

DECISION OF THE ZONING HEARING BOARD OF NORTH CODORUS TOWNSHIP

Application Number: 23-01
Hearing Date: March 16, 2023
Applicant: Predix Properties, LLC
Property Owner: OKETE Properties LP
Property: 1470 Fire Hall Road
UPI: 40-000-03-0050.00-00000

Existing Zoning District: Village Center (VC) District

Relief Requested: The Applicant is seeking nine (9) Variances to: (i) increase the maximum density under Section 195-10.C.1 of the North Codorus Zoning Ordinance (the “Ordinance”); (ii) decrease the required lot area under Section 195-10.C, Table 195-10.C of the Ordinance; (iii) decrease the required number of parking spaces under Section 195-45.E of the Ordinance; (iv) increase the maximum number of units under Section 195-10.C, Table 195-10.C of the Ordinance; (v) increase the maximum lot coverage under Section 195-10.C, Table 195-10.C of the Ordinance; (vi) allow the parking spaces to encroach past the building setback line under Section 195-48.A.7.a of the Ordinance; (vii) decrease the minimum parking setback on the rear or side lot lines under Section 195-48.A.7.c of the Ordinance; (viii) not require a landscaped strip along the entire street right of way and/or property line under Section 165-41.B.1 of the North Codorus Subdivision and Land Development Ordinance; (ix) decrease the minimum front yard setback under Section 195-10.C, Table 195-10.C of the Ordinance. The Applicant is seeking a Special Exception to allow a residential conversion of an existing building to result in an increased number of dwelling units under Section 195-6.G, Table of Allowed Uses and Section 195-17.E of the Ordinance.

FINDINGS OF FACT

Based upon the evidence presented, and its evaluation of the credibility of the witnesses, the North Codorus Township Zoning Hearing Board (the “Board”) finds as follows:

1. The foregoing information and the Application, including its attachments, are incorporated by reference.
2. The evidence presented at the hearing as Applicant's Exhibits 1 and 2, are incorporated by reference. The Exhibits are as follows:
 - a. Exhibit 1 – Rendering of the proposed building conversion, a site plan for the Property and a proposed floor plan.
 - b. Exhibit 2 – Photographs of the existing condition of the building and photographs of Applicant's prior projects.
3. The Applicant is Predix Properties, LLC (the "Applicant").
4. The Owner is OKETE Properties LP (the "Owner").
5. The Applicant and Owner are under a sales contract for the property located at 1470 Fire Hall Road (the "Property") which is located in North Codorus Township (the "Township").
6. The Property adjoins land owned by the Township with a baseball field where a community baseball team plays and hosts baseball tournaments.
7. The Property is improved with an existing building that was previously used by the community fire company to provide fire services to the Township (the "Fire Hall").
8. The Property is located in the Village Center (VC) District.
9. The Applicant desires to repurpose the Fire Hall by converting and redeveloping the Fire Hall into a multifamily dwelling consisting of twenty four (24) units (the "Proposed Apartment Complex").
10. The Applicant has applied for eight (8) variances from the North Codorus Zoning Ordinance as follows:
 - a. a variance pursuant to Section 195-10.C.1. to increase the maximum density allowed by the Ordinance to 28 units per buildable acre ("Variance 1").
 - b. a variance pursuant to Section 195-10.C, Table 195-10.C to decrease the lot area required by the Ordinance to less than one (1) buildable acre ("Variance 2").
 - c. a variance pursuant to Section 195-45.E to decrease the number of parking spaces required by the Ordinance to 56 spaces ("Variance 3").
 - d. a variance pursuant to Section 195-10.C, Table 195-10.C to increase the maximum number of units allowed by the Ordinance to twenty four (24) units ("Variance 4").
 - e. a variance pursuant to Section 195-10.C, Table 195-10.C to increase the maximum lot coverage allowed by the Ordinance to seventy seven percent (77%) ("Variance 5").
 - f. a variance pursuant to Section 195-48.A.7.a of the Ordinance to allow the parking spaces to encroach past the building setback line ("Variance 6").
 - g. a variance pursuant to Section 195-48.A.7.c to decrease the minimum parking setback on the rear or side lot lines required by the Ordinance to zero (0) feet ("Variance 7").

