

## **COLERAIN TOWNSHIP BOARD OF ZONING APPEALS**

Regular and Organizational Meeting Minutes  
4200 Springdale Road - Cincinnati, Ohio 45251  
**Wednesday, February 23<sup>rd</sup>, 2022 – 6:30 p.m.**

**Meeting Called to Order by:** Mr. Roberto at 6:30 p.m.

**Pledge of Allegiance:** Led by: Mr. Roberto.

**The Explanation of Procedures** was presented by: Mr. Roberto.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye,  
Mr. Roberto – aye.

Present as Staff was: Mr. Jarrod Alig.

Present as Legal Staff was: Ms. Sarah Schild

### **Election of Officers:**

Mr. Roberto requested that a motion be made to nominate the position of **Secretary** of the Colerain Township Board of Appeals.

Mr. Bartolt made a motion to appoint Mr. Schupp, seconded by Mr. Wilson.

Mr. Roberto asked Board Members if there was any discussion on the matter, hearing none Mr. Roberto requested a Roll Call vote.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye,  
Mr. Roberto – aye

Motion to appoint Mr. Schupp as **Secretary** of the Colerain Township Board of Appeals passed unanimously.

Mr. Roberto requested that a motion be made to nominate the position of **Vice-Chairperson** of the Colerain Township Board of Appeals.

Mr. Schupp made a motion to appoint Mr. Bartolt, seconded by Ms. Owens.

Mr. Roberto asked Board Members if there was any discussion on the matter, hearing none Mr. Roberto requested a Roll Call vote.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye

Motion to appoint Mr. Bartolt as **Vice-Chairperson** of the Colerain Township Board of Appeals passed unanimously.

Mr. Roberto requested that a motion be made to nominate the position of **Chairperson** of the Colerain Township Board of Appeals.

Mr. Bartolt made a motion to appoint Mr. Roberto, seconded by Mr. Schupp.

Mr. Roberto asked Board Members if there was any discussion on the matter, hearing none Mr. Roberto requested a Roll Call vote.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye

Motion to appoint Mr. Roberto as **Chairperson** of the Colerain Township Board of Appeals passed unanimously.

**Swearing In:** Legal Staff swore in the appellants, attorneys, and all speakers in the cases.

### **Hearing of Appeals:**

**BZA2022-03**                      The applicant, representing the property owner, is requesting a variance(s) to §7.3 – Table 7-2; & §12.1.5 (D); & (E);

Location:                      10133 Pottinger Rd.

Applicant/Owner:              Graham Parsons / Board of Education Northwest Local School District

Mr. Roberto introduced case.

Presentation was provided by Staff. Staff noted the current zoning, topography, and surrounding conditions. Staff displayed the site plan and described the reason the variances were being sought based upon the proposed site plan.

Staff described the relevant Colerain Township Zoning Resolution Articles, Sections, and definitions

Staff outlined the criteria for zoning variances as stated in the Colerain Township Zoning Resolution.

Staff's Recommendation was for: **APPROVAL** with conditions.

This Concluded Staff's Presentation.

Mr. Roberto asked members of the Board if they had any questions for staff.

Mr. Bartolt asked for clarification on the existing variances being sought.

Staff answered that overall, they did interpret that the proposed development would require variances as presented to the Board members within the Staff Report packet.

Mr. Schupp asked if Staff was familiar with the product at Dunlap Grove, and if any differences existed in the product proposed for that development, versus the product being proposed in this matter.

Staff was not familiar with the actual product, but did mention that it was Staff's belief that the product for Dunlap Grove had an additional story and that the Applicant would be better able to answer those particulars.

Mr. Wilson asked Staff that if the Multi-Family Dwellings were not being proposed to be subdivided as individual parcels, that the requested variances from "*§12.1.5 (D); & (E);*" would not be necessary.

Staff answered in the affirmative.

Mr. Wilson asked Staff if there appeared to be any downside to approving the proposed development plan.

Staff was unable to foresee any obvious detriments from a planning perspective.

Mr. Roberto noted that he understood that a Home Owners Association was to be established, and asked Staff if the housing product to be built at Dunlap Grove were also Landominiums, or the proposed product were to be Condominiums.

Staff responded that it was unknown what the proposed lawn and landscape maintenance agreement would be.

Mr. Roberto asked if the Board had any other questions for staff. Hearing none, Mr. Roberto asked if the applicant was present.

#### APPLICANT PRESENTATION:

Mr. Graham Parlin, President of H.P.A. Development Group, 9091 Montgomery Rd., Cincinnati, OH, 45242 (applicant) gave a presentation noting the proposed product, and the proposed site plan.

