



City of Dayton

Board of Zoning Appeals

Minute Record

January 25, 2022

1. BZA CASE PLN2021-00521; 410 Kiefaber Street

The applicant, Kevin Nels, requests multiple Bulk/Area Variances for the construction of a two-family dwelling unit (Parcels R72 03109 0012, 13, and 63) within the University Park Planning District. The Bulk/Area Variances requested are: (1) relief from the maximum allowable dwellings per lot; (2) relief from the minimum required front yard setback; (3) relief from the minimum required rear yard setback; (4) relief from the building elevation requirement under Single-Family District Contextual Design Standard; (5) relief from the minimum off-street parking requirement; and (6) relief from site circulation and vehicular egress requirements under Off-Street Parking and Loading Regulations Design Standards.

Applicant:

Kevin Nels
P.O. Box 78
Dayton, OH 45409

Owner:

102 Lawnview LLC & 414 Kiefaber LLC
P.O. Box 78
Dayton, OH 45409

Surrounding Land Use and Zoning:

North: Residential Dwellings; CI
South: Residential Dwellings; CI
East: UD Academic Building; CI
West: Residential Dwellings; CI

Land Use Priority Board:

North Central

Planning District:

University Park

Planning Staff Contact:

Keeghan White

Mr. White presented the case.

The subject property at 410 Kiefaber Street is located within the “South Village” – a student housing area that serves the University of Dayton – which is within the University Park planning district and the Campus Institutional Zoning District (CI). Four structures currently exist on the overall property which consists of three parcels, including three student dormitories which house a total of twelve students, and a detached

two-car garage. The applicant's proposal includes demolishing the existing garage, reconfiguring property boundaries, building a new two-family dwelling with a designated accessible street parking space, and adding additional surface parking off the alley. Three parcels are included in the site plan, R72 03109 0012, 13, and 63. The applicant brought plans to City Plan Board on December 14th and had his request approved. The applicant is now requesting Bulk/Area Variances from the Board of Zoning Appeals for the project.

The Bulk/Area Variances requested by the applicant are: (1) relief from the maximum allowable dwellings per lot; (2) relief from the minimum required front yard setback; (3) relief from the minimum required rear yard setback; (4) relief from the building elevation requirement under Single-Family District Contextual Design Standard; (5) relief from the minimum off-street parking requirement; and (6) relief from site circulation and vehicular egress requirements under Off-Street Parking and Loading Regulations Design Standards.

The site plan proposes the demolition of the existing two-car garage and a deck built onto 102 Lawnview Avenue in order to accommodate the construction of a new four-bedroom two-family dwelling. A new surface parking lot is also added to the rear of 414 Kiefaber Street. These two actions do eliminate the majority of the back yards for the existing properties; however, 100% lot coverage is permitted in the "CI" Campus Institutional Zoning District. Due to the unique nature of the CI Zoning District, a two-family dwelling is subject to the regulations of the "MR-5" Mature Single-Family Zoning District which is why the applicant is requested Bulk/Area Variances that traditionally would not be required in a CI Zoning District.

The first Bulk/Area Variance requested is relief from the maximum allowable dwellings per lot. The proposed zoning lot consists of three separate parcels (parcels R72 03109 0012, 13, and 63) that the applicant is intending to consolidate. As such, the dwelling units at 102 Lawnview Avenue, 412 Kiefaber Street, and 414 Kiefaber Street would all be on the same zoning lot as well as the newly created 410 Kiefaber Street dwelling if the application is approved. While containing four dwelling units on a single zoning lot is typically irregular for single-family zoning districts, it is not within the CI Zoning District. Across Kiefaber Street, 413 Kiefaber Street is located on the same zoning lot as five other properties on Lawnview Avenue. Other examples can be seen along the northeastern side of Kiefaber Street and Stonemill Road. Thus, having multiple dwelling units on the same zoning lot would not be irregular or provide a special privilege to the applicant that is denied to other structures or buildings in the area.

The second Bulk/Area Variance requested is relief from the minimum required front yard setback. Since the proposed project would be subjected to the MR-5 standards, the minimum front yard setback would be considered the average setback of adjacent principal buildings. This calculation led to the determination that the required contextual front yard setback be approximately twenty feet (20'). The current site plan has the front yard setback at approximately nine feet and eight inches (9'8"). While the provided setback is less than the contextual standard, it is important to note that the front yard setback is in line with the two adjacent properties of 102 Lawnview Avenue and 414 Kiefaber Street.