- h. a variance pursuant to Section 195-10.C, Table 195-10.C to decrease the minimum yard setback required by the Ordinance to seven point seven four (7.74) feet (“Variance 8”).
11. In addition, the Applicant has applied for a variance pursuant to Section 195-45 of the Ordinance and Section 165-41.B.1 of the Subdivision and Land Development Ordinance (the “SALDO”) to not require a landscaped strip along the entire street right of way and/or property line as required by the SALDO (the “SALDO Variance”).
12. Variance 1, Variance 2, Variance 3, Variance 4, Variance 5, Variance 6, Variance 7, Variance 8, and the SALDO Variance may be collectively referred to hereafter as the “Variances”.
13. At the hearing, upon the questioning of the Board, the Applicant requested to verbally amend its application to include a request for a special exception pursuant to Section 195-6.G, Table of Allowed Uses and Section 195-17.E to allow a residential conversion of an existing building to result in an increased number of dwelling units as required by the Ordinance (the “Special Exception”).
14. The Board granted the Applicant’s request to verbally amend the Application to include the Special Exception.
15. The Applicant’s owner Seth Predix (“Predix”) and Attorney Alex Snyder of Barley Snyder were present on behalf of the Applicant and duly sworn in.
16. The Applicant provided the following facts through its written Application and the testimony of Predix in support of the Application, and in response to questions presented by the Board:
 - a. Predix has an established business specializing in the redevelopment and/or repurposing of blighted buildings into multifamily apartment buildings.
 - b. The Applicant does not flip properties, it holds and maintains the properties it renovates.
 - c. Applicant has its own management company that maintains the properties and addresses resident concerns.
 - d. The Applicant is currently under contract to purchase the Property from the Owner.
 - e. The Property contains .857 acres.
 - f. The Property was purchased by the Owner over ten (10) years ago.
 - g. The Property is improved with the existing Fire Hall and paved parking area.
 - h. The Fire Hall has approximately 7,000 square feet of existing building floor area.
 - i. The Owner has abandoned the idea to renovate or otherwise utilize the Fire Hall as a community center.
 - j. The Fire Hall is vacant and in a blighted condition, including the mold within the building.
 - k. The Applicant is unsure why the Owner has allowed the Fire Hall to remain vacant and decline in condition.
 - l. The Fire Hall will require a new roof, which will be an expensive repair.
 - m. Applicant wishes to renovate the existing Fire Hall by constructing the Proposed Apartment Complex.

- n. Due to the blighted condition, Predix believes the Fire Hall is not suitable to be used as a community center or fire hall building.
- o. The twenty four (24) units in the Proposed Apartment Complex will consist of both one and two bedroom units.
- p. The apartment units will include granite countertops, central air, luxury vinyl plank, stainless steel appliances, washer and dryer, sprinklers, fire alarm, and new mechanical and electrical systems.
- q. In order to make the Proposed Apartment Complex feasible the Applicant desires to build vertically.
- r. The Proposed Apartment Complex will be three floors.
- s. Each floor of the Proposed Apartment Complex will contain 8 units.
- t. The apartment units will vary in size from approximately 990 square feet to 1055 square feet.
- u. The current Owner has an agreement with the community baseball team allowing them to park on the Property parking lot during baseball games.
- v. The Applicant is open to developing a similar agreement with the community baseball team, to the extent possible after accounting for assigned resident parking.
- w. The Applicant believes there will be adequate parking for the Proposed Apartment Complex residents, because he finds he usually only needs 1.5 spaces per unit.
- x. The Applicants target renter for the Proposed Apartment Complex will be someone looking to live in more of quiet county setting.
- y. The Proposed Apartment Complex would be secure with lighting and security cameras.
- z. The Proposed Apartment Complex would have both public water and public sewer.
- aa. The Applicant believes that the Proposed Apartment Complex would address the need to add housing the Township without developing farm land.
- bb. The Applicant believes that the hardship involved is the blighted condition of the Fire Hall.
- cc. The Applicant desires for the Proposed Apartment Complex to contain twenty four (24) total units because this is the minimum number of units needed to make this redevelopment project financially feasible for the Applicant.
- dd. The Applicant would be improving the condition of the exiting Fire Hall and would abide by all applicable Township codes for the redevelopment.
- ee. The Applicant does not believe that the Proposed Apartment Complex will detract from the residential character of the area or negatively impact nearby property values.
- ff. The Applicant does not believe that traffic will be impacted more than expected for allowable uses in the VC.
- gg. The Proposed Apartment Complex will be accessible from all four (4) sides allowing access by fire or ems.
- hh. The Proposed Apartment Complex will have fire safety systems such as fire sprinklers, fire alarms, and a fire separation system.
- ii. Snow removal from the parking lot will be managed by Applicant and contained on the Property.
- jj. Residents of the Proposed Apartment Complex will be assigned designated parking spaces based on the number of persons on the lease plus a visitor spot.
- kk. Section 195-45 of the Ordinance requires 1.5 parking spaces for each one bedroom unit; 2 parking spaces for each 2 bedroom unit; and a third parking space per dwelling unit shall be required if it cannot be accommodated through on-street parking.
- ll. There is no on-street parking to serve the Property.

