



**Board of Zoning and Building Appeals**  
**REGULAR MEETING July 18, 2013**  
**7:30 P.M. • Town Hall • 2<sup>nd</sup> 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 2<sup>nd</sup> Floor Meeting Room of Town Hall, 27 East Main Street, Hudson, Ohio.

Present: Mr. Dohner, Mr. Jahn, Mr. Lehman, and Mr. Lewis  
Absent: Mr. Wise

Officials Present: Kris McMaster, Associate Planner and Aimee W. Lane, Assistant City Solicitor

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 and Aimee W. Lane, Assistant City Solicitor.

Mrs. Lane placed staff and all those persons in the audience wishing to speak under oath.

**PUBLIC HEARING**

**APPEALS DOCKET NO. 2013-10**

Mr. Lehman said this hearing was called to consider Appeals Docket 2013-10. The applicant and future property owner is Wayne C. Wallace, 6164 Burr Oak Way, Hudson, Ohio 44236 for the property owners, Robert and Martha Cailor, 4339 Copley Road, Akron, Ohio 44321 for parcel #30-09972 located on Reserve Lane in District 2 [Rural Residential Conservation].

The requests are for variances to permit development of a residential home. 1] A variance from the requirement to utilize public water and sewer in order to have a water well and septic system on the property pursuant to the City of Hudson Land Development Code, Section 1207.11(b)(1), "Adequate Public Facilities-General Standards-Water/Wastewater"; and 2] A variance to the emergency access requirement that adequate access be provided for emergency vehicles and for those persons rendering fire protection and emergency services pursuant to Sections 1207.13(c)(9)(J), "Transportation/Circulation-Streets, Easements, and Alleyways – Emergency Access", (iv) Fire Access Road Width and (ix) Dead End Length of the City of Hudson Land Development Code.

Mrs. McMaster referred to the staff report and gave an overview of the application. Mr. Lewis asked staff the purpose of the turnouts on the driveway. Mrs. McMaster said that they allow room for cars to get out of the way of emergency vehicles. She said that the Fire Chief Varnes has reviewed the preliminary plan and provided comments.

Mr. Wayne Wallace, the applicant, and Mr. Matt Schmidt, the contractor, presented the variance request. Mr. Wallace said that he wanted to purchase the property to build a new house. Mr. Schmidt explained the need for a water well and septic system was based on the high cost of utilizing public water and sewer because he was certain a pump station would be required.

Mr. Jahn asked if the applicant had any questions or comments on the Fire Department suggestions. Mr. Schmidt stated that they were aware of the requirements and had no concerns.

Mr. Lehman opened the meeting to public comment.

Mr. Rudy Stagl, 729 Barlow Road, said that he had no concerns with a septic system and he supported that variance request. He was concerned with the removal of trees due to the widening of the drive.

Mr. John Shirhal, 745 Barlow Road, said that he was opposed to any type of well or septic system on this property due to the proximity of the lake. He believed the lake could become polluted and the property is not conducive to this situation. Mr. Lehman asked if there was any evidence to support the concern for the impact on the lake. Mr. Shirhal replied no; however, the pump station would be located at the lowest point on the property. Mr. Wallace stated that there would not be a pump station with a well and septic system. Mr. Lewis commented that the request was for a well and septic system and that Mr. Shirhal's concern was that gravity would cause leaching. Mrs. McMaster stated that the City has no jurisdiction over water wells or septic systems. She added that even with a variance approval, they must comply with Summit County Health Department guidelines.

Mr. Lewis asked the direction storm water would flow on this property. Mr. Schmidt stated that storm water would flow west of the lake to the southwest.

Mr. Alan Roppel, 5693 Reserve Lane, commented on concerns with the pond. He also said that this property was not approved for a lot split in 1991. Mr. Schmidt said that this

property was a result of two properties that were joined together, so there was adequate room to allow for drainage.

Mr. Lehman closed the meeting to public comment.

The Board discussed the comments from the neighbors, the concerns with the proposed septic system and the cost to tie in to public water and sewer. Mrs. Lane said that the county guidelines were very specific and geared towards safety and environmental issues. She added that this issue was outside the domain of this board and urged those with concerns to pursue them with the county health department.

