CITY of MEDINA
Board of Zoning Appeals

Board of Zoning Appeals

Meeting Date: March 12, 2020

Meeting Time: 7:00 pm

Present: Bert Humpal, Paul Roszak, Brandilyn Fry, Mark Williams, Jonathan Mendel, (Community Development Director), Sandy Davis (Administrative Assistant)

Absent: Rob Henwood

Mr. Williams made a motion to nominate Bert Humpal as Chairperson. Mr. Roszak seconded the motion. Mr. Roszak amended his motion to include a nomination of Mark Williams as Vice-Chair. Mr. Williams seconded the amended motion.

Vote:	
Roszak	Y
Humpal	Y
Fry	Y
Williams	Y
Approved	4-0

Mr. Roszak made a motion to approve the minutes from the November 14, 2019 meeting as submitted. The motion was seconded by Mrs. Fry.

Vote:	
Roszak	Y
Humpal	Y
Fry	Y
Williams	abstain
Approved	3-1 abstention

The Court Reporter swore in all attendees, board, and staff.

Announcements: None

Old Business: None

New Business:

1. Z20-01 2-10 Exchange Park Drive Ryan Baker VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated Exchange Park Drive is a private street for an existing property. Mr. Mendel stated this is a request under Section 1151.05 of the Planning and Zoning Code, the applicant requests the Board of Zoning Appeals permit the substitution of the nonconforming 9 unit residential use for a 10 unit residential use on subject property zoned I-1, Industrial.

Mr. Mendel stated he site is located on the south side of the 600 block of West Smith Road adjacent to the railroad overpass.

Mr. Mendel stated the applicant proposes dividing the existing single unit residential building at the south end of the subject property.

Mr. Mendel stated the subject property currently has nine existing nonconforming single unit detached residential buildings on the subject property. Mr. Mendel stated the subject property has had its current land use for more than 70 years. Mr. Mendel stated the applicant is in the process of repairing, updating and improving the condition of the existing residential buildings and the grounds. Mr. Mendel stated the applicant requests dividing the existing southernmost building on the subject property from one residential unit to two residential units under the provision of substitution of nonconforming uses in Section 1151.05, located on the bottom of page 1 and onto page 2 of the staff report.

Mr. Mendel stated the applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. Mr. Mendel stated the Board shall weigh the following factors to determine whether an area variance should be granted:

A. *Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;*

Mr. Mendel stated the subject property could continue as a 9 unit residential land use, effectively, in perpetuity.

B. *Whether the variance is substantial;*

Mr. Mendel stated the requested additional residential unit (from 9 to 10) is an 11% increase, which may not be considered substantial.

C. *Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;*

Mr. Mendel stated the existing building proposed for division into to two residential units is approximately 520 feet south of the W. Smith Road public right-of-way at the

southern end of the subject property and the applicant does not propose any changes to the subject building's footprint.

Mr. Mendel stated additionally the subject property is adjacent to the City of Medina railroad embankment to the east and an existing multi-tenant light industrial development to the west. Lastly, the existing nonconforming use is a less intensive land use than land uses permitted under the I-1 zoning district.

D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

Mr. Mendel stated the variance will not adversely affect the delivery of governmental services.

E. Whether the property owner purchased the property with knowledge of the zoning restrictions;

Mr. Mendel stated the subject property has been zoned I-1 Industrial for many decades and it was the zoning district for the property when the applicant purchased it in 2018.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or

Mr. Mendel stated the property owner could completely redevelop the subject property under the I-1 zoning district regulations.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

Mr. Mendel stated the likely intent for why the subject property was zoned I-1 is due to it being physically related to the industrially zoned and developed area of the City of Medina under the presumption that the property's development future may be industrial/commercial rather than the existing residential use.

Mr. Mendel stated given the City of Medina's age and evolution of land use regulation and development, Chapter 1151 (Nonconforming Uses, Building, Structures and Lots) exists to balance owner's needs and costs for buildings and uses established prior to the existing regulatory framework in an effort to, theoretically, remove potential nuisance and/or hazardous conditions left over as cultural desires have changed.

