



**Board of Zoning Appeals & City Planning Commission Minutes  
Tuesday, January 4, 2022  
6:30 P.M.  
Via Video and Audio Conference**

Members Present: David E. Weiss, Mayor  
Sean P. Malone, Council  
John J. Boyle III, Member  
Kevin Dreyfuss-Wells, Member  
Joanna Ganning, Member

Others Present: Joyce G. Braverman, Director of Planning  
William M. Gruber, Director of Law  
Daniel Feinstein, Senior Planner  
Hans Walter, Architectural Board of Review, Chair  
James Neville, Architectural Board of Review, Vice-Chair  
Robert Sullivan, Architectural Board of Review, Member

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The work session and meeting was called to order by Mayor David Weiss at 6:30 p.m.

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**Joint Work Session with the Architectural Board of Review  
6:30 PM**

Van Aken Mews Townhomes – Van Aken Boulevard at Sutton Road.

Discussion held regarding location, massing, landscaping, parking, and architectural details.

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**Regular Meeting  
7:15 PM**

Approval of the December 7, 2021 Meeting Minutes

It was moved by Mr. Boyle and seconded by Mr. Dreyfuss-Wells to approve the minutes with corrections.

Roll Call: Ayes: Weiss, Malone, Boyle, Dreyfuss-Wells, Ganning  
Nays: None

Motion Carried

**CITY OF SHAKER HEIGHTS**

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**# 2148. PALOMA RESTAURANT – 20041 WALKER ROAD:**

A Public Hearing was held on the request of Richard Lalli, architect, representing Van Aken BC, LLC, 20041 Walker Road, to the Board of Zoning Appeals for a variance to the CM Commercial Mixed Use zoning district design standards. A variance was approved in August of 2017 to locate the primary entrances at the corners of the building close to Farnsleigh Road. The applicant proposes that the first floor space utilize a door facing the Living Room Park as the primary entrance instead of the door at the corner with Farnsleigh Road. The Farnsleigh corner entry door is proposed to only serve an elevator and stairway to the second floor special event space. This is a change to the original variance approval and requires review. The CM Commercial Mixed Use zoning district design standards require a primary entrance to face and be accessible from the main street.

Mr. Feinstein showed pictures of the site. He said this is a request for a variance to the CM Commercial Mixed-Use zoning district design standards for an entry facing the street. The applicant proposes the first floor primary restaurant space to utilize a door facing the Living Room park instead of the designed entry at the corner of Farnsleigh and Walker Roads. The Farnsleigh Road entry would serve as entry to the second floor use. This is a change to the 2017 variance to allow the doors to face the side streets of Walker and Tuttle Roads, rather than Farnsleigh Road. A variance was approved in 2019 to locate the eastern restaurant space with the first floor entry door facing the park with the Farnsleigh Road entrance serving the second floor use. The same request is now made for the western side restaurant entry of this building. . The Architectural Board of Review continued the design with comments to lower the corten steel vertical entry element and to work to address the window condition at the interior walls and bathroom. Staff supports this request with the condition that the first floor entry be designed as a main entry per the Architectural Board of Review

Susan Frankel, PE, RMS, said this is a similar situation to the occupancy of the eastern end of the building. The upper tenant has a Farnsleigh Road address and the first floor tenant has the side street address, in this case Walker Road. This end of the building has differing floor levels from the Farnsleigh entry vestibule to the first floor. There is no practical link on the interior. The Architectural Board of Review approved of the proposed entry location facing the park with a few comments regarding details of the steel element adjacent the entry doors. It has taken the owner a significant time to lease this space due to the size and arrangement of the building plus the pandemic's effect on restaurant uses. The upstairs will be a mock up for the Van Aken District Phase II apartment building and then eventually an event space for the District. She said the entry is easily seen and identified from Walker Road.

Mayor Weiss asked if there will be signage on the Walker Road side of the building.

Ms. Frankel said they have not yet designed the signage. Signage will be similar to the other side of the building and will be visible from Farnsleigh Road. The gate around the outdoor patio funnels pedestrians into the main entry door area.



submitted. The bocce court, garden and fence are no longer proposed. Four healthy trees will be removed to create a building site and driveway and four new shade trees are proposed to be planted which meets the tree preservation code requirements. Site plan review is required for all new houses.

