

Minutes
City of Huntington Board of Zoning Appeals
August 16, 2022

A meeting of the City of Huntington Board of Zoning Appeals was held on August 16, 2022 at 5:30 p.m. in the City Hall Council Chambers. *Mr. Dolin* called the meeting to order.

Members Present: C.W. Dolin, Jacqueline Proctor, Lee Canup, Sherry Houck

Members Absent: Howard Anderson, Dan Earl

Staff Present: Breanna Shell, Planning Director
Janney Lockman, Planner
Patricia Usher, Zoning Officer
Ericka Hernandez, Assistant City Attorney

Hearing no corrections or objections, *Mr. Dolin* approved the July Minutes.

Hearing no corrections or objections, *Mr. Dolin* approved the Orders.

BZA 22-C-33

A petition for a conditional use for an Indoor Commercial Recreation Facility in a C-1 Neighborhood Commercial District. The property is located south of Madison Avenue on Cheshire Way at the intersection with Park Avenue.

BZA 22-V-32

A petition for a variance to use a non-natural building material not specified by code in a C-1 Neighborhood Commercial District to construct an air-supported dome. The property is located south of Madison Avenue on Cheshire Way at the intersection with Park Avenue.

BZA 22-V-34

A petition for a variance to the height limitation of 45' in a C-1 Neighborhood Commercial District to construct a 67' tall air-supported dome. The property is located south of Madison Avenue on Cheshire Way at the intersection with Park Avenue.

Petitioner: C&I Design, Inc./Brian Richter, 101 Southeast Parkway Court, Suite 120, Franklin, TN
Property Owner: Expression Church, P.O. 7773 Huntington, WV

Brian Richter, 101 SE Parkway Ct., presented the petition, stating that Expression Church is proposing to build a 65,000 sq. ft. indoor commercial recreational facility accessible to church members and those in the community.

Ms. Lockman presented the Staff Report.

Mr. Dolin – This structure will be open to the public?
Yes, for anyone who coordinates with the church.

Mr. Richter requested to address comments in the Staff Report and began by illustrating the irregular shape of the property and the setbacks of the proposed structure at various locations around the property. He also pointed out that a baseball field is already close to the residential development and insisted the proposed use would have a similar impact. In addressing the

generator, he told the Board it will be gas fired and described the noise levels it would generate, mentioning a diesel generator would be louder. With regards to energy use, he asserted that the air handlers used are no different than those used in a standard office building. He concluded by declaring the use would have a positive economic impact on the city as travel families for tournaments will stay in the area, and relating the possible impact to his experience in other areas with tournaments. He told the Board the church is will to do an economic impact study if needed.

Ms. Proctor– What are the operating hours? How many days a week will the facility be open? What type of sports will the facility host? How would the local community access the facility?

Mr. Richter assumed the hours would be 8 or 10 AM to 8 or 10 PM, but the hours may be different during tournament times. He believes the facility would be open 6 to 7 days a week. The courts in the facility can support basketball, volleyball, pickle ball, and batting cages.

Pastor Kevin West, 9 Riverwalk Dr., Ona, informed the Board that tournaments would occur during weekends and open to the general public 9 AM to 8 PM during the week, depending on time of year, with 7 to 8 people employed. Pastor West assured the Board there is ample parking in the area; in addition to the church parking and the lot being proposed, there is shared parking among the DHHR facility and the residential community. Pastor West believes the traveling tournaments will bring lots of people from all over to the city. He then went into great detail as to how the facility will operate when there are no tournaments occurring.

Ms. Proctor – Have you considered the impact this structure will have on the community in regards to infrastructure, such as stormwater and sewer. Have engineers been involved in the development of the plans?

Mr. Richter assured the Board that sewer systems, water, gas lines, and electric have all been thought of. He told the Board that they have meet with several departments in the city for a preliminary plan meeting to discuss requirements and codes, including stormwater requirements. They are working through all codes to ensure a good development that will not over-tax city infrastructure.

