



# City of Dayton

## Board of Zoning Appeals

### Minute Record Overview

June 27, 2023

4:30 P.M.

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

Members Present: Mr. Tim Bement, Mr. David Brand, Ms. Jaqueline Patterson, Mr. Patrick Martin, and Ms. Diane Graham

Members Absent: Ms. Lisa Tingle and Mr. Anthony Ciani

Mr. Martin called the meeting to order at 4:30 P.M.

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**1. PLN2023-00182 – Variance application to allow a 6' aluminum ornamental fence within the front yard where the height is limited to 42". The parcel fronts on three streets - W Hillcrest Ave, Kipling Dr, and Piccadilly Ave.**

Applicant: Aisha Hadiya  
2239 Kipling Drive  
Dayton, OH 45406

Priority Land Use Board: North Central

Planning District: College Hill

Decision: Approved with Conditions

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**2. PLN2023-00191– A Conditional Use application to place a wall mural on the property located at 33 N Paul Laurence Dunbar Street within the MR-5 Mature Single Family Residential Zoning District and the HD-2 Historic Overlay District. The applicant is also requesting a variance to place a wall mural on the front façade of the building.**

Applicant: Speedie Daycare 2 LLC  
33 N Paul Laurence Dunbar Street  
Dayton, OH 45402

Priority Land Use Board: West

Planning District: Wolf Creek

Decision: Approved as Submitted

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**3. PLN2023-00195 – A variance application to construct a 3-story multi-family building with 50 units of affordable housing within the Transitional (T) Zoning District located at 1520 Germantown Street. The applicant requests the following variances: 1. Density variance to permit 27 dwelling units/acre where 16 units/acre are allowed; 2. Maximum building height variance to permit a 45 foot maximum height where 40 foot maximum is allowed; 3. Permit the proposed number of shade trees along street frontage as shown in sheet L100 dated 3/31/23; and 4. Permit the proposed screening at south end of parking lot as shown in sheet L100 dated 3/31/23.**

Applicant: Pinnacle Architects c/o Mike Taylor  
480 Vantage Point Suite 201  
Miamisburg, OH 45342

Priority Land Use Board: West

Planning District: Miami Chapel

Decision: Approved as Submitted

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The Board of Zoning Appeals meeting was adjourned at 5:34 P.M.

Minutes approved by the Board of Zoning Appeals on June 27, 2023.

Jeff Green, Secretary  
Board of Zoning Appeals



# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 27, 2023

#### 1. BZA CASE# PLN2023-00182; 2239 Kipling Drive

A Conditional Use request to establish an Adult Daycare for the property located 116 Brandt Street within the Transitional Zoning District.

<b>Applicant</b>	Aisha Hadiya 2239 Kipling Drive Dayton, OH 45406
<b>Owner</b>	Weusi Underground Railroad 2239 Kipling Drive Dayton OH 45406
<b>Existing Land Use and Zoning:</b>	Adult Day Care/ Residential property; EMF Eclectic Multi-Family Residential
<b>Surrounding Land Use and Zoning:</b>	North – Commercial Properties; EGC Eclectic General Commercial South – Single-Family Residential; EMF Eclectic Multi-Family Residential East – Single-Family Residential; ER-4 Eclectic Residential West: - Single-Family Residential (Harrison Township); R-4 Single-Family Residential
<b>Land Use Committee:</b>	North Central
<b>Planning District:</b>	College Hill
<b>Planning Staff Contact:</b>	Elizabeth Dakin

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Ms. Dakin presented the case.

The applicant, Aisha Hadiya, requests a Variance to construct a 6' high aluminum ornamental fence within the front yard of 2239 Kipling Drive. The fence would include two automatic gates with brick pillars.

Ms. Dakin presented an overview of the proposal and the site. Ms. Dakin provided context on the location, zoning, and character of the surrounding area and street. She noted that the North Central Land Use Board unanimously recommended the proposal be approved.

