



Board of Zoning and Building Appeals
REGULAR MEETING April 17, 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. Dohner, Mr. Wagner and Mr. Lehman
Absent: Mr. Drew and Mr. Jahn

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.

Mr. Lehman said that the last two weeks have been difficult ones for the City of Hudson and the Community Development Department as two colleagues; Nora Lalomia and John Jeffers recently passed away. He said Nora Lalomia was a board clerk for the City of Hudson and that she helped with the BZBA over the past couple years. He stated that John Jeffers was the Council Liaison for BZBA during his time on City Council. He added that it was Mr. Jeffers who encouraged him to apply to volunteer for the City as member of the BZBA.

APPROVAL OF MINUTES

Mr. Dohner made a motion to approve the minutes of the February 20, 2014 and March 20, 2014 meetings as written. Mr. Wagner seconded the motion. All members present were in favor.

Mr. Lehman asked Mrs. Lane to update the Board on the any legal issues concerning the Board. Mrs. Lane commented on the status of the agreement between City of Hudson and City of Akron since there were two cases on this agenda regarding a variance to install a water well. She said that the City of Hudson has done everything possible to resolve this issue and that a draft agreement was submitted to City of Akron; however, no response has been received after several months. She added that City of Akron was not allowing new tap-ins until an agreement was reached even though they failed to respond to the draft agreement. She said that the City of Hudson asked City of Akron if interim terms could be established that would allow tap-ins while an agreement was being reached and their answer was no. Mr. Lehman asked if a modification to the Land Development Code allowing administrative approval of water wells would allow this issue to be handled more effectively. Mrs. Lane said staff has asked whether some legislative action could be done to allow administrative approval; however, the City Solicitor did not have a definitive opinion at this time. Mr. Wagner asked if other communities are experiencing the same problems. Mrs. Lane said City of Akron has been going to all involved communities to get them to agree to their terms, but she could not say for certain the status of agreements with other communities.

PUBLIC HEARING

CONTINUED - APPEALS DOCKET NO. 2014-04

Mr. Lehman said this hearing was called to consider Appeals Docket No. 2014-04. The applicant and property owner are Robert and Rae Brooks, 5462 Coolidge Blvd. The property is in District 1 [Suburban Residential Neighborhood].

The requests are for: [1 and 2] a variance of 13 feet from the required wetland setback of 50 feet and the related variance from the prohibited activity of disturbance, including clearance of vegetation, within a wetland setback resulting in a garage with a 37 foot setback; and [3] a variance of 7 feet to the minimum side yard setback requirement of 25 feet for a side facing attached garage resulting in an attached side-facing garage setback of 18 feet from the property line pursuant to Section 1205.04(d)(5)(C)(iii), "Property Development/Design Standards – Minimum Side Yard Setback-Side Facing Attached Garage" of the City of Hudson Land Development Code.

Mrs. McMaster referred to the staff report and provided details of the variance request. She said the Board approved the variance request associated with the screened porch at the February 20, 2014 meeting, and at that time requested that the applicant consider reducing the size of the garage to decrease the amount of the variance request. She said that revised plans were included in the Board's packets.

Mrs. Rae Brooks said she worked with her builder to reduce the size of the garage as requested by the Board; however, the smaller garage would not meet their needs. She presented a floor plan of the garage showing all items to be stored and requested that the Board consider the original variance request. Mrs. McMaster confirmed that the original request was a twenty-four (24) foot variance resulting in a twenty-six (26) foot setback from the garage to the wetlands and a nine (9) foot variance resulting in a sixteen (16) foot setback to the side property line. There was discussion on the dimensions of the proposed garage. Mrs. Brooks added that they were willing to install underground drainage to direct storm water toward the pond and away from the wetlands.

Mr. Dohner asked the applicant if off-site storage was considered and if there was a practical difficulty with this option. Mrs. Brooks said there would be the rental cost for off-site storage and the inconvenience of travel to get the needed items. She said they did not want to incur additional costs, and if they could only build the smaller garage it would not make sense to spend the money.

Mr. Bill Young of Legacy Builders, the builder for this project, commented on the location of this property and said that anyone wanting to invest money in the homes in this area should be allowed.

Mr. Lehman opened the meeting to public comment and hearing none this portion of the meeting was closed.