Mr. Feinstein showed slides of the site. He stated this is a continuation of a request for site plan review and variances in order to build a new house at the corner of South Park Boulevard and Warwick Road. The request was continued at the December 7, 2021 meeting with several comments centering around a bocce court, garden and fence, a water feature and garage location. The applicant has submitted revised plans which eliminate the bocce court and garden fence. The new house needs site plan review and variances to the water feature and garage locations. The water feature has been reduced in size at the front of the house. Code allows an ornamental accessory use in the rear yard only. The submitted garage studies show pros and cons for several locations. The proposed garage location is in the eastern side yard. Garages are allowed in the rear yard only. The Architectural Board of Review reviewed the house design and supports the preliminary design with some relatively minor comments. Staff supports the revised request with the condition of tree protection fencing being installed around the existing trees before construction.

Rob Shearer, architect, described revisions made to the site and said they met with neighbors. The requested zoning variances are for the side yard garage and front yard water feature. Because this is a corner lot it is difficult to define and site the house and accessory uses in the yard. They evaluated the whole site. This is the best location for the garage with the least effect on neighbors. There are no neighbors across South Park Boulevard to view the garage door. If the garage faces Warwick Road, the whole street will see it. He showed pictures of other garages that face South Park Boulevard. They have added screening to the South Park Boulevard view and added screening to the side neighbors to hide the garage. He showed alternative studies of garage locations. The garage entrance and main entrance need to be close together to serve the accessibility needs of this owner which creates a hardship of location and proximity. The rear yard location examples lose trees, add pavement, are remote from the house entry and cannot be screened. The garage location also improves the architecture and massing of the house toward South Park Boulevard.

Alexander Kolbe, architect, said this garage location is the least harmful location. It creates the least amount of driveway and close direct access to the front entry and elevator. They met with the neighbors and listened. The South Park Row neighbors favor this garage location. The driveway and garage will help to support and secure the Miller's driveway.

Mr. Shearer said the full site storm water drainage was evaluated. The landscape water feature drain flow collects water on this lot from other neighbor's lots. The existing topography shows a low area in the front yard. They cannot just raise the level of the site and drain to the street, as it would kill the existing trees. This solution deals with moving storm water and holds and rehydrates the soil of the site. They have created a meandering water feature. Falling water is the only noise with water pooling in an 18 inch basin and with a 6 inch fall. They can adjust the water volume. He used an app on his phone to simulate falling water. He tested and confirmed the water feature will not be heard across the street. There is always background noise in the area which makes more noise than the water. The pooled water level is lower on the site so landscaping will give it a natural look. The pump is submerged and not audible. He described the workings of the water feature and the circulation.

Mr. Kolbe explained this is a natural rainwater capture feature, not a big fountain. This will be a drizzle of water over some stones.

Mr. Shearer said that code Section 1262.10 addresses ornamental structures but does not seem similar to their proposed water feature. Section 1221.04 B 10 accessory uses lists landscape features as including fountains. That section is not restricted to the rear yard only. This feature is much more like the items in Section 1221.04 B 10. There is another water feature in a front yard not far from this property.

Mr. Dreyfuss-Wells said he appreciates the time to prepare the garage location options comparison. He asked about the option that moves the garage to the rear yard.

Mr. Shearer said the separation of the two entries is much farther and does not serve visitors or the accessible needs of the owner.

Mr. Kolbe said the Warwick Road and South Park Row neighbors would then see the garage from their front windows.

Mr. Boyle said the issue is not which way the door faces, but the side yard location. He supports the proposed garage location in the eastern side yard.

Dr. Ganning asked if a water feature in the front yard sets precedent for a future hot tub in the front yard as was previously proposed at another property.

Mr. Feinstein said a hot tub is not classified as an ornamental structure and has different location requirements so precedent would not be closely related.

Mr. Malone said the applicant makes a good point about the different code sections and how they relate to the water feature. This proposal is more like a landscape feature than an ornamental structure.

