



City of Dayton

Board of Zoning Appeals

Minute Record

August 24, 2021

1. BZA CASE # 2021-00264 – 1986 Home Ave.

A **Conditional Use** request to permit a truck terminal for six (6) dump trucks maximum and a 1-bay, 1,600-sf metal building used for accessory repair and storage at 1986 Home Avenue (Parcels R72 09011 0012, R72 09012 0001 & 0002) within an I-1 Light Industrial district. Also, a **Variance** request to reduce the minimum required lot size from 3-acres to 0.77-acres, to eliminate street trees spaced 30-ft on center along Home Avenue, eliminate parking lot curbs, to eliminate required building entrance along the public street.

Applicant	The Architectural Group c/o Rick Holmes 135 N Main Street Dayton, OH 45402
Owner	5 Star Investments LLC c/o Randall Lucas 3616 Mandalay Drive Dayton, OH 45426
Existing Land Use and Zoning:	Vacant Land; I-1
Surrounding Land Use and Zoning:	North: Vacant land & Industrial bldgs; I-1 South: State Route 35; I-1 East: Single-family dwellings; I-1 West: Vacant land & Industrial bldgs; I-1
Land Use Committee:	West
Planning District:	Roosevelt
Planning Staff Contact:	Abigail Free

Ms. Free presented the case. The case had been tabled at the BZA hearing on July 27, 2021. The applicant had originally applied in January 2021 but has since more than doubled the size of the property by purchasing adjacent parcels.

Site photos show the property as adjacent to an elevated section of US-35. While the size of the property has increased since the original application, the site plan shows that the size of the redevelopment area has not changed and no improvements are proposed on the west side of South Orchard Avenue. The same amount of paved area is proposed as previously, and a new curb cut is still proposed. Changes include a new sidewalk, the removal of an existing chain link fence, reuse of curb cut at South Orchard Avenue,

additional street trees, extended pavement to west edge of South Orchard Avenue for improved maneuverability, and solid screen fencing.

Per the board's request, staff offers the following conditions for approval:

1. Limit of 6 dump trucks to be stored on site. An increase in trucks will require approval by the Board of Zoning Appeals.
2. All vehicles shall be parked or stored on a dustless solid surface of asphalt or concrete.
3. All chain link fencing with barbed wire shall be removed.
4. One driveway curb cut shall be permitted and be located at the vacated ROW.
5. Existing curb cuts shall be removed and replaced with new curb and new sidewalk shall be installed along the full width of the site along Home Avenue.
6. The parking area shall be extended to the west edge of the vacated S. Orchard Avenue. Perimeter curbs shall not be required for the parking area.
7. Street trees shall be placed along the full street frontage of the site in accordance with the 150.800.5 Landscaping Requirements Along Street Frontages.
8. Solid screening is required along the east property line.

Ms. Free showed the changes that have been made to the proposed structure for the site, including four new windows on the front elevation and the addition of brick apron on the front and side of the building. Ms. Free went over the specific regulations and continued concerns for the proposed use on the property including: lot size (three acres required, .77 acres proposed); location and access (on arterial street required, on local street proposed); outdoor truck storage (required not to exceed 100% principal building footprint, proposed six trucks exceed 100% of building area); principal entrance (oriented toward public street required, oriented at side proposed); and perimeter curbs (required along parking and vehicle circulation, none proposed).

Community Feedback

The West Land Use Board recommended denial due to lot size. CityWide Development recommended denial due to use of Home Avenue as a future shared bikeway.

Staff Recommendation

Staff recommended Denial of the conditional uses for Truck Terminal & Motor Vehicle repair and Variances. The revised site plan makes better use of existing land and features, shows better circulation and site improvements, but the variance for lot size is still substantial at a 75% reduction.

If the Board wishes to consider Approval of the proposed uses and site plan, staff recommends the following conditions:

1. Limit of 6 dump trucks to be stored on site. An increase in trucks will require approval by the Board of Zoning Appeals.
 2. All vehicles shall be parked or stored on a dustless solid surface of asphalt or concrete. Perimeter curbs shall be omitted.
-

Public Testimony

The applicant, Richard Holmes, spoke to the lot size, which he sees to be the biggest obstacle to approval. Mr. Holmes stated that the site is difficult for development due to its proximity to US-35.

