



# City of Dayton

## Board of Zoning Appeals

### Minute Record Overview

March 22, 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. Diane Graham, Mr. Patrick Martin, Ms. Jaqueline Patterson, Ms. Lisa Tingle

Members Absent: N/A

Mr. Ciani called the meeting to order at 4:30 P.M. A motion was made and seconded to approve the minutes of the February 22, 2022 with the following correction: Page 2 board decision for case PLN2022-00019 should read “vertical slats” instead of “vertical salts.”

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#### 1. PLN2022-00029 – Bulk/Area Variance request to exceed the maximum permitted size of an accessory structure for the property located at 36 S June Street.

Applicant: Anthony Turrentine  
36 S June Street  
Dayton, OH 45403

Priority Land Use Board: Northeast

Planning District: Historic Inner East

Decision: Approved with Conditions

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#### 2. PLN2022-00033 – Conditional Use and Bulk/Area Variance request to allow the property located at 220 Vermont Avenue to be utilized as a church and expand its building and operation.

Applicant: The Architectural Group  
c/o Rick Holmes  
135 N Main St  
Dayton, OH 45402

Priority Land Use Board: Northeast

Planning District: McCook Field

Decision: Approved as Submitted

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#### 3. PLN2022-00038 – Bulk/Area Variance request to allow parking in the front of the building, reduce the front yard setback, reduce the side yard setback, and increase the total lot coverage for the property located at 322 Constantia Avenue.

Applicant: William Shatto  
232 Stroop Rd  
Kettering, OH 45429

Priority Land Use Board: Southeast

Planning District: Shroyer Park

Decision: Approved with Conditions

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#### 4. PLN2022-00039 – Conditional Use and Bulk/Area Variance request to allow the a portion of the property to be utilized as a restricted parking lot for the property located at 3949 Madrid Avenue.

Applicant: Andrew Hogan  
201 W 5th St, Suite 800  
Cincinnati, OH 45202

Priority Land Use Board: Northeast

Planning District: DeWeese

Decision: Approved with Conditions

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#### 5. PLN2022-00020 – Conditional Use and Bulk/Area Variance request to allow a new protective care facility located at 825 S. Ludlow Street

Applicant: Kimley-Horn  
c/o Chris Hice  
7965 N. High Street  
Dayton, OH 43235

Priority Land Use Board: Downtown  
Decision: Denied

Planning District: Downtown

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The Board of Zoning Appeals meeting was adjourned at 8:58 P.M.

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

Jeff Green, Secretary  
Board of Zoning Appeals



# City of Dayton

## Board of Zoning Appeals

Minute Record  
March 22, 2022

### 1. BZA CASE PLN2022-00029; 36 S June Street

A **Variance** request to exceed the maximum permitted size of an accessory structure 450 square foot addition onto the existing carriage house which will total 1,546 square feet in size if approved. The subject property is located at 36 South June Street in the MR-5 (Mature Single Family) Zoning District, within the HD-2 Historic District Overlay.

<b>Applicant:</b>	Anthony Turrentine 36 S June Street Dayton, OH 45403
<b>Owner:</b>	Anthony & Susan Turrentine 36 S June Street Dayton, OH 45403
<b>Existing Land Use and Zoning:</b>	Residential dwelling: MR-5/ HD-2
<b>Surrounding Land Use and Zoning:</b>	<b>North:</b> Residential dwelling: MR-5/ HD-2 <b>South:</b> Residential dwelling: MR-5/ HD-2 <b>East:</b> Residential dwelling: MR-5/ HD-2 <b>West:</b> Residential dwelling: MR-5/ HD-2
<b>Priority Land Use Board:</b>	Northeast
<b>Planning District:</b>	Historic Inner East (Huffman Historic District)
<b>Planning Staff Contact:</b>	Abigail Free

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Ms. Free presented the case. The Applicant requests a Variance to increase the total maximum area of an accessory structure from 950-sf to 1,546-sf. The existing 2-story carriage house has a 1,136-sf footprint and was once used as a Machine Shop. A 410-sf (roughly 25-ft by 15-ft) addition is proposed to be located within the interior courtyard on the right side of the carriage house. The addition will allow for indoor storage of tools and construction equipment that is currently housing outside. The construction is typical with concrete slab, wood studs, and lap siding. The proposed addition has been reviewed by the Landmark Commission and was approved with modifications to the roofline.

Along with the variance to allow an increase in area, Ms. Free also noted that the carriage house has a 2-ft side setback and the proposed addition will extend that 2-ft side setback. Within the

MR-5 zoning district a 3-ft minimum side setback is required. This was a concern with the Northeast Land Use Board. The proposed wall along that 2-ft setback will be fire rated and without any openings.

Ms. Free presented the site plan, construction drawings including the foundation plan, floor plan, and a mock-up showing what the modified roof plan will look like with a gable roof over the main part of the addition and a shed roof for the shallow bump out portion.