Mayor Weiss agreed and that with more landscaping around the water feature he would support a variance. This is more like landscaping. Corner lots are challenging to site accessory uses. In this instance the side yard garage avoids other problems. The request is the best configuration on this site.

Mayor Weiss opened the Public Hearing.

Mr. Feinstein summarized a letter from Diane Foley of South Park Row of her concerns regarding the water feature.

Mr. Feinstein summarized a letter from Mr. and Mrs. Schloss of South Park Row concerned about the water feature and supporting the side yard garage location.

Marino Miller, 13970 South Park Boulevard, said it was good to talk with the architect. His driveway slopes to the neighboring property and support will be needed. He suggests a driveway off of Warwick Road. They have water in their front yard too.

An Anonymous attendee asked why not flip the garage and have the garage face the back yard.

Malcolm Challiah, 13980 South Park Boulevard, asked why not flip the house and have the garage face the back. Then it would not be visible to South Park Boulevard instead of next to the Miller's.

Mr. Kolbe said the garage location and house design and layout optimizes the house for solar gain. If flipped to face north the layout goes against all the net zero energy efficiency design elements they considered when designing the house. A major design ideal of this proposed net zero home is energy efficiency taking advantage of the sun and trees' natural position.

Mr. Shearer said flipping the house makes the garage face Warwick Road, which is more visible to everyone on Warwick Road. There will be less grade change once they raise the house and driveway which will help elevate the drop into their yard from the Miller's.

Mayor Weiss said he assumes the applicant has to do whatever is necessary to support the neighbor's driveway and vice versa.

Mr. Gruber said the Building Code does review the grade and drainage. The code will not address existing drainage from other properties.

Mr. Kolbe said the Miller's house is raised, which creates the difference in grade. This new construction will help stabilize their lot and their driveway. It is in their interest to make sure the garage and driveway are adjacent to their property line.

Mr. Boyle said he supports the side yard garage location.

Heather Schloss, 13900 South Park Boulevard Unit 2, said she does not want to face the driveway and garage. No one needs to look at the front view of the garage. They are original owners in South Park Row and do not want to look at a driveway onto Warwick Road. Save the trees instead. She is comfortable that adjusting the water can lower any noise from the water feature.

Mayor Weiss asked about the height of the falling water.

Mr. Shearer said he can adjust the amount of water adjacent to rocks to control the water and noise.

Mr. Boyle supports approval of the garage in the eastern side yard with grading and new landscaping. He also supports the water feature with the design approved by staff, with tree protection fencing, and additional landscaping around the front yard.

It was moved by Mr. Boyle and seconded by Mr. Malone to approve the request based on the findings of fact and conclusions of law as set forth in the Action Sheet with the following conditions:

1. The grading and landscaping along the driveway on the eastern property line is to be approved by staff review with the understanding that the Building Department will review grading and drainage;
2. Additional landscaping is added and the water flow and sound level of the water feature is to be approved by staff; and
3. Tree protection fencing is erected before construction to protect existing trees.

Roll Call:                   Ayes:   Weiss, Malone, Boyle, Dreyfuss-Wells  
                                  Nays:   Ganning

Motion Carried

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## CITY PLANNING COMMISSION

### **#2149. CHIPOTLE RESTAURANT – 3530 WARRENSVILLE CENTER ROAD:**

A Public Hearing was held on the request of Fred Margulies, Onyx Creative, representing Dan Carducci, Shaker FV Holdings, 3530 Warrensville Center Road, to the Board of Zoning Appeals and City Planning Commission for a Conditional Use Permit, site plan review, variances and subdivision of land in order to construct a new Chipotle Restaurant on Warrensville Center Road, south of Chagrin Boulevard. A Conditional Use Permit is required for the drive-through pick-up window. Site plan review is required to construct a new restaurant building on this vacant lot. Variances are requested to the requirements regarding the rear buffer, front and side yard maximum building setbacks, parking and lighting. The rear landscape buffer is 10 feet 5 inches at the southern end of the property while code requires a 20-foot wide landscape buffer bordering a residential zoning district. The front building setback is 15 feet with a patio facing Warrensville Center Road. The maximum front yard setback allowed is 10 feet. The side yard setbacks are 56 feet 6 inches to the south and 38 feet 8 inches to the north. Code allows a maximum setback of 1/3 the building height, which is 6 feet 8 inches. There are 27 parking spaces with a proposed driveway access to the Wendy's parking lot. Code requires 31 parking spaces. The lighting plan shows light encroachment over the north and south property lines of greater than the 1 foot candle of light trespass allowed by code. A Commercial Mixed Use district design standard variance is requested to the requirement for 60 percent clear first floor windows facing the street. Windows are proposed as 49 percent of the first floor building façade facing Warrensville Center Road. Subdivision of land is required to combine parcel numbers 736-29-045 and 046 into one parcel. The Conditional Use Permit requires Council confirmation.