Mr. Dohner made a motion to grant 1] A variance from the requirement to utilize public water and sewer in order to have a water well and septic system on the property pursuant to the City of Hudson Land Development Code, Section 1207.11(b)(1), "Adequate Public Facilities-General Standards-Water/Wastewater"; and 2] A variance to the emergency access requirement that adequate access be provided for emergency vehicles and for those persons rendering fire protection and emergency services pursuant to Sections 1207.13(c)(9)(J), "Transportation/Circulation-Streets, Easements, and Alleyways – Emergency Access", (iv) Fire Access Road Width and (ix) Dead End Length of the City of Hudson Land Development Coded with the following conditions:

- The four terms of approval from Chief Jerry Varnes in email dated July 17, 2013 must be met.
- When City water and sewer become available to the property, the then property owner is required to connect to these services.
- This variance is granted with the condition that it does not alleviate the current or future property owners from assessments for public water lines and sanitary sewer that may in the future be available to the property.

a) the property in question will not yield a reasonable return and there cannot be a beneficial use of the property without the variance because the applicant has explained that the anticipated costs of running sewer and water lines to the property down the private drive would be about triple the cost of a water well and septic system;

b) the variance is substantial for the emergency access requirement, but less substantial for the water well and septic system;

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 there are already water wells and septic systems in the neighborhood currently used or had been used before a tie in to public water, and the cost of a tie in associated with this property was disproportionately high;

d) the variance would not adversely affect the delivery of governmental services if the conditions stated by Chief Jerry Varnes for the fire access driveway are met;

- 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 variance;
- g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Lewis seconded the motion.

Roll Call: Aye: Mr. Jahn, Mr. Dohner, Mr. Lewis and Mr. Lehman

Nay: None

Motion unanimously carried.

#### APPEALS DOCKET NO. 2013-11

Mr. Lehman said that this hearing was called to consider Appeals Docket No. 2013-11. - The applicants and owners are Kenneth and Joyce Kuryla, 1975 E. Norton Road, Hudson, Ohio 44236 in District 8 [Industrial/Business Park].

The request is a variance from the requirement to utilize public water in order to have a water well on the property to construct an office building pursuant to Section 1207.11(b)(1), "Adequate Public Facilities-Water/Wastewater" of the City of Hudson Land Development Code.

Mrs. McMaster referred to the staff report and gave an overview of the variance request. She said that a letter from Anthony Bales, City Manager, regarding the agreement with Akron Water was provided to the Board. She said that Mr. Bales was in favor of the variance and waived the application fee. She said that Mr. Bales recommended waiving the condition to tie in to public water when available.

Mr. Kenneth Kuryla said that he had nothing more to add than what was explained in the staff report. He said that he wanted to break ground in a timely fashion.

Mr. Lewis stated that it was clear that there was no agreement with Akron Water at this time; however, he questioned why the requirement to tap in when water became available should be waived. Mr. Kuryla stated that this building would only be an office and that phase two of this project was the event center. He said that in the future when the event center would be built, he hoped to tie in to public water, but leave the office on the well. Mrs. Kuryla said that they would be spending money on a well that would meet the needs of the office and due to this initial cost they were requesting an unconditional approval. She said that they could not tap into the office well for the event center due to the amount of separation between buildings.

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

Mr. Lewis said that the status of the agreement with Akron Water is a unique situation; however, the condition to tap in in the future has been consistent and the applicant had not shown a burden as to why that was not possible. Mrs. Lane said Council felt that the cost of a well and the cost to tie in would be burdensome and that it was the position of administration that a tie in should be voluntary. There was further discussion on a condition to require the applicant to tie in to public water when it becomes available in the future.

Mr. Jahn made a motion to grant a variance from the requirement to utilize public water in order to have a water well on the property to construct an office building pursuant to Section 1207.11(b)(1), "Adequate Public Facilities-Water/Wastewater" of the City of Hudson Land Development Code without conditions.

Mr. Dohner seconded the motion. The Board discussed the motion and a compromise to require a time frame to tie in to public water when available. They determined that ten years was an acceptable amount of time for the applicant to recover the cost of the well. Mr. Jahn thought that ten years was not long enough.

Mr. Jahn withdrew his motion and Mr. Dohner withdrew the second.