The third Bulk/Area Variance requested is relief from the minimum required rear yard setback. Similar to the front yard setback requirements, the proposed project would be subjected to the MR-5 standards. Thus, the minimum contextual rear yard setback for the proposed two-family dwelling is approximately thirty (30') feet. Three and a half feet (3'-6") is provided. Though the proposed project is not close to meeting the minimum contextual rear yard setback, multiple properties located along Kiefaber Street and neighboring streets such as Lowes and Evanston Avenue have almost 100% lot coverage and little to no rear yard setback. Contextually, the back yards of Kiefaber Street and Lowes Street which share an alley are heavily dedicated to parking lots in order to accommodate the tenants of the properties. The creation of a parking lot in the rear of 414 Kiefaber Street would not be out of place and would provide the properties it serves with increased utility even though it would not meet the required contextual standard.

The fourth Bulk/Area Variance requested is relief from the building elevation requirement under Single-Family District Contextual Design Standard. Under these standards, the proposed project would require that the two-family dwelling be constructed with a raised foundation or basement or designed in manner to suggest that there is a raised foundation. The building is not designed in this manner. Though the proposed project does not meet this standard, it is for a specific reason which is that the lower dwelling is proposed to be an accessible dwelling unit. If the project was built with a raised foundation, it would effectively preclude the creation of an accessible dwelling unit as the doorway would not be level with the sidewalk and therefore inaccessible to those who use mobility devices such as wheelchairs.

The fifth Bulk/Area Variance requested is relief from the minimum off-street parking requirement. The proposed project currently shows eight (8) off-street parking spaces that are to be located behind 414 Kiefaber Street and would serve the overall zoning lot which consists of three dwelling units plus the proposed two-family dwelling to be located at 410 Kiefaber Street. Under the Zoning Code, ten (10) parking spaces are required. Currently, seven (7) off-street parking spaces exist for the three dwelling units which consist of the existing two-car garage as well as a five (5) car parking lot in the rear of 414 Kiefaber Street. With the demolition of the two-car garage, the existing five (5) car parking lot would be expanded to include eight (8) parking spaces for the combined four dwelling units. Thus, the project proposes a net increase of available parking from seven (7) to eight (8) parking spaces.

It should be noted that the while the project is two (2) parking spaces short of compliance with the minimum off-street parking requirement, the removal of the two-car garage on Kiefaber Street will prove increased on-street parking and a designated accessible on-street parking space on Kiefaber Street is proposed in order to serve the accessible dwelling unit. Lastly, on-street parking is allowed along Kiefaber Street and other local streets which would provide parking for tenants and the University of Dayton offers parking passes for lots.

The sixth and final Bulk/Area Variance requested is relief from site circulation and vehicular egress requirements under Off-Street Parking and Loading Regulations Design Standards. The four angular parking bays shown on the site plan do not meet parking design standards as it pertains to site circulation and vehicular egress from the site since vehicles are required to back into the public alley due to the lack of a turnaround. Turning to the contextual standards of the surrounding area with the exception of the large parking lots behind 409-425 Lowes Street and 449-457 Lowes Street, all other parking spaces located in the alley behind Kiefaber Street require the vehicle utilizing the space either back into the public alley or pull into the space back-first. With vehicles already backing into the public alley being common, the addition of a parking lot that would require it is not out of place for the area. Additionally, the Board of Zoning Appeals case heard in December 2021 for 418 Alberta Street contained a similar parking lot which was approved by the Board of Zoning Appeals.

Public Comment

The Greater Downtown Priority Land Use Board met via Zoom on Tuesday January 11th. The Board recommended approval of every requested Bulk/Area Variance except relief from the building elevation requirement under Single-Family District Contextual Design Standard. The Greater Downtown Priority Land Use Board believes the project should have a raised foundation that matches the existing character of adjacent properties.

Staff recommendation

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

Public Testimony

The applicant, Kevin Nels was given the opportunity to speak first. He shared a presentation with the Board regarding the proposed project, discussed why each Bulk/Area Variance is appropriate, and answered Board questions regarding the placement of doors, whether the accessible parking space could be moved to the back lot and whether there are enough access doors for an accessible dwelling unit. Mr. Nels also responded to a question from the Board discussion on whether there would be more cost associated with building the project on the hill instead of at grade.

Board Discussion

Mr. Ciani stated that the plan was well thought out. Mr. Martin stated that the project should be built on the hill like every other house on the street and Mr. Bement agreed and stated that he would not feel comfortable including a condition in without seeing a site plan. Mr. Martin asked the applicant if it would add significant cost to the project if it were to be built on the hill. Mr. Bement stated that in his opinion there would be more cost associated with building it on the hill and reiterated that the project is a significant change in the appearance and contextual standards and that the project being subjected to the MR-5 standards is not an anomaly.

Board Decision

A motion was made by Mr. Bement and seconded by Mr. Martin 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 and approve the application as submitted for a Bulk/Area Variances with the condition that the structure mimics having an exposed foundation.

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

Approved by the Board of Zoning Appeals February 22, 2022

Jeff Green, Secretary
Board of Zoning Appeals