Mr. Feinstein showed slides of the site. He stated this is a request for site plan review, a Conditional Use Permit, and variances for a new Chipotle restaurant building with a drive-through pick-up window on vacant land. The applicant proposes to build on this site just south of Wendy's on Warrensville Center Road. A drive-through pick-up window is proposed at the rear of the building. A drive-through requires a Conditional Use Permit. Variances are requested to the front and side building setbacks. The building is 15 feet off Warrensville Center Road. Code allows a maximum setback of 10 feet. The maximum side yard setback is 1/3 the height of the building, which is 6 feet 8 inches in this case. This building has a 56 foot 6 inch setback to the south and 38 feet 8 inches to the north. The number of parking spaces provided is 29, while code requires 31 for a take-out restaurant. The rear yard buffer is proposed at 10 feet 5 inches at the southern end of the property. Code requires a 20-foot wide landscape buffer adjacent to residential zoning. The lighting plan indicates light trespass across the side property lines in excess of the code allowance of one (1) foot candle of light. A traffic study has been submitted. The Architectural Board of Review has reviewed the project twice and supports the design direction with several comments as outlined in the Staff Report. Staff suggests continuation of the request with the comments as listed in the Staff Report.

Dan Carducci, Shaker FV Holdings, said he heads the group that owns the property. He introduced Fred Margulies as the architect.

Mr. Margulies said this project builds a Chipotle restaurant and creates a more cohesive development with the next door Wendy's site. They have worked with the Architectural Board of Review to design

the building. They are aware they cannot get final approval at this meeting due to a lack of civil engineer information.

Mr. Carducci said they are trying to unify the uses on the adjacent sites. He understands the struggle with the first food drive-through 40 years ago. This is a good transition between the existing Wendy's and the Chipotle site. Citizens like the ability to use Wendy's drive-through and will like to use the pick-up drive-through at Chipotle as well. There is no menu board, no speakers or order system. Customers order online and get notice when their order is ready. Cars do not stack more than 4 deep. An average wait at the window is 1 minute 20 seconds. If a customer shows up early, then they park and have their order brought out or re-enter the pick-up line.

Dr. Ganning asked about the driveway connection to Wendy's. She is concerned with the connection as Wendy's traffic does back up at busy times.

Mayor Weiss asked about the access and parking easement.

Mr. Carducci said an easement is drafted to provide cross parking and access. It just needs to be executed.

Ms. Braverman said the applicant should have their engineer present the traffic study. The traffic study is focused on the Chagrin Boulevard and Warrensville Center Road intersection. It does not address internal circulation.

Mr. Margulies said additional parking of only a few spaces are needed to meet code.

Mr. Carducci described additional parking to be shared between the two properties.

Mayor Weiss said it is difficult to get out of Wendy's and go north on Warrensville Center Road. Can that be helped or alleviated?

Mr. Carducci said the exit proposed at Chipotle is further south so it should be easier. Another option is to go through Wendy's to Chagrin then turn right, then make a left onto Warrensville Center Road. He cannot make changes to driveways on the Wendy's site.

Ms. Braverman asked that the traffic engineer be present to describe and present the drive-through peaks and waiting times, as well as the Wendy's movements. They should relate this site to the Chipotle at Cedar/Fairmount, which has access to a side street and Cedar Road. Where are waiting spaces? How many are proposed? What type of signage is proposed?

Mr. Margulies said there was an office building here with more parking that extended right up to the rear property line so their project is an improvement on that. Chipotle did give them some drive-through numbers, so they can compare.