Board Discussion

Mr. Martin stated that all of the questions that the board raised at the July hearing have been addressed. He agrees with Mr. Holmes question regarding what else could be done with this property. Mr. Martin supports this project based on the additional work done by the applicant.

Mr. Brand stated his agreement with Mr. Martin and asked if staff has any further arguments for denial. Mr. Ciani stated that the testimonial portion has been closed.

The question was asked about how the project will affect the bikeway. Ms. Free replied that the bikeway will utilize the existing street with the addition of sharrows.

Board Decision:

A motion was made by Mr. Martin 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 RCGO 150.535 and RCGO 150.120.10(D)(1) and approve with conditions the application for a Conditional Use and Bulk Variance.

Conditions for Approval:

1. Limit of 6 dump trucks to be stored on site. An increase in trucks will require approval by the Board of Zoning Appeals.
2. All vehicles shall be parked or stored on a dustless solid surface of asphalt or concrete. Perimeter curbs shall be omitted.

Mr. Bement	yes	Ms. Tingle	no
Mr. Brand	yes	Ms. Patterson	yes
Ms. Graham	absent	Mr. Ciani	yes
Mr. Martin	yes		

Approved by the Board of Zoning Appeals on August 24, 2021.

Tony Kroeger, Secretary
Board of Zoning Appeals



City of Dayton

Board of Zoning Appeals

Minute Record

August 24, 2021

2. BZA CASE PLN2021-00308; 2051 Valley Street

A Conditional Use and Variance application to allow a restaurant to locate at 2051 Valley Street within a Light Industrial (I-1) Zoning District. The variance application includes requests to: (1) reduce the required number of parking spots, (2) reduce the parking setback, and (3) and waive the required dumpster enclosure.

Applicant: Richard Holmes
135 N Main St
Dayton, Ohio 45402

Owner: Feruza Pashayeva
1305 Leonhard Street
Dayton, Ohio 45404

Existing Land Use and Zoning: Vacant Property; I-1 Light Industrial

Surrounding Land Use and Zoning: **North** - Vacant Land; I-1 Light Industrial
South - Single Family Home; I-1 Light Industrial
East - Sherriff Goslin Roofing; I-1 Light Industrial
West - Ohio Clean Leaf/Vacant Land; I-1 Light Industrial

Land Use Priority Board: Northeast

Planning District: Old North Dayton

Planning Staff Contact: Jeff Green

Mr. Green presented the case.

The applicant requests Conditional Use approval to allow a restaurant to locate at 2051 Valley Street within a Light Industrial (I-1) Zoning District. The applicant is also requesting the following variances: (1) reduce the required number of parking spots, (2) reduce the parking setback, and (3) and waive the required dumpster enclosure.

The subject property is 0.46 acres in size and is located on the on the northern side of Valley Street. Previously, the property was utilized as the Deaf Community Resource Center and a church. The site, as it

presently stands, has an existing building with the lot fully paved for parking. The parking lot is in disrepair with potholes and other maintenance issues present. Bollards are located along the western and eastern property lines and a fence is located to the rear of the property. A small tree lawn is located along Valley Street between the 2 ingress/egress points which contains a utility pole, utility box and lines.

In the original submittal, the applicant requested 3 variances be approved as noted above, however the site plan has since been revised to both better meet the requirements of the code and to consider feedback received from staff and the Northeast Priority Land Use Board at its August 4th, 2021 meeting.

Per the plan submitted, the number of parking spaces has increased from 16 spaces on the original plan to 20 parking spaces on the updated plan. As a result of the additional 4 parking spaces, the proposed plan would now meet the minimum parking space requirements as noted in Zoning Refusal Letter. Requested variance no longer needed.

Per the plans submitted, the side and rear parking setback is noted as being 5 feet while the front yard parking setback is not shown. However, the site plan shows the required 10-foot parking front yard setback will be met. Requested variance no longer needed.