Mr. Mendel stated the BZA must weigh the above seven factors for the requested variance and determine if a practical difficulty exists that would merit a variance from

section 1151.05 to permit the substitution of the 9 unit residential use with a 10 unit residential use on the subject property in the I-1, Industrial zoning district.

Mr. Humpal asked for clarification on the intensity of the use. Mr. Mendel explained the substitution of uses and the staff report explanation. Mr. Mendel stated in this situation, the existing use and the proposed use are significantly less intensive then what could be permitted under the permitted uses under the I-1 zoning district.

Present for the case was property owner Ryan Baker, 307 Autumn Reserve Parkway, Brunswick, Ohio. Also present was Michael McGettrick, Architect for the project.

Mr. McGettrick stated the goal of the project is to provide updated quality affordable housing for citizens of Medina. Mr. McGettrick stated when Mr. Baker purchased the property, it was in rough shape and they proposed to do a significant improvement to it. Mr. McGettrick stated with keeping with the affordable house, the size of that southern unit is very large compared to the other homes and the goal is to keep everything the same market rate.

Mr. Baker stated they have submitted plans and applying for demo permits for the first 7 buildings along with electrical, HVAC, and plumbing. Mr. McGettrick stated all those permits are pulled.

Mr. Williams stated he has no objections.

Mr. Roszak made a motion to approve a variance to Section 1151.05 of the Planning and Zoning Code for the substitution of the nonconforming 9 unit residential use to a 10 unit residential use on subject property zoned I-1, Industrial. The approval is based on the finding that the variance is not substantial, the essential character of the neighborhood will not be substantially altered, and the adjoining properties will not suffer substantial detriment as a result of the variance, the spirit and intent of the zoning requirement would be observed and substantial justice done by grant the variance.

The motion was seconded by Mr. Williams.

Vote:	
Roszak	Y
Humpal	Y
Fry	Y
Williams	Y
Approved	4-0

2. Z20-02 161 N. Court Street GPD Group-Taco Bell VAR

Mr. Mendel gave a brief overview of the case. Mr. Mendel stated this is a project by the Medina County Park District and the City of Medina. Mr. Mendel stated this is a Variance request from Section 1141.05 of the Planning and Zoning Code to permit two

new I-1 zoned lots without frontage on a public street when a minimum 100 ft. of frontage is required.

Mr. Mendel stated the subject property is located at the southwesterly City of Medina boundary and is landlocked between 200-700 feet east of the Lake Road public right-of-way.

Mr. Mendel stated the Medina County Park District (MCPD) purchased the subject property in 2019 as it is adjacent to a portion of their rail trail recreational path and intended to use the entire property for recreational open spaces purposes. Mr. Mendel stated the northern half of the subject property is adjacent to the City of Medina's railroad right-of-way and an adjacent privately developed industrial property in the City of Medina. Mr. Mendel stated in order to provide a future rail spur to this private property, the City of Medina wishes to purchase 3 acres from the MCPD.

Mr. Mendel stated to execute the land sale, two new lots must be created (a 5.2908 acre lot and a 3 acre lot) that do not meet the minimum 100 foot frontage on a public street required in the I-1 zoning district.

Mr. Mendel stated this is a practical difficulty review, the applicant shall show by a preponderance of the evidence that the variance is justified, as determined by the Board. The Board shall weigh the following factors to determine whether an area variance should be granted:

A. *Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;*

   Mr. Mendel stated the MCPD and the City of Medina are public entities and the proposed lots will be used for public benefit with limited improvements.

B. Whether the variance is substantial;

   Mr. Mendel stated the proposal constitutes a 100% variance since the properties will not have road frontage.

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

   Mr. Mendel stated the essential character of the neighborhood will not be altered as the existing parent parcel is landlocked and unused. The proposed subdivision will not be readily evident on the ground.

D. Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

Mr. Mendel stated the variance would permit the City of Medina to purchase the northern 3 acres for future rail spur use to a portion of the City's industrial neighborhood and will provide a benefit to the community through economic development.

E. Whether the property owner purchased the property with knowledge of the zoning restrictions;

Mr. Mendel stated the City of Medina is fully aware of the applicable restrictions, but had no part of the original subdivision that created the current landlocked parent parcel.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and/or

Mr. Mendel stated the owner's predicament cannot be obviated as the parent parcel is already landlocked. Mr. Mendel stated the City of Medina does not own adjacent compliant properties with which to combine the proposed 3 acre lot.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance.

Mr. Mendel stated the likely intent of the requirements is to assure properties have reasonable road access for the general public and emergency services. Mr. Mendel stated that is reasonable when land is subdivided for development purposes with occupied buildings/land uses and easy visibility is important for the provision of public services such as fire protection and policing. Mr. Mendel stated the proposed subdivision is not intended for the development of substantively occupied buildings and/or land uses requiring easy visibility and accessibility.

Mr. Mendel stated the BZA must weigh the above seven factors for the request and determine if a practical difficulty exists to merit a variance from section 1141.05.

Representing the case for the City of Medina was Jonathan Mendel, Community Development Director.

Daryl R & Suzette Hillyard, 5607 Wycliffe Drive, Medina, Ohio were present and commented. Mr. Hillyard stated they were under the impression that the property was purchased but the intention was to extend the bike path. Mr. Hillyard stated that was incorrect. Mr. Hillyard stated their concern is any extra traffic coming through Wycliffe. Mr. Mendel stated any bike path changes will probably extend across the adjacent property which the County Park District purchased on the west side of Lake Rd. Mr. Mendel suggested they contact the Planning Director for the County Park District for more information. Mr. Mendel stated he does not anticipate any extra vehicle traffic as the City is purchasing the property for rail spur purposes only. Mr. Mendel stated there should not be any extra car traffic, the city is buying this property for rail spur purposes only.

Mr. Mendel explained the importance of the rail spur as an economic development tool.

Mr. Mendel stated the County Park District's parcel is large enough for maybe a parking lot or something with minimal impact when they develop the site. Mr. Mendel once again suggested contacting the Medina County Park District for that information.

Mr. Williams asked why the city is not buying the whole parcel. Mr. Mendel stated they did not want to purchase the whole parcel.

Mr. Williams asked the effect on future use or sale. Mr. Mendel stated he will probably bring this back to the Planning Commission for rezoning to PF along with several other parcels that need to be rezoned. Mr. Mendel stated that creates a legislative process for some future point so if the city decides to not put a rail spur and the adjacent property owner would like to purchase and use the property for an expansion, it would have a legislative process to rezone the parcel to I-1. Mr. Williams stated he trusts the people in the scenario right now but in 20 years there will be different people in the scenario so would there be some future assurance that this will remain with the city for the purpose of a rail spur. Mr. Mendel stated even if it was sold under I-1 and developed, there are significant set-back requirements to residential properties and the rail trail is in the Township and zoned residential.

Mrs. Fry made a motion to approve the variance request from Section 1141.05 of the Planning and Zoning Code to permit two new I-1 zoned lots without frontage on a public street when a minimum 100 ft. of frontage is required based on the finding that a reasonable return and no beneficial use of the property can be made without the variance and that the essential character of the neighborhood would not be substantially altered by the granting of the variance.

The motion was seconded by Mr. Roszak.

Vote:

Williams	Y
Humpal	Y
Fry	Y
Roszak	Y
Approved	4-0

Mr. Mendel announced the comprehensive plan proposals are due by end of day Monday. Mr. Mendel stated he is working with 2 council members to put together the steering committee which will be different than what it has been in the past.

Having no further business, the meeting was adjourned.

Respectfully submitted,

Sandy Davis

Sandy Davis

Bert Humpal

Bert Humpal, Chairperson