



**Board of Zoning Appeals & City Planning Commission Minutes  
Tuesday, February 1, 2022  
7 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

The meeting was called to order by Mayor David Weiss at 7:00 p.m.

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Approval of the January 4, 2022 Meeting Minutes

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

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

Motion Carried

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**#2151. BEVILAQUA/GILTINAN RESIDENCE – 3020 COURTLAND BOULEVARD:**

A Public Hearing was held on the request of Melissa Fliegel, Van Aukin Akins, representing Eric Bevilaqua and Elizabeth Giltinan, 3020 Courtland Boulevard, to the Board of Zoning Appeals for a variance to the front yard setback requirements in order to construct a new enclosed front entry. The applicant proposes to build a front entry 2 feet 8 inches beyond the required 75-foot front yard building setback. The front wall of the enclosed entry is proposed to be set back 72 feet 4 inches from Courtland Boulevard. The front entry is 12 feet 2 inches in width and includes a stoop and steps.

Mr. Feinstein showed pictures of the site. He stated this is a request for a variance to the front yard building setback requirements. The applicant proposes an enclosed front entry. The enclosed entry is 2 feet 8 inches in front of the 75-foot front yard setback. It extends to 72 feet 4 inches from Courtland

**CITY OF SHAKER HEIGHTS**



circulation. 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 7 feet 10 inches at one point 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, code requires 31 parking spaces. A shared parking agreement is proposed with the Wendy's restaurant property at 3516 Warrensville Center Road next door with internal access provided by a driveway between the two properties. The lighting plan shows light encroachment over the southern property line 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 for 49 percent of the first floor building façade facing Warrensville Center Road. There are 20 outdoor seats on a front patio and 42 interior seats. A variance is required as code allows outdoor seating to only be 30% of the interior seating total. 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 pictures of the site. He stated this is a request for a continuation of site plan review, a Conditional Use Permit, variances and subdivision of land for a new Chipotle restaurant. The applicant has submitted revised plans including moving the dumpster, changing the lighting plan, the landscape plan plus additional traffic circulation and stacking information. The new building is 15 feet off the front property line. Code allows a maximum of 10 feet. The building has side yard setbacks of 56 feet 6 inches and 38 feet 8 inches, while code allows a maximum of 6 feet 8 inches. The rear landscape buffer is 7 feet 10 inches at a 3-foot section when code requires a 20-foot wide buffer to residential property. There are 27 parking spaces on site. Code requires 31 for this take out restaurant. A shared parking agreement with the Wendy's property is proposed with a driveway connecting the two properties. The lighting plan shows more than 1 foot of light trespass at one point along the southern property line. The front elevation has 49 percent first floor open glass. Code requires 60 percent. There are 48 percent outdoor seats with 20 patio seats and 42 indoor seats. Code allows a maximum of 30 percent. The 3-foot tall patio fence extends to the front property line. Code requires a 5-foot setback. Two lots, 736-29-045 and 736-29-046 need to be combined. The Architectural Board of Review has reviewed the building twice. Their comments are in the staff report. Staff supports the revised request with a list of conditions in the staff report. Council confirmation of the Conditional Use Permit is required.

Dan Carducci, Shaker FV Holdings, introduced Andrew Pierson, TMS Engineers, and Lori Adler and Julie Karatich of Chipotle. Requirements for the project include site plan review, CUP for the drive-through and variances. None of these are based on financial hardship and the owner did not create them. There are hardship and practical difficulty reasons as outlined in their letter. Consolidation of both lots will follow the same process, as Wendy's to remove the paper alley from the plat. He described the site plan. The rear fence will be replaced and any existing fencing will be connected to their wall. The interior drive allows enhanced access to each street and allows cross parking. A parking agreement with Wendy's and Chipotle allows for adequate parking. The rear buffer is only too narrow where the property line jogs. The building architecture is a departure from corporate architecture per the Architectural Board of Review. The whole dining area is surrounded by two story glazing to the east and south. The architectural design breaks up the building design. This is a 2,506 square foot

