

RESOLUTION NO. 95 -2019
INTRODUCED BY: Alexander

A RESOLUTION AUTHORIZING A VARIANCE FOR A MULTI-FAMILY APARTMENT USE AT 621 RICHMOND ROAD (PERMANENT PARCEL NO. 662-27-049) AS PART OF A MIXED USE DEVELOPMENT.

WHEREAS, DealPoint Merrill, LLC (the "Applicant"), for property known as Permanent Parcel No. 662-27-049 (the "Property") at 621 Richmond Road in the City of Richmond Heights, filed an application with the Zoning Board of Appeals, Case No.835, requesting a use variance to Section 1135.02 of the City's Zoning Code to permit a multi-family apartment use on the Property that is located in a R-2 Single-Family Residential Zoning District in the City, which use is not listed as either a permitted or conditional use in that zoning district but that would be permitted, pursuant to Zoning Code Section 1151.10, to be a portion of a Mixed Use development in a B-2 Regional Business District, but not to exceed 90% of the total floor area of the development;

WHEREAS, pursuant to Section 1185.06 of the Zoning Code, at its September 4, 2019 meeting, the Zoning Board of Appeals ("ZBA") held a hearing with respect to this variance request and the Board unanimously recommended to this Council the granting of the variance;

WHEREAS, pursuant to the Zoning Code, this Case No. 835 was heard by the Planning and Zoning Committee of City Council at its regular meeting on October 1, 2019, at which time a presentation in support of the variance was made by the Applicant's attorney and after discussion, the Committee voted unanimously to recommend to the Council as a whole that the variance be granted with a condition;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: This Council finds the application for the variance set forth in the recitals to this Resolution is supported by a preponderance of reliable, substantial and probative evidence and the Applicant demonstrated an unnecessary hardship in complying with the use regulations of Section 1135.02 of the Zoning Code; and, therefore, this Council conditionally grants the variance request based on the following conclusions of fact:

- (a) Although the Property has been included in the R-2 Single-Family Residential District for many years, it has been used for many years as an overflow parking lot for the regional mall, now known as Richmond Town Square.
- (b) The Subject Property has no economically viable use under the permitted and conditional use regulations of the R-2 District without a variance because of the location of the Subject Property next to a regional mall, its use as commercial parking for many years, and the

elevation of which is a considerable height above the R-2 single-family parcels to the north.

- (c) The variance being sought is the minimum which will afford relief to the Applicant because there are no other economically viable uses which are principally or conditionally permitted in the R-2 Single-Family Residential District and the Applicant is proposing a mixed use development plan as permitted under Codified Ordinance §1151.10 with up to 90% of the total floor area of the development being devoted to multi-family apartments and the remaining minimum 10% of the total floor area devoted to commercial uses.
- (d) The essential character of this neighborhood would not be substantially altered and adjoining properties would not suffer interference with their proper future development and rights as a result of the variance because the Subject property has been a paved, commercial retail parking lot for many years, it is adjacent to a regional mall, and the multi-family use will serve as a transition area between the lower and higher intensity uses of the regional mall and the lower intensity uses to the north and to the east of the Property.
- (e) The Subject Property has unique and exceptional circumstances and conditions – i.e., its location being located a considerable distance from the public street (Richmond Road) and it being at a considerable elevation above the single-family homes to the north and above the remainder of the Property.
- (f) The hardship condition is not created by the actions of the Applicant but is created by the current and projected future commercial use of the adjacent property as a regional retail mall, a large movie theater, a large indoor storage facility, and substantial paved commercial parking.
- (g) The purpose, intent, and objectives of the Zoning Code and the City's Master Plan would be observed and the public health, safety and general welfare would not be adversely affected by the granting of the variance because the proposed multi-family apartment use must be part of a proposed mixed use development that is permitted by the Zoning Code on the adjacent parcels that are zoned B-2 Regional Business District and under the Code the plan must include a mix of uses with one use comprising no more than 90% of the total floor area of the mixed use development per Codified Ordinance §1151.10; the adjacent property to the south is a regional mall in a B-2 Regional Business District; and the Subject Property is, therefore, not proper for the development of any economically viable R-2 Single-Family Residential District uses.

Section 2: The grant of the requested use variance is conditioned on the multi-family apartment use being part of a mixed use development under the regulations set forth in Codified Ordinance §1151.10 and specifically subdivision (c) that requires at least 10% of the total floor area of the mixed use development to be commercial and/or public building uses.

Section 3: The Clerk is instructed to mail a copy of this Resolution to the Applicant by certified mail, return receipt requested.

Section 4: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5: This Resolution shall take effect and be in force from and after the earliest period allowed by law which, being an administrative act by this Council, shall go into effect immediately upon its passage and signature by the Mayor.

PASSED: October 8, 2019



David H. Roche

David H. Roche, Mayor

APPROVED: October 8, 2019

ATTEST: Betsy Traben

Betsy Traben
Clerk of Council



Eloise Cotton-Henry

Eloise Cotton-Henry
President of Council