

RESOLUTION NO. 2 – 2024

INTRODUCED BY: Justice, Lewis and Robinson

A RESOLUTION REVERSING THE RECOMMENDATION OF THE ZONING BOARD OF APPEALS TO GRANT A USE VARIANCE FOR THE PROPERTY AT 575 RICHMOND ROAD, THEREBY DENYING THE USE VARIANCE.

WHEREAS, DealPoint Merrill, LLC (the “Applicant”) filed an application on October 3, 2023, with the City’s Zoning Board of Appeals (“Board”), Case No. 852, requesting a variance from the permitted uses of the City’s Zoning Code at Section 1135.02(a) in the R-2 Single-Family Residential District for the real property at 575 Richmond Road (the “Property”) in the City for the purpose of constructing a maximum four-story, 66-unit condominium apartment building;

WHEREAS, the Zoning Code at Sections 1135.02 and 1135.03 of the Zoning Code do not permit multi-family/multi-unit apartment buildings in the R-2 Single-Family Residential District;

WHEREAS, the application for the use variance was heard at a public meeting of the City’s Zoning Board of Appeals on December 6, 2023, at which meeting the Board heard evidence from the Applicant, a representative of the subject Property’s owner, the City’s administration, and a representative of the homeowner’s association of the residential single-family home development to the east of the Property;

WHEREAS, after hearing the evidence at the December 6, 2023, hearing, the Board by a 3 to 0 vote recommended approval to the City Council of the use variance application consistent with the proposed apartment development;

WHEREAS, pursuant to the City’s Codified Ordinances, the recommendation of the Board was considered by the Planning and Zoning Committee of City Council at its public meeting on January 2, 2024, and after hearing evidence from the Applicant, the Property owner’s representative, the City’s Building Commissioner, and neighboring property owners, the Committee by a 3 to 0 vote recommended to the City Council as a whole the reversal of the use variance recommendation of the Board, thereby recommending to the Council of the whole to deny the variance;

WHEREAS, after due consideration of the recommendations of the Board and of the Planning and Zoning Committee, reviewing the evidence and arguments presented to those bodies, and hearing evidence and arguments of the interested parties to this application, this Council renders the final decision on the application as set forth below.

NOW, THEREFORE, Be It Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: After due consideration and deliberation of the recommendations of the Zoning Board of Appeals and of the Planning and Zoning Committee, reviewing the evidence and arguments

presented to those bodies, and hearing evidence and arguments of the interested parties to this application for a use variance, this Council reverses the recommendation of the Zoning Board of Appeals to grant the requested use variance, thereby denying said use variance for the Property at 575 Richmond Road (Permanent Parcel No. 662-27-005).

Section 2: This Council makes the following findings and conclusions of fact to support the decision in Section 1 of this Resolution:

- a. The literal application of the provisions of the Zoning Code does not result in undue hardship to the Applicant or the Property owner. The Applicant has not shown that the Property has no other economically viable uses which are permitted in the R-2 Single-Family Residential District and, therefore, has not demonstrated an undue or unnecessary hardship; and the Applicant has not demonstrated any peculiar and special hardships applicable to the Property which are separate and distinct from the general hardships prevailing with respect to properties in the R-2 Single-Family Residential District;
- b. The Applicant has not presented sufficient evidence that there are unique or exceptional circumstances or conditions which apply only to the intended use of the Property and do not apply to other property within the same zoning district; the Property is surrounded on two of its three sides by detached single-family homes and is not part of the approved development plan for the planned mixed-use development to the south of the Property being developed by the Applicant;
- c. The granting of the use variance will be injurious to the property and improvements in the neighborhood in which the Property is located due to the proposed four- and three-story heights of the proposed apartment building and the proposed lot coverage of the building which is 46% of the lot area; in addition, the proposed plan does not meet several of the special requirements of the Zoning Code if this proposed use was to be constructed in the zoning district in the City where this use would be permitted, the RMF-2 Multi-Family District – e.g., five-acre minimum lot area (being only four acres), yard setbacks, maximum lot coverage, etc.; and such a variance would interfere with the rights of adjacent properties because the essential character of the neighborhood, which is mostly single-family detached homes of 2-stories in height, would be substantially altered;
- d. The use variance being sought is not the minimum which will afford relief to the Applicant; for example, a residential cluster development of attached and detached homes is permitted on this Property under Zoning Code Section 1135.03 with the grant of a limited area-type variance as to lot size (5-acre minimum lot size vs. 4-acre lot size of the Property), rather than the grant of a use variance which is tantamount to a rezoning of the Property; and
- e. The granting of the use variance will be contrary to the purpose, intent and objectives of the Zoning Code, including, but not limited to, Section 1135.01, and is not supported by the Master Plan of the City.

Section 3: 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 4: This Resolution, being administrative action and not legislative action by this Council, shall take effect and be in force from and after its passage and the signature of the Mayor.

PASSED: _____

APPROVED: _____

Kim A. Thomas, Mayor

ATTEST: _____

Donnie L. Hunter
Clerk of Council

Bobby Jordan
President of Council