o Jazmine Glenn-Greene  
2233 Catalpa Dr  
Dayton, OH 45406

Priority Land Use Board: North Central

Planning District: Fairview

Decision: Approved as Submitted

---

**2. PLN2022-00129 – Conditional Use request to utilize the existing carriage house as an accessory dwelling unit (ADU) at a property located at 136 S. Dutoit Street. The applicant is also requesting a variance to exceed the maximum allowable size of an ADU from 900 square feet to 1200 square feet.**

Applicant: Alona Burns  
136 S Dutoit St  
Dayton, OH 45402

Priority Land Use Board: Northeast

Planning District: Historic Inner East

Decision: Approved as Submitted

---

**3. PLN2022-00132 – Use Variance request to reoccupy a 2-story multi-family apartment building including accessory off-street parking located at 1001 Riverside Drive. The applicant additionally requests a Variance for relief from the minimum off-street parking requirement.**

Applicant: Richard Drake  
189 Preakness Court  
Vandalia, OH 45377

Priority Land Use Board: North Central

Planning District: Riverdale

Decision: Approved with Conditions

---

The Board of Zoning Appeals meeting was adjourned at 5:35 P.M.

Minutes approved by the Board of Zoning Appeals on July 26, 2022.

Jeff Green, Secretary  
Board of Zoning Appeals



# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 28, 2022

#### 1. BZA CASE # 2022-00207 – 2233 Catalpa Dr.

The applicant requests Conditional Use approval to establish a Type A daycare for 7-12 children in a two-family residential property located at 2233 Catalpa Drive.

**Applicant** Jazmine Glenn-Greene, Abundant Jubilee Childcare  
2233 Catalpa Dr.  
Dayton, OH 45406

**Owner** Anthony Q. Martin  
2235 Catalpa Dr.  
Dayton, OH 45406

**Existing Land Use and Zoning:** Family Day Care Home for 1-6 children (type B); ER-4

**Surrounding Land Use and Zoning:** **North/West/South:** Single Family Dwelling; ER-4  
**East:** Former Ohio Telephone Co. building; ER-4

**Land Use Committee:** North Central

**Planning District:** Fairview

**Planning Staff Contact:** Jen Hanauer

---

Ms. Hanauer presented the case, a requested Conditional Use to turn an existing Type B daycare into a Type A daycare to accommodate more children. In identifying the location of the property, Ms. Hanauer noted that it is near two parks, which satisfies the State of Ohio's requirement for outdoor play space. The structure was built as a two-family dwelling in 1920. The applicant lives in one half of the structure, and the existing Type B daycare is in the other half. There is two-hour parking in front of the property on Catalpa, and a bus stop for Route 12 across the street. Parking and space for drop-off/pick-up is also available in the rear yard, which can be accessed through the alley. The rear yard has a two-car garage for storage and green space for outdoor play. An accessible entry for the daycare is on the west side of the structure. The existing Type B daycare was established in 2007 by the current owner of the property and was transferred to the applicant in April of 2022.

Ms. Hanauer described the need for affordable childcare in the community and how increasing the capacity of Abundant Jubilee Childcare would benefit residents in the area. There would be no changes to the existing daycare aside from the number of children that could be accommodated. The hours of the daycare would continue to be 6:00 a.m. to 6:00 p.m. Should the Conditional Use be approved and the number of children increased, the applicant will employ up to three people.

The North Central Priority Land Use Board voted unanimously to recommend approval based on the demonstrated need for childcare in the area and the support the applicant has received from the community. Ms. Hanauer received three letters in support of the applicant and received no communication in opposition to the Conditional Use.

Referring to the standards for a Conditional Use, Ms. Hanauer highlighted 150.535(A) and stated that the only change proposed to the existing Type B daycare is the capacity, and as such the property will remain harmonious with the surrounding eclectic single-family district. Ms. Hanauer also cited 150.535(E) saying that a Type A daycare would be compatible with uses permitted by right in an eclectic single-family district, including single-family dwellings, adult care facilities, parks, and community gardens.