Ms. Free explained her analysis of the case, stating that the existing carriage house already has a footprint exceeding the maximum area of accessory structures and the addition will not be visible from the front along S June Street or alley. The subject property is slightly larger than typical historic residential lots and the new addition will reduce the amount of outdoor storage on the site. A letter of support from a neighbor/client was received by staff and included in the case packet. The letter noted that the Applicant had great attention to detail and did quality work. The Northeast Land Use Board recommended approval but would like to add a variance to allow the addition to have a 2-ft side setback.

### **Recommendation**

Ms. Free notes that the standards for a variance can be met and recommends Approval with Conditions.

Recommended conditions include:

1. Revise drawings to reflect modifications to the roof line in accordance with the Landmark Commission decision.
2. A 2-ft side setback shall be permitted as to match the existing setback of the carriage house.

### **Questions by the Board**

Mr. Bement asked about the gable roof proposed for the addition. Ms. Free clarified that the roofline will be a gable matching the existing gables on the carriage house.

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### **Applicant Testimony**

Anthony Turrentine, Applicant and owner of 36 S June Street, has been slowly restoring the dwelling and carriage house over the past 7 years and the renovation is still underway. The addition will clean up the backyard and store his tool and equipment out of the weather. His is the one of the largest homes in Huffman historic district and the lot is wider.

### **Public Testimony**

None

### **Closing Testimony**

None

**Board Discussion**

Mr. Bement did not have a problem with the proposed addition and agrees with the Landmark Commission to modify the proposed roofline. Ms. Patterson also agreed.

**Board Decision**

A motion was made by Mr. Bement, seconded by Ms. Patterson and carried to Approve with Conditions the request for Variance. The following conditions are required with the approval:

1. Revise drawings to reflect modifications to the roof line in accordance with the Landmark Commission decision.
2. A 2-ft side setback shall be permitted as to match the existing setback of the carriage house.

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

Minutes approved by the Board of Zoning Appeals April 26, 2022  
Jeff Green, Secretary Board of Zoning Appeals



# City of Dayton

## Board of Zoning Appeals

Minute Record  
March 22, 2022

### 2. BZA CASE PLN2022-00033; 220 Vermont Ave

A Conditional Use and Bulk/Area Variance application to allow the property located at 220 Vermont Avenue to be utilized as a church and expand its building and operation in a Mature Single Family Residential (MR-5) Zoning District within the McCook Field Planning District. The applicant is also requesting for approval of the following variances: 1) Reduction in the required lot size for a church to 4,521 square feet, 2) Reduction in the required side yard setback to 5 feet, 3) Reduction in the amount of required parking spaces to 0, 4) Reduction in the required rear yard setback to 3'-9". Per the Montgomery County Auditor, the property is identified via parcel number: R72 05801 0033.

**Applicant:** The Architectural Group  
c/o Rick Holmes  
135 N Main St  
Dayton, OH 45404

**Owner:** Christ Community Ministries  
220 Vermont Ave  
Dayton, OH 45404

**Existing Land Use and Zoning:** Church; Mr-5 Mature Residential

**Surrounding Land Use and Zoning:** **North:** Single-Family Residential; MR-5 Mature Residential  
**South:** Single-Family Residential; MR-5 Mature Residential  
**East:** Residential/Business; MR-5 Mature Residential  
**West:** I-75; MR-5 Mature Residential

**Land Use Board:** Northeast

**Planning District:** McCook Field

**Planning Staff Contact:** Jeff Green

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Mr. Green presented the case. The applicant is requesting Conditional Use approval to allow for the expansion of an existing church with a 1,628 sq. ft. addition along with the following variances: 1) Reduction in the required lot size for a church to 4,521 square feet, 2) Reduction in the required side yard setback to 5 feet, 3) Reduction in the amount of required parking spaces to 0, 4) Reduction in the required rear yard setback to 3'-9".

The current site conditions of the subject property were noted which included the size of the property, size of the structure, and surrounding land use.

Mr. Green noted that in the MR-5 zoning district, a church/place of worship requires Conditional Use approval. The church is an existing use and is considered a legal non-conformity and is permitted to remain so long as it stays within its current footprint. However, as the church is proposing to expand their operation with a 1,628 sq. ft. addition onto the existing 1,162 sq. ft. building, Conditional Use approval is required due to the proposed expansion, though staff determined the request would not be overly intrusive.

Mr. Green went over the requested variances and noted that the side yard setback and lot size variance requests are already existing and would remain unchanged which would make sense.