Mr. Dolin closed the public hearing and the Board reviewed the Criteria for Consideration.

Ms. Proctor expressed concern that this project is “putting the shiny castle before the town”, pointing out that the teams for the soccer tournaments that come to the city all stay in Barboursville and not Huntington. Additionally, the sports center is near the interstate, and with such access, it would be easy to skip over the city during tournaments. She believes the city has some growth to go through for this to be beneficial.

Ms. Canup made a motion to **approve** BZA 22-C-33; *Ms. Houck* seconded the motion.

Roll Call BZA: Ms. Proctor, Yes; Ms. Canup, Yes; Ms. Houck, Yes; Mr. Dolin, Yes

BZA petition for a **Conditional Use** was **APPROVED** with a vote of 4 Yes to 0 No.

Ms. Canup – Why height is needed?

Mr. Richter explained the engineering of the dome must take into account weight loads, in particular snow loads, and must consider the height and width needed. He confessed that a conventionally built structure could meet the requirement, but the air supported dome needs extra height in center only, the parameter is a max of 15 ft.

Ms. Canup expressed concerns about key words during her research of air supported domes, such as temporary and cost effective. She explained that the website for the dome company involved in this project mentions accelerated depreciation of the structure and tax benefits. She does not see depreciating assets as a benefit to the community.

Mr. Richter contended that churches struggle financially and use assets as means to reach out to community in a cost effective way. He stressed the project could cost 3 to 4 times more with conventional building materials. He proclaimed that the church does not consider the facility as temporary.

Ms. Proctor – What will the building look like? Is there a loading dock size entries? What kind of lighting is planned?

Mr. Richter illustrated the exterior design of the proposed building, which was designed with the zoning codes in mind in order to meet transparency and other façade requirements; the entry building will be conventionally built and used for offices, concessions, locker rooms, and restrooms; an airlock will be provide for entry when needed; and there will be LED lighting inside dome, and the exterior lighting will meet codes, with a goal of 0 footcandles at property line.

Ms. Canup – Where will the generator be located?

Mr. Richter used the site plan submitted for the Staff Report to show the Board where the generator will be located.

Mr. Dolin – Can you speak to the durability of dome?

Mr. Richter proclaimed the dome material capable of safely withstanding a tear until repairs can be made. The material is designed to withstand wind loads and other building code load requirements, with a warranty of 20 to 25 years, comparable to the life of a rubber roof, but at a 1/3 of the cost to reroof.

Ms. Houck – Are there any domes like it close by?

Steven McDunnum, 11880 Dorset Rd., St. Louis, MI, representative for Arizon, told the Board the closes of their structure is located in Virginia, some are located in Columbus, and mentioned there is excitement in West Virginia for these type of structures.

Ms. Canup – What is the potential for collapse?

Mr. McDunnum claimed that not one of Arizon structures have collapsed, and evidenced the company's 100 year history as an HVAC, siting collapses due to negligence on the part of the owner.

Ms. Canup – What is the price difference for a conventional structure and the construction time?

Mr. Richter told the Board that this structure will cost \$100 to \$120 per square foot and a conventional building would cost roughly \$300 per square foot, depending on the availability of materials; and construction would be a difference of 6 to 8 months.

Ms. Proctor – Will there be landscaping?

Mr. Richter assured the Board there will be landscaping, and the landscaping will hide any exterior equipment.

Ms. Canup – Is there a gutter system to ensure water will not dump onto neighbors?

Mr. Richter reminded the Board that they are working with stormwater and further explained the plans for runoff will be equal to or less than pre development runoff.

Ms. Lockman presented the Staff Report.

Mr. Richter discussed the potential for redevelopment and the benefits of this type of structure.

Mr. Dolin closed the public hearing and the Board reviewed the Criteria for Consideration.

