

ANDERSON TOWNSHIP BOARD OF ZONING APPEALS
February 7, 2019

The Anderson Township Board of Zoning Appeals held its regular monthly meeting, duly called, on February 7, 2019, at 5:30 p.m. at the Anderson Center, 7850 Five Mile Road, Cincinnati, Ohio. Present were the following members:

Paul Sian, Yan Nasilevich, John Halpin, Steve Haber, and Jeff Nye

Also, present when the meeting was called to order, Sarah Donovan, Planner I, Brad Bowers, Secretary and Samantha Hoffman, Co-op. A list of citizens in attendance is attached.

Mr. Sian called the meeting to order, welcomed attendees, and called for swearing in. Persons testifying were asked to stand, raise their right hands and swear or affirm to the following oath as read by Mr. Sian: Do you swear or affirm, to tell the truth, the whole truth and nothing but the truth, so help you God?

Approval of Agenda

Mr. Haber moved, Mr. Halpin seconded to approve the agenda of February 7, 2019 with one correction.

Vote: 5 Yeas

Minutes

Mr. Halpin moved, Mr. Haber seconded to approve the Minutes of January 3, 2019.

Vote: 5 yeas

Consideration of Case 2-2019 BZA

Ms. Donovan stated that the public hearing is for Case 2-2019 BZA, a special zoning certificate request. The request was filed by Carl Hartman, Dr. John Gennantonia (Sea of Smiles Denistry), on behalf of Three Gen LLC, the property owner of 1339 Nagel Rd and described in book 500, page 121, parcel 59, and zoned "B" Residence.

Ms. Donovan stated that the applicant is proposing to demolish an existing single-family residence, construct a parking lot expansion from the adjoining property at 1319 Nagel Road, Sea of Smiles Dentistry. The expansion is proposed to have thirty additional parking spaces and a new realignment of the entrance, which will be opposite of the US Post Office Entrance.

Ms. Donovan noted that Article 2.12, D, 8, c of the Anderson Township Zoning Resolution states that the Board of Zoning Appeals has the authorization to grant a

special zoning certificate for parking lots on land, the farthest point of which shall not be more than 200 feet from the boundary of an Office, Limited Office, Commercial or Industrial Districts.

Ms. Donovan stated that the single-family residence on the property was constructed in 1927 and was granted a zoning permit for an addition, size 8' x 13', in 1991 and has been vacant for approximately 6 years. The current property owner, Three Gen LLC, purchased the property in December of 2015.

Ms. Donovan stated that in 2007, Sea of Smiles, 1319 Nagel Road, went through a zone change process from "B" Residence to "OO" Planned Office District with Case 3-2007 Anderson. The Trustee's Resolution for this case included a number of conditions that affected both 1319 and 1339 Nagel Road. These conditions include-

2. The maximum square footage of a structure on this parcel shall not exceed 5,700 sq. ft, and the impervious surface ratio shall be no greater than .6 (60%).

12. Sidewalks shall not be required at this time. However, sidewalks shall be installed, at the cost of the developer or owner of a site, at such time as a walk is constructed to the north of south property line. A sidewalk shall be installed that connects the front of the structure with the parking lot and to the road area so that such a connection is in place for pedestrians once sidewalks are installed on the west side of Nagel.

13. When the property to the north (1339) is developed for non-residential use, the access to Nagel Road for this site shall be relocated to be shared along the north property line so as to align with the Post Office driveway.

Ms. Donovan stated that there is currently an existing variance for parking on an adjacent church property, approved with Case 10-2012 BZA, which the applicant states the agreement "is about to become void."

Ms. Donovan stated that staff is of the opinion that the proposed parking lot could comply with the Zoning Resolution and the conditions from Case 3-2007 Anderson, if an accurate and compliant landscaping and lighting plan are submitted to staff. Currently, the applicant has only submitted a landscaping plan, which shows the new portion of the parking lot and not what is existing on Sea of Smiles parking lot, so we are not able to determine the overall proposed landscaping. The applicant has provided a calculation for the pervious surface to demonstrate compliance with Case 3-2007 Anderson, as well as a relocation of the driveway to align with the Post Office.

Ms. Donovan stated that the proposed parking lot will work well with the adjacent property of Sea of Smiles, adding more parking that they have expressed that they need

for both staff and visitors. The applicant is proposing to remove some vegetation from the northern property line, however, this was at the request of the current owner, which the applicant has also agreed to install a privacy fence as a buffer. There is still a need for landscaping to be included on the western edge of the property to provide a buffer.