Mr. Craig Rassi, with Ryan Homes, 8622 Jacquemin Dr, West Chester Township, OH 45069. Mr. Rassi clarified that the product proposed at Dunlap Grove would be 3-stories, whereas the product proposed for BZA2022-03 would be 2-stories. Mr. Rassi stated that a factor in requesting that the proposed products be on individual parcels of land, and not on a shared single parcel, is that more opportunity would exist for residents to receive financing options in the future.

Mr. Parlin re-approached and stated that a Home Owner's Association would be established to conduct all lawn and landscaping maintenance. Specifically mentioned that "the Association would maintain everything related to the grounds around the buildings". Specifically mentioned were "spring mulching and clean-up, it's snow removal, and weekly mowings, and all that stuff."

Mr. Roberto asked if anyone else was present to speak in favor, or in opposition.

Mr. Michael Halloran, of 10205 Pottinger Rd., Cincinnati, OH, 45251 stated that he is an adjacent owner to parcel of the proposed development. Mr. Halloran stated that "everything drains" to his backyard and has had multiple serious flooding issues. Mr. Halloran requested that prior to any variance being granted, that the "Builder or Developer, makes sure that something is put there to stop more water from coming onto [his] property". (Mr. Halloran's testimony: 51:38 - 59:00)

Mr. Gary Schroeder, an adjacent property owner of 10103 Pottinger Rd, Cincinnati, OH, 45251 stated that he had no objection to the variances being requested, but did have concern with water runoff, an increase in traffic, and the vacancy of the site.

Mr. Roberto asked if anyone else was present to speak in favor, or in opposition. Hearing none, he asked for a motion to close the public portion of the case.

Mr. Wilson made a motion to close the public portion, Mr. Schupp seconded the motion.

Mr. Roberto asked if the Board Members had any items to discuss. Hearing none he asked Staff for a Roll Call vote.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye

Motion to close the public portion passed unanimously

Mr. Roberto asked if the Board Members had any items to discuss.

Ms. Owens asked for clarification from Mr. Rassi regarding a statement of opportunity to end-unit versus interior unit ownership, and any differentiation that might exist in the ownership thereof.

Mr. Rassi stated that there would be differentiation in the ownership of exterior, versus interior lots or units.

Mr. Schupp asked Mr. Rassi about any projected price point of the proposed units.

Mr. Rassi responded that at present moment, he projected the prices to be within the “lower” to “mid” \$200,000s.

Mr. Schupp inquired regarding basements being included on the proposed new homes.

Mr. Rassi indicated that the proposed construction would be on slab.

Mr. Bartolt inquired regarding the ability for a large vehicle to safely perform a turnaround with respect to the street design in the southwest portion of the presented site plan.

Expanding from Mr. Bartolt’s inquisition was much discussion among the Board on the process of, and potential unintended consequences of approving the requested variances with respect to any potential future changes or modifications to the plans as presented to the Board.

Based on this discussion, Mr. Roberto asked the representative from Abercrombie & Associates to approach the podium.

Mr. Dave Lorei, with Abercrombie & Associates, 8111 Cheviot Rd., Cincinnati, OH, 45247, addressed traffic, and stormwater or drainage concerns. Mr. Lorei stated the development plans will be submitted to the Hamilton County Engineer to review traffic impact, the Hamilton County Planning and Development to review stormwater issues, and the Hamilton County Soil and Water department to review erosion control during construction, and post construction as well.

Mr. Lorei stated (1:20:20) “we will capture, and we are required to capture *all* the stormwater that’s generated from the site, and hold it back...” he continued with “ultimately there may be some benefit here, for sure, for adjoining property owners because they’re getting natural runoff right now.”

Mr. Bartolt inquired Mr. Lorei as to the requirements (per Hamilton County Subdivision Regulations) for emergency access / turnaround for the southwest emergency access point on the proposed site plan.

Mr. Lorei stated that Staff was correct in stating that it is warranted, and that Mr. Lorei “envisioned a little bit of a turnaround in that area”

Mr. Bartolt again restated his explicit concern as to the applicants ensuring that residents occupying those units closest to the proposed emergency access, street “stub”, or turnaround point are not to be inconvenienced by the inability of emergency, large moving trucks, or “Rumpke” trucks utilizing residents’ driveways due to an insufficient turnaround for such vehicles being provided by the applicants.

Mr. Schupp asked Legal Staff if it would be possible to add a condition to the approval stating that “no individual business entity, or family shall be able to rent more than two units?”

Legal Staff expressed uncertainty about the legality and enforcement of a condition such as that.