- mm. Applicant wishes to provide 56 parking spaces for twelve (12) one-bedroom units and twelve (12) two-bedroom units.
- nn. Applicant requests a variance to allow a total of 56 parking spaces.
- oo. Section 195-10.C.1 of the Ordinance allows four (4) units per buildable acre.
- pp. A maximum of three (3) units could be constructed on the Property due to the lot size.
- qq. The Proposed Apartment Complex would not be financially feasible for the Applicant if only three (3) units are built.
- rr. Applicant requests a variance to allow a total of 28 units per buildable acre.
- ss. Section 195-10.C, Table 195-10.C of the Ordinance requires one (1) acre of total lot area for multifamily dwellings.
- tt. Applicant requests a variance to allow the Proposed Apartment Complex multifamily dwelling on less than a one (1) acre.
- uu. Section 195-10.C, Table 195-10.C of the Ordinance allows a maximum of sixteen (16) units per multifamily dwelling.
- vv. Applicant requests a variance to allow a total of twenty four (24) units (8 units per floor) in the Proposed Apartment Complex or one (1) multifamily dwelling.
- ww. Section 195-10.C, Table 195-10.C of the Ordinance allows maximum lot coverage of sixty percent (60%) for a multifamily dwelling.
- xx. Applicant does not desire to change the lot coverage, the Property is currently mostly asphalt that is used for parking.
- yy. Applicant will need to keep most of the existing asphalt for parking spaces.
- zz. Applicant requests a variance to allow maximum lot coverage of seventy-seven percent (77%) for a multifamily dwelling.
- aaa. Section 195-48.A.7.a of the Ordinance requires parking spaces to be set back from any street line in conformance with the applicable building setback lines.
- bbb. The existing parking spaces setback is non-conforming.
- ccc. The Applicant does not desire change the parking area in a way that would expand the non-conformity.
- ddd. Applicant requests a variance to allow parking spaces to encroach past the building setback line approximately ten (10) feet.
- eee. Section 195-48.A.7.c of the Ordinance requires all off-street parking to be set back a minimum of ten (10) feet from side or rear lot lines.
- fff. The off-street parking on the right side and rear of the Property is non-conforming and extends up to the right side and rear lot lines.
- ggg. The Applicant does not desire change the off-street parking in these areas of the Property.
- hhh. If the Applicant were to bring the off-street parking area into compliance with the Ordinance the parking area would be smaller, reducing the number of off-street parking spaces further.
- iii. Applicant requests a variance to allow off-street parking spaces to be setback zero (0) feet from the right side and rear lot lines.
- jjj. Section 195-45 of the Ordinance and Section 165-41.B.1 of the SALDO requires a landscaped strip along the entire street right of way and/or property line where parking areas abut a street or property line.
- kkk. The Applicant does not desire change the parking in these areas of the Property.
- lll. These parking areas currently abut both a street and property line without a landscaped strip.