Ms. Proctor does not see a hardship as definition by staff, but believes it would be better to approve the project than let property remain vacant.

Ms. Canup is persuaded by the comments made about redevelopment, and does not believe financial hardship is a special condition. She also has the impression that a variance does not have to meet all the criteria for consideration.

Mr. Dolin has the impression that building materials are changing.

Ms. Canup made a motion to **conditionally approve** BZA 22-V-32 with the condition that the generator is not located on the east side of the property; *Ms. Houck* seconded the motion.

Roll Call BZA: Ms. Proctor, Yes; Ms. Canup, Yes; Ms. Houck, Yes; Mr. Dolin, Yes

BZA petition for a **Variance** was **CONDITIONALLY APPROVED** with a vote of 4 Yes to 0 No.

The Board reviewed the Criteria for Consideration regarding the height variance.

Ms. Canup made a motion to **approve** BZA 22-V-34; *Ms. Proctor* seconded the motion.

Roll Call BZA: Ms. Houck, Yes; Ms. Proctor, Yes; Ms. Canup, Yes; Mr. Dolin, Yes

BZA petition for a **Variance** was **APPROVED** with a vote of 4 Yes to 0 No.

BZA 22-V-31

A petition for a variance to use a non-natural building material not specified by code in an I-1 Light Industrial District to construct an air-supported dome. The property is located at 115-117 Cheshire Way.

Petitioner: C&I Design, Inc./Brian Richter, 101 Southeast Parkway Court, Suite 120, Franklin, TN
Property Owner: ECH WV Inc. P.O. 7773 Huntington, WV

Ms. Proctor – Will the dome be white?

Mr. Richter described the dome as natural colors, tan and white.

Ms. Lockman presented the Staff Report.

Mr. Dolin – Tell us how the dome is being designed with the church.

Mr. Richter illustrated the dome as connecting to the church through a carport, and the first floor façade materials will match between buildings.

M. Proctor expressed concerns about the ability of the dome to withstand strong winds and asked what would happen if torn in act of god, and how this could impact the neighbors or church. She also asked about wiring used for the building.

Mr. Richter described the materials as lighter than conventional materials and would be less likely to cause damage if thrown about than conventional materials; additionally, the wires would stay connected to the foundation.

Mr. Dolin closed the public hearing and the Board reviewed the Criteria for Consideration.

Ms. Canup pointed to the differences in this petition and the last, being that the sports center serves a greater purpose, and this proposal is for an existing congregation. She does not believe the inconsistency in materials meets the intent of the Zoning Ordinance. She is not comfortable approving a dome that would not be attached to existing structure or consistent with the existing building's form. She felt there was more thought in placement of the sports dome and would prefer to see a brick and mortar structure for the church expansion.

Ms. Proctor requested clarification on how the dome would be connected to the existing church. Mr. Richter illustrated how the carport connects the dome and the church and showed images using the submitted site plan included in the Staff Report.

Pastor West explained than conventional materials are more expensive and would necessitate a later start date, going into detail for the reason for the expansion and doing both projects at same time.

Ms. Proctor expressed her agreements with *Ms. Canup's* comments and understands the reasons given by the architect and the church.

The Board completed their review of the Criteria for Consideration.

Ms. Proctor made a motion to **approve** BZA 22-V-31; *Ms. Canup* seconded the motion.

Roll Call BZA: Ms. Houck, Yes Ms. Proctor, No; Ms. Canup, No; Mr. Dolin, Yes

BZA petition for a **Variance** was **DENIED** with a vote of 2 Yes to 2 No.

Mr. Dolin reiterated his comment that building materials are changing, *Ms. Proctor* reminded him it is the responsibility of Staff and the Planning Commission to discuss code changes.

BZA 22-C-36

A petition for a Conditional Use Permit to open a retail location/auction house over 6,000 square feet. The property is located at 1951 5th Avenue West. The proposed project would be approximately 8,880 square feet.