The original application submittal noted that the trash would be handled using totes which would not be contained in an enclosure. The updated plans now show a 4'x8' enclosure (vinyl privacy fence) for waste receptacles at the rear of the building. The addition of an enclosure for waste receptacles satisfies the requirements of the code. Requested variance no longer needed.

Per the site plan submitted, the bollards located on the western ingress point would be removed and would become the principal entrance to the site. It should be noted that western location of the western ingress point is next to the driveway for the adjacent residence with little distinction for where the subject property begins and ends. As such, a barrier may be beneficial to ensure patrons of the proposed restaurant remain on the subject property. The eastern egress point by contrast would be used for exiting the property. This traffic pattern makes sense primarily due to the angled parking in the rear which encourages patrons to enter from the western ingress point.

Per the plan submitted, the 2 street trees originally proposed in the tree lawn along Valley Street have been removed. The street trees are no longer proposed due to the presence of the utility pole, utility box, and overhead lines in the area. Staff believes this to be acceptable as not only would the trees likely not survive in this location, but they could also interfere with utility structures currently present on site. Given the layout of the site, the street trees cannot feasibly be relocated.

The existing paved areas of the site are in various states of disrepair with no (or very little) striping designating parking spaces. Per the plan submitted, the applicant proposed to repair and seal the site in addition to striping the spaces as noted on the submitted site plan.

The subject property is surrounded by a mix of commercial, service, residential, and industrial uses. With such a varying degree of uses within close proximity of the subject property, the proposed use (pizzeria and bakery) would look to largely fit in well with that of the area. Furthermore, the applicant has worked to revise their original plans to comply with the requirements of the Zoning Code and now no longer requires the requested variances. While street trees are no longer proposed, the proposed use and site upgrades looks to fit in well with that of the surrounding properties.

Public Comment

The Northeast Priority Land Use met on August 4, 2021 and unanimously recommended the proposal be approved on the condition the trash receptacles are enclosed.

Gary Clark, 2033 Valley Street - Lives adjacent to the subject property. Mr. Clark noted that he was concerned with the lack of trash enclosure and the use of totes, the removal of bollards along the western ingress point, and a trash pile. However, Mr. Clark noted he is supportive of the restaurant overall.

Staff recommendation

Staff recommends approval of the Conditional Use with the following condition:

1. The property owner shall repair and reseal the parking lot, so it is free of disrepair.
-

Public Testimony

The applicant, Richard Holmes, was given the opportunity to speak. Mr. Holmes described the owners planned operation and trash receptacles proposed on site. He noted that as the operation grows, more trash capacity will be added on site as needed and properly enclosed. Mr. Holmes clarified the proposed ingress/egress points for the site in relation to the public comments received.

Mr. Martin and Mr. Holmes had a discussion regarding the proposed trash receptacles and if they could be expanded.

Board Discussion

Ms. Patterson noted that the application looks clean.

Board Decision

A motion was made by Ms. Patterson 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. 150.535 and approve the application for a Conditional Use with the following condition:

1. The property owner shall repair and reseal the parking lot, so it is free of disrepair
2. Debris be removed from the property

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 September 28, 2021

Tony Kroeger, Secretary
Board of Zoning Appeals



City of Dayton

Board of Zoning Appeals

Minute Record

August 24, 2021

3. BZA CASE PLN2021-00323; 3407 Kings Highway

A Use Variance request by the applicant, Ida L. Farmer, to occupy a former commercial building space as a personal service establishment (barber shop) at 3407 Kings Highway (Parcel R72 16214 0047) within the ER-4 Eclectic Zoning District located in the College Hill Planning District.

Applicant:	Ida L. Farmer 3403 Kings Highway Dayton, Ohio 45406
Owner:	Charlesetta Boatwright 1436 Blairwood Avenue Dayton, Ohio 45417
Existing Land Use and Zoning:	Retail Structure; ER-4
Surrounding Land Use and Zoning:	North/South/East/West: Single-family dwellings; MR-5
Land Use Priority Board:	North Central
Planning District:	College Hill
Planning Staff Contact:	Keeghan White

Mr. White presented the case.

