

Minutes
City of Huntington Board of Zoning Appeals
November 2, 2022

A meeting of the City of Huntington Board of Zoning Appeals was held on November 2, 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, Sherry Houck

Members Absent: Dan Earl

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

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

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

BZA 22-V-42

A petition for a variance to exceed the prevailing setback in an R-1 Single Family Residential District. The property is located at 218 Gallaher Street.

Petitioner/Property Owner: John Mark Holley, 5412 Parkwood Dr., Raleigh, NC

Ms. Usher Presented the staff report

Mr. Dolin requests the petitioner to come forward.

Mr. Holley, 218 Gallaher Street, presented the petition, looking for a setback to have the house setting directly adjacent to the garage.

Ms. Proctor – Is there a particular reason why you want it that far back?

Mr. Holley explained that the lot is 264ft deep and having the house that close to the street seems odd to him. The main reason I am looking to have it next to the garage is for aesthetic purposes.

Ms. Proctor – So you will be parking in the back of your home?

Mr. Holley explained that there is a driveway that comes off of Gallaher Street into the garage.

Ms. Proctor – Patricia how much on average is the setbacks in this neighborhood?

Ms. Usher said that most homes had a setback of roughly 20ft.
Mr. Holley expressed that he saw other homes on Gallaher Street that are setback anywhere from 50-75ft.

Ms. Usher did confirm that a couple of the homes located on this street are setback a little further than 20ft but explained that in the staff report that the immediate vicinity homes are setback mostly to that 20ft mark.

Ms. Proctor – So, that would not be the only structure that far back?

Ms. Usher confirmed that would be correct.

Ms. Houck made a motion to approve BZA 22-V-42; Ms. Proctor seconded the motion.

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

BZA petition for a Variance to exceed the prevailing setback was **APPROVED** with a vote 3 Yes and 0 NO.

BZA 22-C-43

A petition for a conditional use permit for the redevelopment of a closed school in an R-1 Single Family Residential District. The property is located at 68 Holley Avenue.

Petitioner/Property Owner: Scott Hutchison Ent. Inc. 729 9th Ave. #97 Huntington, WV

Ms. Lockman presented the staff report

Mr. Dolin requests the petitioner to come forward

Scott Hutchison, 718 13th Ave, presented the petition, he first passed out architectural drawings showing the proposed plans for the redevelopment of the school. He explained that he had purchased the building in 2018 and had previously gained approval from the Board of Zoning Appeals to house the Huntington Prep Basketball team and it was approved. He goes on to say that they had run a successful organization until COVID hit and the program was dissolved and he was left with an empty building that he was using for storage. He continues by explaining that when the Huntington Prep Basketball team was being housed in the building there were strict rules in place and the premises were maintained neatly and consistently. During this time the Fire Marshall and Health Department were involved in inspecting the property and making sure everything was up to code and according to Mr. Hutchison everything was approved and is still currently in place. He proposes that he wants to put apartments in because he could not sell the property because it is a “hard sell,” and he believes that apartments would be good for the neighborhood. Mr. Hutchison says that they will be small apartments and he will be very restrictive on who can rent these apartments. He says that due to the building being vacant there is a problem with vandals breaking windows and causing issues. He exclaims that he is just trying to make the neighborhood better, and that there is plenty of parking if needed but most of the tenants would not have cars. Mr. Hutchison continues by saying most of the people that would be living there would not be families but seniors who need help financially. He then explains that there have been previous attempts from people in Huntington approaching him to buy the building and that they were in the drug rehab business, Mr. Hutchison made it clear that he did not even consider this because “he would not want this by his house”. Mr. Hutchison explains that there is HUD housing all over the City of Huntington and just because they are on HUD that does not mean they are bad people but just need help financially. He closes his opening statement by describing himself as a family man who would not allow bad people to move into the neighborhood.

Ms. Proctor – Is your target resident seniors?

Mr. Hutchison – that is what I prefer but we do not always get seniors and I would not only limit it to seniors but most of the housing that I have been affiliated with is senior housing.

Ms. Proctor – What else goes into your target for residents?

Mr. Hutchison – I receive calls and applications, I then check the references and make calls to do my research. I do not want to put someone who is not a good person into a nice community and I would not want to deal with that person myself. I would do my work to make sure that I get good tenants into the building.

Ms. Proctor – Aside from the housing authority have you made contact with Federal level individuals in HUD?