Petitioner: Gary Bowen/Bowen Auctions, 620 21st St. Kenova, WV

Property Owner: Gary Yazell, 807 Big Bend Rd. Barboursville, WV

Gary Bowen, 1720 Poplar St, Kenova, presented the petition, explaining that Mr. Yazell has a building he would like to use for his auction business, and gave a history of his time as an auctioneer, magician, and entertainer.

Ms. Proctor – What will be the hours of operation? What is the size of your current location?

Mr. Bowen claimed the hour to be Friday and Saturday nights for 6 PM to 12 PM. His current location is 6,000 square feet and seats roughly 100 people at maximum capacity.

Ms. Houck –What is your average attendance for an event? Is this new building the same size?

Mr. Bowen described his average attendance as 40 to 110 people, and the new building as roughly the same size as only slightly bigger; however, most of the building is not useable for anything other than storage.

M. Dolin – Where will visitors be parking?

Mr. Bowen told the Board that they have an agreement with the church next door and there is street parking. He described the neighborhood as only having one house for several blocks. He expressed confusion as to how this area was changed to residential as the area is commercial.

Mr. Dolin – What do you auction? Do you keep items on location?

Mr. Bowen exclaimed that he auctions everything, from jewelry, to boats and car. He utilizes a big screen to show off large items for auction. He does not keep large items on-site.

He told the Board that he has discussed with staff purchasing homes in area and turn them into parking lots, and has spoken to residents that are willing to sell their homes to him. He used on of the maps provided in the Staff Report to show the Board which properties he is considering buying.

Ms. Proctor – Will there be signage on the building? Could you clarify your expansion proposal? What types of security and lighting will be utilized?

Mr. Bowen detailed his plans to utilize signage and light to “light up the building like circus.” *Ms. Proctor* instructed him to speak with staff prior to erecting any signage.

Mr. Bowen pointed out that other property owners in the area have been knocking down houses and making parking. *Ms. Lockman* clarified the difference in the zoning of the properties and how the lot being referenced went through the correct processes to be approved.

Mr. Bowen claimed that the building has been used for storage for many years and things have been fine. He is currently using the building as storage and has been broken into already, so he will be putting in more security and lighting.

Ms. Lockman presented the Staff Report.

Gary Yazell, 807 Big Bend Rd., owner of the building, gave a history of the building, how he was approached by Mr. Bowen about buying the building, and described building layout.

Jerry Daniel 2014 Jefferson Ave., present on behave of himself and other neighbors, is concerned about there being enough parking even with church agreement, and is unhappy about Mr. Bowen’s talks of buying up properties and creating more parking. He believes there should be proper parking for the business without demolishing people’s homes for parking.

Mr. Dolin closed the public hearing.

Ms. Proctor believes this would be a good use of the building and asked for clarity on hours of operation and the comments made about parking and.

Mr. Bowen reiterated the weekend times with a hope to expand hours; however, will not hold auctions on Sundays or when the church has an event.

Ms. Lockman explained that it would not be possible to knock down any of the houses and build a parking lot as this is not a use allowed in a residential zone. She explained that there is C-1

zoning across the street where an off-site parking lot is a conditional use. She reiterated that Mr. Bowen would not be permitted to knock down houses for parking, but detailed a process that could create a change in zoning that could permit parking.

Mr. Bowen questioned the Board as to what he would do if the church folds and he loses access to parking? *Ms. Canup* explained that his inquiry is not part of the BZA purview. Mr. Bowen expressed his concern on spending money on a building with an uncertain future. *Ms. Lockman* attempted to assure the petitioner that, should church fold, there is a process through a rezoning with planning commission that could allow for an expansion. She explained that the length of the process for rezoning is why the Conditional Use process was chosen, so Mr. Bowen could get into the building sooner. For purpose of tonight's meeting, the area is residential and does not allow for an expansion in the immediate future.