Staff recommended approval of the Conditional Use as submitted.

Mr. Bement asked for further explanation of where the paved and green areas are in the rear yard, which Ms. Hanauer indicated on the aerial images. Mr. Bement asked if fencing is required for the outdoor play area, and Ms. Hanauer deferred to the applicant.

### **Public Testimony**

The applicant, Jazmine Glenn-Greene of Abundant Jubilee Childcare, stated that her goal is to help parents with affordable childcare and explained that she herself had difficulty finding affordable childcare in the past. The applicant has had experience working for other daycares and decided earlier in 2022 to start her own.

Mr. Bement asked about fencing requirements for the outdoor play area. The applicant replied that yes, the State of Ohio will require fencing for an outdoor play area. While the minimum is four feet, the applicant stated that her landlord will require a higher fence to ensure the safety of the children. The applicant clarified that the children at her daycare do not currently play in the rear yard, and instead the applicant walks the children to the nearby public playground.

### **Board Discussion**

The board had no discussion.

### **Board Decision**

A motion was made by Ms. Tingle 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 approve the application as submitted for Conditional Use.

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

Approved by the Board of Zoning Appeals on July 26, 2022.

Jeff Green, Secretary  
Board of Zoning Appeals

---



# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 28, 2022

#### 2. BZA CASE # 2022-00202 – 136 S. Dutoit Street

A Conditional Use application by Alona Burns to utilize the existing carriage house as two (2) accessory dwelling units (ADU) at a property located at 136 S. Dutoit Street. within the MR-5 Mature Single Family Zoning District. The property is located in the St. Anne's Hill Historic District and is within the HD-2 Historic Overlay. The applicant is also requesting a Variance to exceed the maximum allowable size of an ADU from 900 square feet to 1200 square feet.

<b>Applicant</b>	Alona Burns 136 S. Dutoit Street Dayton, Ohio 45402
<b>Owner</b>	Alona Burns / Bossler Mansion LLC 136 S. Dutoit Street Dayton, Ohio 45402
<b>Existing Land Use and Zoning:</b>	Single-Family Residence; MR-5 Mature Residential (HD-2 Historic Overlay)
<b>Surrounding Land Use and Zoning:</b>	North – Commercial Building; UBD South – Single-Family Dwelling; MR-5 East – Manufacturing; I-2 West: - Single-Family Dwelling; MR-5
<b>Land Use Board:</b>	Northeast
<b>Planning District:</b>	Historic Inner East
<b>Planning Staff Contact:</b>	Keeghan White

---

Mr. White presented the case.

The applicant is proposing to renovate the existing detached carriage house as two accessory dwelling units (ADU) with one unit being located on the first floor and one being located on the second floor. Of interesting note is that ADUs are now allowable in the city (as a Conditional Use) from a text amendment that was passed by City Commission earlier this year. The site is home to the historic Bossler Mansion, a three-story single-family residence. No other accessory structures are on site currently.

The subject property is roughly .74 acres (32,234.4 sq. ft.) in size and is larger than other single-family dwellings in the immediate area. The subject property, and those immediately to the east and south are zoned MR-5 (Mature Single-Family Residential) and are utilized largely as single-family dwellings.

However, the area is unique as the property is abutting both the UBD (Urban Business) and I-2 (General Industrial) Zoning Districts to the north and west. Adjacent properties for the most part have detached garages and a property to the south (154 S. Dutoit Street) contains a carriage house that has an ADU. The subject property is located within the HD-2 Historic Overlay District. As such, a minor certificate of appropriateness was required for the carriage house and was granted by the Historic Preservation Officer on April 6, 2022.

Per the code, an accessory dwelling unit (ADU) in an MR-5 Zoning District requires Conditional Use approval. As previously noted, ADUs are now conditionally permitted whereas they were not considered an allowable accessory use up until a months ago. The change to conditionally allow ADUs is to reflect the desire of the city to give a higher degree of flexible housing options to residents where appropriate and so long as certain conditions can be met.

