



Board of Zoning and Building Appeals
REGULAR MEETING June 20, 2013
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. Dohner, Mr. Jahn, Mr. Lehman, and Mr. Wise
Absent: Mr. Lewis

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.

APPROVAL OF MINUTES

Mr. Wise made a motion to approve the May 16, 2013 minutes as submitted. Mr. Dohner seconded the motion and all members present were in favor.

PUBLIC HEARING

UNFINISHED BUSINESS

APPEALS DOCKET NO. 2013-06

Mr. Lehman said that this hearing was called to consider Appeals Docket No. 2013-06. The applicant is Robert's Construction Company, 211 Prospect Ave., Cuyahoga Falls, Ohio 44221, and the property owners are William and Connie Mamas, 7355 Lacosta Drive, Hudson, Ohio 44236.

The request is a variance to allow the construction of an accessory structure to be located in the side yard, 89'-6" from the front property line and 27'-6" from the side property line when the Code permits accessory structures to be located only in the rear yard.

Mrs. McMaster said that there were no updates to the application other than what was provided in the Board packets.

Mr. Robert Cogdeill of Robert's Construction stated that a couple pages were omitted from the packet and presented the Homeowner Association bylaws for the record. He said that based on the topography of this lot, locating the detached garage in the rear yard would have a significant impact on the water run-off in this area. He added that adding a side facing attached garage would create more of a storm water issue. He said that the neighbors thought the plan was appropriate and that locating the garage in the rear yard would create an eye sore. He referred to the photographs and pointed out the negative effect the garage would have on the neighbors' view. He said he felt that without the variance the structure may harm the neighbors' properties. He added that there has already been a precedent set in this neighborhood and they have exhausted all other options for alternate locations.

Mr. Jahn asked if developers consider future projects such as additions or detached garages when establishing a storm water management plan and if the proposed garage would have an impact on the topography of the existing swale. Mr. Cogdeill said that a good builder would consider future projects and said that in this case all new drains would be run to the existing storm water catch basin. He said that with the variance there would be no impact on the swale; however, other options would affect the topography.

Mr. Dohner asked what would be the additional cost of moving the garage back farther on the property. Mr. Cogdeill replied the additional cost would be approximately \$10,000.

Mr. Lehman opened the meeting to public comment.

Mr. Bill Mamas, 7355 Lacosta Drive, said that he was the homeowner for this variance request. He referred to photo #4 and pointed out the enclosed porch that now determined the rear of the house for the placement of the detached garage. He said that the addition seems like a small detail to be considered the rear of the house. He said that locating the garage in the side

yard would provide an unobstructed view of the back yards for all neighbors. He added that the garage as proposed would be more in balance with the rest of the neighborhood.

Mr. Lehman asked staff if the garage could have been built without a variance prior to building the addition. Mrs. McMaster stated that the garage could have been built; however, a variance would then be required to build the porch.

Mr. Jack Grinwis, 7354 Lacosta Drive, said that there was balance in this neighborhood because there has been an effort to enforce the deed restrictions and that adding a garage in the rear yard would distort this balance. He said that he was in support of the variance.

Sue L'Hommedieu, 7341 Lacosta Drive, said that the builder argued that there was a financial hardship; however, she would also say that the money should be spent on what would look better which was the plan as proposed with the variance. She added there are times when the code does not apply and she was in support of the variance.

Mr. Lehman closed the public portion of the meeting.

There was discussion on the topographical and cost issues, the homeowner association restriction on free standing garages and the public comments.

Mr. Jahn made a motion to grant a variance to allow the construction of an accessory structure to be located in the side yard, 89'-6" from the front property line and 27'-6" from the side property line when the Code permits accessory structures to be located only in the rear yard.

- a) the property in question will yield a reasonable return and there can be a beneficial use of the property without the variance since the current structure supports a reasonable residence, but with the variance the residence would be substantially improved and enhanced;
- b) the variance is insubstantial in relation to the other choices that may have been considered regarding this variance;
- 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 in fact this choice of accessory structure garage will be an enhancement and is supported by the neighbors in the area;
- d) the variance would not adversely affect the delivery of governmental services if granted;
- e) the owner purchased the property without 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. Wise seconded the motion.

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

Motion unanimously carried.