- mmm. If the Applicant were to bring the parking areas into compliance with the Ordinance and the SALDO the total parking area would be smaller, reducing the number of off-street parking spaces further.
- nnn. Applicant requests a variance to not require the landscaped strip along the entire street right of way and/or property line where the parking areas abut a street or property line.
- ooo. Section 195-10.C, Table 195-10.C of the Ordinance requires a minimum front yard setback of twenty five (25) feet.
- ppp. The Fire Hall building is currently non-conforming, as the right side of the building in the front yard encroaches on the twenty five (25) foot setback.
- qqq. Applicant proposes to add an addition to the Fire Hall building that would make the Proposed Apartment Complex even on both sides in the front yard.
- rrr. The proposed addition to the building would include extending the right side of the building currently encroaching the setback an additional three (3) feet to allow for a new stair tower to be constructed.
- sss. Applicant requests a variance to allow a front yard setback of seven point seven four (7.74) feet.

17. A number of citizens appeared and testified, having specific objections to the Proposed Apartment Complex and the grant of the Variances.
18. Among the issues raised by the citizens were issues with regard to use of Westside Lane, use of an unnamed alley nearby, safety, noise, increased traffic, loss of visibility from their homes because of the height and number of units for the Proposed Apartment Complex and concerns that there would be enough parking for the residents and the community baseball team.
19. Resident Eric Tracy asked the Applicant questions about concerns with the use of an unnamed alley by residents of the Proposed Apartment Complex. Predix testified in response that the Applicant will instruct residents that they are to access the parking areas for the Proposed Apartment Complex via Fire Hall Road only.
20. Resident Lisa Carpen (“Carpen”) testified in opposition to the Application. Carpen lives across from third base of the baseball field that is directly behind the Property. Carpen will be able to see the Proposed Apartment Complex from her home. The Proposed Apartment Complex will negatively impact the area and her property because Carpen’s view will be obstructed, she has concerns about the amount of people that would then be living in the area and that crime would increase as a result of the Proposed Apartment Complex.
21. Resident Beth Diehl (“Diehl”) testified in opposition to the Application. Diehl lives on Fire Hall Road across from the Property. Diehl believes that the Proposed Apartment Complex will not fit in the area because of its size being that it will be three (3) floors. Diehl stated the Proposed Apartment Complex will negatively impact the area because the population of the area will be doubled increasing traffic. Diehl also believes that the view in the area will be obstructed and the area will no longer be quiet because the Proposed Apartment Complex would increase noise.
22. Resident Tim Thoman (“Thoman”) testified in opposition to the Application. Thoman is a coach of the community baseball team that plays at the baseball field behind the Property and parks at the Property. Thoman stated that the Property was designated for community use by

a prior owner. Thoman provided no proof of such designation, but believes it exists. Thoman further testified that the Fire Hall is only blighted because of the Owners inaction to upkeep or remodel the Fire Hall.

23. The son of the Property Owner, Noah Kaiser (“Kaiser”) testified in favor of the Application, stating that the Fire Hall on the Property will remain vacant and in disrepair if it is not purchased by the Applicant. Kaiser stated that the Owners were told there would be grant money available to fix up the Fire Hall, but that was not accurate. In response to a question from residents in attendance, Kaiser stated the Property has not been publicly listed for sale.
24. Resident John Stein (“Stein”) testified in opposition to the Application. Stein stated that St. Lawrence Holtzapple intended the Property to stay with the community. Stein further testified that the Proposed Apartment Complex will impact traffic in the area and that Fire Hall Road and Westside Lane will need to be widened. Stein is concerned about fire safety of the Proposed Apartment Complex because Spring Grove is the closest fire company with a ladder truck. Stein also asked the Applicant questions about fire truck access to the building. Predix testified in response that the Proposed Apartment Complex will have a fire suppression system that all fire codes will be complied with, in addition Predix believes that Fire Hall Road is wide enough and that fire trucks will be able to access all sides of the Proposed Apartment Complex within the parking lot.
25. Resident Victoria Bortner (“Bortner”) testified in opposition to the Application. Bortner lives near the Property and is concerned for the safety and wellbeing of her animals. Twenty four (24) units seems like a lot for the area, and Bortner is concerned that kids from the Proposed Apartment Complex may attempt to access her animals causing the animals harm. Predix testified in response that 95% of his residents do not have children, that he maintains strict rules and would have a camera system at the Proposed Apartment Complex to address safety concerns.
26. Resident Ryan Loucks asked the Applicant questions about the requested density and the Applicant’s CAP rate for the Proposed Apartment Complex project because Predix testified that twenty four (24) units are needed to make the project financially feasible for Applicant. Predix testified in response that he declines to provide any financial information about Applicant or project on the basis that he doesn’t believe it is relevant to the Application.
27. Resident Justin Smay testified in opposition to the Application, he is concerned about light pollution from the Proposed Apartment Complex and the hardship the Proposed Apartment Complex will have on the Township.
28. Levi Krause, a member of the community baseball team, asked the Applicant questions about baseballs hitting the Proposed Apartment Complex and/or resident cars and plans to mitigate damage from the baseball games. Predix testified in response that he may be willing to work with the baseball team putting up a net that would stop balls from entering the Property and would take other precautions to prevent damage.
29. Resident and Township Planning Commission Member Nelson Brenneman testified that he believes the Owner of the Property does not have the money to renovate the Fire Hall and does not know about the community use designation of the Property.

