

# BOARD OF ZONING APPEALS

## Minutes of Meeting

July 21, 2020

4:30 pm

**Attendance:** Members Dave Lundgren, Chairman; Mike Aeling, Vice Chairman; Billy Ray; Eddie Williams, Arnold Hirvela. Zoning Inspector Shane Howard, Assistant Law Director William Morris, Kim Palmer Engineering Aide, Candice Martin Engineering Clerk

**Meeting held by telephone conference due to COVID-19 pandemic:** The meeting was called to order by Chairman Lundgren at 4:30 pm. Due to the COVID-19 pandemic, BZA members participated by Zoom conference. All members were present.

Virtual Kiosk:

Sheryl Dean located on Ramsey Ct., representing her aunt that owns property next to the Aeonian Brewing Co.

### **1. Minutes from the May 19, 2020 meeting:**

Ailing motioned to approve the minutes with Williams seconding. Roll call Vote. Motion passes. Arnold Hirvela abstains because he was not part of previous meeting.

Chairman Lundgren read the Board of Zoning Appeals procedures including appellant recourse.

### **2. Alihassan Land Co LTD – 835 W. State St. -- Appeal #20-005 – 3 Stories Variance in a B-2 Sec.1124. Lot Size Variance for Multi Family Sec.1162.09(a). 17 Unit Variance Sec. 1162.09(a).**

Shane Howard, 504 E. Main St., sworn in and provided testimony as the City's Zoning Inspector. There are three parts to the appeal. Alihassan wants to put a 17 unit apartment building on the property. This is a B2 Zone which only permits a two story building. He is asking for a variance for a three story building referred to in Sec 1124; lot size according to Sec. 1124 states that 1 acre is required for 12 units and Mr. Alihassan is looking for a variance for 17 units on less than 1 acre.

Lundgren asks Howard if parcel is 0.72 acres.  
Howard verifies it is.

Lundgren clarifies by relisting issues for discussion:

- Mr. Alihassan wants 3 stories but code only allows 2 stories.
- Mr. Alihassan needs a variance on both the size of the lot because it is less than 1 acre and on the number of units because he wants 17 and can only place 12 if he had an acre.

Mr. Dennis Clunk is sworn in. Dennis R. Clunk, 2040 S. Union Ave., Alliance, OH 44601 and is representing Mr. Alihassan Land Co. in this appeal. He explains that it is in a great area, will be a new building, and a nice place for resident housing.

Hirvela asks if it is being built primarily for students since it will be next to the University.

Mr. Clunk answers no. Students can use it but there is a real shortage of housing in Alliance. It is a nice building and we need more housing in the area.

Ray asks if the design of the building will look like the apartments at Mount Union. Is it brick or mainly a sided building?  
Bayan Alihassan is sworn in. Bayan Alihassan, 2105 S. Union Ave., Alliance, OH 44601. He explains that it will not look cheap. It is going to blend in and match the area and the Mount Union campus and it will look good.

Mr. Clunk states that the building is a higher area. Inhabitants are going to love to see the college area, State Street area, and there are a lot of places to eat. He believes that the complex will be filled before he finishes it.

Hirvela mentions that this will be the only building from Union Ave. out to the mall on State Street that is up front on the street. Why isn't parking in front like all the rest and the building set back?

Mr. Clunk answers that it was mainly for safety. It is to keep the traffic off of State St. and to place the traffic on the side streets. It is difficult to turn right or left on State St. Using the light on Parkway is best for everyone.

Hirvela says there is still the same entrance on and off State Street you turn into parking shortly into the property instead of in the back of the building. But there would be no difference turning on and off State St.

Mr. Clunk states that the idea is to not screw up the ingress and egress off of State St. There is an asphalt ingress and egress that takes us through. He thinks it is a good situation.

Lundgren believes the code is being ignored. He thinks it is a lot of units on a small area. Also, there is a lot of elevation in that spot and it will look huge. Everything is also set back except for this one. It is more building than the size or location supports.

Mr. Clunk explains that the City Engineer loved the building the way it was done. What else could go into this area except for another shop? The City Engineer thought this was the best use of the property as it has been laid out.

Lundgren explains that he is not here and cannot give testimony on this. There is also no recreation area because the number of units.

Ray asks what justification is given to go from 12 units to 17 units. Was it a financial decision?

Mr. Alihassan explains that there is a lot involved. As a developer he would like to get the best return on his investment.

Howard mentions an email that was sent in favor of the project. Condensed version of the Email is below:

Jim Edwards, Councilman writes asking to make every effort to approve variances requested for the Alihassan project. The site plan looked good and with the way things are going with the economy and the virus he feels every responsible accommodation should be approved for a City resident willing to invest in our community.

Howard also mentions that the Steering Commission approved 3 stories in a B2 zone and it is before Council to approve. It has been approved through the Steering Commission and Planning Commission.

Lundgren is confused by this and says that he knows they approved a 5ft variance. He doesn't know about the number of stories. Howard clarifies by saying he meant that it is proposed for the new zoning code. It hasn't been approved yet but it has gone through Planning Commission and the Steering Commission.

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one comes forward.

Declares this public portion of the meeting now closed.

### Board Members Begin Discussion

Ray believes a three story building is going to look 10 stories high in that location. Believes there are reasons for zoning and codes. The owner is only on  $\frac{3}{4}$  of an acre and he is trying to do 30 or 40 percent greater than what that is zoned for. He is asking for a lot knowing what the zoning is.

Williams says he agrees that the building is going to look tall. However being a resident in the area he would like to see something done with the property. He also agrees they are trying to cram a lot onto the property, but he also thinks it would be a great addition to the community.