There was further discussion on the location of the wetlands and the water well on the property.

Mr. Lehman said that because only three members were present at the meeting a unanimous approval was required for a motion to pass.

Mr. Dohner made a motion to approve the applicant's original requested variances [1 and 2] A variance of 24 feet from the required wetland setback of 50 feet and the related variance from the prohibited activity of disturbance, including clearance of vegetation, within a wetland setback resulting in a garage with a 26 foot setback pursuant to Section 1207.03(e)(2), "Wetland/Stream Corridor Protection-Setbacks-Wetlands" a requirement that 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 and Section 1207.03(c), "Prohibited Activities"; and 3] A variance of 9 feet to the minimum side yard setback requirement of 25 feet for a side facing attached garage resulting in an attached side-facing garage setback of 16 feet from the property line pursuant to Section 1205.04(d)(5)(C)(iii), "Property Development/Design Standards – Minimum Side Yard Setback-Side Facing Attached Garage" of the City of Hudson Land Development Code.

The Board finds and concludes that the variance is granted:

a) the property in question will yield a reasonable return and there can be a beneficial use of the property without the variances, but for the reasons stated by the applicant, the

variances would be reasonable and appropriate on this lot which is at the end of the street and abuts, for all practical purposes, a lot that is non-buildable;

b) the variances are insubstantial because of the location of the property and the circumstances of the adjoining property;

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 variances for the reasons stated above and because this will be an improvement to the property;

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 variances.

Mr. Wagner seconded the motion.

Roll Call: Aye: Mr. Dohner, Mr. Wagner, Mr. Lehman

Nay: None

Motion unanimously carried.

APPEALS DOCKET 2014-06

Mr. Lehman said this hearing was called to consider Appeals Docket No. 2014-06. The applicant is KNL Custom Homes, Inc., 172-1/2 Milo Ave., Barberton, OH, 44203 for the property owner, Americo Cornacchione Trustee, P.O. Box 265, Hudson, OH 44236 for 5455 Duffield Drive in District 1 [Suburban 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.

Mrs. McMaster referred to the staff report and gave an overview of the variance request. She said that the property owners were requesting a water well and also to waive the requirement to tie in to public water when it becomes available since this would create duplicate costs that were not planned in their budget.

Mr. Todd Folden of KNL Custom Homes said that he had no further comments.

Mr. Wagner asked the applicant whether the property owner would proceed with the request if the Board required the condition to tie in to public water when available. Mr. Folden said the property owners were concerned with the additional costs of the tie in; however, they had no choice other than a water well. Mr. Wagner asked what would be the cost to tie in to public water. Mr. Folden said the cost would be approximately \$5,000. He added that there were three other lots in the subdivision that could also tie in when water was available. Mrs. McMaster commented that the property owners were still hoping that the issue with City of Akron Water can be resolved before the water well or water lines needed to be installed.

The Board discussed the cost to tie in, the proximity of the lot to public water and the required time frame to tie in to public water when available. Mr. Dohner asked the applicant if he was able to speak for the property owners and accept a condition of approval. Mr. Folden replied yes, he could accept the condition.

Mr. Lehman opened the meeting to public comment and hearing none this portion of the meeting was closed.

Mr. Dohner made a motion to approve 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 condition:

- 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.
- 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 a residential house needs water and the only available source of water is a water well;
 - b) the variance is insubstantial because this would not be the only house in City of Hudson that has a water well;
 - 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;
 - 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. Wagner seconded the motion.

Roll Call: Aye: Mr. Wagner, Mr. Dohner, Mr. Lehman

Nay: None

Motion unanimously carried.

APPEALS DOCKET 2014-07

Mr. Lehman said this hearing was called to consider Appeals Docket No. 2014-07. The applicant is Robert D. Orovets, TDA Architects, 4135 Erie Street, Willoughby, OH 44094 for the property owner, Timothy E. Crock, 1489 Jacobs Lane, Kent, OH 44240 for proposed construction of a Conrad's Tire Express & Total Car Care Building, to be located on Permanent Parcel #30-09438 on Norton Road (adjacent to 5075 Darrow Road), in District 9 [Darrowville Commercial Corridor].

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 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 the property owners were waiting for approval of this variance before completing a lot split. She added that the applicants have been continuously working with the City to resolve issues with the property, and staff has determined that the previous variance approval has not expired.