The variance request to reduce the required amount of parking spaces from the 20 spaces to 0 spaces also seemed to make sense due to the amount of on street parking available along Vermont Avenue. The applicant has noted most congregation members either walk or ride the bus meaning most do not drive and park on site. In particular, Mr. Green noted that due to the western side of Vermont Avenue where abutting I-75 barrier, there exists a significant potential for on street parking (as needed) which staff believes would be sufficient in addressing the church's current operation and the proposed expansion. Furthermore, as there are no houses/businesses on the western side of Vermont (due to I-75), this area has a higher overall amount of street parking spaces available (and less demand) than what other streets would typically have.

The final variance request is to reduce the required rear yard setback from 30 ft. to 3'9" which staff believed to be significant due to the size of the lot but also due to the significance of the request in terms of its sheer size. While the other variance requests were already existing or could be alleviated, the requested reduction for the rear yard setback would be a new variance request that has not previously been present on the site. Additionally, no nearby properties have a rear yard setback that are within this proximity to the rear lot line which would make this church (if approved) an outlier compared to the surrounding properties. However, Ohio Valley Painting (located on the same block at the intersection of Vermont and Ewing) is shown to have a rear yard setback of roughly 20 ft. Staff believes that such a standard could be workable and be a good compromise for the church, neighborhood, and the overall intent of the zoning code.

Mr. Green went over the comments received in regard to the request:

The Northeast Priority Land Use met on March 15, 2022 and voted unanimously that the proposal be approved.

Staff has received the following public comments:

- Roy Young (Church Attendee) – Supportive of the request.
- Adam Gardener – Manager of Sober Living – Noted he has “31 guys” from his facility that attend the church. Supportive of request.
- Dallace Womble – Supportive of the request.
- Jody Bush – In opposition to the request.
- Jerry Bowling III – (McCook Field Neighborhood Association President) Supportive of the request.
- Jeff Andres – Supportive of the request.

**Staff recommendation**

Mr. Green noted that staff recommended the requested conditional use and variance requests be approved on the condition that the rear yard setback be established at 20 feet.

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**Board Questions for Staff**

The board asked questions in regard to the street parking and overall building expansion and how many seats would be lost should a 20' rear yard setback be imposed. Mr. Green noted the seating capacity for with a 20' rear yard setback and further explained the on-street parking capacity.

**Public Testimony**

Rick Holmes – The Architectural Group, 135 N Main St, Dayton OH, applicant, was given the opportunity to speak first. Mr. Holmes discussed the intent of the request and noted the increasing congregation meant all seats were needed.

Mr. Bement asked for further clarification on the amount of congregation members needing cars presently and in the future. Mr. Holmes noted the owners would address this question.

Betty Rose and Clarence Patterson, 220 Vermont Avenue Dayton OH, owners of the property. Explained the people who make up the congregation and how they get there. Noted Lion's Electric has given verbal agreement to utilize their parking lot when needed in addition to the AA on Hunter Street.

Jerry Bowling, 522 Herbert Street Dayton OH, President of McCook Field Neighborhood Association. Supportive of the request. Noted a need in the community.

Christopher Wayne Parsons, 57 E. Riverview Ave Apt 26 Dayton OH, supportive of request. Part of the congregation and explained how the church has helped.

Jeremiah Burton, 465 Hunter Ave Dayton OH, supportive of request. Part of the congregation and explained how the church has helped.

Donny Bennington, 711 Creighton Ave Dayton OH, supportive of request. Part of the congregation and explained how the church has helped.

Jennifer McDonald, 3415 E 5<sup>th</sup> St Dayton OH, supportive of request. Part of the congregation and explained how the church has helped.

Rick Holmes (applicant) restated he believes the need is there and asked the board to approve the application as submitted.

**Board Discussion**

The board discussed the request, specifically discussing the parking variance but noted that parking did not seem to be an issue and has been mitigated. The rear yard setback request was discussed with the board noting the rear of the property abutting the alley with garages being setback around the same distance as the request.



**Board Decision**

A motion was made by Mr. Martin 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.

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

Approved by the Board of Zoning Appeals April 26, 2022

Jeff Green, Secretary  
Board of Zoning Appeals

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# City of Dayton

## Board of Zoning Appeals

### Minute Record

March 22, 2022

#### 3. BZA CASE # 2022-00038 – 322 Constantia Ave.

**Variations** requested to 1.) allow parking spaces in front of the front building line, 2.) reduce the setback from the right-of-way from 10 feet to 0 feet, 3.) reduce the setback from the side lot line from 10 feet to 0 feet, and 4.) increase the maximum lot coverage from 50 percent to 94 percent to allow for four (4) additional off-street parking spaces accessory to a multi-family dwelling at 322 Constantia Ave. in an EMF Eclectic Multi-family residential district.