Mr. Hutchison – Yes, we did an extensive study with a group called Urban Design Adventure that showed a huge need for HUD housing and section 8 housing in the City.

Ms. Proctor – So did you do the study or was it done federally?

Mr. Hutchison – I paid someone to do the study.

Ms. Proctor – So you have that documented somewhere?

Mr. Hutchison – Yes

Ms. Proctor – So, your target tenant would be a senior, a low income individual, and possible a younger person who has financial needs being taken care of by the feds?

Mr. Hutchison – well it could be a working person, it can be anybody as long as they are good people. I'm not going to rent it to bad people.

Ms. Proctor – So are you saying that you are personally going to review every application for an apartment at this location.

Mr. Hutchison – Absolutely I will. I am a small company and very involved in my business.

Ms. Houck – In your application process how do you determine what their income is?

Mr. Hutchison – We research it, on the application there is also a section for them say if they are on Section 8, we also work really closely with the Huntington Housing Authority to let us know that information.

Mr. Dolin – Tell me about the parking situation at the old school.

Mr. Hutchison – We have a vacant lot that is behind the church, there is roughly 60 blacktop spots there.

Ms. Proctor – That is property that you own?

Mr. Hutchison – Yes

Ms. Proctor – Since you have had the property vacant for a few years, what have you done to maintain the property? Because, when you were approved several years ago for the basketball school one of the conditions was to maintain a proper look and to ensure there was lighting...etc.

Mr. Hutchison – We do our best to keep the grass mowed and maintained weekly, we pick paper up, I normally go into the building everyday but at least try and go in three times a week to make sure nothing has been damaged or vandalized. There is some roof damage but when we start construction that will be repaired, there is also a building located in the back of the school that is currently used as storage but I plan on having that tore down. Overall I am in the property quite a bit.

Ms. Proctor – Please make clear for me in the document that you gave to us showing the plans for the apartments, dormitory rooms are one thing and apartments are another. So, do plan to gut the entire building? Because originally there was a kitchen, nursing, station, and the rooms that were just meant to sleep in.

Mr. Hutchison – Yes, we plan on doing an extensive amount of construction on the building. Each room will have a kitchen, bathroom, HVAC unit, and each unit will have its' own meter. These will be small apartments, each of them will stand on its' own with their own utilities.

Ms. Houck – When you describe these apartments it gives me the feeling of temporary or transitional housing, you are saying that it won't be families and it is just going to be individuals.

Mr. Hutchison – Yes, it is just going to be individuals. My goal as the landlord is to have beginning families or seniors that live there, I do not want big families. The units are small and would not support a big family. I have other units that have tenants that have been there for almost 10 years and others that have had the tenants get back onto their feet and leave. We are not only renting to section 8 or HUD housing, we are renting to people that are working people too. I am glad to say that I have other apartments that have not had problems with and I believe that is because I am particular on who I put in there and I will be the same way here.

Ms. Proctor – What kind of security measures do you plan on implementing once the units are complete and functional? How do you plan on protecting the residents?

Mr. Hutchison – Well I do have a small team that works in my office that does nothing but take care of my units. We have a security system inside the building right now, we have cameras around the exterior of the building and inside of the hallways. I plan on putting an entry code pad on the main door to get in. We are going to make our security really tight, so that the front door will have a code to get in and each apartment unit will be secured with the tenant having the key to get in. Also, each resident would be assigned to a parking spot.

Ms. Houck – What is the average square footage for each of the units?

Mr. Hutchison – Between six and nine hundred square feet but the majority will be around six or seven hundred.

Ms. Proctor – So most of these units will be rented to single or no more than two people given the size. If everything is completed what is the total number of units that will be located here?

Mr. Hutchison – Yes, and approximately 18 finished units

Ms. Proctor – I thought that was the first stage and then there were going to be more?

Mr. Hutchison – No, the first phase is going to be eight units.

Ms. Proctor – So 36 people will be potentially be living on the property

Mr. Hutchison – Yes, or maybe even less.

Mr. Dolin – Is there anyone who would like to speak in opposition to the petition?

Multiple people stepped forward to voice their concerns.