Mr. Lewis made a motion to grant a variance from the requirement to utilize public water in order to have a water well on the property to construct an office building pursuant to Section 1207.11(b)(1), "Adequate Public Facilities-Water/Wastewater" of the City of Hudson Land Development Code.

The Board finds and concludes that the variance is granted with the following conditions:

- When the City of Hudson and the other applicable municipality(ies) resolve the water services agreement between the municipalities, the applicant would then be required to tap in to public water, but not at a time sooner than ten years from the date of this decision, unless public water is available through other means.
  - This variance applies only to the office building currently proposed.
- a) the property in question will not yield a reasonable return and there cannot be development of the property without the variance since there is no possibility to bring public water in;
  - b) the variance is substantial but justified under the circumstances due to the failure of the municipalities to provide water to this property from a public source;
  - 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 given the nature of a water well;
  - d) the variance 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 variance;
- g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance so that construction as intended by the applicant for this property can proceed.

Mr. Dohner seconded the motion.

Roll Call: Aye: Mr. Lewis, Mr. Dohner and Mr. Lehman  
Nay: Mr. Jahn

Motion carried.

#### APPEALS DOCKET NO. 2013-12

Mr. Lehman said this case was called to consider Appeals Docket No. 2013-12. The applicant is Classic Homes, Inc., 206 E. Garfield Road, Aurora, OH 44202 for the property owners, Jeffrey and Janet Jinks, 6734 Pin Tail Drive, Brecksville, Ohio 44141 for 6648 Hollis Blvd. in District 3 [Outer Village Residential Neighborhood].

The request is a variance from the requirement to utilize public water in order to have a water well on the property to construct a new house pursuant to Section 1207.11(b)(1), "Adequate Public Facilities-Water/Wastewater" of the City of Hudson Land Development Code.

Mr. McMaster referred to the staff report and gave an overview of the variance request.

Mr. Ed Wurm of Classic Homes, Inc. explained the request for a water well and stated that the property owners were willing to tie in to public water when available.

Mr. Lewis said that based on the discussion of the previous case, the Board determined that ten years was an acceptable time frame to time in. He asked if there were any circumstances that the Board should consider differently for this property. Mr. Wurm said that was reasonable condition.

Mr. Lehman opened the meeting to public comments. Hearing no comments, this portion of the meeting was closed.

Mr. Lewis stated that after the property owner tied in to public water, they could continue to use the well and questioned if this created any concerns. Mrs. McMaster replied no, it would not be an issue since they would be complying with the City's request.

There was discussion on the condition to tie in to public utilities within ten years and whether there would be a difference between residential and non-residential properties. The Board discussed consistency with past approvals for water wells and the unique situation caused by the status of an agreement with Akron Water.

Mr. Lewis made a motion to grant a variance from the requirement to utilize public water in order to have a water well on the property to construct a new house pursuant to Section 1207.11(b)(1), "Adequate Public Facilities-Water/Wastewater" of the City of Hudson Land Development Code.

The Board finds and concludes that the variance is granted with the following conditions:

- The applicant is required to tap in to a publicly provided water source when available through resolution of agreements between applicable municipalities, but not at a time sooner than ten years from the date of this decision.
- a) the property in question will not yield a reasonable return and there cannot be a beneficial use of the property without the variance because the property would not otherwise be serviced by water;
- b) the variance is substantial because the other residences in the neighborhood are serviced by public water, but justified given that water would not otherwise be available;
- 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 instead the neighborhood would be improved by the construction of the residence;
- d) the variance 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 variance;
- g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance as it would allow beneficial use of the property to occur.

Mr. Dohner seconded the motion.

Roll Call:     Aye:   Mr. Dohner, Mr. Lewis and Mr. Lehman  
                  Nay:   Mr. Jahn

Motion carried.

APPEALS DOCKET NO. 2013-13

Mr. Lehman said that this application was called to consider Appeals Docket No. 2013-13. The applicant is Chris Brown for Prestige Homes, 17 E. Streetsboro Street, Hudson, Ohio 44236 for the property owners, Wediditland 2012 LLC, Rick and Michelle Schultz, 2073 E. Highgate Court, Hudson, Ohio 44236 for 7935 Valley View Road in District 2 [Rural Residential Conservation].