<b>Applicant</b>	William Shatto 232 Stroop Rd. Kettering, OH 45429
<b>Owner</b>	William Shatto and Jacelyn Von Stein 232 Stroop Rd. Kettering, OH 45429
<b>Existing Land Use and Zoning:</b>	EMF; multi-family dwelling
<b>Surrounding Land Use and Zoning:</b>	<b>North/South/West:</b> EMF, multi- and single-family dwellings <b>East:</b> ER-4, single-family dwellings
<b>Land Use Committee:</b>	Southeast
<b>Planning District:</b>	Shroyer Park
<b>Planning Staff Contact:</b>	Jen Hanauer

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Ms. Hanauer presented the case. Images show that the right-of-way extends about halfway into the front yard, which has a slope of about 16 percent. The proposed off-street parking spaces would extend into the right-of-way, and while the City's Traffic Engineering Division is fine with the proposed plan and there are no right-of-way projects currently planned for the street, the applicant is aware that any future right-of-way projects could potentially affect the front yard off-street parking. Currently the only pedestrian access to the building is via the steep driveway. Additional images show the front yard off-street parking of the properties to the north and the south of 322 Constantia Ave. The front steps are in need of repair, and the proposed plans show the addition of a dedicated pedestrian walkway from the right-of-way to the front steps. Ms. Hanauer explained that while the paved rear yard is technically large enough to fit four vehicles, the space is not practical to use for parking as there is insufficient space to make the turn from the driveway to the rear yard.

The Southeast Priority Land Use Committee met to discuss the case. One of the committee's concerns was in regard to lot coverage, which is currently at 86 percent. The plan as proposed would bring it up to 94 percent, where a maximum of 50 percent lot coverage is permitted in an area zoned EMF. However, the applicant is amenable to removing the pavement from the side and rear yard of the property and replacing it with a permeable surface, such as grass. If this were done, the project would result in a reduction of lot coverage, down to 64 percent. Additional concerns from the committee were the condition of the retaining wall and the aesthetics of having parking in the front yard. Ms. Hanauer explained that while typically off-street parking in the front yard of an EMF area is not permitted, the addition of off-street parking in the front yard on this property would match the existing parking configurations of the property's immediate neighbors to both the north and the south. The addition of four practical off-street parking spaces would contribute to a reduction in the on-street parking, which has been an issue for this block of Constantia Avenue. Vehicles are routinely parked on both the east and west sides of the street, and as Constantia Avenue is not a through-road and has no turnaround, changing direction in a vehicle can be challenging. The committee ultimately voted unanimously to recommend approval with the conditions that the pavement be removed from the side and rear yards with the exception of a five-foot-wide walkway, the grade in the front yard be reduced, and the retaining walls be repaired.

Staff also received comment from three neighbors of the property. The owner of the single-family home directly across the street said that she would miss the green space in the front yard of the property. The occupant of the single-family home diagonally across the street expressed concern for his financial and mental well-being should the variance be granted due to the potential additional water runoff from adding the off-street parking spaces. In an unsigned letter from the multi-family dwelling to the south of the property, a resident suggested that parking be added in the rear yard of the property instead of the front yard so that the neighborhood would not lose two of its on-street parking spaces.

Staff views the proposed changes to 322 Constantia Ave. as improvements that will have an overall benefit for the property and the surrounding neighborhood. Ms. Hanauer explained that many residents of Constantia Avenue park on the street, making it often crowded and challenging to change direction on, especially as the street is not a through-road and has no turnaround. The paved area in the rear yard is not practical to use for off-street parking as there is insufficient space for a vehicle to make the turn around the northeast corner of the building, and there is only space enough for a maximum of three vehicles to tandem park in the driveway. Ms. Hanauer stated that the addition of four off-street parking spaces in the front of the building would reduce the number of available parking spaces on the street by two, but there would be a net gain of two parking spaces for the usable parking inventory in the community. Mr. Martin then asked if the addition of the four off-street parking spaces would take away two of the on-street parking spaces, and Ms. Hanauer affirmed. Mr. Martin asked if removing the paved area in the side and rear yards would take away off-street parking spaces, and Ms. Hanauer repeated that yes, there is currently space for three vehicles to tandem park on the existing driveway. The granting of variances for setbacks in this case would permit the property to match the existing setbacks of the properties immediately to the north and the south. The reduction of the slope of the front yard and the increase of permeable surface on the property will result in less water runoff from the property to its neighbors. The addition of a dedicated pedestrian walkway from the right-of-way to the front entrance will improve safety.

Staff recommended approval of the Variances as submitted with the following condition:

1. Prior to the use of the front yard as off-street parking, all of the paved area behind the front line of the building shall be removed and replaced with a permeable surface, with the exception of a maximum five-foot-wide walkway leading to the rear yard.

