



BOARD OF ZONING APPEALS

Village Green Municipal Building, Council Chambers
47 Hall Street
Thursday, July 9, 2018
7:00 P.M.

1. APPLICATION FOR VARIANCE

Applicant: Gabriel & Emily Norris
Location: 4696 Hunters Bend
Zoning: Planned Residence District (PR)
Request: Approval of a variance in order to build a fence 12 feet past the 30 foot build line.

Aerial Site Image: <https://goo.gl/maps/mYLfuqjye1F2>

Project Background

The applicant has submitted a very complete and thorough application which presents the story behind what has transpired very accurately. In light of reviewing a proposed fence plan prior to formal application, the Development Director responded at first incorrectly to the resident that the fence location they submitted was fine subject to the Engineering Department requirements due to the drainage easement at the rear. As he completed his response back to the owner, the Development Director had more concern over the fence within the drainage easement, and must have paid little attention to the fact this was a corner lot and a larger setback for the side. The property owner since that time bought the property, then communicated with Staff about the fence location and all we could do was apologize for the mistake, and require a formal Variance application be submitted for the BZA to handle.

Proposal Overview

The application proposal is pretty straightforward. The proposed fence is proposed to only protrude into the setback by 12 feet, and otherwise be built in compliance with the code, as well as the Engineering Department's requirements for being within the drainage easement.

Staff Comments

Staff as reviewed this application as if it were first brought to them and the arguments that are made by the applicant. By only going so far with the proposed fence, there still appears to be some side yard area remaining. Also, there is a large shrubbery/treed area that falls between this property and the neighbors. Staff finds that this unique feature to the land area and helps to soften the view of the fence.

Ordinance Review

In accordance with the requirements of codified ordinance 1127.05(a), the Board of Zoning Appeals may authorize upon appeal in specific cases such variance from the terms of this Zoning Ordinance as will not be contrary to the public interest where, owing to special conditions of the land and/or buildings that are unique to the property in question and is a practical difficulty to meet, and not self-created, a literal enforcement of the provisions of this Zoning Ordinance would result in deprivation of all beneficial use of the land.

Staff Recommendation

Staff has reviewed the proposal and in light of the special unique condition to the land and practical difficulty, we recommend approval of the variance as submitted.

2. CONDITIONAL USE PERMIT (Architectural Review and Conditions Review)

Applicant: Horsepower Farms LLC
Location: 4301 Home Road
Zoning: Liberty Township Farm Residence District
Request: To review and approve the architectural and site details of Horse Power Farms as required by the Board as part of the approved Conditional Use Permit.

Aerial Site Image: <https://goo.gl/maps/Kp9JdjJRSSo>

Project Background

On July 9, 2018, the BZA approved a Conditional Use Permit for Horsepower Farms with the following motion:

Board Member Wiencek moved to approve the Conditional Use Permit to allow for a sportsmen's club for Horsepower Farms LLC, located at Home Road and Steitz Road, as represented by Chip Vance, subject to the following condition(s):

1. That approval shall be granted for the completion of Phase 1 only and that all future Phases shall come back before the Board of Zoning Appeals prior to construction beginning; and
2. **That the applicant shall come back before the Board of Zoning Appeals at a future date for review and approval of building designs and details; and**
3. That the applicant shall submit building designs with no doors on the front of the storage building(s) facing Home Road; and
4. That the applicant shall submit for and receive approval of all utility plans, site engineering and grading/storm water control plans by the City Engineer; and
5. That all project plans shall be AEP compliant; and
6. **That the applicant shall come back before the Board of Zoning Appeals at a future date for review and approval of the condominium association bylaws. The bylaws shall specifically address the hours of quiet time, how the reserve will be established and managed and when the association will be in full control; and**
7. That all landscaping plans shall continue the landscaping design along Home Road currently present in the Reserve at Scioto Glen and the Scioto Reserve; and
8. That the emergency access/exit at Friesian Lane shall be a gated, secured entrance used by emergency personnel only; and
9. That the applicant shall come back before the Board of Zoning Appeals for review and approval of all signage plans.

Board Member Hiles seconded the motion.

Vote: Y – 5 N – 0

Proposal Overview

The applicant is working toward approval of the architectural plans and details related to the first phase, review and approval of the landscaping plan for the first phase, the review and approval of a signage plan, and the review of the condominium association documents. Also, the applicant would like to discuss with the Board about the possibility of alternative locations for a future emergency access route.

With regard to the architecture, the applicant has refined the plans and provided much more detail. The plans are still in the same architectural style and design as what was presented for the original Conditional Use Permit application. Materials have stayed the same as well as the color combinations. The trim, gutters and downspout locations are all shown. Windows were added to the

north wall of the north building providing some visual interest. The plans also show how the buildings will look with the landscaping. A lighting plan is also submitted and is consistent with that which was presented earlier, with no light displacement over the property lines.

