

Held September 27, 20 2021**VA21-09 9616 Mink Street Use Variance**

The meeting of the Board of Zoning Appeals was called to order by Chairman Reis at 6:01 p.m. on September 27, 2021, at the Etna Township Administration Building at 81 Liberty Street. The roll call showed members Sarah Benoit, Shannon Mills, Greg Reis, Tommy Hunt, and Trent Stepp present, along with Clerk Laura Brown.

Public Meeting

Trent Stepp moved to waive the public reading and approve the minutes and sign the final order from the July 27, 2021 for the area variance VA21-08 for 13471 Palmer Road for Kirk Elliott. The motion was seconded by Sarah Benoit. The roll call on the motion was as follows: Sarah Benoit, yes; Shannon Mills, yes; Greg Reis, abstain; Tommy Hunt, yes; and Trent Stepp, yes; The motion passed.

Chairman Reis explained the process for the hearing and Zoning Inspector John Singleton along with applicants Phillip and Consuella Oliver along with Rebecca Mott from Plank Law firm were sworn in.

Chairman Reis called the adjudicatory hearing to order at 6:05 p.m. The nature of the hearing was to consider the Use Variance request VA21-09 for the application submitted by Phillip and Consuella Oliver for 9616 Mink Street to permit multi-family residential units.

Trent Stepp stated for the record he is the appointee for Etna Township as a board member for the Southwest Licking Community Water and Sewer District. The district owns property contiguous to this property. Trent Stepp does not have any personal stake in the property or the use that is being considered tonight and does not feel his participation would be in conflict, however, if the board or applicant feels he does Trent Stepp would be happy to recuse himself. Rebecca Mott asked if they have an issue with this applicant and Trent Stepp confirmed the District did not discuss this property or request. No one has a conflict with Mr. Stepp.

John Singleton, Zoning Inspector, reviewed the Staff Report that was provided. The applicant is seeking a variance from Section 907 which does not permit multi-family dwellings in a General business (GB-1) District. The Etna Township Zoning Resolution and Zoning Map do not have any districts that are straight zoned to allow for multi-family dwellings. The places multi-family dwellings are permitted are in special districts like Planned Mixed Unit Developments. The Etna Township Comprehensive Plan and Future Land Use Map show the area in questions as Local Commercial Use. The Comprehensive Plan addresses where multi-family dwellings should be located in the township and the largest area identified is on the western border near Reynoldsburg and the other area identified is in the Gateway area located between I-70 and US40 on the east and west sides of SR310. The property is currently zoned General Business (GB-1) with over four hundred and fifty different uses permitted. Approximately half of the parcel does lie within a flood plain.

John Singleton discussed the possibility of mitigating the flood plain or constructed a retention/detention pond.

Rebecca Mott with the Plan Law Firm who represent the property owners. This is a 4.3 acre parcel located in Etna Township zoned General Business District (GB-1) and currently being used as a single family residence. The other properties located in this area are zoned GB-1 and being used as residential. Rebecca Mott presented five pictures of the property showing the frontage, across the street, three different aerials along with a Preliminary Site Plan which were submitted as Exhibit 1. The applicant is requesting a use variance. The request is for a maximum of twenty dwelling units which is a low to medium density project with six to eight dwelling units within three buildings. The property owner has also applied for a rezoning to the R-2 district which is the highest density single family residential district. The use variance can be used within the current GB-1 District also. This can be approved without the rezoning. The land planner that was hired by the property owner believe multi-family is the highest and best use of the property. The most intense commercial uses would be permitted without a rezoning. Traffic is not an issue this evening because traffic would have been discussed when the property was rezoned as commercial. The multi-family use would be less traffic than a commercial use. The property has limitations that hinder commercial uses such as low visibility, it wraps around a single residential community, shape and configuration of the property along with the flood plain restrict the property for a commercial use. This development would help support the local business and commercial development by providing a place for employees to live. In the Etna Township Comprehensive Plan on page 64 it states, "The need to provide housing for younger adults, empty nesters, students, and other people who want to live in apartments or condos is important."