Sue Dostal, 814 N. Norwood Rd, spoke in opposition of the petition. After the Basketball academy closed the building was left to be dilapidated, grass not being maintained, the windows were not replaced. The playground was removed and debris was left behind. Lighting and outdoor maintenance was not kept up to the promises that were previously made during original BZA meeting for the basketball academy. Increased traffic flow at unknown hours. North Norwood already a congested roadway. Infrastructure already stressed and cannot handle this many more people. Utilities cannot handle 18 more housing appliances.

Mark Brown, 3132 Brereton CT, spoke in opposition. Exclaimed that the previous statement about the basketball closing because of COVID was not true since it closed in 2019. Dilapidated building and property does not maintain character of the neighborhood. Property in worse condition now than when it was purchased in 2018. Mr. Hutchison had promise the playground to the community but it has now been removed. No new windows or landscaping. Building is not well lit and not maintained at all.

Pam DeMoss, 3146 Saltwell RD, spoke in opposition of the petition. Said we could use empty parking lot, however when we tried they called us and said that we were not allowed to use it.

Deborah Holland, 825 N. Northwood RD, spoke in opposition of the petition. This will increase traffic, the amount of people in the neighborhood will increase, increase of noise, crowding, and impact on utilities. This will not benefit the current residents in the neighborhood.

Jack Daniels, 1730 Valley RD, spoke in opposition of the petition. This project will have a very negative impact on the neighborhood such as traffic congestion, noise, storm water runoff, ongoing site maintenance. Wants to see the school turned into a community building.

Jason Roach, 3125 Brereton CT, spoke in opposition of the petition. Not opposed to more affordable housing in Huntington. Opposed because of the previous experience with the owner of this property. Not seen a benefit to the community with the previous project.

Dale Meadows, 1715 Woodward Terrace, spoke in opposition of the petition. Landscaping and maintenance on building had not been kept up in the years following the 2018 BZA meeting. Debris has piled up all around property. Playground was torn out after saying it would not be. Fire marshal shut down previous project when moving in Huntington Prep due to code violations. Code enforcement had to be called multiple times to enforce the code on this property.

Robyn Avery, 3136 Brereton CT, spoke in opposition of the petition. Safety concerns for neighborhood and children.

Toni Ferry, 4 Romar CT, spoke in opposition of the petition.

Karl Epps, 3130 Brereton CT, spoke in opposition of the petition. Did not maintain property during the last four years.

Randy Clark, 811 N. Northwood RD, spoke in opposition of the petition. Dilapidation of the building. Multiple dump truck loads of building material being dumped on the property.

Linda Avery, 3136 Brereton CT, spoke in opposition of the petition.

Nicole McCarty, 109 Gilbert St, spoke in opposition of the petition.

Robert Shuff, 3154 Brereton CT, spoke in opposition of the petition. Project will effect neighborhood in a negative way. Afraid that fire safety will be disregarded since it was apparently done so in the past.

James Thompson, 3127 Brereton CT, spoke in opposition of the petition.

Gary Sawyers Jr., 3312 Norwood RD, spoke in opposition of the petition. I went to school at Geneva Kent, my family has grown up playing on the playground at Geneva Kent, and I played on the first big toy at Geneva Kent. Now the playground is all gone and my kids can no longer go to Geneva Kent.

Noah Beter, 828 N. Norwood RD, spoke in opposition of the petition. Does not believe that security measures would be adequate to keep people safe.

Nicholas Lester, 107 Gilbert Street, spoke in opposition of the petition. Large amounts of dirt piled in the rear of property, broken bricks and debris that causes harm to vehicles. Increased traffic will cause a lot of trouble for current residents. 18 new apartments will be terrible for the water and sewage systems.

Megan Shoub. 3125 Brereton CT, spoke in opposition of the petition. Worried that infrastructure would not hold up with the increased amount of new residents. Has concerns that the building would not be built to adequately house residents.

George Sergeant, 3126 Brereton CT, spoke in opposition of the petition. Came before the board 4 years ago and was given conditions to follow for the variance, and he did not do what he was supposed to do, so why give him another chance?

Jill Griffiths, 2 Romar CT, spoke in opposition of the petition. Lack of maintenance on the property.

Sandy Blank, 3129 Brereton CT, spoke in opposition of the petition.

Dorothy Barbour, 3146, Brereton CT, spoke in opposition of the petition. Property is a mess.

Mary Lynne Thacker, 1724 Arlington BLVD, spoke in opposition of the petition. If more housing is added I am afraid that the flooding would destroy my property even more. More housing will not fit into the infrastructure and the area around my property will have even more flooding.