restaurant with 42 seats. The CUP continues a similar use in the zoning district. There is no adverse impact as a permitted restaurant use. Traffic will not interfere with traffic on the streets. The rear yard property line and buffer also affect the available parking. The parking variance is mitigated with the cross parking agreement with Wendy's and has no detrimental impact. Fifty (50) percent of users will be drive-thru customers and not add parking demand. The light trespass is only on the south property line where there is commercial zoning. The public welfare is screened to provide adequate light for the accessible parking. The Architectural Board of Review reviewed the size and location of windows. Additional windows were added on the north side of the building per the Architectural Board. The south two story area provides an abundance of open glass. The setbacks and building size are not detrimental to the neighborhood. The other office buildings nor the Wendy's meet those setbacks either. The outdoor seating is per customer preference for outdoor seating with safer dining area.

Ms. Karatich explained the Chipotle operation, how the order app works, and how food pick-up occurs.

Mr. Carducci explained the traffic study. He said there will be a maximum 50 second delay to get onto Warrensville Center Road, which will not back up the driveway or into the pick-up lane. The queue study supports the 6 queue spaces as adequate. He asked for approval for all the items requested this evening.

Dr. Ganning asked about the outdoor seating limit.

Ms. Braverman said in 1995 when the code was established, that was a standard for indoor versus outdoor seating. COVID has dramatically changed that. Staff supports the request based on demand for outdoor seating now.

Mr. Boyle asked if the light trespass can be fixed.

Mayor Weiss asked about the new parking spaces on the Wendy's lot.

Mr. Feinstein showed the location of the light trespass near Warrensville Center Road and the accessible parking spaces. The new parking spaces on the Wendy's property are not part of this proposal.

Mr. Carducci said it is acceptable to not have the new parking on the Wendy's lot. However, if there is an issue, then they could apply in the future.

Ms. Braverman said this site plan has been under development for 4 years. Staff supports the location of the rear yard drive-through pick-up lane.

Dr. Ganning said she is concerned with crossover traffic between properties. Is it necessary? Is it safe?

Ms. Braverman asked the traffic engineer to advise. Cross traffic connection could diffuse the traffic entry and exits to the site.

Mr. Pierson, traffic engineer, said the traffic study does not anticipate much cross access. They did counts for Wendy's currently. Most Chipotle drivers that use the pick-up lane will use the Warrensville Center Road exit. They expect maybe 1 or 2 per hour choose to go to the Chagrin Boulevard exit

through Wendy's, but it is a circuitous route. Exits onto Warrensville Center Road are less than 1 minute, which is relatively quick. The Warrensville Center Road left turn back up could be 50 seconds. It will not back up the driveway as that is about the same as the pick-up line. They anticipate 1 or 2 at the drive at a time. Additional traffic will not affect the Chagrin/Warrensville intersection and no mitigation strategies are needed. The Warrensville exit evening peak is 11 going left and 6 going right with a maximum of 2 going to Wendy's in that PM peak hour.

Mayor Weiss asked the percentage when traffic from the drive through would back up past the queuing lane and out into the driveway.

Mr. Piersen said only in the 99<sup>th</sup> percentile so almost none.

Mr. Dreyfuss-Wells asked the crash risk for the exit to Warrensville Center Road.

Mr. Piersen said they did not directly study crash data, but left turns are the most dangerous.

Mr. Dreyfuss-Wells asked if there is anything to reduce the risk.

Mr. Piersen said the line of sight is good. The single lane exit design is safest so no other vehicles block the view. There are no other issues or obstructions at the driveway.

Ms. Braverman asked about any queue backup. When the Chipotle opened on Cedar Road in Cleveland Heights, there were many problems. How was that situation addressed?

Ms. Karatich said there is completely different stacking at this location. The Cleveland Heights location was an existing bank and has less stacking. She cannot speak specifically to the Cleveland Heights experience. This site has a large long queue before it gets to any street.