Mr. Bement asked if, as a four-unit residential building, this would be considered a commercial property. Mr. Daugherty replied that it depends on who is interpreting the question, but yes, the City's Building Department would consider this a commercial property. Mr. Bement said that this then brings up the need to add ADA-compliant off-street parking spaces. Mr. Bement asked how the addition of the four parking spaces will affect the slope of the front of the property. Ms. Hanauer said that the applicant will provide more detail, but it is her understanding that the slope of the front yard will be reduced when the earth is removed to install the parking spaces. Ms. Hanauer said that the current slope is about 16 percent, and she believes the maximum for ADA compliance would be 2 percent. Mr. Bement stated that actually the acceptable slope for ADA compliance for a ramp would be 8 1/3 percent and would also require a handrail and landings. Mr. Bement added that there was a case a month or two ago where an applicant was trying to add ADA-compliant parking, and that has contributed to his thinking that removing the driveway in the side yard may not be the way to go for this project. Mr. Daugherty asked Mr. Bement if he believes that the City's Building Department would require one accessible parking space, and Mr. Bement replied that yes, he believes so because substantial changes are being made to the parking, so ADA compliance will need to be addressed in some way.

### **Public Testimony**

The applicant and co-owner of the property, Bill Shatto of 232 W. Stroop Rd. in Kettering, explained that part of the reason for this proposed project is to prevent tenants from having to walk on the street to get from their vehicles to the front door as there are no sidewalks on Constantia Avenue. Mr. Shatto explained that garbage trucks cannot turn around and are forced to backup down the street after waste collection. Mr. Bement asked Mr. Shatto how much slope there will be to the proposed parking spaces and how far down the retaining wall earth will be removed to install the parking spaces. Mr. Shatto replied that they will try to mirror the existing slope of the neighbors' front yard off-street parking spaces, but he is not sure exactly what that slope is. Mr. Shatto explained that the gas line goes down the east side of the street, so there is only so far that they will be able to dig down along the retaining wall, and they may need to add a concrete footer to ensure there is no slippage at the bottom. As the City's Building Department considers the property to be commercial, Mr. Shatto was required to get engineered drawings of the plans for the front steps, and they were not able to determine how far down the retaining wall goes at that time and will not be able to until they begin removing the current front steps. Mr. Shatto explained that the building is not ADA compliant, and Mr. Bement replied that the City's Building Department will likely want him to address accessible parking. Mr. Bement re-stated that he believes leaving paved space enough to park a vehicle in what he perceives to be a more level area of the driveway in the side yard will help the applicant with ADA compliance. Mr. Bement added that he does not believe water runoff is a concern because the curb will catch the water. Mr. Shatto stated that there is no storm sewer, and he does not believe there to be a curb. Mr. Bement stated that the curb is on the other side, so the water coming off the applicant's property will hit the curb and then run down the hill.

Co-owner of the property, Jacelyn Von Stein of 232 W. Stroop Rd., was in attendance and supported the application and statements of Mr. Shatto.

### **Board Discussion**

The board discussed that while parking in the front yard of the property is not ideal, in this case a precedent has been set by the neighboring properties.

### **Board Decision**

A motion was made by Mr. Brand 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 Variances with conditions:

1. Prior to the use of the front yard as off-street parking, all of the paved area behind the front line of the building shall be removed and replaced with a permeable surface, with the exception of a maximum five-foot-wide walkway leading to the rear yard.

Mr. Bement asked if Mr. Brand would consider amending the condition based on his earlier comments about leaving a paved space in the side yard for parking, to which Mr. Brand acquiesced.

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 approve the application as submitted for Variances with conditions:

1. Prior to the use of the front yard as off-street parking, all of the paved area behind the front line of the building shall be removed and replaced with a permeable surface, with the exception of an area large enough for one (1) parking space and a maximum five-foot-wide walkway leading to the rear yard.

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

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

Jeff Green, Secretary  
Board of Zoning Appeals

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# City of Dayton

## Board of Zoning Appeals

Minute Record  
March 22, 2022

#### 4. BZA CASE PLN2022-00039; 3949 Madrid Ave

A Conditional Use request by Andrew Hogan to allow a portion of the property to be utilized as a restricted parking lot for the property located at 3949 Madrid Avenue. The property is zoned as SR-2 (Suburban Residential) within the DeWeese Planning District. The applicant is also requesting the following variances: 1) reduce the required maximum lot size to 2,857 sq. ft.; 2) reduce the required rear yard setback to 0'; and 3) Reduce the required maximum lot coverage requirements.

**Applicant:** Andrew Hogan  
201 East 5th Street, Suite 800  
Cincinnati, OH 45202

**Owner:** PS Investments Inc  
1201 Harrison Ave  
Cincinnati, Ohio 45214

**Existing Land Use and Zoning:** Single-Family Residence; SR-2 Suburban Residential

**Surrounding Land Use and Zoning:** **North:** Harrison Twp; Progress Supply Inc (PS)  
**South:** Single-Family Residential; SR-2 Suburban Residential  
**East:** Harrison Twp; Progress Supply Inc (PS)  
**West:** Single-Family Residential; SR-2 Suburban Residential

**Land Use Board:** Northeast

**Planning District:** DeWeese

**Planning Staff Contact:** Jeff Green

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Mr. Green presented the case. The applicant is proposing to split off 2,857 sq. ft. of the subject property and utilize it as a restricted parking lot to match what is currently existing. Due to the size of the lot being split off, variances in lot size maximum lot coverage, and setback are required.