Ms. Proctor reminded Mr. Bowen about the enthusiasm expressed about potential for the property. She is sympathetic to the current conditions, but informed him that investments are risks, and the future is not something we can know. She concluded by reminding him that a path forward has been detailed for him and encouraged him to discuss those options with staff later.

The Board reviewed the Criteria for Consideration.

Ms. Houck made a motion to **approve** BZA 22-V-36; *Ms. Proctor* seconded the motion.

Roll Call BZA: *Ms. Proctor*, Yes; *Ms. Canup*, Yes; *Ms. Houck*, Yes; *Mr. Dolin*, Yes

BZA petition for a **Variance** was **APPROVED** with a vote of 4 Yes to 0 No.

BZA 22-V-37

A petition for a variance to use a prohibited façade material in the C-3 Central Business District in order to install metal sheeting on a building facade. The property is located at 741 6th Avenue.

Petitioner/Property Owner: Patrick Guthrie, 745 7th Ave. Huntington, WV

Patrick Guthrie, 745 7th Ave., presented the petition, telling the Board of the proposed façade improvements to the music venue, The Loud aka V Club, which has been around since 1979 and in his family since 2006.

Ms. Proctor – What is the color of the metal? Where will it be located? Is the paint tag resistant?

Mr. Guthrie described the color as grey; on metal with be on the 8th St. and 6th Ave. façade, and will only cover roughly 25%; anti-graffiti coating is on the mural, but with metal, tagging is easier to remove. He told the Board the building has been the same since 70's and has never had a problem with tagging before.

Ms. Lockman presented the Staff Report.

Mr. Dolin closed the public hearing and the Board reviewed the Criteria for Consideration.

Ms. Canup made a motion to **approve** BZA 22-V-37; *Ms. Houck* seconded the motion.

Roll Call BZA: *Ms. Houck*, Yes; *Ms. Proctor*, Yes; *Ms. Canup*, Yes; *Mr. Dolin*, Yes

BZA petition for a **Variance** was **APPROVED** with a vote of 4 Yes to 0 No.

BZA 22-V-35

A petition for a variance to the requirements for residential driveways to install a 2nd driveway entrance on a residential property. The property is located at 12 South Woodview Drive, also known as Lots 47C, 48C, and 49C Pleasant Valley Estates.

BZA 22-V-38

A petition for a variance to the requirement that garages must be located in the rear or side yard to build a garage in a front yard. The property is located at 12 South Woodview Drive, also known as Lots 47C, 48C, and 49C Pleasant Valley Estates.

Petitioner/Property Owner: Jonas and Beth McNearney, 123 Belford Ave. Huntington, WV

Jonas McNearney, 123 Belford Ave, presented the petition, stating that the request for a second driveway entrance is due to steep incline of South Woodview Dr. and believes the second entry point would ease the entry and exit of the property.

Ms. Dolin – Has the HOA approved the change?

Mr. McNearney explained that the HOA has approved both changes.

Ms. Lokman presented the Staff Report for both petitions.

Mr. Dolin closed the public hearing and the Board reviewed the Criteria for Consideration for both petitions.

Ms. Canup made a motion to **approve** BZA 22-V-35; *Ms. Proctor* seconded the motion.

Roll Call BZA: Ms. Proctor, Yes; Ms. Canup, Yes; Ms. Houck, Yes; Mr. Dolin, Yes

BZA petition for a **Variance** was **APPROVED** with a vote of 4 Yes to 0 No.

Ms. Proctor made a motion to **approve** BZA 22-V-38; *Ms. Canup* seconded the motion.

Roll Call BZA: Ms. Houck, Yes; Ms. Proctor, Yes; Ms. Canup, Yes; Mr. Dolin, Yes

BZA petition for a **Variance** was **APPROVED** with a vote of 4 Yes to 0 No.