Mr. Parlin, having indicated his desire to contribute to the discussion, was invited to the podium by Mr. Roberto.

Mr. Parlin stated that his company's legal department had also reviewed the legality of similar requirements, and while uncertainty existed as to the legality, and practicality of enforcing such a condition.

Mr. Roberto stated that he would like it reflected on public record that he is directing Staff to research and present the viability of amending the Colerain Township Zoning Resolution to better define, and regulate Commercial Residential Rental Property based on factors such as "if an entity comes in and they buy more than five (5) [rental] units, they should fall under a business guideline that's different than a guy that owns one (1) [rental] building." Mr. Roberto stated that in his professional industry "that's considered Commercial Property at that point [owning more than five (5) rental units] and it falls under different rules, and different guidelines". Mr. Roberto indicated that it was his belief that the Colerain Township Zoning Resolution should be amended to apply similar regulations in order to prevent the current conditions of inadequate property maintenance. (1:30:46 - 1:31:41)

Mr. Roberto stated that if the percentage of rental units in a given development exceeds fifteen- percent (15%), certain financing options are unavailable to residents.

Staff asked Mr. Roberto what constituted the geographical basis for determining the area of which to apply the fifteen- percent (15%).

Mr. Roberto informed Staff that for the purpose he was referring to, the number of rental units that exist within the Association are the basis for such determination per lending standards.

Mr. Roberto asked for a motion to be made on the matter.

Mr. Bartolt made a motion to approve the requested variances to §7.3 – *Table 7-2*; & §12.1.5 (D); & (E); with the Staff recommended conditions that were included per the Dunlap Grove project, with one additional condition being that a "proper turnaround" (as indicated earlier in the hearing by Mr. Bartolt) be required in the final development. Mr. Schupp seconded the motion.

Mr. Roberto asked if any Board members had any discussion on the matter. Hearing no requests for discussion, Mr. Roberto asked for Roll Call vote.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye

**BZA2022-03 –Request for variances to §7.3 – Table 7-2; & §12.1.5 (D); & (E); 10133 Pottinger Rd. passed unanimously (with the following conditions A-J).**

- A. That a landscape plan be provided at the final development plan that sufficiently addresses preservation of existing tree canopy, preservation of existing open space in addition to the provision of additional landscaping and plantings needed to provide proper screening of the development from the surrounding single-family residential dwellings.
- B. That the final building elevations shall be in keeping with the designs and materials contained within the submitted application of the preliminary development plan as submitted to the Colerain Township Board of Zoning Appeals
- C. That a Homeowner's Association (HOA) be established and maintained into perpetuity to ensure proper maintenance of the site as well as the open space
- D. That the Homeowner's Association (HOA) establish a restriction where 15% or less of the units be used for rental.
- E. All fire hydrants shall be installed per the Cincinnati Water Works / Hamilton County requirements
- F. That the proposal meets all requirements of the Hamilton County Engineer prior to the approval of the final plat
- G. That the proposal meets all requirements of Hamilton County Department of Soil and Water prior to approval of the final plat
- H. That the variances from the minimum lot width as well as variances from the side yard setbacks of the interior lots to allow for the proposed development to occur within individual lots within one building be approved. ("Lot 1" being the only exception where a lot which is not "interior" be granted a side yard setback variance as proposed plan indicated)
- I. That the variance from the minimum width of a dwelling unit to allow for the construction of 19' 10" wide units where 22' is the minimum requirement be approved.
- J. That a sufficient "vehicle turnaround" be provided at the southwest portion of the property. Sufficient turnaround having been described by Mr. Bartolt as one which "will allow for large vehicles (Emergency, Rumpke, Box / Moving trucks) to turnaround without requiring the utilization of resident's driveways."

**BZA2022-04**

The applicant, representing the property owners, is requesting a variance to §15.8.3.

Location: 3530 Springdale Rd.

Applicant / Owner: Twyla Heinlein / Hollenkamp Holdings L.L.C.

Mr. Roberto introduced case.

Presentation was provided by Staff. Staff noted the current zoning, topography, and surrounding conditions. Staff displayed the site plan and described the reason the variances were being sought based upon the proposed site plan.

Staff described the relevant Colerain Township Zoning Resolution Articles, Sections, and definitions

Staff outlined the criteria for zoning variances as stated in the Colerain Township Zoning Resolution.

*15.8.3; (C) All signs shall be set back a minimum of 10 feet from the right-of-way.*

*15.8.3; (D); (1) A six (6) foot, eight (8) inch variance to §15.8.3 (D); (1)*

*15.8.3; (D); (2) A seventy-three (73) square foot variance to §15.8.3 (D);*

Staff's Recommendation was for: **DENIAL** of the requested variance.