The requests are variances to permit development of a residential home. 1]A variance from the requirement to utilize public water and sewer in order to have a water well and septic system on the property pursuant to the City of Hudson Land Development Code, Section 1207.11(b)(1), “Adequate Public Facilities-General Standards-Water/Wastewater”; and 2] A variance to the emergency access requirement that adequate access be provided for emergency vehicles and for those persons rendering fire protection and emergency services pursuant to Sections 1207.13(c)(9)(J), “Transportation/Circulation-Streets, Easements, and Alleyways – Emergency Access”, (iv) Fire Access Road Width and (ix) Dead End Length of the City of Hudson Land Development Code.

Mrs. McMaster referred to the staff report and gave an overview of the application. She commented on the documents provided in the packet and said that the applicant has indicated there would be no concerns with meeting all Fire Code requirements from Chief Jerry Varnes.

Mr. Chris Brown of Prestige Homes said that the property owners, Mr. and Mrs. Schultz, have been long time residents of the City of Hudson. He said that after looking for some time, they found this property with an existing house. They had intended to make modifications to the existing house and then discovered that it had severe deficiencies and needed to be demolished. He explained the variance requests and the unique situation due to the existing conditions. He said that there is an existing water well and septic system on the property and it is located on an existing private drive.

Mr. Jahn asked if there was an estimated cost to tie in to public water and sewer. Mr. Brown stated that due to the significant distance they did not request an estimate. He indicated that it was miles to the closest water lines.

Mr. Lewis asked the applicant to confirm the nearest water and sewer line. Mr. Brown said that the nearest water was more than a mile away on Middleton Road and the nearest sewer was over 1700 feet away on Valley View Road. Mr. Lewis asked Mr. Brown to explain the current and proposed turnouts. Mr. Brown said that two additional turnouts would be added and the curve would be widened at the existing turnouts. There was discussion on the distance between turnouts.

Mr. Lehman asked if a typical cul-de-sac would be added at the end of the road where it ended at two driveways. Mr. Brown said that there may be a smaller cul-de-sac or a circular drive added.

Mr. Lehman opened the meeting to public comments.



Mr. Rick Schultz, 2073 East Highgate Court, stated that the current property owners on the street were unanimously in favor of the improvements on the street.

The public portion of the meeting was closed.

Mr. Jahn made a motion to grant 1[A variance from the requirement to utilize public water and sewer in order to have a water well and septic system on the property pursuant to the City of Hudson Land Development Code, Section 1207.11(b)(1), “Adequate Public Facilities-General Standards-Water/Wastewater”; and 2] A variance to the emergency access requirement that adequate access be provided for emergency vehicles and for those persons rendering fire protection and emergency services pursuant to Sections 1207.13(c)(9)(J), “Transportation/Circulation-Streets, Easements, and Alleyways – Emergency Access”, (iv) Fire Access Road Width and (ix) Dead End Length of the City of Hudson Land Development Code with the following conditions:

- When City water and sewer become available to the property, the then property owner is required to connect to these services.
- This variance is granted with the condition that it does not alleviate the current or future property owners from assessments for public water lines and sanitary sewer that may in the future be available to the property.
- The conditions of the Hudson Fire Department must be complied with.

a) the property in question will not yield a reasonable return and there cannot be a beneficial use of the property without the variances because the variances are essential elements to the development of the property and from an economic feasibility standpoint the emergency access requirement and the requirement to utilize public water and sewer are cost prohibitive;

b) the variance is insubstantial because access to a well and septic is a limited but common alternative where public utilities are not readily available; and alternatives to the emergency access requirements have been provided by the applicant and the applicant agrees to comply with the recommendation of the Hudson Fire Department;

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 since water wells are unobtrusive and the Hudson Fire Department has no issues with the proposed remedies to provide access for emergency vehicles;

d) the variance 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 variance;

g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Dohner seconded the motion.

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

Motion unanimously carried.

#### OTHER BUSINESS

Mrs. McMaster said that there were no cases for the August meeting.

#### ADJOURNMENT

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

Chairman Lehman adjourned the meeting at 10:02 p.m.

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David W. Lehman, Chairman

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John M. Dohner, Board Member

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Denise M. Soloman, Board Clerk