Ms. Donovan stated that the variance would not adversely affect public services. The applicant is proposing to construct a landscaping swale between the east side of the parking and the privacy fence. This proposed swale will intercept surface flow and direct the flow to the proposed storm water detention basin to be located at the western edge of the site.

Ms. Donovan stated that the Land Use Map from the 2016 Comprehensive Plan Update identifies the property in question as transitional mixed use, which is identified as "Moderate-density detached housing, low-intensity office uses (such as the conversion of single-family residence) and related compatible uses (excluding retail and industrial), that provide a transition between residential uses and other types of development." Staff believes that the use of this property as a parking lot serving the existing dentist office is consistent with the Comprehensive Plan's Land Use Map designation of transitional mixed use. In addition, the applicant is also proposing to continue the sidewalk north on Nagel as part of the Anderson Township trails network, consistent with the Trails and Walkways Plan.

Ms. Donovan stated that staff recommends the following conditions be placed in order to approve the special zoning certificate request:

1. A complete site plan of both 1339 Nagel and 1319 Nagel shall be submitted containing both existing and proposed parking spaces.
2. The properties shall be consolidated, or an easement shall be in place prior to issuance of a zoning certificate.
3. A complete landscaping plan for the site shall be submitted demonstrating compliance with Article 5.3, L of the Anderson Township Zoning Resolution, including a streetscape buffer, as described in Article 5.3, D, 1, d of the Anderson Township Zoning Resolution.
4. A lighting plan shall be submitted in compliance with Article 5.3, K of the Anderson Township Zoning Resolution.

Mr. Halpin asked if any of the recommendations have been addressed. Ms. Donovan replied that our main concern is the streetscape buffer, which we still aren't seeing the front of the existing building on this plan. Ms. Donovan stated that staff recommends a landscape plan containing the entire site at 1319 and 1339 Nagel Road be submitted to clarify what is existing and what is proposed.

Mr. Haber asked about the procedure of the meeting and considered the board's options. He stated that there is a list of information that is being requested to be included so the board could continue this until the next meeting, so the applicant can provide the information, and another option would be to approve the request based on information that we have in hand with it being contingent upon staff being satisfied that the other items are acceptable. He asked how the board wishes to proceed so he knows what questions he needs to ask. Ms. Donovan replied that those are the options.

Mr. Nye asked about a special use certificates with regards to Article 2.12, D, 8, c of the Anderson Township Zoning Resolution which says the Board of Zoning Appeals can grand special use certificates for a parking lot within 200' of a boundary of an "Office", "Limited Office", "Commercial", or "Industrial" district, and asked for clarification on if "OO" Planned Office fell within the defined terms in Article 2.12, D, 8, c of "Office" and "Limited Office." Ms. Donovan replied that we considered it office.

Mr. Nye stated that Article 2.12, D, 8, c, uses defined terms for an "Office" district and a "Limited Office" district saying the Board of Zoning Appeals can grant a special use certificate adjacent to those districts, but the actual district that the property in question is adjacent to is not listed in the Article. He stated there may be a reason for this, as "OO" Planned Office has additional requirements and needs to be approved by Zoning Commission and the Board of Township Trustees, and by zoning that parcel "OO" Planned Office ten (10) years ago, the Board of Trustees were saying if we want additional development off of this Planned Office district, we need to approve a plan for it. He stated he likes the plan and he would vote in favor for it subject to the conditions in the staff report, but he questioned whether it should be in front of the BZA or Zoning Commission and if it should be a zone change request. He stated that we don't actually have zoning districts called "Commercial" or "Industrial", but rather "Retail", "Light Industrial" and "Heavy Industrial" so maybe the terms are intended to be generic descriptors or maybe the vocabulary was not updated from previous versions of the Anderson Township Zoning Resolution. Ms. Donovan replied that staff discussed whether to send them through Zoning Commission or Board of Zoning Appeals, and the Board of Zoning Appeals has heard cases similar to this one, which are adjacent to office uses which is why staff felt the case should be heard by the Board of Zoning Appeals.

Mr. Bowers stated that ultimately, staff considered the use of the property to be "Office" which is why Article 2.12, D, 8, c was applicable and why we decided the case should be heard by the Board of Zoning Appeals.