(However, if in the Board's opinion, approving the requested Variances is the better judgement call, Staff would suggest the following conditions:

1. That "Insert 1" be the only face change permitted
  - a. That the property owner / applicant be required to remove the two-smaller signs "Insert 2" is unnecessary, and the intent of "Insert 3" could be achieved by adding an address block to the structure itself.
2. That the approval of variance to the current nonconforming sign be applicable to the current property owner, and to the current use only.
3. Any future request for a certificate of conformance be prohibited
4. The current property owner will be explicitly responsible for conveying the status of non-conformance to any future property owner.

This Concluded Staff's Presentation.

Mr. Roberto asked if the applicant was present.

Twyla Heinlein, 417 Northland Blvd., Cincinnati, OH, 45240; and Teresa "Terri" Hollenkamp 2315 Heather Hill Blvd N, Cincinnati, OH, 45244, presented their case.

Mr. Roberto asked if anyone else was present to speak in favor, or in opposition.

Mr. Matt Tietz of 8448 Lyness Dr. Cincinnati OH 45239 was sworn in by Legal Staff. Mr. Tietz asked if the sign was declared abandoned by Colerain Township, and why was it not "grandfathered in".

Mr. Roberto asked if anyone else was present to speak in favor, or in opposition. Hearing none he requested a motion to close the public portion of the hearing.

Ms. Owens made a motion to close the public portion, seconded by Mr. Wilson.

Mr. Roberto asked if the Board Members had any items to discuss. Hearing none he asked Staff for a Roll Call vote.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye

Motion to close the public portion passed unanimously

Mr. Roberto asked if the Board Members had any questions for the applicant. Hearing no questions from any Board members, Mr. Roberto decide to lead the questions.

Mr. Roberto asked staff if a specific portion of the signage proposed for the free-standing sign, could instead be placed upon the building.

Staff indicated that the applicant had already received a Zoning Certificate for wall-signage, and wasn't certain how much permissible area remained.

Mr. Roberto asked if the Board Members had any remaining discussion. Hearing no questions from any Board members he asked a motion be made on the matter.

Mr. Bartolt made a motion to grant the variances requested from 15.8.3, seconded by Mr. Schupp

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – nay

**BZA2022-04 –Request for variances to:**

**§15.8.3; (C) All signs shall be set back a minimum of 10 feet from the right-of-way; and, a six (6) foot, eight (8) inch variance to §15.8.3 (D); (1); and, a seventy-three (73) square foot variance to §15.8.3 (D; (2)); for property located at: 3530 Springdale Rd., passed with a vote of 4-1**

**Unfinished Business:** None

**Approval of the Minutes:**

December 17th, 2021 Minutes:

Mr. Roberto asked a motion be made to approve the minutes from December 17th, 2021.

Mr. Bartolt made a motion to approve, seconded by Mr. Roberto.

Mr. Roberto requested a Roll Call vote.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye

Motion to approve the Minutes of the December 17th, 2021 meeting approved unanimously

January 26th, 2022 Minutes:

Mr. Roberto asked a motion be made to approve the minutes from January 26th, 2022.

Mr. Bartolt made a motion to approve, seconded by Mr. Wilson.

Mr. Roberto requested a Roll Call vote.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye

Motion to approve the Minutes of the December 17th, 2021 meeting approved unanimously

**Administrative Matters:** None

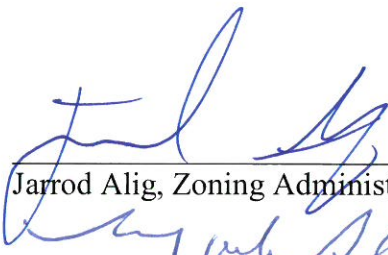
**Adjournment:**

A motion was made by Mr. Bartolt, and seconded by Ms. Owens, to adjourn the meeting at approximately 8:38 P.M.

**Roll Call:** Mr. Bartolt – aye, Ms. Owens - aye, – Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye.

Meeting adjourned.

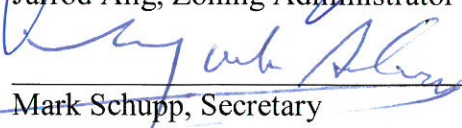
Respectfully Submitted:



---

Jarrod Alig, Zoning Administrator

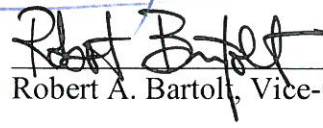
Secretary:



---

Mark Schupp, Secretary

Accepted by:



---

Robert A. Bartoli, Vice-Chairperson