Per the plans submitted, the proposed structure has a footprint of 600 sq. ft. with the first floor being an ADU and the second floor being the ADU. Per code, the maximum area of all accessory structures cannot exceed 900 sq. ft. in size and can be up to 66% of the size of the principal dwelling. The principal dwelling is 7,708 sq. ft. (per county auditor) meaning as proposed, the ADUs would meet the total size limitations. Since the structure is exiting, no additional setback requirements are necessary.

Reviewing the request for a variance, staff believes that due to the special circumstances and conditions that are peculiar to the property. The property is unique as it is larger in both acreage and square feet than others in the surrounding area. Due to the sheer size of the existing single-family dwelling (7,708 sq. ft.), having an ADU that is larger would not materially impact the site or surrounding area as it is unlikely that these specific circumstances can be replicated. Additionally, with an emphasis on creating and providing a higher degree of flexible housing options, fully utilizing all 1,200 SF of the carriage house can provide two dwellings that will allow the property to be utilized in the highest possible fashion.

Per the code, an ADU (and detached garage) must have a similar roof pitch and constructed of similar materials to that of the principal dwelling. As noted in the submitted plans, the proposed structure has a matching roof pitch, trim, and siding which would meet the requirements of the code.

In reviewing the request for a conditional use, the overall impact of the request and how harmonious it will be with that of surrounding properties should be considered. In this case, the proposed ADU would fit in well with fabric of the area. The structure is pre-existing and due to its location in the northeast corner of the property, it unlikely to materially impact any surrounding neighbors. Staff therefore believes the proposed ADU to meet the intent of the code and fit in harmoniously with the surrounding properties.

### **Public Testimony**

The applicant's son-in-law, Austin Klaus, stated that one of the ADUs would be for the applicant's mom who currently lives in Las Vegas while the other would be a guest house. Mr. Klaus went on to discuss how the Bossler Mansion was designed to be a show house that does not provide much space for bedrooms.

### **Board Discussion**

The board discussed the case. Mr. Brand stated that the request seemed appropriate for the site.

### **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. 150.535 and R.C.G.O. 150.120.10 and approve the applications as submitted for a Conditional Use and Variances.

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

Approved by the Board of Zoning Appeals on July 26, 2022.

Jeff Green, Secretary  
Board of Zoning Appeals

---



# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 28, 2022

#### 3. BZA CASE # 2022-00202 – 136 S. Dutoit Street

The applicant, Richard Drake, requests a Use Variance to reoccupy a 2-story multi-family apartment building including accessory off-street parking located at 1001 Riverside Drive within the "MR-5" Zoning District. The applicant additionally requests the following Variance: (1) Relief from the minimum off-street parking requirement.

<b>Applicant</b>	Richard Drake 189 Preakness Ct Vandalia, OH 45377
<b>Owner</b>	NCV OHIO II LLC c/o Norencio Bungalon 6333 Pacific Ave #555 Stockton, CA 95207
<b>Existing Land Use and Zoning:</b>	Vacant Residential Building; MR-5
<b>Surrounding Land Use and Zoning:</b>	<b>North:</b> Vacant Lot; MR-5 <b>South:</b> Single Family Dwelling; MR-5 <b>East:</b> Recreational Facility; OS <b>West:</b> Single Family Dwelling; ER-4
<b>Land Use Committee:</b>	North Central
<b>Planning District:</b>	Riverdale
<b>Planning Staff Contact:</b>	Keeghan White

---

Mr. White presented the case.

The applicant, Richard Drake, requests a Use Variance to reoccupy a 2-story multi-family apartment building including accessory off-street parking located at 1001 Riverside Drive within the "MR-5" Zoning District. The applicant additionally requests the following Variance: (1) Relief from the minimum off-street parking requirement.