The landscaping plan is consistent with what was earlier presented, along with fencing and pathway along Home Road.

The Declaration and Bylaws have been submitted. The City Law Director will review for consistency to Ohio law. Staff has read them and we find that all commitments made by the developer are within them.

The Architectural Advisor for the City has provided comments and recommendations. The Board should consider those comments and suggestions.

AEP has provided a preliminary approval letter. They will have final approval once the grading plan is coordinated between the City and developer. Staff does not anticipate any problems with this and will not allow construction work to begin without that final approval letter.

Site utility and stormwater plans are being coordinated between the developer's engineer and the City Engineer. The Engineering Department has indicated that they are very comfortable with the proposed plan for utility and stormwater control, subject to their final approval prior to construction.

The proposed sing plan meets code requirements, is simple and very discreet, and very appropriate for this development.

Staff Recommendation

Staff recommends final approval for Horsepower Farms subject to the following conditions:

1. That the architectural review comments provided by the Architectural Advisor be considered by the Board and be incorporated for final review by Staff at the time of issuing the Zoning Certificates.
2. That the approval of all utility plans, site engineering and grading/storm water control plans by the City Engineer are completed and accepted by AEP by formal final letter of approval.

Project Background

The applicant recently purchased the property and has the intention of creating a car club with storage condominiums with a club house.

Project Overview

The proposed conditional use is for the construction of a Sportsman's Club. This development will be built in phases. The Sportsman's club shall consist of one Clubhouse building and several separate buildings, each subdivided into condominium units. These condominium units will be offered for sale.

Ordinance Review

In accordance with the requirements of codified ordinance 1129.03, the Board of Zoning Appeals shall review the particular facts and circumstances of each proposed conditional use and shall approve the application for a Conditional Use Permit only when it has determined that there has been adequate evidence presented to show that such use at the proposed location.

The applicant provided answers to the questions within code and Staff agrees with most of their responses. However, Staff would like to make clear that the City's Comprehensive Plan suggests this area be residential in the land use plan but the policies in the plan state that commercial spaces should be along major thoroughfares such as this. Furthermore, a variety of uses within the city is preferable and unique use such as this adds to the service mix offered to residents in Powell and will add to the tax base.

Staff Comments

Staff is pleased with the proposal for a number of reasons. For one, this is a very difficult site to plan as it is bisected by high-voltage power lines and is irregularly shaped. There are limited options for this site and a unique development such as this will provide Powell residents with a new service unlike many around. Second, as stated in the traffic study, the proposal would generate limited traffic to and from the site. This coupled with the access to Home Road allowed by the County Engineer will aid in this proposal having a limited negative impact on the roadways in the area. Third, staff is happy to hear that the condominium regulations will limit sounds and light coming from the site. Being good neighbors is important. Staff would however like to see more detail about the lighting selection to ensure there is no light pollution coming from the site. Fourth, the Comprehensive Plan talks about highlighting Powell's rural roots and highlighting this along major thoroughfare. This proposal does just that. The farm aesthetic on a major roadway in Powell will add to the character of the community. Lastly, unique uses like this help to draw attention to Powell as a premier community which offers services not found anywhere else around Central Ohio, which leads to further economic development opportunities – spin off businesses and promotion the region as the place to locate your business and home.

Staff Recommendation

Staff recommends approval of the conditional use permit, as we stated above the application meets the requirements of Section 1129.03 (a – i) as stated in their application text. The Board can place conditions on any approval that you feel are necessary for the proposal to meet the standards for approval of a conditional use permit.

Staff Report Update – June 14, 2018

The property was annexed several years ago by a church who owned the property at the time and thought about building a church on this parcel within Powell. That church never did any plans, and then sold the property as they merged with another church.

The property is within Powell but carries with it the Liberty Township FR-1, Farm Residence District it had when it was annexed into Powell. The City never placed its own zoning upon the property as the church could have built within this zoning category. Now that there is a new owner, that owner is wishing to build a Sportsmen's Club, which is listed within the FR-1 District as a Conditional Use.

A Conditional Use is oftentimes a use which could be allowed within the underlying zoning district if it can be shown, and the Board of Zoning Appeals Agrees, that the particular use meets certain criteria for a Conditional Use Permit. That is spelled out in Section 1123.03:

"1129.03 - GENERAL STANDARDS FOR ALL CONDITIONAL USES.