NEW BUSINESS

APPEALS DOCKET NO. 2013-07

Mr. Lehman said that this hearing was called to consider Appeals Docket No. 2013-07. The applicant is Bill Botosan, 3031 Ravineview Circle, Stow, Ohio 44224 and the property owners are Gordon Bohon, Lyla Shannon and Diana Lynn, 610 Sill Avenue, Cuyahoga Falls, Ohio 44221 for parcel #30-00205 located on Barlow Road west of Young Road.

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.

Mrs. McMaster referred to the staff report and provided an overview of the application. She described the location of the property and said that the nearest water line was approximately 600 feet away. She said that cost estimates from Brad Kosco, Project Engineer/Utilities for City of Hudson and Gregg Loesch, Acting Utilities Engineer for Akron Water Distribution were provided. She added that the applicant has indicated that without approval of the variance he would need to withdraw the contract to purchase the lot due to the substantial cost of connecting to the nearest public water.

Mr. Bill Botosan said that he was requesting the variance since it was cost prohibitive to connect to public water. He added that without the variance he would need to withdraw the contract to purchase the property.

Mr. Wise asked staff which estimate should be considered. Mrs. McMaster said that Mr. Kosco’s estimate was based on City of Hudson requirements; however, this was not a Hudson water line.

Mr. Dohner said that a condition of approval may be that the applicant would be required to tie-in if water became available to the property in the future. Mr. Botosan agreed to the condition since he would prefer public water.

Mr. Jahn asked staff if the current property owner purchased the property prior to the requirement to connect to public water and if other properties in the area had wells. Mrs. McMaster confirmed that the current owner purchased the property prior to the code change and stated that most homes in the area had water wells.

There were no public comments.

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 a new house pursuant to Section 1207.11(b)(1), “Adequate Public Facilities-Water/Wastewater” of the City of Hudson Land Development Code with the following conditions:

- When City water becomes available to the property, the then property owner is required to connect to these services.
- This variance does not alleviate the current or future property owners from assessments for public water lines 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 cost of bringing City water to the lot is substantial and without the variance this lot may not be buildable for the average homebuyer.

b) the variance is insubstantial because of the nature of the adjoining properties and some of the neighbors already have water wells;

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 other residences in the area also use well water;

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 from an economic point;

g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance because the variance would enable construction of a house on the property which is a better use than a vacant lot.

Mr. Wise seconded motion.

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

Motion unanimously carried.

APPEALS DOCKET NO. 2013-08

Mr. Lehman said that this hearing was called to consider Appeals Docket No. 2013-08. The applicant is Mr. Tom Pillitiere of R. C. Norman Construction, 2708 Front Street, Cuyahoga Falls, Ohio 44221 and the property owners are Ralph and Candace Hickman, 5224 Topaz Drive, Hudson, Ohio 44236.

The request is a variance of four (4) feet to the minimum rear yard setback of fifty (50) feet for an addition resulting in a structure being 46.51' feet from the rear property line pursuant to Sections 1205.04(d)(5)(D)(i), "Setbacks: Rear Yard Setbacks-Principal Structure: 50 feet" of the City of Hudson Land Development Code.

Mrs. McMaster referred to the staff report and summarized the application.

Mr. Pillitiere described the proposed addition and explained why the variance was requested. He said that redesigning the addition to comply with the required setback would create an awkward roof line and there would be a substantial cost to heat the space based on current codes and the configuration of the existing house. He said that the proposed plan was the best option to meet the needs of the homeowners.

Mr. Jahn said that the addition appears to replace an existing deck and asked if there were plans to build a new deck. Mr. Pillitiere stated that the existing deck would be removed and a concrete patio would be installed.

Mr. Dohner asked why the addition needed to be 16 feet and why an 11 ½ foot room that would comply with code would not be practical. Mr. Pillitiere said that the room would lose the desired function if the depth were reduced.

Mr. Lehman asked if the existing shed was relocated as indicated on the plan. Mr. Hickman confirmed that the shed was moved to the rear yard.

Mr. Lehman opened the meeting to public comment.

Ralph Hickman, the property owner, said that currently he had a ten foot wide family room and his family has grown and could no longer fit in the space. He said that he wanted to convert the existing family room to a large kitchen and add a larger family room at the back. He explained the significant cost to change the roof lines to an alternate design.

