

BOARD OF ZONING APPEALS MEETING
THURSDAY, JANUARY 27, 2022 5:30 P.M.
COUNCIL CHAMBERS
40 W MAIN ST, NEWARK, OH 43055

MINUTES
PUBLIC HEARING

1. CALL TO ORDER

CALL TO ORDER- Steve Layman Board Chair called the Thursday January 27, 2022 Board of Zoning Appeals Meeting to order.

Present:	Steve Layman	Board Chair
	Jack Gienger	Member
	George Carter	Zoning Inspector
	John Paul	Member
	Tony Fox	Member
	Phil Claggett	Member

2. APPROVAL OF MINUTES

Minutes of the December 16, 2021 meeting

Motion and second to approve minutes of December 16, 2021, motion passed by acclamation

3. OLD BUSINESS

4. NEW BUSINESS

APPLICATION BZA-22-01

Applicant: Ryan Badger
Owner: John Roush
Location: Log Pond Dr (054-269904-00.098)
Project: Multi-Family Complex
Reference: 125/26

Ryan Badger – Mr. Roush the owner is under the weather. Here for a front yard and parking variance. The geometry of the lot makes it difficult to determine a true front yard. The current code requires a lot of parking. We are look to reduce it by 35 spaces. We will have an average of 2 spots per unit.Reduced parking lot, which means reduced impervious, which means everybody is happier on the storm water side and more green space is allowed.

Mr. Layman – I don't think greenspace is an issue.

Mr. Badger – Not on this particular site we have that nice healthy pond out there.

Mr. Layman – The setback is required on which line?

Mr. Badger – It's the lot line along the independent garages. On the Walmart side.

Mr. Layman – No, it would have to be the north one. How close are you to that one?

Mr. Badger – 20 feet.

Mr. Layman – Is there anything between you and the back of the conveyance or is it just the back of the garages?

Mr. Badger – Right now it's just the back of the garages because most of the buildings will be against the Walmart portion. I know there's a pretty decent buffer or distance between the western most building that would have a side of the building towards the

condos. There is a proposed walking path around the entire pond. I did not bring the landscape plan to see what we did with initial trees.

Barry Donald, 1613 Jamestown Ct – I'm having a really hard time with the acoustics in here, but I am from Goosepond Village and I have some questions.

Mr. Layman – Now's the time to ask them.

Mr. Carter – If you would like to come up to the round table, I have larger plans there too if you want to take a look at them.

Mr. Donald - I own a condo which is 259-B which we rent to our son. I have a question, I guess from page 3 and 4. Do you know what the setback is right now for the condos to the property line?

Mr. Carter – The proposed condo's?

Mr. Donald – No, the existing condo's, is that 25 feet?

Mr. Badger – It's at least 25 feet, for your condo's you mean?

Mr. Donald – We're at 259, it's the first block.

Mr. Badger – I don't know what yours specifically is, but it's got to be at least 25 and they are probably more like 30-35 feet from the property line in reality.

Mr. Donald – Okay, so we're talking about 50 feet maybe? So, your reference of a fence on page 4 and there is currently no fence there is that a fence that is going to be put up by the developer?

Mr. Badger – That's the existing fence that's out there.

Mr. Donald – There is no fence there.

Mr. Badger – At the time of the survey, there was a fence there. That line represents an existing fence.

Mr. Donald – It talked about curb, at one time and this is before I bought the property they were talking about putting a development in there and it would have the same, I guess you want to call it a curb that Walmart put around their property in the back.

Mr. Badger – Along the parking lot?

Mr. Donald – Between the back of Walmart and the condominiums. I was wondering is that what you were referring to, you're going to put a curb in there?

Mr. Badger – That curb right there is along the parking lot of your tract.

Mr. Layman – That looks like the closest building to the condominiums, which would be building One and I'm going to say that's 80 feet away.

Mr. Badger – The area he is referring to is this corner of the property and on the original survey, on their property, on the condo's, they picked up the edge of pavement a curb representing their drive aisles, so that's what is being labeled, or called out.

Mr. Donald – There is no curb there it's just grass.

Mr. Badger – It's the edge of pavement, it's the edge of your driveway.

Mr. Donald – There's no pavement back there. It's all grass. What's the distance between the path and the property line?

Mr. Badger – It's about 10-12 feet.

Mr. Donald – So that makes it 35 feet away?

Mr. Badger - From your actual condo building, yes.

Motion to approve as submitted, seconded, motion passed by acclamation, variance granted

APPLICATION BZA-22-02

Applicant: Northpoint Ohio LLC
Owner: A4 Ragtime Band LLC
Location: 325 W Main St
Project: Multi-Use Complex
Reference: Ord 7-8 Art 4

Mr. Claggett - We are seeking a variance on the floodplain elevation the pre-board, because we're a mixed use of commercial and residential. Residential need to be 1 foot, 6 inches above base flood elevation, commercial does not, I think It has to meet base flood elevation. Current base flood elevation was 824.8 and our existing first floor of

apartments is 824.3. Six inches below base flood, we have taken care of meeting base flood at all egress points with a curb, a ramped curb. But because it's residential I need a variance to allow for the 1 ½ foot pre-board requirement.