BZA 22-V-39

A petition for a variance to the requirement that parking occur in the rear or side yard of a residence to install parking in the front yard of a residence in a C-1 District. The property is located at 525 6th Ave.

BZA 22-V-40

A petition for a variance to access a parking area from 6th Avenue on a property with alley access. The property is located at 525 6th Ave.

Petitioner/Property Owner: Eddie and Laura Napier, 525 6th Avenue, Huntington, WV

Eddie and Laura Napier, 525 6th Ave., presented the petition, Mrs. Napier told the Board they bought the lot next door and, due to each of their disabilities, they wanted to have a driveway for safety and to ease the amount of parking on the street. She claimed that the alley is not safe and they cannot use the alley as an access point due to the weight of the gate. She explained the contractor got the permit and they assumed everything was okay, and was not told, until after everything was done, that the driveway was

incorrect. She provided the Board with a petition, signed by neighbors, agreeing to the driveway and parking pad.

Ms. Houck – Who is your contractor? Have you considered installing an opener on the back gate?

Mr. Napier claimed the contractor to be a company called Start2Finish and they have not yet considered an automated back gate. He defended the construction by asserting the curb and sidewalk were already in disrepair prior to beginning construction.

Ms. Lockman presented the Staff Report.

Ms. Proctor– Can you speak to the regulations for curb cuts? This driveway would take away parking on street, correct?

Ms. Lockman, hesitant to speaking on the regulations of other department, explained that work cannot be done in the public right-of-way without permission from the Public Works department; briefly described her knowledge of Public Works and DOH standards for guidance for depth and distance of driveways and sidewalks that experience vehicular traffic. She confirmed that, yes, the driveway entrance on 6th Ave would take away parking on the street.

Mr. Napier spoke of other properties that have access from 6th Ave. and exclaimed that sidewalks in other areas are not 6 inches. Ms. Shell explained sidewalks that experience vehicular traffic need to be that thick not all sidewalks.

Mrs. Napier passed around pictures of other driveways with access from 6th Ave. and the sidewalk in front of their house prior to their construction. Those have been included for the record. Mrs. Napier asked if there is a Public Works meeting they were to go to for their request?

Ms. Proctor advised the petitioners to consult with the contractor about the work that does not meet code.

Ms. Lockman reminded the Board that the issues before them are the entrance from 6th Ave. and front yard parking.

Ms. Proctor attempted to clarify the order of what needs to happen next with the curb cut and parking pad with the petitioners and encouraged them to look into installing an automated opener on the alley gate? *Ms. Proctor* wondered if the 6th Ave. access were closed could the parking occur in the front. Ms. Lockman explained that it is for the Board to decide if parking may occur in the front yard.

Mr. Napier reiterated the number of curb cuts on 6th Ave. *Ms. Canup* explained the other driveways are not at issue, but the process that got us here; other properties do not matter. Ms. Napery asked whether the city would be replacing the sidewalk if they have to remove it. Ms. Hernandez asked if the approved the initial plans to remove the sidewalk, explaining that the city does not normally allow others to replace sidewalks without permission. Ms. Shell detailed the process one would go through to receive approval from Public Works for such a project.

The Board recommended that the petitioners contact their contractor and discuss fixing the issues, then return to the Board with any variances they may need; and reiterated their advice that the back gate be automated.

Ms. Proctor made a motion to **move to the next meeting** BZA 22-V-39 and BZA 22-V-40; *Ms. Houck* seconded the motion.


Roll Call BZA: Ms. Proctor, Yes; Ms. Canup, Yes; Ms. Houck, Yes; Mr. Dolin, Yes

BZA petitions for **Variances** were **MOVED TO THE NEXT MEETING** with a vote of 4 Yes to 0 No. The next meeting will be held on September 20, 2022.

The meeting concluded at 8:49 p.m.

Date approved: 9-20-22

Chairperson: 
C.W. Dolin, Chair

Prepared by: 
Patricia Usher, Zoning Officer