Mr. Boyle asked if there is eat in. Is there a patio? How many seats are there? We need to think about the number of employees, where they park, the number of customers that park, eat in and wait for orders.

Mr. Dreyfuss-Wells asked about the brick wall structure and suggested other types of exterior materials that are more brick-like.

Ms. Braverman said an interior floor plan needs to be submitted to help analyze this plan.

Dr. Ganning said neighbors do back up to the site. She asked to show their houses and garages in relation to this proposal.

Mayor Weiss opened the Public Hearing.

Mr. Feinstein read a summary of an email from Gregory Jonas at 3561 Lytle. Mr. Jonas said the development poses risks to the owners in the form of noise and light that will be problematic and persist into the evening hours.

Dan Rhodes, 3555 Lytle Road, said the times of the drive-through is a concern and where it abuts their rear yard. Does this set precedent for third development by allowing this development?

Mayor Weiss said the Board and public have provided feedback to the applicant. They now have some work to submit the additional information and study the comments provided tonight. The case should be continued.

Continued for the applicant to address the following:

**Site Plan Review:**

- The detailed landscape plan needs to include installation heights, additional trees and bushes, firm species choices and landscape bed locations.
- The landscape plan needs to be designed by a registered landscape architect.
- The landscaping needs to be increased in the rear buffer area to meet Zoning Code intent in Table 1253.09.
- Provide streetscape plan per Section 1234.10 H. of the Zoning Code, showing how the proposed streetscape relates to adjacent streetscape design.
- Provide civil engineering plans of the site including site drainage.
- The site lighting plan needs to be revised to eliminate the light trespass and clarify lighting at the rear property line.
- Is the existing rear fence replaced with the new brick wall or left in place? When removed, how does this effect neighbors trees and fences?
- Show the existing conditions on the adjacent residential properties on the site plan including existing landscaping, trees, and structures.
- The traffic study requires further study:
  - Add a parking plan.
  - Analyze and present an internal circulation plan, stacking and waiting plan and signage to mitigate traffic backups.
  - Presentation and analysis by traffic engineer.
  - Cross-site circulation access plan and analysis with the Wendy's restaurant driveway and drive through line.
  - Compare drive through and parking with the Cleveland Heights Chipotle site at Cedar and Lennox.

- Include a summary of traffic volumes and movements at drive entrance/exit.

**Variiances:**

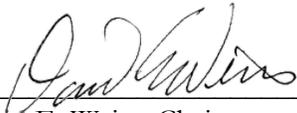
- Design Standards and Principals in Section 1234.10 Zoning Code—identify and justify variances per Section 1213.04 E Variance standards, including, but not limited to, a single use site vs. multiple uses, lack of building density, consistency with street and district context, open street facing windows, list of building materials, and streetscape improvements.
- Study increasing the size of windows on the front façade to maximize first floor open windows.
- Explore an alternate dumpster location not along the rear property line, so to increase rear yard buffer to 20’.
- Parking:
  - Provide details and formal agreements for the easement on the Wendy’s property, and shared parking with that property.
  - Provide building floor plans with seating layout and numbers.
  - Where will the employees park?
  - How many employees per shift?
  - The additional parking spaces on the Wendy’s property are not part of this proposal.
  - Identify location for waiting parking spaces.

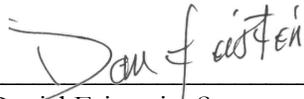
**Conditional Use Permit:**

- Provide a statement of need for the drive through pick up window at this location for this business.
- Justify the request per Section 1213.05 H CUP Standards in the Zoning Code.
- Drive-through pick-up window:
  - What are the expected peak numbers and hours?
  - What is the expected number of cars waiting in the parking lot?
  - How is a car notified to enter the pick-up line?
  - What is the procedure and timeframe to order/notification of pick-up?
  - Provide hours of operation, expected pick up/drive thru vs. eat in traffic.

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There being no further business, the meeting was adjourned at 9:30 p.m. The next meeting will be February 1, 2022.

  
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 David E. Weiss, Chair  
 Board of Zoning Appeals  
 City Planning Commission

  
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 Daniel Feinstein, Secretary  
 Board of Zoning Appeals  
 City Planning Commission