Ms. Dakin had indicated that the applicant had previously indicated that the sight triangle visibility standards were going to be met. Ms. Dakin stated that she had also received correspondence from Harrison Township on the small portion of property within their jurisdiction. She stated that their Zoning

Administrator, Tyler Houck, confirmed with her that no variance would be required by them because they consider the front of the property to be on Kipling and not Piccadilly, thus, making the request able to be considered a through-lot.

**Public Testimony**

Aisha Hadiya (applicant), 2239 Kipling Dr (Dayton OH), identified herself as the applicant and stated that the variance serves the purpose of beautification as well as safety measures for the individuals in her care and protection and maintenance of the property. She noted the incident that occurred on May 17<sup>th</sup>, 2023 where a family had to lose one of its family members due to insufficient measures to keep them on the property. Ms. Hadiya also noted that the site not being an interior lot makes the property and the individuals a target causing dumping and additional safety issues.

The board asked her what happened on May 17<sup>th</sup>. Ms. Hadiya further explained that there was a missing lady from a nursing home that they had found deceased on her property as her crews were wrapping up removing tires and brush.

The board asked if Ms. Hadiya knows where her property lines are. Ms. Hadiya confirmed that she does know where the pins are and that this includes a vacated alley.

**Board Discussion**

The board noted that this is a well thought out application and that the applicant had done their due diligence. They asked Ms. Hadiya if she accepted the 6' setback from the sidewalks and roads and she confirmed that she accepts.

**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)(1) and approve the application as submitted for a Variance with the following conditions:

- 1) The fence must comply with the sight triangle visibility standards (Section 150.410 of the Zoning Code) at the intersections of Piccadilly Drive and W Hillcrest Avenue as well as Kipling Drive and W Hillcrest Avenue.
- 2) The fence must be a minimum of 6' set back from sidewalks / the public right-of-way.

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

Approved by the Board of Zoning Appeals on June 27, 2023.

Jeff Green, Secretary  
Board of Zoning Appeals

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# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 27, 2023

#### 2. BZA CASE# PLN2022-00191; 33 N Paul Laurence Dunbar Street

A Conditional Use application to place a wall mural on the property located at 33 N Paul Laurence Dunbar Street within the MR-5 Mature Single Family Residential Zoning District and the HD-2 Historic Overlay District. The applicant is also requesting a variance to place a wall mural on the front façade of the building.

**Applicant**

Gladys Williams  
33 N Paul Laurence Dunbar St  
Dayton, OH 45402

**Owner**

Robert Edwards  
33 N Paul Laurence Dunbar St  
Dayton, OH 45402

**Existing Land Use and Zoning:**

Commercial, Day Care Facility; MR-5/HD-2

**Surrounding Land Use and Zoning:**

**North:** Single and Multi-Family Residential; MR-5/ HD-2  
**South:** Day Care Facility; MR-5/ HD-2  
**East:** Health Center; T  
**West:** Single-Family Dwelling; MR-5/HD-2

**Land Use Committee:**

West

**Planning District:**

Wolf Creek

**Planning Staff Contact:**

Holly Hornbeak

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Ms. Hornbeak presented the case.

The applicant, Gladys Williams, requests a Conditional Use application to place a wall mural on the property located at 33 N Paul Laurence Dunbar Street within the MR-5 Mature Single Family Residential Zoning District and the HD-2 Historic Overlay District. The applicant is also requesting a variance to place a wall mural on the front façade of the building.

Ms. Hornbeak presented an overview of the proposal and the site, and provided context on the location, zoning, and character of the surrounding area and street.

Ms. Hornbeak recommended approval of the request, noting that the Landmark Commission had previously approved the mural. She also noted that the mural would not be disruptive to the neighborhood, and that a mural on this residentially-style building makes sense because it will operate as a daycare facility.

**Public Testimony**

Gladys Williams, 27 N Paul Laurence Dunbar St (Dayton OH), identified herself as the applicant. Ms. Williams spoke to the history of her restoration of the building and her work in childcare.