Lucian Barber, 1620 Sapphire Drive, said that he had no concerns with the addition and he supported the variance request.

Mr. Jahn made a motion to grant a variance of four (4) feet to the minimum rear yard setback of fifty (50) feet for an addition resulting in a structure being 46.51' feet from the rear property line pursuant to Sections 1205.04(d)(5)(D)(i), "Setbacks: Rear Yard Setbacks-Principal Structure: 50 feet" of 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 a reasonably sized residence currently exists on the property; however, the variance will increase the size of the structure to better suit the owner;
- b) the variance is insubstantial because it is only 8% of the required fifty (50) foot 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 variance because of the minimal degree of the four (4) foot variance;
- 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 because of the improvement and enhancement of the livability of the house and the minimal degree of variance.

Mr. Dohner seconded the motion.

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

Motion unanimously carried.

APPEALS DOCKET NO. 2013-09

Mr. Lehman said that this hearing was called to consider Appeals Docket 2013-09. The applicant is Michael Hyde, 2513 16th Street, Cuyahoga Falls, Ohio 44223 for the property owner, Hudson Presbyterian Church, 201 W. Streetsboro Street, Hudson Ohio 44236.

The request is a variance of four (4) feet to the maximum height requirement of sixteen (16) feet to allow two (2) light poles at a height of twenty (20) feet pursuant to Exterior Lighting - Section 1207.14(e)(1), "Height Standard for Lighting" of the City of Hudson Land Development Code.

Mrs. McMaster referred to the staff reported and explained the application. She described the church property and the surrounding area. She said that the new light poles were requested for safety reasons for the activities held at the church at night. She said that the applicant indicated that the taller poles would allow for better light direction and distribution than shorter poles.

Mr. Michael Hyde provided additional specifications of the proposed lighting for the Board and stated that they would comply with all lighting requirements. He said that the current light poles did not provide adequate lighting levels and the church wanted to correct this safety issue. He said that there was a financial hardship for the church to add enough light poles to meet their lighting requirements, so they were requesting the variance for two twenty foot poles.

Mr. Jahn asked staff how existing tall light poles at other locations were approved. Mrs. McMaster stated that most would have been approved prior to the current code, and would also need a variance for replacement. She added that this property was in a residential district.

There was discussion on the proposed light pole and fixtures. Mr. James Vocaire, the electrical contractor, explained that each pole would have three shoebox style fixtures.

Mr. Lehman said that in regards to the neighbors he wanted to be conservative with light pollution. Mr. Vocaire said that these lights would be aimed straight down, so with a sixteen foot pole the light would not extend into the parking lot. He said that the twenty foot pole would light the parking lot, but not beyond into the neighbor's property. Mr. Lehman asked the hours proposed to have the lights on. Mr. Vocaire stated that the lights would go on at dark and off at 11:30 p.m.

Reverend Rob Sparr of Hudson Presbyterian Church said this church had preschool and Sunday school programs during the day, and also had many groups using the facilities in the evening. He said that the dark parking lot was a concern as they needed to provide safety for all groups using the building. He said that the proposed twenty foot poles were the best option for financial reasons.

Mr. Dohner asked if the applicant could plant additional trees for screening. Mr. Hyde said that there would not be enough room on the property for additional trees.

Mr. Jahn made a motion to grant a variance of four (4) feet to the maximum height requirement of sixteen (16) feet to allow two (2) light poles at a height of twenty (20) feet pursuant to Exterior Lighting - Section 1207.14(e)(1), "Height Standard for Lighting" of 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 nature of the property is religious gathering, but this variance deals with safety and security of the people who frequent this building;
- b) the variance is insubstantial because four (4) feet is 25% of the permitted height of a light pole;
- 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 the enhanced height of the light poles would not bleed light into surrounding properties;
- d) the variance would not adversely affect the delivery of governmental services if granted;
- e) the owner purchased the property without 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. Dohner, Mr. Wise, Mr. Jahn, Mr. Lehman
 Nay: None

The motion was unanimously carried.

OTHER BUSINESS

Mrs. McMaster commented on the four cases for the July meeting.

ADJOURNMENT

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

Hearing no further business, Chairman Lehman adjourned the meeting at 9:25 p.m.

David W. Lehman, Chairman

Frederick J. Jahn, Board Member

Denise M. Soloman, Board Clerk