



**Board of Zoning and Building Appeals**  
**REGULAR MEETING May 15, 2014**  
**7:30 P.M. • Town Hall • 2<sup>nd</sup> Floor**  
**27 East Main Street • Hudson, Ohio**

**MINUTES**

Acting Chairman Dohner 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. Drew, Mr. Jahn, Mr. Wagner and Mr. Dohner  
Absent: Mr. Lehman

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. Dohner 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. Dohner stated that approval of the April 17, 2014 meeting minutes would be deferred to the next meeting since only two members that were present at that meeting were present tonight.

PUBLIC HEARING

APPEALS DOCKET NO. 2014-09

Mr. Dohner said this hearing was called to consider Appeals Docket No. 2014-09. The applicant is Richard Vogt, resident at 7887 Valley View Road, Hudson, OH 44236 on behalf of

the property owners, William Scott and Maryanne Roberts, 1607 Hunting Hollow, OH 44236 in District 2 [Rural Residential Conservation].

The requests are 1] a variance of fifty (50) feet from the required stream corridor setback of fifty (50) feet resulting in a zero setback to install a driveway to the residence pursuant to Section 1207.03(e), "Wetland/Stream Corridor Protection-Stream Corridor Setbacks" for disturbances related to controlling erosion along the stream bank; and 2] a variance from the prohibited activity of disturbance, including clearance of vegetation, within a stream corridor setback pursuant to Section 1207.03(c), "Prohibited Activities" 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 staff notes the stream corridor extended across the entire front of the property and there was no other means of access to the house.

Mr. Jeffery Snell, attorney representing the Roberts and the Vogts, said the existing shared driveway was located on the Wagner's property, and the Wagners sued the Roberts to terminate the driveway access easement. He read the Board part of the easement agreement regarding termination. He said the court ruled against the Roberts and Vogts and terminated the easement; however, the decision was currently under appeal. He stated the variance was necessary so that there can be a permanent means of access for this property. He said Mr. Tom Cavanaugh, the contractor, was present to answer any questions regarding the proposed driveway construction.

Mr. Wagner asked if there were any issues with the proposed driveway and the proximity to the property line. Mr. Snell described the location of the existing and proposed driveways. Mrs. McMaster said the Land Development Code requires a driveway to be setback a minimum of three feet from the side yard property line. Mr. Wagner commented that two driveways so close together would look awkward and asked if all three property owners that shared the easement could currently access their properties. Mr. Snell said a stay has been obtained, so the property could be accessed through the driveway easement; however, the Roberts and the Vogts want to have a permanent means of access on their property.

Mr. Drew asked staff if the City had authority over driveway installation and placement. Mr. McMaster said that City had authority over structures in the right of way; however, they did not get involved with driveways on private property. Mr. Drew asked if the three proposed culvert pipes would provide adequate drainage in a storm situation. Mrs. McMaster said the applicant worked with the City of Hudson Engineering Department on acceptable plans that would comply with all requirements. Mr. Drew said it was important to minimize the impact on the stream. Mr. Snell said the plans designed by Wohlwend Engineering and provided to the City Engineer, indicated that the driveway would be built according to the City of Hudson standards.

Mr. Jahn asked when and how long the driveway was blocked. Mr. Snell stated that the locked cable went up on a holiday weekend when there was no way to get a stay from the court, and it was removed the next Thursday or Friday. Mr. Jahn commented that the request was for a one hundred (100) percent variance resulting in clearing of vegetation in the stream bed. He asked if there were plans to minimize disturbance. Mr. Snell said this was not a traditional

stream bed and it looked more like a ditch or low area in the yard. He added that the vegetation would remain the same. He pointed out that the Wagner's driveway crossed the same stream.

Mr. Dohner had no questions for the applicant and opened the meeting to public comment.

Sarah Margaret Hulbert, attorney for John and Mary Lou Wager, said a brief was submitted to the Board outlining the Wagner's position that they were not opposed to the variance. Mr. Dohner asked Ms. Hulbert to confirm that the brief indicates the Wagners were in favor of the variance. Ms. Hulbert said her clients were in favor of the variance and they believed there was a need to access the property. Mr. Snell requested a copy of the document submitted to the Board.

Mr. Dohner closed the public comment portion of the meeting.

The Board discussed the need to minimize disturbance and avoid future flooding problems, and a condition to adopt the plans prepared by Wohlwend Engineering. Mr. John Wagner, 7871 Valley View Road, described the existing driveway and culverts on his property at the request of the Board.

Mr. Jahn made a motion to grant the variance and the motion was seconded by Mr. Drew. Mr. Snell requested the culvert pipe material be revised to high density polyethylene (HDPE). Mr. Cavanaugh said reinforced concrete pipe was excessive for this project and the Engineering Department indicated to him that HPDE would be acceptable. The Board discussed the material change and Mr. Jahn amended his motion.

Mr. Jahn made a motion to a grant 1] A variance of fifty (50) feet from the required stream corridor setback of fifty (50) feet resulting in a zero setback to install a driveway to the residence pursuant to Section 1207.03(e), "Wetland/Stream Corridor Protection-Stream Corridor Setbacks" for disturbances related to controlling erosion along the stream bank; and 2] a variance from the prohibited activity of disturbance, including clearance of vegetation, within a stream corridor setback pursuant to Section 1207.03(c), "Prohibited Activities" of the City of Hudson Land Development Code.

The Board finds and concludes that the variances are granted with the following conditions:

- The driveway is to be built in accordance with the plans set forth by Wohlwend Engineering with the change in material of the culvert pipe from a reinforced concrete pipe (RCP) to high density polyethylene (HDPE).
- Damage to the surrounding area should be minimized during the construction period.

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 without the variances the property is land locked and has no means of ingress or egress, to or from the property;

- b) the variances are substantial because of the a one hundred (100) percent variance resulting in a zero setback to the stream corridor;
- 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 because of the necessity to grant the variances;
- 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 as there is no other way to solve this ingress and egress matter.

Mr. Drew seconded the motion.

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

Nay: None

The motion was unanimously carried.

#### OTHER BUSINESS

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

#### ADJOURNMENT

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

Acting Chair Dohner adjourned the meeting at 8:23 p.m.

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John M. Dohner, Acting Chairman

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Frederick Jahn, Board Member

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Denise M. Soloman, Board Clerk