Mr. Haber stated he has no problem with this being brought through the Board of Zoning Appeals and said he is okay with hearing the case, but his question as far as procedure and how the Board wants to proceed given that we are still lacking some information from the applicant.

Mr. Sian stated that it would be best to let the appellant come forward and the Board can ask questions, and at that point the Board can decide if they want to approve it conditionally or continue it to next month.

Mr. Nasilevich stated that he is ok moving forward with the conditions, empowering staff to enforce the conditions. **Mr. Haber** agreed.

Mr. Haber asked about the last statement at the end of the history section in the staff report regarding an existing variance for parking on an adjacent church property approved with Case 10-2012 which the applicant states that the agreement is about to become void. He asked if that agreement between the applicant and the church for additional parking would then become null and void because of the additional parking being proposed. Ms. Donovan replied it would not become null and void because of the newly proposed parking. She stated with Case 10-2012 BZA the Board conditioned that a parking agreement be in place and with that, the applicant and the church have a parking agreement with a time constraint, so they would either need to come to a new agreement or let it expire.

Carl Hartman, engineer on behalf of the Dr. Gennantonio and Three Gen LLC, property owner, introduced Doctor Kate who can answer any questions about the practice. He stated we have here a business that started ten (10) years ago and expanded to a point where the parking on site is not adequate for patients and staff. He stated that the agreement the applicant has with the church is expiring and they felt it would be best if they could have control of parking on their own property. He stated the plan before the Board would get rid of an eye sore with the removal of a boarded-up house. He stated they are also relocating the driveway to line up with post office, which was approved with Hamilton County Engineers Office in concept. He stated they could work with staff to meet the staff recommended conditions. He stated they are considering either having an easement in place or combining the parcels, although they cannot be combined until a plan has been approved since the sale of the property is contingent upon zoning approval. He stated they haven't decided on any lighting at this point, but it will be discussed with staff and they will conform with the Township's lighting regulations. He stated that they submitted a revised Landscaping Plan and if that's inadequate, they can work with staff and submit a revised plan. He stated that they find the staff recommended conditions to be acceptable and feels confident that they can work with staff to accomplish their concerns.

Mr. Haber asked if Three Gen LLC is the current owner. **Mr. Hartman** replied yes.

Mr. Haber asked if it was his intention, assuming the case will be approved, to proceed with purchasing the property and consolidating it. Mr. Hartman replied the parcels cannot be consolidation without the approval of this Board.

Mr. Haber asked if, once it's been approved, they will purchase and consolidate the parcels and it's understood that that is a condition before the issuance of a zoning certificate. Mr. Hartman replied yes.

Mr. Nye asked about the timeline on the conditional approval from this Board to exercise the option to purchase of the property. Mr. Hartman stated he is not sure of the arrangements between the practice and Mayerson.

Mr. Halpin asked about the parking agreement with the church that is going to expire and stated that once the new parking lot expansion is built, there would be no need for the parking agreement. Mr. Hartman stated yes that agreement would be null and void.

Mr. Nye asked about whether this should be before the Zoning Commission or Board of Zoning Appeals and if they considered that. Mr. Hartman stated he met with staff and that it was staff's direction.

Mr. Haber asked about accessible parking spaces. Mr. Hartman replied that the existing parking has accessible spots and a bicycle rack, although it is not shown on the plan.

Mr. Haber asked if staff needs that to approve it. Ms. Donovan replied that to approve the plan staff needs to see the whole site.

Mr. Sian asked when the current parking agreement with the church ends. Mr. Hartman replied sometime in 2020.

The public hearing was closed at 5:58 pm

Deliberation of Case 2-2019 BZA

The board discussed the request for a special zoning certificate.

Decision and Journalization of Case 2-2019 BZA

Mr. Haber moved, and **Mr. Halpin** seconded, with staffs recommended conditions.
Vote: 5 Yeas

Election of Officers

Mr. Halpin moved, and Mr. Nye seconded to appoint Mr. Sian as Chair, Mr. Nasilevich as Vice Chair and Mr. Halpin as secretary.

Vote: 5 Yeas

The next meeting is scheduled for Thursday, March 7, 2018, at 5:30 p.m. at the Anderson Center, 7850 Five Mile Road, Anderson Township, Ohio.

The meeting was adjourned at 6:20p.m.

Respectfully submitted,

Paul Sian, Chair
YAN NASILEVICH