Mr. Carter – The main thing here on this one is the residential component is not meeting the standards of the ordinance. Dry proofing practices which would normally be okay on a commercial setting cannot be completed for residential purposes and these by code have to be above flood elevation by a foot and a half. That's the reason Mr. Claggett is here tonight. They are flood proofing the entire building up to what 3 foot above?

Mr. Claggett – Yes.

Mr. Carter – They are taking practices to eliminate the risk of flooding, they just can't meet the standards with the lowest floor of the flood ordinance.

Mr. Claggett – It's technically unfeasible.

Kathy Mix, 199 Jefferson – We have a house on Jefferson, we're here about the apartments they are trying to build.

Mr. Layman – This is the existing building. This is where they are talking about putting the apartments. These will be inside the building. They will re-do the building, clean it up, new windows, this is not outside the existing building. What they need is a variance to do this because it has to meet that elevation.

Ms. Mix – What type of apartments, can I ask?

Mr. Claggett – Loft apartments.

Ms. Mix – Where are these tenants going to park?

Mr. Claggett – There will be a parking lot.

Mr. and Mrs. Mix – That's our rental house, but still we own it and care about what's going on.

Mr. Gienger – How will the insurance and all that work?

Mr. Carter – If they have a loan on the property, the financial institution is going to require it, it's the law. I'm not an underwriter so I can't tell you what the rates will be. Brian did want me to mention he had a conversation with Mr. Alexander, by not meeting the BFP requirement, it might raise the insurance rates.

Mr. Claggett – I think he's already discussed that with his financial institution.

Mr. Paul – Can they hold the city liable? If we grant them a variance and it floods can they come back and say hey why did you do that?

Mr. Carter – I'll explain what I can. I don't know if they can hold the city liable if they did go through the legal process to request a variance. The city participates in the National Flood Insurance program as a member. Any city who joins that membership writes legislation that matches FEMA requirements and receives perks in the sense of lower discounted rates on insurance, things like that. There could be situation where we start issuing variances left and right and FEMA kicks us off that program and then the individual owners rates would go up a little bit because they aren't receiving those discounts. In my time this is only the second one we would have issued.

Mr. Paul – I think it's neat that they want to develop that area, but I also don't want to put the burden back on the city. I just don't want to approve something that the city is going to lose money on this deal.

Mr. Carter – It really comes down to the owner on the insurance rates. The Board has to look at is this intent a hardship for a variance. That's why the city has a variance board, does this qualify in that situation. If everything is done in good conscience then it's not necessarily a problem.

Mr. Layman – So the Federal Government built this building in 1946, the office space in this space we are talking about in 1959. So, flood insurance probably wasn't a thing back then. This building is there, they've got to be able to use it. It's not like we said, hey, go build 80 apartments in the flood plain.

Mr. Fox – I just can't imagine the city is ever responsible when they come and ask permission to do it. That's a choice.

Mr. Paul – That's fine. I love the fact they are going to repurpose that.

Mr. Carter – John has a point if we were sitting up here handing out variances left and right just to avoid the flood plain ordinance, then yeah.

Mr. Paul – It's not like this is a new build, we're trying to make the most of what we've got there, it does need cleaned up and it could be a really neat looking place.

Mr. Carter – As far as the City Zoning Department, this is the best thing they've come up with, we're on board.

Mr. Claggett – It's not really feasible to do anything else because your commercial is different than your residential.

Mr. Carter – They are taking quite a bit of measures to prevent flooding. The question on the table is this the definition of a burden to the applicant to be able to comply with zoning.

Mr. Fox – I've been in that building before. I'm trying to remember is this the ground floor or a basement? Because when you come in from the north side, don't you walk down some steps into this?

Mr. Claggett – Yes, it's a split level The truck dock up front is about 5 ½ feet above the first floor.

Mr. Fox – I know there's a basement in the other building.

Mr. Layman – There's a basement in this building.

Mr. Claggett – And it's out of the flood plain.

Mr. Layman – The basement is under the balcony area.

Mr. Paul – So, the area in question.

Mr. Claggett – Does not have a basement under it.

Mr. Fox – It's been a couple of years since I was in there and I was trying to remember basement or not. So, this area has no basement.

Mr. Claggett – correct.

Motion to grant variance, seconded and passed by acclamation. Variance is granted.

THE NEXT SCHEDULED BOARD OF ZONING APPEALS MEETING WILL BE HELD ON THURSDAY, FEBRUARY 24, 2022 5:30 P.M. THE DEADLINE FOR AGENDA ITEM SUBMITTAL IS FEBRUARY 1, 2022, 4:30PM.

5. ADJOURNMENT

Chairman, Board of Zoning Appeals

Secretary, Board of Zoning Appeals