30. Many other interested citizens appeared at the hearing but did not offer testimony in support or opposition of the Application.
31. The Applicant provided no legal argument that the requested Variances are dimensional or de minimis.
32. The Applicant presented the Variances to the North Codorus Township Planning Commission, which recommended approval.
33. The Ordinance defines the term residential conversions in Section 195-5 as “[t]he change to an existing building to result in one or more additional dwelling units.”
34. Section 195-17 E provides that the following conditions must be met for residential conversions:
 - a. The conversion shall not cause a reduction in the residential, agricultural or historic external character of the building, except for fire safety and disabled access improvements.
 - b. If such conversion involves more than one dwelling unit, it shall only be allowed for a building of more than 3,000 square feet of existing building floor area, or for agricultural barns or mill buildings of more than 600 square feet of building floor area that existed prior to July 21, 1998.
 - c. Such conversion shall result in a maximum of two dwelling units in the building, except a higher number may be approved by the Zoning Hearing Board if the building includes more than 4,000 square feet of existing building floor area.
35. The Board finds the following in response to the special exception criteria:
 - a. The proposed residential conversion use of the Fire Hall is permitted in the VC under Section 195-17 E upon the grant of a special exception.
 - b. The proposed use is not compatible with the surrounding area, including environmental impacts, noise, and health and safety hazards.
 - c. The proposed use will be provided with adequate water supply, sewage disposal, trash and garbage collection and disposal.
 - d. The proposed use is not suitable for the site with respect to existing or future streets and will create traffic safety hazards or traffic congestion.
 - e. The proposed residential conversion use will not be in conformance with all applicable requirements of the North Codorus Township Zoning Ordinance and Subdivision and Land Development Ordinance without the grant of the nine (9) requested Variances.
36. The Board finds the following in response to the variance criteria:
 - a. There are not unique physical circumstances or conditions of the Property, and the requested Variances are not necessary to enable the reasonable use of the Property.
 - b. To the extent that the blighted condition of the Fire Hall may be considered an unnecessary hardship, the unnecessary hardship was created by the Property Owner.

- c. The Variances will alter the essential character of the neighborhood in which the Property is located and will substantially impair or permanently impair the appropriate use or development of adjacent properties.
- d. The Variances are not believed to be the minimum variances that will afford relief and do not represent the least modification possible of the regulations at issue.

CONCLUSIONS OF LAW SPECIAL EXCEPTION

Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Board finds that the Applicant has offered insufficient testimony and evidence to establish compliance with all the general and specific criteria in the Ordinance to justify the grant of the Special Exception in this case.
2. The Board finds that there has been insufficient testimony and evidence provided by the Applicant to establish that the Proposed Apartment Complex use can meet all the special exception criteria under Sections 195-59D and 195-17 E the Ordinance.
3. The Board finds that the grant of the Special Exception will alter the character of the zone, and constitutes a risk to the general health, safety and welfare of the community.
4. The Board finds that the Proposed Apartment Complex use is not suitable for the site with respect to existing or future streets and will create traffic safety hazards or traffic congestion.