Joe Shaw, 128 N Williams St (Dayton OH), was present to speak on the case. Mr. Shaw stated he was representing the West Priority Land Use Board, who had voted in favor of the proposal.

**Board Discussion**

The board discussed the proposal. Mr. Brand asked staff to clarify the zoning requirements for murals, and Ms. Hornbeak did so.

**Board Decision**

A motion was made by Mr. Bement and seconded by Ms. Graham and carried to determine that there is adequate evidence to make the specified findings required under R.C.G.O. § 150.535 and 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 Conditional Use and Variances.

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

Approved by the Board of Zoning Appeals on June 27, 2023.

Jeff Green, Secretary  
Board of Zoning Appeals

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# City of Dayton

## Board of Zoning Appeals

### Minute Record

June 27, 2023

#### 3. BZA CASE# PLN2023-00195 – 1520 Germantown Street

The applicant, Invictus Development Group, requests Variance approvals to construct a 3-story multi-family building with 50 units of affordable housing within the Transitional (T) Zoning District located at 1520 Germantown Street, within the Miami Chapel planning district. Variances requested include 1. Density variance to permit 27 dwelling units/acre where 16 units/acre are allowed and 2. Maximum building height variance to permit a 45 foot maximum height where 40 foot maximum is allowed.

<b>Applicant</b>	Invictus Development Group, Inc. 400 Wayne Avenue DAYTON, OH 45410
<b>Owner</b>	City of Dayton 101 W. Third Street Dayton, Ohio 45402
<b>Existing Land Use and Zoning:</b>	Vacant land; T
<b>Surrounding Land Use and Zoning:</b>	North – Commercial; MR-5 South – Vacant land; ER-4 East – Residential structures; T West – Vacant land; T
<b>Land Use Committee:</b>	West
<b>Planning District:</b>	Miami Chapel
<b>Planning Staff Contact:</b>	Susan Vincent

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Ms. Vincent presented the case.

Ms. Vincent presented an overview of the proposal and the site. Ms. Vincent provided context on the location, zoning, and character of the surrounding area and street. She shared images of the site plan, site conditions, and subject property. She shared the public comments received on the case.

Ms. Vincent detailed the primary considerations regarding the maximum height variance and explained why the request is appropriate. She expressed the opinion that the additional height adds desired architectural details on a prominent corner.

Ms. Vincent shared a comparison of recently approved housing developments to provide context for the density variance request. She explained how the request meets goals outlined in adopted City plans and is appropriate for the location proposed.

Ms. Vincent shared the recommendation that the application be approved submitted.

Ms. Vincent's recommendation was based on her analysis of the Standards for Variances Based on Practical Difficulty. She highlighted 150.120.10(D)(1) (a), (d), and (i) in her presentation to the board.

**Public Testimony**

The applicant, Invictus Development Group, represented by Kiya Patrick, 400 Wayne Ave, Dayton, Ohio 45410, offered to answer the boards' questions and shared additional context and history surrounding the housing proposal and planning efforts that preceded the application.

Ms. Patterson asked for clarification regarding whether the proposal meets the parking requirements; staff confirmed that the proposal meets the requirements. Mr. Brand asked if there were plans to acquire additional property in the vicinity in order to build additional buildings; Ms. Patrick shared additional details regarding the phasing for redevelopment of existing units further down and plans for additional structures.

Mr. Joe Shaw, 128 N. Williams St, Dayton, Ohio, shared support for the project and relayed some of the discussion held by the West Land Use Board.

**Board Discussion**

Mr. Bement shared his support for the height and placement of the tower and his opinion that the density was appropriate. Mr. Brand shared his agreement.

**Board Decision**

A motion was made by Ms. Graham and seconded by Ms. Patterson and carried to determine that there is 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 for variances as submitted..

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

Approved by the Board of Zoning Appeals on July 25, 2023.

Jeff Green, Secretary  
Board of Zoning Appeals

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