The applicant requests to utilize a former commercial building space as a personal services establishment in the form of a barber shop at 3407 Kings Highway which is zoned ER-4; Eclectic Residential. The property is unique as the commercial building, which was built in 1942, is attached to the residential property that is located on the same parcel, however these two uses do not share an ingress or egress.

The applicant is the resident of the residential structure on the parcel at 3403 Kings Highway and pending approval, the commercial building will be used as a barber shop by Ray Warden and his company, In The Kutz Barbershop which will not allow walk-in clients and be appointment only. The proposed hours of

operation of the barbershop are Tuesday – Saturday from 10:00 a.m. to 7:00 p.m. Historically, this building has been used as a salon since 1979, with three unique and discernable businesses utilizing the space: Design Curl (1979-2011), Most Beautiful Salon (2011-2017), and Abundant Blessing and Spa Salon (2019- May/June 2020). However, since the closing of Abundant Blessing and Spa Salon, the Zoning Administrator has determined that there has been a lapse in the operation of the non-conforming use, making the operation of a salon/barbershop out of the building not permitted under current zoning regulations.

Public Comment

The North Central Priority Land Use Board met on Wednesday, August 18 and unanimously recommend the application be approved. Staff has not received any further comment from the public.

Staff recommendation

Staff would recommend approval of the applications as submitted with no conditions.

Public Testimony

The applicant, Ida L. Farmer was given the opportunity to speak first. She reiterated the commercial history of the building. The next speaker was Raymond Warden, the barber who wanted to use the commercial space, and he spoke briefly about his business. The last speaker was Michael Easterling, a neighbor. He gave his support for the project and stated that the business does not disturb the neighbors.

Board Discussion

Ms. Patterson noted that the application looks clean.

Board Decision

A motion was made by Mr. Brand 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. §150.120.10 (D)(2) and approve the applications as submitted for a Use Variance.

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 August 24, 2021

Tony Kroeger, Secretary
Board of Zoning Appeals



City of Dayton

Board of Zoning Appeals

Minute Record

August 24, 2021

4. BZA CASE PLN2021-00314; Brown Street & Stonemill Street

A **Conditional Use** request to approve a restricted parking lot at the rear of the property between Sawmill and Stonemill Streets along Brown Street within an ER-4 Eclectic Single-Family Residential district. In addition, **Variance** requests for the following: (1) relief from the 50% lot coverage maximum within the ER4 District; (2) reduction of a portion of the northern parking lot setback at Stonemill Road from 45-feet to 18-feet and reduction of portion of southern parking lot setback at Sawmill Road from 45-feet to 10-feet; (3) relief from the restriction requiring parking areas be located at the rear of the principal building; (4) reduction of the southern parking lot setback along Sawmill Road from 10-feet to 5-feet; and (5) reduction of the MNC requirement for including landscaped islands within the surface parking lot from 10 to 7.

Applicant	Woodard Development PO Box 3836 Dayton, Ohio 45401
Owner	University of Dayton 300 College Park Dr Dayton, Ohio 45409 Redhawk Down LLC 2121 Bethel Rd Columbus, Ohio 43220
Existing Land Use and Zoning:	Vacant buildings, surface parking; MNC & ER-4
Surrounding Land Use and Zoning:	North: Multi-family residential; ER-4 South: Open Space; OS East: Surface parking; CI West: Single-family residential; ER-4
Priority Land Use Board:	Greater Downtown
Planning District:	University Park
Planning Staff Contact:	Susan Vincent

Ms. Vincent presented the case. She explained the request for a Conditional Use to permit the re-establishment of a restricted surface parking lot and the following Variance requests:

- Relief from the 50% lot coverage maximum within the ER-4 District;
- Reduction of a portion of the northern parking lot setback at Stonemill Road from 45-feet to 18-feet and reduction of portion of southern parking lot setback at Sawmill Road from 45-feet to 10-feet;
- Relief from the restriction requiring parking areas be located at the rear of the principal building;
- Reduction of the southern parking lot setback along Sawmill Road from 10-feet to 5-feet within the MNC District; and
- Reduction of the MNC requirement for including landscaped islands within the surface parking lot from 10 to 7.