CONCLUSIONS OF LAW

VARIANCES

Based upon the Findings of Fact, and pursuant to applicable law, the Board concludes as follows:

1. The Board finds that the Applicant has offered insufficient testimony and evidence to justify a grant of the Variances in this case.
2. The Board finds that the Applicant has not met the criteria enumerated in the Township Zoning Ordinance and the Municipality's Planning Code, to justify a grant of the Variances.
3. A dimensional variance, as opposed to a use variance, justifies a relaxed or less stringent application of the variance criteria.¹
4. However, under the relaxed standards of a dimensional variance an applicant must still prove that (1) only a minor deviation from the zoning ordinance is sought and (2) rigid compliance

¹ *Hertzberg v. Zoning Board of Adjustment of the City of Pittsburgh*, 721 A.2d 43 (Pa. 1998).

with the ordinance is not necessary for the preservation of the public interests sought to be protected by the ordinance.²

5. The Board also finds that a grant of the Variances would not be a minor deviation from the Ordinance and public interest would be harmed in that the Variances would result in more than a minor increase in density and traffic to the area.
6. The Board also finds that there are no unique hardships involved with this Property, which would justify the grant of the Variances in this case.
7. The Board also finds that the Property can be reasonably be used in conformity with the provisions of the Ordinance, and that the authorization of the Variances are therefore not necessary to enable the reasonable use of the Property.
8. The Board finds that the grant of the Variances will alter the character of the zone, and does constitute a risk to the general health, safety and welfare of the community.

DECISION

SPECIAL EXCEPTION

A motion was made and seconded to grant the requested Special Exception. The motion did not pass with a vote of 0-3.

By unanimous vote of the North Codorus Township Zoning Hearing Board the Application of Applicant, requesting a special exception to permit a residential conversion of the existing building on the Property to result in an increased number of dwelling units under Section 195-6.G, Table of Allowed Uses and Section 195-17.E of the Ordinance, is denied.

DECISION

VARIANCES

A motion was made and seconded to grant the requested Variance 1. The motion did not pass with a vote of 0-3.

A motion was made and seconded to grant the requested Variance 2. The motion did not pass with a vote of 0-3.

A motion was made and seconded to grant the requested Variance 3. The motion did not pass with a vote of 0-3.

A motion was made and seconded to grant the requested Variance 4. The motion did not pass with a vote of 0-3.

² *King v. Zoning Hearing Board of Borough of Nazareth*, 463A.2d 505 (Pa. Cmwlth. Ct. 1983).

A motion was made and seconded to grant the requested Variance 5. The motion did not pass with a vote of 0-3.

A motion was made and seconded to grant the requested Variance 6. The motion did not pass with a vote of 0-3.

A motion was made and seconded to grant the requested Variance 7. The motion did not pass with a vote of 0-3.

A motion was made and seconded to grant the requested SALDO Variance. The motion did not pass with a vote of 0-3.

A motion was made and seconded to grant the requested Variance 8. The motion did not pass with a vote of 0-3.

By nine (9) unanimous votes of the North Codorus Township Zoning Hearing Board the Application of Applicant, requesting variances to: (i) increase the maximum density under Section 195-10.C.1 of the Ordinance; (ii) decrease the required lot area under Section 195-10.C, Table 195-10.C of the Ordinance; (iii) decrease the required number of parking spaces under Section 195-45.E of the Ordinance; (iv) increase the maximum number of units under Section 195-10.C, Table 195-10.C of the Ordinance; (v) increase the maximum lot coverage under Section 195-10.C, Table 195-10.C of the Ordinance; (vi) allow the parking spaces to encroach past the building setback line under Section 195-48.A.7.a of the Ordinance; (vii) decrease the minimum parking setback on the rear or side lot lines under Section 195-48.A.7.c of the Ordinance; (viii) not require a landscaped strip along the entire street right of way and/or property line under Section 165-41.B.1 of the North Codorus Subdivision and Land Development Ordinance; (ix) decrease the minimum front yard setback under Section 195-10.C, Table 195-10.C of the Ordinance, is denied.

[SIGNATURE PAGE TO FOLLOW]

BOARD SIGNATURES:

Duane Kerstetter, Chairman

Stephen Smith, Vice-Chairman

Travis Jones

Dated: _____, 2023

Date of Mailing: _____

Note: Any party aggrieved by this decision may appeal to the Court of Common Pleas of York County within thirty (30) days of the date of this written decision.