Mr. Piersen reviewed the GPD queuing studies of other locations. He expects 4-5 vehicles in the drive through pick up lane with expected traffic per the ITE traffic counts for this type of restaurant.

Ms. Karatich said the ordering system has 10 minute windows. There is a maximum number of orders per window that can be adjusted in real time to cut down and mitigate any issues.

Mr. Malone asked about the crossover to Wendy's. Some customers will not want a 50 second wait. Does it help for additional parking?

Mr. Carducci said the main purpose is free and open flow between parcels to allow dispersion of 1 to 2 cars. Maximum interior flow allows customers to have choices. A customer may want to visit both restaurants. The cut through allows this without use of the street.

Rick Mastnardo, Police, said Chagrin Boulevard backs up at Farnsleigh Road in the evening rush, so ok with this dispersion of traffic.

Mayor Weiss said the Chipotle driveway is the best Warrensville exit between the two properties. It takes pressure off the Wendy's site.

Mr. Mastnardo said he agrees. Most Wendy's customers use Warrensville Center and the intersection to turn east or west.

Mr. Malone asked if there is pedestrian access at the drive-through pick up lane.

Mr. Carducci said employee access only to an access door for trash and deliveries.

Dr. Ganning said the public perception of the Chagrin/Warrensville intersection is to avoid it. Pedestrian accessibility is not really the design of these two lots.

Mr. Dreyfuss-Wells questioned the window glass shading and tint to make sure it is addressed by the Architectural Board of Review. He added a suggestion to the Architectural Board of Review to study extending the windows in the brick wall to lower the sills.

Mayor Weiss opened the Public Hearing.

Mr. Feinstein summarized a letter from Paula Rownd, 3525 Lytle Road. She expressed concern about traffic and the need for a restaurant.

Mr. Malone asked the employee path to delivery waiting spaces.

A Chipotle representative said they can stripe a path for employees across the parking lot and driveway. She suggested changing the employee access sidewalk path to cross the pick-up lane for better access to delivery and trash.

Dr. Ganning said she is in favor of the 90 day review as suggested in the Staff Report. She is skeptical of the traffic and overall access.

Mr. Dreyfuss-Wells said the front façade a glazing percentage should be studied. He suggested a condition to work with Architectural Board of Review to get the shorter windows in the brick wall enlarged to get closer to the code required percentage.

Mr. Carducci said the 2-story dining area glazing feature is a main part of this building design. The open glazing intent is met if not to the letter.

Mr. Boyle said this is similar to Wendy's with 2-story glazing in part on two sides of the building. He said he accepts the suggestion for the Architectural Board of Review to review more, the other conditions, and staff review of traffic in a prescribed time.

Mr. Feinstein outlined the staff suggestion of a 90 day review of traffic with the Police Department, including the cut-through driveway.

Mr. Boyle supported an Architectural Board review of the window percentage of at least 50% with a 90 day review of traffic and a mitigation plan.

Mayor Weiss said this is a drive-through pick-up lane not a regular fast food order and pay pick drive through lane.



A minimum front yard setback on Van Aken Boulevard of 8.4 feet was previously approved where code requires a minimum 10-foot front yard setback. The corner unit of Building D is now proposed to be 7.6 feet from Van Aken Boulevard. The air conditioning condenser units are located behind each unit but lack any solid screening. Code requires an air conditioning condenser unit to be screened from view of the side neighbors by solid fencing or evergreen landscaping. A revised landscape plan has been submitted. Subdivision of land is required as the applicant proposes each unit to have an individual parcel of land and common area governed by a homeowners association. The City Planning Commission makes a recommendation to City Council regarding a PUD plan review. City Council confirmation is required.