Lundgren believes that it will look huge too with 3 floors and will be out of proportion with State St. The lack of setback compared to everything else is also an issue. He wants to be agreeable to development but the code has to have some meaning. He believes they are taking a spot and basically ignoring everything in the code that is required for this location. Everyone in development would like to maximize the return on their investment. More units per cost of the

land get cheaper per unit but that doesn't mean there is no validity to the code. There is a reason why the code was established.

No other comments.

Ray makes a motion to deny. Hirvela seconds motion. Roll call vote. All are in agreement. Variance denied.

### **3) Douglas K Berry, Quaker Holdings LLC – 120 W. Chestnut St. -- Appeal #20-006**

Addition to a nonconforming Building Sec.1140.10. Parking space Variance Sec. 1150.04 Parking Table (19)

Howard explains that this appeal is for an addition to a nonconforming building and also for a parking variance. They need 35 spots but they are only able to give 27 spots. This figure is based on 2 parts of the building that are not being used at this time. When they are available he will have to do something to accommodate for those two private rooms in the establishment.

Ray asks if the alley on the west side of the building has been vacated.

Howard explains no it has not. That is one of the reasons making it nonconforming. He is not sure how wide the alley is; even if it was vacated it might still be defined as nonconforming. He has not looked into that further. He thinks the side yard setback is 10 feet so it is a possibility it would still be nonconforming.

Mr. Berry is sworn in. Douglas K. Berry, Architect for the project with business address at 686 W. Market St., Akron, OH. Planning Commission gave them a 2 year variance last week. So the Brewery now has two years to pave and bring the parking up to the number of spaces necessary now and in the future so that part may not be necessary at this point. They are also asking for an addition out the front 15 ft. x 60 ft. redoing the front concrete block section to accommodate the brewery equipment. He explains they acquired a certain amount of waivers on that west area such as they will not need a concrete sound barrier and as of the Planning Commission Meeting they gave plans that will give some adherence to setbacks and will be planting some trees on that side to cut down on sound transmission.

Lundgren asks if they have a time limit to address some of those issues.

Mr. Berry states they have 2 years to address the parking and improve the paving in the back to get to the numbers where they need to be.

Lundgren asks if there is anyone else to speak in favor or in opposition. – No one comes forward.

Declares this public portion of the meeting now closed.

### **Board Members Begin Discussion**

Williams asks Howard about what part of the building is non-conforming and asks if the addition will bring it into conformance.

Howard says no that it will not bring it into conformance. It is sitting too close to the side property line. That in itself is all it takes to make it non-conforming. If he looked into it further there are probably more reasons.

Williams says the 10 ft. side yard setback is what has flagged them as nonconforming.

Howard says yes.

Howard explains that Planning Commission gave the brewery a temporary timeline on when to put in solid surface parking. There is gravel in the parking area now. The Planning Commission granted them a 2 year extension on when it is required for them to establish solid surface. What it did is allow them to extend their parking onto the gravel areas. They have concrete in the back and if they were locked into that only, they would definitely need a variance.

Lundgren clarifies that we do not need to address the parking variance today since they have a two year variance.

Howard says yes. He then asks Mr. Berry if that is his belief as well.

Mr. Berry says yes that he believed Bungard said they did not need one.

Lundgren states that if it is a problem in the future the Board would be willing to revisit the issue.

Lundgren says it looks like it is going to be a great addition. It is an unusual building in an unusual area.

Hirvela makes motion to allow variance for the non-conforming building addition. Williams seconds. Roll call vote. All are in agreement. Motion passes.

**4) Alliance Area Habitat for Humanity – 1006/1028 S. Arch Ave. -- Appeal #20-007**

Parking space Variance Sec. 1150.04 Parking Table (21)(23)

Howard explains it is a building in a B4 Zone, part is going to be office space and the other part will be a hardware store. They will need 19 spaces but only have 14 provided. They are planning on obtaining the property on the backside of the building. Whenever it becomes available it will increase the parking.

Ray says that it looks like they had angled parking on the east end of the building. It looks like it is on the old pavement that is deteriorated.

Howard says all parking indicated on the site plan is on the west side of the building.

Niki McIlvain is sworn in. Niki McIlvain, director for Alliance Habitat, 470 E Broadway, Alliance, OH. On the West side of the building they have 14 spots indicated on the site plan. There is a section on the south side of the building that is overgrown. That will eventually be where the donations are dropped off. Further along there will be a ramp and that area has to stay open for that. They are working on space in the back. They applied for the parcel through the neighborhood revitalization program, Covid happened and everything slowed down. On the day their application was processed it transferred to the City of Alliance because 3 years after tear down the City takes possession. She received an update from Jen Merriman that in the next 30 days they will have possession of that lot in the back as well as they will acquire two additional parcels: 101028 and 110611. An additional parcel is still in the possession of the homeowner. It is their plan to also acquire that one as well. The two additional parcels are directly behind the building.

Lundgren asks if there is anyone else to speak in favor or in opposition of. – No one comes forward. Declares this public portion of the meeting now closed.

**Board Members Begin Discussion**

Aeling says they are landlocked right now. He doesn't see an issue giving them the variance. Once they acquire the property from the City they will have what they need.

Lundgren states that this is a little different from the first appeal. That one was for a new building that could comply. This is for an existing building and we have to take what we get. It has been empty to 6 years. This is a really good use. Good for the community and for the neighborhood. With the additional property it should work out well.

Williams makes the motion to grant the variance for 14 parking places in lieu of the 19 required. Ailing seconds. Roll call vote. All are in agreement. Motion passes.

**5) Other Business**

None.

Hirvela moves to adjourn. Ailing seconds. All Agree. Motion unanimously carried. The meeting adjourned at 5:37 pm.

Respectfully Submitted by:  
Candice Martin  
Engineering Clerk