The current site conditions of the subject property were noted which included the size of the property, size of the structure, and surrounding land use.

Mr. Green noted that in the SR-2 zoning district, a restricted parking lot requires Conditional Use approval. Of interesting note (as seen via the aerial) is that a portion of the property is paved and already being used, to some capacity, as the restricted parking lot. It is the applicant/owner's intent to split off the portion of the subject property that is already paved for continued use of the business while selling the house. In

essence, no change to the lot will occur where the house will continuously be used for residential purposes and the paved area currently being used by the business remains in the businesses' ownership. 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 no real physical change to the property is proposed aside from the creation of a new lot and the proposed privacy fence.

Mr. Green noted that the applicant has requested a total of three (3) bulk/area variance which they believe are the minimum necessary to operate for the creation and operation of the lot. The first variance request is to reduce the minimum lot area from the required 5,500 sq. ft. for a lot in the SR-2 zoning district to 2,857 sq. ft. The proposed variance, due to the circumstances as a result of the jurisdictional boundary and the physical layout of the subject property/adjacent business, create a unique situation that staff feels is justifiable with the proposed lot split.

The second variance request is to reduce the required rear yard setback as required in section 150.565.42 for the placement of screening. The applicant, as part of the application, is proposing the placement of a 6' privacy fence which would serve to screen the residence from the business. Per a discussion with the applicant, the applicant has expressed a willingness for the fence to be a wooden privacy fence. Due to the size and shape of the proposed lot split, the requested variance would seem to be justifiable.

The final variance request is to waive the maximum lot coverage requirement. Per the code, the maximum lot coverage for a property in the SR-2 zoning district is 40%. However, the new lot being created would exceed that requirement as the entirety of the new lot is already paved. While seemingly significant, the request makes sense when it is understood that the new lot to be created is already entirely paved and the reason for the new lot is for the business to continue to be able to have full access to the business with the area they have continuously utilized for the last few decades. As the proposed variance (and request as a whole) would not further expand the parking/drive area more than what it currently is, staff believes the variance to make sense.

Mr. Green went over the comments received in regard to the request:

The Northeast Priority Land Use met on March 15, 2022 and voted unanimously that the proposal be approved.

Staff has received the following public comments:

- Charles and Jean Baker (3948 Madrid Ave) – Supportive of the request.

#### **Staff recommendation**

Staff recommends the requested conditional use and variance requests be approved on the condition that the fence proposed be a wooden privacy fence.

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#### **Board Questions for Staff**

The board asked about the height of the fence and to go over the placement. Mr. Green noted the proposed fences' location and height and clarified the condition from staff would be to make the fence wood to match what is already on site.

**Public Testimony**

Andrew Hogan – 800 PNC Center, Cincinnati OH, applicant, was given the opportunity to speak first. Mr. Hogan discussed the intent of the request and noted the increasing congregation meant all seats were needed. Explained the history of the property and future plans to sell the house.

**Board Discussion**

The board thought the application was clean and had no further questions for staff or the applicant.

**Board Decision**

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

- Wooden privacy fence be constructed as noted on the submitted site plan.

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

Approved by the Board of Zoning Appeals April 26, 2022

Jeff Green, Secretary  
Board of Zoning Appeals

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# City of Dayton

## Board of Zoning Appeals

Minute Record  
March 22, 2022

### 5. BZA CASE # 2022-00020 – 825 S. Ludlow Street

A **Conditional Use** application for a new protective care facility within the UBD and **Variiances** to 1.) reduce the open space requirement of 6,400 SF to 1,577 SF; 2.) to reduce the off-street parking requirement from 54 to 36; and 3.) to permit a reduction in the 1,000 linear foot distance from a school to 681 LF and from a like facility to 200 feet at 825 S. Ludlow Street in the Urban Business District.

<b>Applicant</b>	Kimley-Horn c/o Chris Hice 7965 N. High Street Columbus, Ohio 43235
<b>Owner</b>	Dunkirk Realty Limited 80 Skyline Dr., Ste 101 Plainview, NY 11803
<b>Existing Land Use and Zoning:</b>	Vacant commercial building; UBD
<b>Surrounding Land Use and Zoning:</b>	<b>North/South/East/West:</b> Commercial; UBD
<b>Land Use Committee:</b>	Greater Downtown
<b>Planning District:</b>	Midtown
<b>Planning Staff Contact:</b>	Susan Vincent

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Ms. Vincent presented the case.