Mr. Feinstein showed pictures of the site. He stated this is a request for review of an amended PUD, variances, site plan review and subdivision of land to continue construction of an attached townhome development. The applicant proposes to continue development with three new buildings at Van Aken Boulevard and Sutton Road using the existing layout and driveways. The existing PUD was approved in 2016. The new development will be 18, 2 story attached units. Thirteen (13) of the units have 1-car garages. Code requires a 2-car garage per unit. Nine (9) outdoor parking spaces are proposed. Four (4) of these are 4 feet off the Milverton Road sidewalk. Code requires a 20-foot setback of a parking lot across the street from residential property. Evergreen bushes are proposed to screen the parking spaces. The minimum front yard building setback on Van Aken Boulevard was previously approved at 8 feet 4 inches when code requires 10 feet. The corner of Building D is 7 feet 6 inches off the Van Aken Boulevard sidewalk. Subdivision of land is required to have individual parcels under each unit plus common space. The Architectural Board of Review has reviewed the new 2-story unit design three times with comments in the Staff Report. Staff supports the request with conditions: 1) revised smaller address signage, 2) homeowners association document language being finalized; 3) street tree coordination; and 4) a final plat submitted.

Felicia Webster, project coordinator, said this is a 2 ½ year project from start to finish. There is new ownership and a design for the project with 3 fewer units. They have tried to respect the original design. The two story units are wider, have similar colors to the original and a mix of 1 and 2 car garage units. This is part of a transit oriented development (TOD) design that will take advantage of the RTA station nearby. She outlined the variance requests. The setback and parking location is due to the shape of the lot. Additional parking spaces are provided by on-site parking, adjacent on-street parking, and nearby RTA parking. She showed the homeowner association and phasing plans as well as a new landscape plan.

Dr. Ganning asked if there was a neighborhood meeting. Did the parking location come up?

Ms. Wester said there was a meeting and the community was not concerned with the parking location.

Mr. Boyle asked why the change to individual lots?

Ken Lurie said these types of units are in demand, easier to sell and finance as fee simple lots. A separate Homeowners' Association (HOA) will be created for the new development and a master HOA created to work with both phases of the development.

Mr. Boyle said a HOA combo of the two phases should be required.

Mr. Malone said it is important for owners to know their financial obligations.

Dr. Ganning asked how many parcels are created.

Mr. Feinstein said one for each unit, in addition to some common parcels.

Mr. Dreyfuss-Wells asked where the sign is and what the purpose is.

Mr. Lurie said the sign gives a sense of place and entrance to the development. He would like to study the entrance landscaping.

Mr. Dreyfuss-Wells said new residents are welcome to the whole Ludlow neighborhood. He does not see the need for a sign for this development. He asked that they work with tree species on both sides of the walkway to match species and location. He said an additional landscape bed would be appropriate on the other side of the walkway or none at all.

Mr. Lurie said they do not own the land on the other side of the walkway. They could work with the existing HOA to install something.

Arne Goldman, architect, said the coordination of landscaping was requested by the Architectural Board of Review already.

Mr. Dreyfuss-Wells said if coordination is not possible then ok. He hopes they can work together for the new landscaping to relate. The air conditioning units do need to be screened from the street with the fences.

Mayor Weiss opened the Public Hearing. No comments were received in regard to this application.

Ms. Rotatori, co-president of the Ludlow Association, said the landscaping is an issue. Are any invasive plant species proposed? She asked about the public parkway. Can Shaker contact Cleveland to work on the fence and walkway in Cleveland?

Mr. Lurie said the Cleveland walkway does affect their property. They will see how they can address it.

Ms. Braverman said the City administration can ask the City of Cleveland for cooperation.

Mr. Lurie said this landscape plan was already approved with the project in 2016. He wants the development to be successful and take into consideration the very nice landscaping proposed which coordinates with what was approved in 2016.

Mr. Goldman said they engaged the same landscape architect.

Ms. Braverman said the landscape architect is not present to address the issues. She suggests they come back with a revised landscape plan and the designer.

It was moved by Dr. Ganning and seconded by Mr. Boyle 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:

