



Board of Zoning and Building Appeals
REGULAR MEETING January 16, 2014
7:30 P.M. • Town Hall • 2nd Floor
27 East Main Street • Hudson, Ohio

MINUTES

Chairman Lehman called to order the Regular Meeting of the Board of Zoning and Building Appeals of the City of Hudson, at 7:30 pm. in the 2nd Floor meeting Room of Town Hall, 27 East Main Street, Hudson, Ohio.

Present: Mr. Drew, Mr. Dohner, Mr. Jahn, Mr. Lehman and Mr. Wagner
Absent: None

Officials Present: Kris McMaster, Associate Planner and Aimee W. Lane, Assistant City Solicitor (entered the meeting at 7:56 p.m.)

Meeting minutes were taken by Denise Soloman, Board Clerk.

Except where otherwise noted, the following applied to the cases heard at this meeting, the applications were routinely referred to the City of Hudson Board of Zoning and Building Appeals, assigned their respective docket numbers and placed in a newspaper of general circulation in the area.

Mr. Lehman introduced Kris McMaster, Associate Planner

Mr. Lehman placed staff and all those persons in the audience wishing to speak under oath.

OATH OF OFFICE

Mr. Lehman swore in Mr. Drew and Mr. Wagner to their terms as members of the Board of Zoning and Building Appeals.

ELECTION OF OFFICERS

Mr. Jahn made a motion to nominate Mr. Lehman as Chair. Mr. Dohner seconded the motion. Mr. Lehman accepted the nomination.

Roll Call: Aye: Mr. Jahn, Mr. Drew, Mr. Dohner, Mr. Wagner and Mr. Lehman
Nay: None

Motion unanimously carried.

Mr. Jahn made a motion to nominate Mr. Dohner as Vice-Chair. Mr. Drew seconded the motion. Mr. Dohner accepted the nomination.

Roll Call: Aye: Mr. Wagner, Mr. Dohner, Mr. Dohner, Mr. Jahn and Mr. Lehman
Nay: None

Motion unanimously carried.

APPROVAL OF MINUTES

Mr. Dohner made a motion to approve the minutes of the November 21, 2013 meeting as written. Mr. Jahn seconded the motion. Mr. Drew abstained. All other members were in favor.

PUBLIC HEARING

APPEALS DOCKET NO. 2014-01

Mr. Lehman said this hearing was called to consider Appeals Docket No. 2014-01. The applicant is Palumbo Renovations, 6556 Stone Road, Hudson, Ohio 44236. The property owner is John and Amy Ford, 72 Aurora Street. The property is in District 4 [Historic Residential Neighborhood].

The request is a variance of five (5) feet to the minimum side yard setback requirement of twenty-five (25) feet for a side-facing attached garage pursuant to Section 1205.07(d)(6)(B)(iv) "Property Development/Design Standards – Minimum Side Yard Setback-Side Facing Attached Garage".

Mr. Lehman asked Mrs. McMaster to confirm that due notice was provided for all cases. Mrs. McMaster reported that there was an occurrence related to notification for the second case on the agenda. She explained that the legal notice was submitted to the Hudson Hub Times to be advertised ten days prior to the meeting as required. Due to an error at the newspaper, the notice was published in the Kent newspaper. The notice was then put in the Hudson Hub Times the following Wednesday, seven days prior to the meeting. She said that Mrs. Lane reviewed the circumstances and determined that the criteria for notice was met since the newspaper made the error, notice was sent to the adjacent property owners and a sign was placed on the subject property. Mr. Lehman had no concerns with proceeding with the case.

Mrs. McMaster referred to the staff report and gave an overview of the application.

Mr. Paul Palumbo of Palumbo Renovations explained the variance request. He said that there was no place on the property to add a two car garage, so they were proposing to incorporate the garage at the bottom level where there was an existing walk out basement. He described the proposed addition.

Mr. Lehman stated that a letter in support of the variance from Jack and Judy Brookhart, 64 Aurora Street, was presented to the Board at the meeting. He requested that the letter be entered into the record.

Mr. Jahn asked if the basement level was the same elevation as the proposed garage floor and if turning a car around would be an issue. Mr. Palumbo said that the floor level would be the same and there was no problem with turning around since they had small cars. Mr. Jahn asked if there were any concerns with water run-off due to the proposed construction. Mr. Palumbo stated that the grade drops even further in the rear yard, so there were no issues with water run-off.

Mr. Drew asked staff to explain the required setback to an attached garage. Mrs. McMaster explained the code requirement that a side facing attached garage must be a minimum of twenty-five (25) feet from the side property line; however, in this zoning district, the house could be only eight (8) feet from the side property line. Mr. Drew asked if there was any way to incorporate the garage and still meet the required setback. Mr. Palumbo described the conditions of the lot and issues with other garage placement options.

Mr. Wagner asked if the rear of the existing garage would be open, so a car could drive through. Mr. Palumbo replied yes, there would be a garage opening at the rear and the inside would be finished to create a carport.

Mrs. Lane entered the meeting at 7:56 p.m.

Mr. Lehman opened the meeting to public. There were no comments and the public portion was closed.

Mr. Jahn made a motion to grant a variance of five (5) feet to the minimum side yard setback requirement of twenty-five (25) feet for a side-facing attached garage pursuant to Section 1205.07(d)(6)(B)(iv) "Property Development/Design Standards – Minimum Side Yard Setback-Side Facing Attached Garage".

- a) the property in question will yield a reasonable return and there can be a beneficial use of the property without the variance because the property is an existing occupied house; however, the variance would allow substantial enhancement and improve the livability of the property;
- b) the variance is insubstantial because the specific dimension of the variance is five (5) feet or 20% of the setback requirement;
- c) the essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the variance because even with the construction of the proposed garage pursuant to the variance, there would be limited visibility of the garage in the back yard from the adjoining properties;
- d) the variances would not adversely affect the delivery of governmental services if granted;
- e) the owner purchased the property with knowledge of the zoning restrictions;
- f) the applicant's predicament feasibly cannot be resolved through some method other than the variances;

g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance because the enhancements and improvements to the property would exceed the insubstantial degree of variance.

Mr. Drew seconded the motion.

Roll Call: Aye: Mr. Jahn, Mr. Drew, Mr. Dohner, Mr. Wagner and Mr. Lehman
Nay: None

Motion was unanimously carried.

APPEALS DOCKET NO. 2014-02

Mr. Lehman said this hearing was called to consider Appeals Docket No. 2014-02. The applicant is Vernon Bohner of Hudson Pools and Spas on behalf of the property owners, Chad and Karen Spencer, 6030 Leslie Drive. The property is in District 3 [Outer Village Residential Neighborhood].

The requests are for a 1] variance of twenty-eight (28) feet from the requirement all buildings, accessory structures, and parking areas or lots shall be setback at least fifty (50) feet horizontally (map distance), from the delineated edge of a wetland resulting in a setback of twenty-two (22) feet to allow the installation of a swimming pool pursuant to Section 1207.03(e)(2) "Wetland/Stream Corridor Protection – Setbacks"; and 2] a variance to the requirement which prohibits any activity that will disturb, remove, fill, drain, dredge, clear, destroy, or alter any area, including vegetation, within stream corridors, wetlands and their setbacks pursuant to Section 1207.03(c), "Wetland/Stream Corridor Protection - Prohibited Activities" pursuant to the City of Hudson Land Development Code.

Mrs. McMaster referred to the staff report and gave an overview of the application.

Mr. Vernon Bohner explained the variance request and pointed out on the photographs where the pool would be located. He said that a wetland delineation was completed to verify the location of the wetlands and it was exactly as indicate on the plan. He said that there would be no grade change as a result of the pool. He added that a two foot wall could be added around the pool so that no land would be disturbed.

Mr. Wagner asked the applicant the probability that the inground pool would develop a leak, and what would be the consequences to the wetland if there were a leak. Mr. Bohner described the pool construction and stated that the chance of a leak was very slim. He added that if there were a leak, no water would get to the wetland since it would be contained in the concrete. He said that pools are set up to drain where the downspouts drain. He stated that it was impossible for the pool to break causing the water to reach the wetland.

Mr. Dohner asked if there was a circumstance where the pool water needed to be emptied, where would the water drain. Mr. Bohner said that it would be emptied into the storm sewer.

Mr. Jahn asked if there was another location on the property for the pool that would not require a variance. Mr. Bohner replied no, if the pool were located anywhere else it would be in the

wetland. Mr. Jahn asked what type of vegetation was in the wetland. Mr. Bohner stated that it was mostly scrub bushes. He stated that there were existing power lines in a utility easement within the wetlands, so the wetlands were also disturbed for maintenance of the lines.

Mr. Drew asked what type of chemicals would be in the pool water. Mr. Bohner stated that this pool would have a UV system and explained the chlorine and pH products that would be used. He said that City of Hudson water has been tested to have more chlorine than pool water. Mr. Drew asked staff how the fifty (50) foot setback requirement was established. Mrs. McMaster stated that at the time the code was written, that was the standard. She added that there was some study being done on this issue that could lead to a code amendment.

Mr. Lehman opened the meeting to public. There were no comments and the public portion was closed.

The Board discussed the amount of setback, the chemicals to be used in the water, the existing utility easement and the nature of the wetlands. The Board considered the pool to be a non-necessary structure. Mr. Lehman asked if the applicant could return if there were to be a code amendment reducing the amount of setback required. Mrs. Lane said that a code amendment would be enough change in circumstance for the applicant to return with another variance request.

Mr. Dohner made a motion to deny the request for 1] a variance of twenty-eight (28) feet from the requirement all buildings, accessory structures, and parking areas or lots shall be setback at least fifty (50) feet horizontally (map distance), from the delineated edge of a wetland resulting in a setback of twenty-two (22) feet to allow the installation of a swimming pool pursuant to Section 1207.03(e)(2) "Wetland/Stream Corridor Protection – Setbacks"; and 2] a variance to the requirement which prohibits any activity that will disturb, remove, fill, drain, dredge, clear, destroy, or alter any area, including vegetation, within stream corridors, wetlands and their setbacks pursuant to Section 1207.03(c), "Wetland/Stream Corridor Protection - Prohibited Activities" pursuant to the City of Hudson Land Development Code.

- a) the property in question will yield a reasonable return and there can be a beneficial use of the property without the variance because the applicant failed to show exceptional or unusual conditions that exist on the property or a practical difficulty necessary for granting a variance. The applicant did not show that the variance for the construction of a pool was necessary, only that it was desirable;
- b) the variance is substantial because it is 56% of the required wetland setback;
- c) the essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a substantial detriment as a result of the denial of the variance, but if granted the wetlands would be negatively impacted;
- d) the variances would not adversely affect the delivery of governmental services if granted;
- e) the owner purchased the property with knowledge of the zoning restrictions;
- f) the applicant's predicament feasibly can be resolved through some method other than the variances since the inground swimming pool is optional or discretionary for the owner;

g) the spirit and intent behind the zoning requirement would not be observed and substantial justice not done by granting the variance because the responsibility of the Board is to uphold the current code unless practical difficulty is demonstrated and here, the owner bought the property with knowledge of the zoning restriction.

Mr. Wagner seconded the motion.

Roll Call: Aye: Mr. Dohner, Mr. Wagner, Mr. Drew and Mr. Jahn

Nay: Mr. Lehman

The motion was carried and the variance request was denied.

OTHER BUSINESS

Mrs. McMaster said that the deadline for the February meeting was next week. The request for American Fireworks has been continued to this meeting.

ADJOURNMENT

Mr. Dohner made a motion to adjourn the meeting. Mr. Jahn seconded the motion and all members present were in favor.

Chairman Lehman adjourned the meeting at 9:10 p.m.

David W. Lehman, Chairman

John M. Dohner, Vice Chairman

Denise M. Soloman, Board Clerk