Ms. Vincent described the subject property, located at 825 S. Ludlow Street. It includes the primary parcel (fronting on Ludlow St.) with a vacant office building and surface parking lot which were previously home to AAA and a secondary parcel (fronting on Ziegler St.) with a small greenspace.

Ms. Vincent described the applicant's proposal: to renovate the vacant office building and open a new protective care facility with a maximum capacity to serve 32 individuals owned and operated by RI International a 501(c)(3) organization.

Ms. Vincent provided an analysis of the application. Two of the variances requested meet the spirit and intent of the zoning code (open space and parking requirement reductions) due to RI International's proposed operations model. The third variance (relief from the 1,000-foot distance from a school or like facility) does not meet the spirit and intent of the zoning code and has no operational explanation. Rather, the proximity to the school is simply a condition of the geographic location of the subject property. In

addition, Ms. Vincent noted that Midtown is uniquely populated by several social service agencies already.

Ms. Vincent provided background on existing plans for the Midtown geography including the Rubicon Park Master Plan. She shared that the plan calls for a diversification of uses, expanding from the existing industrial and social services uses by adding retail and commercial. Much of that long-term vision is slowly beginning to materialize including the redevelopment of existing structures for retail and service agencies (Old Scratch, Ghostlight Coffee, Rinse Cycle, Barry Staff). Ms. Vincent expressed a belief that Midtown is positioned to experience continued revitalization in the coming years.

Ms. Vincent went through the required standards for approval. She explained that while the application may meet the standards for conditional use approval it cannot meet the standards for variances based upon practical difficulty. The proposed facility cannot operate without the requested variances. Based on this determination, staff recommended denial of the Conditional Use and Variances as submitted.

### **Public Testimony**

Ms. Helen Jones-Kelley, Executive Director of the Alcohol, Drug Addiction and Mental Health Services of Montgomery County at 409 E. Monument Ave, Suite 102, Dayton, Ohio 45402, spoke on behalf of the proposed protective care facility, RI International. She provided context regarding the need for the Crisis Now model in the region and described the community outreach work conducted by the development team.

Mr. Vincent Sabino, State Director for RI International at 3259 Scioto Farms Drive, Hillard, Ohio 43026, presented the operations plan for the proposed facility. He explained how the Crisis Now model works and presented specifics on the proposed staffing, hours, volume of clients, security, and intake/discharge process.

Mr. Thomas Castellanos, RI International 100 E. Redondo, Tempe, AZ 85282, presented additional details about the Crisis Now model and RI International's operations elsewhere. He expressed the organization's history of acting as a good neighbor and explained why the Ludlow location was selected. He answered questions regarding discharge/intake and alternatives for security on site.

Mr. Lance Detrick, President of Goodwill Easterseals Miami Valley (GEMV) at 660 S. Main Street, Dayton, Ohio, 45402, spoke in support of the proposed facility. He explained how GEMV would work with the proposed facility.

Mr. Matthew Tepper, resident of Dayton at 702 Troy Street, Dayton, Ohio 45404, spoke in support of the proposed facility. He expressed concerns regarding untruths about the proposed facility and shared an interest in having the facility locate in his neighborhood if it were possible.

Ms. Marti Taylor, CEO of OneFifteen at 257 Hopeland Street Building A, Dayton, Ohio 45417, spoke in support of the proposed facility. She explained how OneFifteen currently works with RI International and explained OneFifteen's community engagement work in Carillon.

Ms. Jan Lepore-Jettleson, Executive Director of East End Community Services at 624 Xenia Avenue, Dayton, Ohio 45410, spoke in support of the proposed facility. She expressed the need in our community for a system of care including the Crisis Now model.

Mr. Tim Albrao, Crest Commercial Realty at 40 Stonemill Road, Dayton, Ohio 45409, spoke in support of the proposed facility. He shared that the property has been on the market for four years since AAA moved out and that the proposed facility is the first serious offer, they've received including the necessary funding to complete the remodel to bring the building up to date.

Rev. Joshua Ward, Pastor at Omega Baptist Church at 1821 Emerson Ave, Dayton, Ohio 45406, spoke in support of the proposed facility. He expressed his belief that the Crisis Now model is much needed in the City and shared his experience with individuals in need showing up at his church.

Mr. Dion Green, Fudge Foundation at 3448 Maumee Avenue, Dayton, Ohio 45414, spoke in support of the proposed facility. He shared his lived experience as a survivor of the Oregon District shooting and stressed the need for crisis services for our community.

Ms. Linda Stagles, Executive Director National Alliance on Mental Illness (NAMI) Montgomery County at 409 E. Monument Ave, Suite 102, Dayton, Ohio 45402, spoke in support of the proposed facility. She shared information on what NAMI does and her own experiences with mental health crisis.