Brandon Byrd, 3134 Brereton CT, spoke in opposition of the petition. Have known Scott for a long time and he is a great guy but he has a mess of a property. Should consider donating land back to the neighborhood, he had beat the church out in an auction.

Diann Clark, 811 N. Norwood RD, spoke in opposition of the petition. Dumping ground for other projects various materials and trash all around property.

Betty Eisenhart, 823 N. Norwood RD, spoke in opposition of the petition. This project will increase the noise levels in the neighborhood as well as increase the flow of traffic through the area.

Zach Blank, 19 James Drive, spoke in opposition of the petition. Why is this happening in two phases, what will happen to tenants already there when the second phase of construction occurs?

Lucretia Burrows, 3131 Brereton CT, spoke in opposition of the petition. While property was under the ownership of the Board of Education the area was clean and we could still use the facilities located around the property, now it is nothing but a "trash heap"

Larry and Nicole Gue, 818 N. Norwood RD, spoke in opposition of the petition. Property is the worse it has ever been in 50 years.

Robyn Watts, 810 N. Norwood RD, spoke in opposition of the petition. Quoted section 1341.51 from the City of Huntington's Zoning Ordinance, MR. Hutchison has allowed the property to be abandoned and dilapidated and should not be granted a conditional use permit.

Kim Bowen, 10 Elwood Ave, spoke in opposition of the petition.

Deborah Wetherholt, 872 Norway Ave, spoke in opposition of the petition.

Grace Scarberry, 882 Norway Ave, spoke in opposition of the petition.

Mr. Dolin closes public comment.

Ms. Proctor – When it comes to public discussion your reaction should not be considered relevant to our discussion, you have had your opportunity and that is great but we are in a situation where we need to make decision about someone who wants something and many people who do not want something. So, it would be appreciated if you would not necessarily hoorah and clap or whatever, we are trying to discuss in an appropriate manner to make a sound decision, thank you.

Ms. Proctor – I am disappointed that some of the conditions by which we allowed him the first variance did not come true. So, this makes me cautious about what we are going to decide here tonight.

Ms. Proctor – What are you anticipating on doing to get the property ready to even do an architectural redo of the property?

Mr. Hutchison – Once I had bought the property there was some concern over the playground, within a few weeks of owning the property someone was injured. My insurance company advised me to remove the playground or they would not be insured. It was a similar instance with the church wanting to use the parking lot, our insurance said to not do that. Due to concerns of someone getting injured on the property and them getting sued. The dirt piles were from another project that was being worked on and the reason why it is stock piled on this property is because we were hoping to have already started construction on the site. People are using the property as a dumping ground that is why we need tenants so that vandals would be deterred. All the windows in the building are new except were the old school office was. We do plan to place new windows in if we are allowed to start the construction on the building.

Ms. Proctor made a motion to approve BZA 22-C-43; *Ms. Houck* seconded the motion.

Roll Call BZA; *Ms. Houck*, No; *Ms. Proctor*, No; *Mr. Dolin*, No.

BZA Petition for a Conditional use permit for the redevelopment of a closed school was **DENIED** with a vote of 0 Yes to 3 No.

BZA 22-V-44

A petition for a variance to the materials requirements for commercial parking lots to use gravel for a parking area for a park in an R-5 District. The property is located at 800 Madison Avenue.

Petitioner/Property Owner: United Way of the River Cities, Inc. 820 Madison Ave. Huntington, WV

BZA 22-V-43 has been withdrawn.

Ms. Houck motions to remove the petition from the agenda; *Ms. Proctor* seconded the motion.

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

BZA 22-V-43 for a variance to the material requirements for a commercial parking lot was **REMOVED** with a vote of 3 Yes to 0 No.

BZA 22-V-45

A petition for a variance to expand a non-conforming light warehousing use in a C-1 Neighborhood Commercial District. The property is located at 1707, 1713, and 1717 12th Ave.

BZA 22-V-46

A petition for a variance to use a prohibited material on the ground floor façade in a C-1 Neighborhood Commercial District to construct a metal building. The property is located at 1713 12th Ave.

Petitioner/Property Owner: Cabell Huntington Hospital, 1340 Hal Greer Blvd. Huntington, WV

Ms. Lockman presented the staff report

Mr. Dolin requests the petitioner to come forward.