The subject property is currently a vacant multi-family residential building that has been vacant since 2014 when the utilities to the building were shut off. With the discontinuance of its use as a multi-family building, a use variance is now required to allow for the property to be used as a multi-family residence once more.

The site plan for the building shows that the applicant intends to utilize the twelve (12) existing

apartments within the building as well as the accessory parking lot behind the building which will be cleaned and restriped to include sixteen (16) parking spaces. The original site plan indicated that the main entrance and exit to the parking lot be from the public alley north of Pioneer Street. However, this has since changed with the new entrance and exit being located on Pioneer Street in the existing curb cut. This change was made due to public comment and discussion with the City's Department of Public Works due to safety concerns and visibility on Riverside. With the entrance and exit to the parking lot being solely on Pioneer Street, the applicant is proposing to provide screening for the parking lot in the form of trees and low vegetation along the Pioneer Street side of the parking lot as well as a six foot (6') wooden privacy fence that will extend along the entire lot.

Turning to the requests, Staff believes that the use variance request to reoccupy the multi-family apartment building appropriate. Though multi-family dwellings are not currently allowed in single-family zoning districts, the property has a history of being operated as a multi-family use. The standards for a Use Variance largely require that any request must not have any material adverse effects nor be inconsistent with the spirit and intent of the Zoning Code. This request meets these standards as the reoccupying of an existing vacant multi-family dwelling is not as adverse as allowing for the property to stay vacant which materially impacts housing values of adjacent properties as well as the welfare and safety of neighbors. Regarding the spirit and intent of the Zoning Code, the reoccupying of the building will allow for the highest possible use for the property and is in line with the history of the property.

The second request is relief from the minimum off-street parking requirement as sixteen (16) spaces are shown in the site plan with nineteen (19) required. Staff believes that the bulk/area variance request is appropriate. The property itself contains a parking lot that is currently unstriped. With striping the lot, sixteen (16) spaces will be marked. With twelve (12) apartments in the building, the parking lot will still provide over one (1) space per apartment with additional on-street parking being available on Vincent Street to the north and Pioneer Street to the south if necessary. The variance request satisfies the required standards. In particular, Standards (b) and (c). Standard B asks whether the property will yield a reasonable return or whether there can be a beneficial use of the property without the variance. This standard is satisfied since without the variance, the multi-family property cannot yield a reasonable return. The site is completely built out with no available space to accommodate the required number of parking spaces. Standard C asks whether the variance required is substantial and the minimum necessary to reasonably use the land. The answer to this Standard is yes, the variance requested is the minimum necessary to reasonably use the property to its highest capability.

### **Public Testimony**

The applicant, Richard Drake, stated that the owner purchased the property in order to renovate it and bring it back into active use and addressed the Zoning Administrator's concern regarding the building's front setback from Riverside Drive. He also stressed that the building was built as a multi-family building, and it would be hard to use it for anything else. The applicant then answered questions from the Board and Zoning Administrator regarding different physical aspects of the building, the restoration of the building, and the use.

Matt Moehl from Keller Williams and TRG Property Resources spoke as to how the property would be managed regarding tenant placement and maintenance. He answered Board questions regarding the restoration of the building and whether the apartments would be market rate.



**Board Discussion**

The board discussed the case. Concern was expressed that a rendering or plan was not submitted detailing how the property was to be restored. The Zoning Administrator answered Board questions about different physical aspects of the building including context for certain details. Discussion was had whether conditions could be added to an approval in order to make sure that aspects of the building would be restored in a certain way to preserve the nature of the building.

**Board Decision**

A motion was made by Mr. Brand and seconded by Mr. Bement 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 R.C.G.O. §150.120.10 (D)(2) and approve the application as submitted for Bulk Variances and Use Variance with conditions.

Conditions for Approval:

1. Maintain the current window apertures.
2. Incorporate awnings that are consistent with the context of the building.
3. Maintain cornice line on the roof.

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

Approved by the Board of Zoning Appeals on July 26, 2022.

Jeff Green, Secretary  
Board of Zoning Appeals

---