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Etna Township Board of Zoning Appeals

Held _____ September 27, _____ 20 _____ 2021

Rebecca Mott reviewed Exhibit B from the application explaining how the applicant meets the Standards for Granting a Use Variance under Section 513(B) of the Etna Township Zoning Resolution.

In the Etna Township Comprehensive Plan on pages 48-49 (See notes)

Rebecca Mott discussed the Flood Plain on the property. This area has not flooded one time in one hundred years. The applicant can request from FEMA a change in the flood plain map. There will be fill dirt required to develop the property and the applicant will have to work with FEMA. The development is out of the flood plain.

The Zoning Commission held a public hearing in September and tabled the decision so the Zoning Inspector could present his information. Rebecca Mott explained the property owner does not need the rezoning if the board feels they meet the criteria for the Use Variance it can be granted under the General Business District Zoning.

The adjacent property owners were notified of the hearings and Rebecca Mott believes the property owner has spoken with at least one neighbor.

John Singleton discussed the density and 4.6 unites per acre will be medium to high density. Rebecca Mott believes this will be low density.

John Singleton stated the buffer between General Business and Residential is a twenty-foot buffer. If this property is developed as commercial it will require some buffering and screening. Rebecca Mott stated this shows an indication that it is incompatible to the neighborhood.

John Singleton feels the Comprehensive Plan calls for local commercial in this district and calls for multi-family on page 65 along the western edge of the township bordering Reynoldsburg and the gateway area. Multi-family is permitted in the Planned Mixed use and Planned Residential Districts. Rebecca Mott stated multi-family is not permitted in a straight zone districted and not feasible.

Rebecca Mott explained the Turf Block Fire Access Lane which allows for the equipment to turn around in this area. The features of the development were also discussed.

Trent Stepp feels the Board of Zoning Appeals is required by Statute to follow the Etna Township Zoning Resolution as opposed to the Comprehensive Plan. This board is limited to Section 513 and Section 907 General Business District. Trent Stepp discussed she mention the "highest and best use of the property" and he feels our standard is "any economically viable use". Trent Stepp referenced a handful of uses that were mentioned at the beginning of the presentation and inquired if those uses are not economically viable uses of the property. Rebecca Mott stated they are requesting a Use Variance and she presented all of the criteria required under for the Use Variance in the Zoning Resolution and the Comprehensive Plan references do meet one of the factors and should be considered along all factors for granting the variance. The hardship is when the township removed the access to any multi-family residential from the Zoning Resolution. This property is not a viable site for a commercial use. Trent Stepp stated there are other viable uses for this property. Rebecca Mott feels on US40 the commercial uses are viable but not on Mink Street. Chairman Reis stated there are four hundred and fifty uses in the General Business District and there are uses that would be profitable for this property.

Chairman Reis explained the Board of Zoning Appeals has to rule on the Zoning and not the Future Land Use plan. This area is zoned General Business and this request would be a multi-family use in the middle of it which would be close to creating a non-conforming situation. Rebecca Mott explained that the Etna Township Zoning Resolution allows for Use Variances for this type of situation and the board can not just use one factor like economic feasibility to deny. Chairman Reis stated the board will decide by using all eight of the criteria and can put more weight on one of the criteria over the others. Rebecca Mott feels this use is compatible for the area. The surrounding commercial uses to this property were discussed along with the properties that are residential uses.

Public Comments

Philip Oliver of 9616 Mink Street is the property owner requesting the Use Variance. The majority of the businesses are along US40. There are a few businesses in this area that have access to Mink Street. Mr. Oliver explained what each of the properties do in this area such as a church, concrete business, park, pizza shop, and residential. There is no interchange to I70. The traffic is backup during the day on Mink Street. The Oliver's have lived in the area for twenty-five years.

David Phelan of 9588 Mink Street was sworn in and owns the property north of this property. Mr. Phelan discussed the flood plain on the properties and he has concerns with flooding and water.

RECORD OF PROCEEDINGS

Minutes of

Meeting

DAYTON LEGAL BLANK, INC., FORM NO. 1014B

Etna Township Board of Zoning Appeals

Held September 27, 20 2021

Trent Stepp moved to close the public testimony portion of the hearing at 6:55 p.m. The motion was seconded by Sarah Benoit and passed by unanimous affirmative vote.