Mr. Robert Orovets said he wished they had known about this water issue when they appeared before the BZBA previously. Mr. Lehman said the agreement with City of Akron Water was not an issue at that time and asked if the condition to tie in to public water within ten years was acceptable. Mr. Dominic Umek, general manager for Conrad's Tire, stated that he had no objection to the ten year time frame; however, he requested an extension on the previous approvals to be from this decision date because of concerns with EPA approvals and being able to start construction. Mr. Lehman said it was his understanding that since the applicant had been working with staff there was no need for an extension. Mrs. Lane confirmed that based on the circumstances and the applicant's interactions with staff, the intent to commence construction has been met. Mr. Umek stated that they intended to submit the application for the lot split immediately and begin construction as soon as possible.

Mr. Dohner made a motion to approve 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 condition:

- 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.
- 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 it is necessary to have water service at this location to operate a business, and they would not be able to do that without a variance;
- b) the variance is insubstantial because it is circumstantial more than anything due to the status of the water service agreement with the City of Akron;
- 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;
- 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 variances;
- g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Mr. Wagner seconded the motion.

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

Motion unanimously carried.

APPEALS DOCKET 2014-08

Mr. Lehman said this hearing was called to consider Appeals Docket No. 2014-08. The applicant is Matthew Schmidt, 2965 Pine Trail Circle, Hudson, Ohio 44236 for the property owners, Todd and Lisa Bolotin, 3056 Middleton Road, Hudson, Ohio 44236 in District 1 [Suburban Residential Neighborhood].

The request is a variance to allow the construction of an accessory structure detached garage to be located in the side yard, 77- 5" from the front property line and 23' from the side property line when code permits accessory structures to be located only in the rear yard pursuant

to the City of Hudson Land Development Code, Section 1206.03(d)(3), "Accessory Uses/Structures"- "Accessory Use Development and Operational Standards"- "Side Setbacks".

Mrs. McMaster referred to the staff report and explained the variance request. She said the applicant indicated that the location of the proposed accessory structure is due to the amount of grade change in the rear yard and that the structure would not impact any neighbors because the property to the east was a park.

Mr. Matthew Schmidt said that the plan has been revised to attach the detached garage to the main house with a breezeway making the turnaround easier. Revised site plans were presented at the meeting. Mr. Schmidt described the proposed changes to the plans. He added that a minimal number of trees would be removed by locating the garage in the side yard.

Mr. Wagner asked how steep was the slope of the land in the rear yard. Mr. Schmidt said it was a steady downward drop of about six (6) feet to where the garage would need to be located.

Mr. Dohner asked if an addition to the existing attached garage could be built without a variance. Mrs. McMaster said yes, however the garage doors could not face the street. Mr. Dohner asked the applicant why the variance was necessary. Mr. Schmidt said that this was a five bedroom house with only a two car garage. He added that this family had four drivers and parking cars in front of the house was not desirable.

Mr. Lehman opened the meeting to public comment and hearing none this portion of the meeting was closed.

The Board discussed the location of the existing and proposed structures, the configuration of the existing house and the topography of the land.

Mr. Dohner made a motion to approve a variance to allow the construction of an accessory structure detached garage to be located in the side yard when code permits accessory structures to be located only in the rear yard pursuant to the City of Hudson Land Development Code, Section 1206.03(d)(3), "Accessory Uses/Structures"- "Accessory Use Development and Operational Standards"- "Side Setbacks".

The Board finds and concludes that the variance is granted:

- a) the property in question will yield a reasonable return and there can be a beneficial use of the property without the variance; however, due to the circumstances of the nature of the property and the configuration of the existing house, there was practical difficulty locating a detached garage behind the main house;
- b) the variance is insubstantial due to the configuration of the lot and the practical difficulty of locating a detached garage behind the main house;

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

Mr. Wagner seconded the motion.

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

Motion unanimously carried.

OTHER BUSINESS

Mrs. McMaster commented on the cases for the May meeting.

ADJOURNMENT

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

Chairman Lehman adjourned the meeting at 9:08 p.m.

John M. Dohner, Acting Chairman

Frederick Jahn, Board Member

Denise M. Soloman, Board Clerk