Kenneth Jackson, 2324 White Rd., Using two COVID drive through buildings, the initial intent was to take down the buildings and sell them. However, they were purchased with federal fund through FEMA during COVID, so it was decided to keep them and not sell them because we were not sure what the implications would be. The contractor jumped the gun and did not pull a permit, we did pour a concrete pad and started to put up the structure. We then stopped and started working with the City, we feel that this does not have a negative impact on that area, it's on property that we already own that has a metal warehouse on it. The hospital is willing to do any landscaping that is necessary to clean up the area. The problem with the buildings is that they are more like giant car ports with tubular construction and metal siding, we do not know that if we put any other siding on if the structure would be able to support it. The purpose of the buildings is for one of them to be a maintenance building, where we will store our equipment such as lawnmowers, snow blowers, and plows. The other building will be used as a store room for non-medical supplies and extra storage for the hospital.

Ms. Proctor – Have you sought out through the planners what material could be suitable that would maintain structural integrity and still comply with zoning code?

Mr. Jackson – we do not think that if we put plywood and siding on the side that it would necessarily look very good and we do not think that it would be able to hold that. If we do need to go down that avenue we will get our architect to take a look at it and see what other façade we can put on the structure, we are willing to do whatever we need to do to make it fit into the neighborhood.

Ms. Proctor – Janney are the pictures included in the packet what you are recommending to be used as façade materials?

Ms. Lockman – That is the section of the zoning ordinance for the C-1 District that is showing permitted façade material options. I would refrain from saying use a certain material over another because I am not a structural engineer but these are examples showing what is prohibited and what would be allowed.

Ms. Houck – Did the Board approve the other large metal building located on the property?

Ms. Lockman – That may have been installed before this new ordinance had been put into effect.

Ms. Hernandez – That did come before the Board but it was before the ordinance had changed.

Mr. Dolin – How many people will be going in and out of these structures throughout the day.

Mr. Jackson – Not very many, probably on a weekly basis about three or four times. During the winter time we will most likely be going out there more, since our equipment would be stored there.

Ms. Houck – In terms of landscaping do you have any sort of plan for that?

Mr. Jackson – We will reseed the area, we also thought about putting in higher hedges to enclose in the property. I have also thought about putting in fencing but not sure on that yet, but we are willing to do whatever we need to do.

Josh Dygert, 3626 Piedmont Rd, The structures are premanufactured and have their limitations, so any additions in terms of siding would be very light-gauge metal siding. These buildings would be able to improve site organization and some landscaping would go a long way.

Ms. Proctor – Making the site look more attractive would go a long way in making the area look a lot more appealing to people looking from the outside. As the hospital continues to expand we want to make sure that it does not slowly begin to look like an industrial park.

Mr. Dolin – I believe that any motion made should include a stipulation that the project meets any landscape requirements set forth by the Planning office.

Ms. Hernandez – To be enforceable that would require some very direct guidance.

Ms. Lockman - In the past this Board has made an approval conditional on a landscaping plan that we approve. I would be more than happy to meet with the hospital to formulate landscaping plans, but my main concern is that I am not sure if there is a Certificate of Occupancy for a building being used for primarily storage so I do not think that there would be any checkpoints to see if the landscaping is being done.

Ms. Lockman – would they need to get a CO?

Ms. Hernandez – Yes, in this case since it is a commercial building and different inspectors would need to be involved I do not see any way around the CO. I believe that they would need to get one so that would give Planning and Zoning a chance to finalize the use/plans.

Ms. Proctor made a motion to approve BZA 22-V-45; *Ms. Houck* seconded the motion.

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

BZA petition for Variance to expand a non-conforming light warehouse use in a C-1 district was **APPROVED** with a vote of 3 Yes to 0 No.

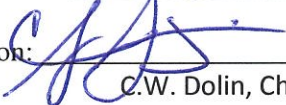
Ms. Proctor made a motion to approve BZA 22-V- 46; *Ms. Houck* seconded the motion.

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

BZA Petition for a Variance to use a prohibited material on the ground floor façade was **CONDITIONALLY APPROVED**, with the condition that the petitioner create landscaping and other improvement plans that the Planning and Zoning staff must review; with a vote of 3 Yes to 0 No.

Mr. Dolin adjourns the meeting at 7:40 p.m.

Date approved: 11-15-2002

Chairperson: 
C.W. Dolin, Chair

Prepared by: 
Nathaniel Crum, Planning Technician