Ms. Vincent presented maps and photos of the site and surrounding properties. The subject property is currently home to two vacant buildings and surface parking lots. She described the proposal which includes preserving a portion of the existing South Park Methodist Church and incorporating it into the new construction of a 35,000 sq. ft., 2-story building that will house a medical office/health services facility jointly managed by the University of Dayton and Premier Health. In addition, the site plan includes a surface parking lot with 101 spaces.

Ms. Vincent provided some background on the application. She described the previous submission received by the Planning Department in May 2021 which was not advanced to the BZA due to a desire to work with the residential neighborhood to address their concerns.

Ms. Vincent proceeded to provide analysis on the application. She explained reasons for why the conditional use request supports the redevelopment of the infill site and outstanding questions which drove the recommendation for two of the conditions listed for the board's consideration.

Ms. Vincent continued her analysis by reviewing lot coverage, setbacks, parking variances, and landscaping.

Lot coverage is a concern for stormwater management and heat island affects. While the lot coverage is significant, sixteen (16) trees are proposed within this area which will mitigate both the stormwater and heat island concerns. In addition, the proposed development will add a curb and gutter system tied into the underground storm sewers on site that connect into a storm line on Sawmill. This system will improve the existing conditions and will not contribute additional storm water to the local streets or onto adjacent properties.

All setback variances are related to the development team's desire to provide an appropriate number of off-street parking spaces. Granting the requested setback variances will mitigate negative parking impacts on the community by providing sufficient spaces on the subject property and eliminating the potential need for on-street spaces by patients. Planning staff believes that the reduction of one parking space within the southern, front-yard setback along Sawmill will further mitigate the encroachment into the front yard of the residential neighbor and facilitate a respectful transition between the commercial and residential use. Planning staff

recommends that the parking setback variance along Sawmill Road be set at approximately 17' or the space provided upon the elimination of one parking space versus the 10' proposed.

Within the MNC district, off-street parking is required to be located behind the principal building. The proposed side-yard parking lot encroaches into the front-yard setback on Brown Street and provides room for two parking spaces. While staff agrees that allowing the parking lot to wrap around the development is necessary to provide sufficient parking for the development, extending the lot past the front of the building does not meet the spirit and intent of the zoning code.

The applicant proposes seven (7) islands and indicates four with ornamental trees. Again, the decision to limit the number of interior landscaping islands is driven by the desire to provide sufficient off-street parking. By reducing the number of landscaping islands, the applicant seeks to limit on-street parking by patients. The applicant has expressed a willingness to include shrubs and additional landscaping within the islands and plans to submit a more robust landscaping plan to the Zoning Administrator prior to starting construction.

Ms. Vincent also provided an analysis of traffic and lighting impacts and the final location for the dumpster enclosure.

Recommendation

The Greater Downtown Priority Land Use board recommended approval of the conditional use and variances with two conditions. Several residents and Preservation Dayton submitted public comments for the board's consideration. Staff recommended the Conditional Use and Variances be **approved with the following conditions:**

1. That the applicant shall identify the mechanism which will restrict access to the parking lot on the final site plan for the Zoning Administrator to review and approve.
 2. That the barrier between the residential properties and the restricted parking lot shall provide an opaque visual screen utilizing a privacy fence, dense landscaping, or some combination of materials. The final designs shall be submitted to the Zoning Administrator for his review and approval.
 3. That a final landscaping plan shall be submitted to the Zoning Administrator prior to issuance of building permits that includes specific species and locations with special attention given to the landscaping islands, the front yard along Brown Street, in particular the area in front of the southern parking lot, and northern and southern setbacks which screen the parking lot from the right-of-way.
 4. That the parking setback variance along Sawmill Road be set at approximately 17' or the space provided upon the elimination of one parking space versus the 10' proposed.
 5. That the two most eastern spaces fronting on Brown Street be removed from the plan and that the front yard setback be preserved.
-

Applicant Testimony

Jason Woodard, Woodard Development, 205 E. First Street, Dayton, Ohio 45402, the applicant, spoke on behalf of the proposal. He highlighted the partner's decision to revisit the original proposal after public discussion and concerns were raised and the ultimate decision to keep the church building. He also shared some history of the site and an overview of improvements planned.