The board discussed that most property owners are looking to go to a General Business District because there are so many uses permitted in the district. The neighborhood appears to be changing and the traffic on Mink Street has increased. This entire area of the township was zoned General Business District intentionally in large rezonings by the township. The zoning on the south side of I70 is Agricultural, Local Business, and Residential. The board discussed the current uses and zoning and what use would be good for this area. The R-2 zoning does allow for duplexes but there is no multi-family in this area.

The board reviewed the Standards for Use Variances.

The property cannot be put to any economically viable use under any of the permitted uses in the Zoning District. There are four hundred and fifty uses in the General Business District.

The variance requested stems from a condition that is unique to the property at issue and not ordinarily found in the same zone or district. The board discussed taking it out of the General Business and not conforming it to what is currently zoned in this area. This would create a unique condition.

The hardship condition is not created by actions of the applicant. The applicant purchased the property in 2005 and did not create the hardship. The board was not able to confirm when this was rezoned to General Business District.

The granting of the variance will not adversely affect the rights of adjacent property owners or residents. The board discussed whether this is setting a precedent or standard for this area by approving this Use Variance. The board also discussed what use is best for this area between commercial or multi-family.

The granting of the variance will not adversely affect the public health, safety or general welfare. The board does not feel it would.

The variance will be consistent with the general spirit and intent of the Zoning Code. The board discussed the township zoned it General Business District for a reason. The township has intentionally removed the multi-family from the Zoning Resolution under the straight zoned district. It is only permitted in the Planned Unit Districts. The board has to rule following the language of the code.

The variance sought is the minimum that will afford relief to the applicant. The board discussed the multi-family use that is being requested.

The granting of the variance requested will not confer on the applicant special privileges that are denied by this resolution other lands, structures, or buildings in the same district. Granting this variance would create a use that is denied to others in the same district.

Greg Reis moved to deny Use Variance VA21-09 submitted by Phillip and Consuella Oliver for 9616 Mink Street to permit multi-family residential units because the Standards for 'unnecessary hardship' (Section 513.B.) have not been met. The motion was seconded by Trent Stepp. Discussion: The board has to follow the way the Zoning Code is written. The roll call on the motion was as follows: Sarah Benoit, yes; Shannon Mills, yes; Greg Reis, yes; Tommy Hunt, yes; and Trent Stepp, abstain; the motion passed.

Trent Stepp moved to adjourn the meeting at 7:17 p.m. The motion was seconded by Sarah Benoit and passed without objections.


Laura Brown, Clerk


Greg Reis, Chairman



81 Liberty Street
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Phone 740/927-7717 Fax 740/927-1699

Members: Sarah Benoit-Eric Nickolas-Greg Reis-Mark Schaff-Trent Stepp
Alternates: Tommy Hunt - Shannon Mills

FINAL ORDER

The Etna Township Board of Zoning Appeals held an adjudicatory hearing on September 27, 2021 to consider the Use Variance request VA21-09 for the application submitted by Phillip and Consuella Oliver for 9616 Mink Street to permit multi-family residential units.

The board moved to deny Use Variance VA21-09 submitted by Phillip and Consuella Oliver for 9616 Mink Street to permit multi-family residential units because the Standards for 'unnecessary hardship' (Section 513.B.) have not been met. Discussion: The board has to follow the way the Zoning Code is written. The roll call on the motion was as follows: Sarah Benoit, yes; Shannon Mills, yes; Greg Reis, yes; Tommy Hunt, yes; and Trent Stepp, abstain; the motion passed.

Excused

Sarah Benoit

Excused

Tommy Hunt

A handwritten signature in blue ink, appearing to be "Shannon Mills", written over a horizontal line.

Shannon Mills

A handwritten signature in blue ink, appearing to be "Greg Reis", written over a horizontal line.

Greg Reis

A handwritten signature in blue ink, appearing to be "Trent Stepp", written over a horizontal line.

Trent Stepp

The Final Order was approved and signed: 12/28/21

The Final Order was mailed/mailed to applicant on: 12/30/21