Ms. Tina Rezash Rogal, Director of Strategic Initiatives at Alcohol, Drug Addiction and Mental Health Services of Montgomery County at 409 E. Monument Ave, Suite 102, Dayton, Ohio 45402, spoke in support of the proposed facility. She explained her work educating the community on the Crisis Now model, the outreach work completed for the proposed location, and her passion for supporting the mental health needs of our region.

Ms. Janet Michaelis, Hope Enclave Neighborhood at 61 Vine Street, Dayton, Ohio 45409, spoke in opposition to the proposed facility. She shared her experience as an emergency room nurse, as a technology/data volunteer, and as a resident of a neighborhood near the proposed facility.

Ms. Karin Manovich, resident of Dayton at 529 Hickory Street, Dayton, Ohio, 45410, spoke in opposition to the proposed facility. She shared her experience as a resident of South Park and a parent of children enrolled at Chaminade Julianne and why she believes the proposed location is not right for the proposed facility.

Mr. Mark Manovich, President Historic South Park Inc at 529 Hickory Street, Dayton, Ohio, 45410, spoke in opposition to the proposed facility. He expressed concerns regarding the discharge policy and why he believes the location is not appropriate for the proposed facility.

Ms. Rosie Miller, Preservation Dayton Inc (PDI) at 1933 E. 4<sup>th</sup> Street, Dayton, Ohio 45403, spoke in opposition to the proposed facility. She explained PDI's mission to support local historic districts and why the 1,000-foot regulation should be upheld.

Ms. Monica Snow, resident of Dayton at 426 E. 6<sup>th</sup> Street, Dayton, Ohio 45402, spoke in opposition to the proposed facility. She expressed her belief that the 1,000-foot regulation is imperative in maintaining the safety of students enrolled at Chaminade Julianne.

Mr. Joe Geraghty, Board Chair at Chaminade Julianne at 505 S. Ludlow Street, Dayton, Ohio 45402, spoke in opposition to the proposed facility. He explained the interactions Chaminade Julianne had with the development team and shared the Board's belief that the location is not suitable for the proposed facility due to actual safety risks and perceived risks of their campus community members.

Mr. Shane Anderson, Ghostlight Coffee at 800 S. Patterson Blvd, Dayton, Ohio 45402, spoke in opposition to the proposed facility. He explained the interactions he has had with the development team and continued concerns with the proposed facility's discharge plan.

Mr. Bement asked Mr. Castellanos to share more information about why the Ludlow location was selected and why it meets the applicant's needs. Mr. Castellanos explained their process of working with law enforcement, looking at hot spots of need, and the status of their property search.

Mr. Bement asked a follow-up question regarding location analysis and response times. Mr. Castellanos shared that the Crisis Now model is trying to meet a standard of response of less than 20 minutes, but they are currently operating at a 40-minute response time.

Mr. Martin expressed that the primary concern of the community is the on-site services; if the application simply included the call center and dispatch, he did not see any issues with the proposal. Mr. Castellanos explained the need for all three prongs of the Crisis Now model to provide the highest level of care for the community.

Mr. Bement expressed the opinion that the drop-off location for the police escorts did not seem very discrete. Mr. Castellanos shared that the location was selected due to its location in the rear, off a public street and away from the public view.

#### **Board Discussion**

The board discussed the case. Mr. Tony Ciani asked the board to focus on the variances requested and applicable standards versus the comments regarding community need. Mr. Martin shared his concern regarding the 1,000-foot distance requirement. Mr. Brand agreed with Mr. Martin expressing concern with the concentration of like-facilities within the district. Ms. Patterson also agreed that the 1,000-foot distance regulation is her primary concern due to the concentration of like facilities and the proximity to a long-standing school. Ms. Graham agreed with all these comments.

Mr. Martin asked the board to consider the practical difference between 1,001 feet distance versus the 681 feet requested from the school. Would the proposed facility actually make the area safer? Individuals are in the community now without services and the emergency room is not that far away discharging individuals into the neighborhoods already. He asked the board to consider the current situation and if the proposed facility would actually change it for the worse.

Mr. Bement brought up the long-term vision for Midtown and the plan for redevelopment of the area. Thirty-years after the plan's adoption the area is beginning to see the vision of a mix of uses realized. He expressed the belief that the zoning code is trying to balance the concentration of social service agencies with the other fabric of the city. He also expressed concern that there was not enough testimony offered by the applicant to justify altering the law for this specific location.

Ms. Patterson expressed concerns with the fact that the proposed facility would serve the entire county but be located within downtown Dayton. Mr. Ciani agreed that this concern relates back to issues of concentration and saturation of like-facilities within the district.

**Board Decision**

A motion was made by Mr. Brand and seconded by Ms. Patterson that there is not 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 deny the application as submitted for a Conditional Use and Variances

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

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

Jeff Green, Secretary  
Board of Zoning Appeals

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