Mr. Woodard reviewed the proposed conditions and stated agreement on all but the 5th condition which specified the removal of the two eastern spaces fronting on Brown Street. The development team will construct a masonry wall along the property boundary to satisfy the 2nd condition. He requested relief from the 5th condition.

Andrew Horner, University of Dayton, 300 College Park, Dayton, Ohio 45419-1665, spoke on behalf of the University of Dayton's involvement with and interest in the proposal. He expressed appreciation for the community's engagement and their shared concerns regarding student housing encroaching into residential areas. Mr. Horner expressed UD's willingness to meet all stated conditions.

Public Testimony

Bo Bauer, 1600 S. Main Street, Dayton, Ohio 45409, spoke in support of the application. He touched on the previous developments and active uses regarding traffic and his opinion that the current abandoned property is an eyesore. He urged his neighbors to see the benefits of the development and compromise with the development team.

Barbara Doerr, 129 Sawmill Road, Dayton, Ohio 45409, spoke in opposition to the application. She shared her long-time experience as a resident of the Rubicon Mill neighborhood. Ms. Doerr expressed the importance to her to protect and preserve the existing the setback that abuts her property on the southern boundary.

Mary Doerr, 129 Sawmill Road, Dayton, Ohio 45409 spoke in opposition to the application. She expressed her dismay at the potential reduction of setbacks along Sawmill, Stonemill, and Brown and asked the board to require setbacks outlined in the zoning code.

Joyce Ciccolella, 1722 S. Main Street, Dayton, Ohio 45409, spoke on the application. She thanked the development team for working with the neighborhood but shared her concerns regarding traffic impacts. Ms. Ciccolella asked that a traffic study be required and that more time be taken to develop the property.

John Downer, 31 Stonemill Street, Dayton, Ohio 45409, spoke in opposition to the application. He read a prepared letter included in the Board's packet which walked through the variances requested and reasons for why the board should deny the requests. Mr. Downer also talked through traffic concerns.

Board Discussion

Mr. Brand shared his opinion that it is a large lot and suitable for the proposed development. He

also shared his opinion that the increase in traffic did not sound unreasonable. Expressed more concern regarding the requested front-yard setback along Brown.

Ms. Patterson expressed her concerns regarding the absence of a traffic study based on the neighborhood's concerns.

Mr. Bement asked for clarification on the minimum number of parking spaces required for this development. Carl Daugherty shared that developers generally do not exceed the minimum but there is no maximum.

Mr. Daugherty asked if concerns were shared or raised internally regarding the traffic impacts. Mr. Kroeger shared that Civil Engineering had not expressed any concerns regarding the capacity of the streets in question and that they would continue to work with the neighborhood regarding concerns on speed.

Mr. Bement shared a comment that the previous development of the site included more uses and less buffer between the residential properties. He expressed the importance of understanding the historical development pattern of the site. In addition, he shared appreciation for the process in which residents were able to influence the final design of the site.

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. 150.535 and R.C.G.O. 150.120.10 (D)(1) and approve the application as submitted for a Conditional Use and Variances with the following conditions:

1. That the applicant shall identify the mechanism which will restrict access to the parking lot on the final site plan for the Zoning Administrator to review and approve.
2. That the barrier between the residential properties and the restricted parking lot shall provide an opaque visual screen utilizing a privacy fence, dense landscaping, or some combination of materials. The final designs shall be submitted to the Zoning Administrator for his review and approval.
3. That a final landscaping plan shall be submitted to the Zoning Administrator prior to issuance of building permits that includes specific species and locations with special attention given to the landscaping islands, the front yard along Brown Street in particular the area in front of the southern parking lot, and northern and southern setbacks which screen the parking lot from the right-of-way.
4. That the parking setback variance along Sawmill Road be set at approximately 17' or the space provided upon the elimination of one parking space versus the 10' proposed.
5. That the two most eastern spaces fronting on Brown Street be removed from the plan and that the front yard setback be preserved.