The Board of Zoning Appeals, shall review the particular facts and circumstances of each proposed conditional use and shall approve the application for a Conditional Use Permit only when it has determined that there has been adequate evidence presented to show that such use at the proposed location:

(a) Is in fact a conditional use as listed in the Schedule of District Regulations in this Zoning Ordinance for the zoning district in which the site is located;

(b) Will be in accord with the general objectives, or with any specific objective, of the comprehensive plan and the Zoning Ordinance;

(c) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;

(d) Will not be hazardous or disturbing to existing or future neighboring uses;

(e) Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services;

(f) Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;

(g) Will not involve uses, activities, processes, materials, equipment and/or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;

(h) Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and

(i) Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance."

The Board needs to make a couple of decisions in this case:

1. The applicant has indicated and proposed that his development is a Sportsmen's Club. Does the Board agree with his assessment?
 - a. Staff Thoughts – There are many types of clubs available for people to gather with common interests. Hunting clubs, fishing clubs, softball and other sports clubs, horse riding clubs, all exist out there and some have become quite sophisticated. In this case, the common thread are vehicles. Classic cars, motor homes, etc. all have clubs that exist. The applicant is creating a club and a place for club members to have their vehicles, store their vehicles, maintain their vehicles and gather as a group, all under an umbrella of members buying into the club by purchase of their condominium.
2. If the Board decides that this is indeed a Sportsmen's Club, and agrees that it is a Conditional Use within the FR-1 Zoning, then the Board needs to review the case upon the provided documents and testimony that it meets the requirements for approval of a Conditional Use Permit. Does this application meet these requirements?
 - a. Staff thoughts:
 - i. Is in fact a conditional use as listed in the Schedule of District Regulations in this Zoning Ordinance for the zoning district in which the site is located;

1. Yes it is.
- ii. Will be in accord with the general objectives, or with any specific objective, of the comprehensive plan and the Zoning Ordinance;
 1. There are several references within the Comprehensive Plan where the preservation or re-ruralization of the area as it develops it important. The Future Land Use Plan cannot anticipate all uses for all properties, however the zoning code establishes that within an FR-1 District, a sportsmen's club is compatible with other allowed uses within an FR-1 District under certain conditions. Staff's opinion is that this proposal does just that. This is a much better proposal than having a chicken farm or other active animal farm use, which could happen without much if any City review.
- iii. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such use will not change the essential character of the same area;
 1. It appears that all FR-1 development standards are met in terms of setbacks and screening of adjacent residential areas. The building designs harken to barn type design and the layout is similar to other rural farmstead type layouts...notwithstanding the power lines.
- iv. Will not be hazardous or disturbing to existing or future neighboring uses;
 1. The developer's restrictions he is placing upon how this area will be managed will not create anything dangerous or hazardous, any more or less than any farming operation.
- v. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services;
 1. The only active access point is on Home Road, at a point designated by the County Engineer's office as approvable. This is a very low intense use as it relates to traffic.
- vi. Will not create excessive additional requirements at public cost for public facilities and services, and will not be detrimental to the economic welfare of the community;
 1. This will not create any additional public costs, and will be a positive from the standpoint of taxes and services.
- vii. Will not involve uses, activities, processes, materials, equipment and/or conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors;
 1. The possibility exists if unmanaged, however with a full time manager present and ability of inter-community self-policing, this is unlikely.
- viii. Will have vehicular approaches to the property which shall be so designed as not to create an interference with traffic on surrounding public thoroughfares; and
 1. Again, this is a very low intense traffic generator and should provide very little impact to safety along Home Road.
- ix. Will not result in the destruction, loss, or damage of a natural, scenic, or historic feature of major importance.
 1. There is no historic or scenic quality. In fact, the development will add to the scenic quality of the area if designed appropriately.

Staff has thought of some conditions that the Board may want to place upon any approval if that is what the Board desires:

1. That the approval for Phase 1 is given, and that future phases shall come back to the Board as determined by the Zoning Administrator.
2. That the Architectural Review is not yet completed. The Board wishes the applicant to come back at a later date for final approval of the building designs and details as they are prepared by the applicant.
3. That the applicant prepare the front storage building without any doors facing Home Road.
4. That the applicant submit for and receive approval of site engineering and grading/stormwater control plans by the City Engineer. This also shall include all utility plans.

REVISED REPORT FOR JULY 11, 2018

The below report is based upon the new information supplied by the applicant. The report above is still part of this meeting, and shall be incorporated into the record herein.

The applicant has submitted material as requested by the Board, based upon input and comments from the Board and the public at the last meeting. The information provided includes the specific light fixtures being proposed and a light spread diagram showing the amount of lumens projected onto the site from these fixtures. What this information shows is that there shall be no light spread beyond the property lines as required by code, and that the light fixtures are downward projecting fixtures. People from outside of the property will see the light from these fixtures on portions of the building and site, but there will be no direct light glare visible from the lights themselves. This is what our code requires.