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

Minutes approved by the Board of Zoning Appeals September 28, 2021.

Tony Kroeger, Secretary
Board of Zoning Appeals



City of Dayton

Board of Zoning Appeals

Minute Record

August 24, 2021

5. BZA CASE # 2021-00335 – 1317 W. First St. and

6. BZA CASE # 2021-00336 – 1333 W. First St.

Case #PLN2021-00335 & -00336: A **Variance** request to increase the front setback from 10-ft to 19-ft, allow for single-story dwelling height and reduce foundation height to 6-inches as a 2-story height and 12 to 18-inch foundation is required contextually for new dwelling construction at 1317 and 1333 W First Street within the MR-5 Mature Single-family district. The proposed dwellings will be handicapped accessible.

Applicant

Oberer Residential Construction
c/o Greg Smith
3445 Newmark Drive
Miamisburg, OH 45342

Owner

Wolf Creek Homes Associates
c/o Adam Blake
130 W Second Street, Suite 1420
Dayton, OH 45402

Existing Land Use and Zoning:

Vacant residential; MR-5, Mature Single-family

Surrounding Land Use and Zoning:

North/South/East/West: Single-family Dwellings; MR-5

Land Use Committee:

West

Planning District:

Wolf Creek

Historic District:

N/A

Planning Staff Contact:

Abigail Free

Ms. Free presented the cases. The cases are for separate lots, but the plans and elevations are the same and so were presented together. The cases have separate site plans.

The vacant properties both sit on the north side of West First Street in the Wolf Creek planning district and are zoned MR-5. The two properties are part of the partnership established between Oberer Home Builders and County Corp. to build 28 new single-family dwellings in Wolf Creek. The homes will be affordable rentals, two of which will be one-story accessible dwellings with four bedrooms, two bathrooms, front and rear porch, crawl space, and detached garage. As the Zoning Code requires the average to be calculated of the adjacent dwellings to determine front setback, raised foundation, and dwelling height, the requested variances are necessary due to accessibility requirements. Per the calculation stated in the Zoning Code, the required front setback is 10 feet, the raised foundation is 12 to

18 inches, and the dwelling height is two stories. The applicant requests variances for a front setback of 19 feet, a raised foundation of six inches, and a dwelling height of one story.

The increased setback and decreased raised foundation would allow for a gradual rise in the walkway to the front porch, eliminating the need for a ramp system. Similarly, the apron for the detached garages is longer than nearby homes to allow for a gradual grade change from the alley to the entrance. Without a variance for the dwelling height, the home will not be accessible.

Staff did not receive feedback from the surrounding property owners, and the West Land Use Board recommended approval. Staff recommends approval of the variances as submitted.

Public Testimony

The applicant, Greg Smith, reiterated that only two of the planned 28 homes require these variances for accessibility. Mr. Smith stated that the two accessible homes will offer the same features as the other 26 homes, including having four bedrooms and two baths. He stated that the curved front walk will offer a better look than a ramp system on the front of a home and allows for easier access to the front door.

Mr. Bement asked Mr. Smith if the homes will be modular in any way. Mr. Smith responded that no, while there will be pre-fab walls, they will not be traditional modular.

Board Discussion for CASE # 2021-00335 – 1317 W. First St.

Mr. Bement asked if there was any discussion, but there was not.

Board Decision for CASE #2021-00335 – 1317 W. First St.:

A motion was made by Ms. Patterson 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 RCGO 150.120.10 (D)(1) and approve the application as submitted for a Variance. Approval coincides with the submitted site plan for redevelopment.

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

Approved by the Board of Zoning Appeals on August 24, 2021.

Board Discussion for CASE # 2021-00336 – 1333 W. First St.

Mr. Bement asked if there was any discussion, but there was not.

Board Decision for CASE # 2021-00336 – 1333 W. First St.:

A motion was made by Ms. Tingle 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. 150.120.10 (D)(1) and approve the application as submitted for a Variance. Approval coincides with the submitted site plan for redevelopment.

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

Approved by the Board of Zoning Appeals on August 24, 2021.

Tony Kroeger, Secretary
Board of Zoning Appeals
