



Board of Zoning and Building Appeals

REGULAR MEETING FEBRUARY 17, 2011

7:30 P.M. • TOWN HALL • 2ND FLOOR

27 E. 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 p.m. in the 2nd Floor Meeting Room of Town Hall, 27 E. Main Street, Hudson, Ohio.

Present: Mr. Dohner, Mr. Jahn, Mr. Lewis, Mr. Lehman

Absent: Mr. Wise

Officials Present: Kris McMaster, Associate Planner and Charles T. Riehl, City Solicitor.

Meeting minutes were taken by Carol Muesel, 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. Lewis, being a notary public in the state of Ohio, administered the Oath of Office to John M. Dohner to his first full term and David W. Lehman to his second full term.

Mr. Dohner nominated David Lehman as Chairman and David Lewis as Vice-Chairman both accepted the nominations. A vote was taken and all members were in favor.

Mr. Lehman introduced Kris McMaster, Associate Planner, and Charles T. Riehl, City Solicitor. Mr. Riehl placed Kris McMaster and all those persons in the audience wishing to speak under oath.

The November 18, 2010 Minutes were approved as amended and all members present except Mr. Dohner who abstained as he was newly sworn in, were in favor.

PUBLIC HEARING

APPEALS DOCKET NO. 2010-16

This hearing has been called to consider Appeals Docket No. 2011-01 for 5840 Nicholson Drive.

The requests are: 1) A variance of eight (8) feet to the minimum side yard setback of fifteen (15) feet to permit an attached garage to be seven (7) feet from the side yard property line pursuant to Section 1205.06(d)(5)(D)(i), "Property Development / Design Standards" - "Minimum Side Yard Setbacks"-"Principal Residential Structure", 2) A

variance from the requirement that doors of attached garages shall not face the street to permit a third car attached garage pursuant to Section 12056.06(d)(9)(D)(i), "Building Siting and Orientation – Private Garages", and: 3) Appendix D, IV-4(b)(3), "Architectural and Design Standards", under standards for a Two Story Wing Type Structure-Mass, states "In new construction, an attached garage may be located in a wing or in the main body, but must be entered from the side or rear yard".

The applicants and owners are Michael P. and Lisa L. Teutsch; 5840 Nicholson Drive; Hudson, Ohio.

Mr. Lehman confirmed with staff that legal notices had been properly advertised in the newspaper and mailed to adjacent neighbors within 300 feet of the property.

Ms. McMaster gave an overview of the case stating the house was built and purchased by the owners in 1990. The applicant wants to add a third car front facing garage 24' deep by 12'6" wide. When the house was constructed, the zoning was under the Township Resolution permitting front entry garages. The owner feels the best option is his request as he cannot meet the side entry garage side yard setback requirements of 25'. The owners feel this addition will improve the value of their property and neighborhood. He has submitted three letters from adjacent neighbors indicating their approval for these variances. Ms. McMaster said two other variances for front facing garage additions had been before the Board; 5905 Nicholson Drive was denied and 6009 Nicholson Drive was approved. Ms. McMaster said the owner has had an informal hearing before the Architectural and Historic Board of Review for design.

Mr. Teutsch said they have lived in the house for 20 years. The owner said a detached garage could be built, but the 110 year old oak tree in their backyard would have to be removed; or they could build behind their garage which would impact their well and the oak tree along with being an eyesore to his neighbors. Mr. Teutsch said the neighbors that would be impacted have written letters stating their approval.

Mr. Jahn said that stated in the applicant's request was the fact that they have three cars and would be adding a fourth. Mr. Jahn said he drove past the house and saw another tree to the left where the proposed garage would be located. Mr. Teutsch said that tree is not doing well and doesn't think it will be there long term. He said the garage would be 8-10 feet from the tree. Mr. Jahn asked the purpose of cutting off the back corner of the garage, on an angle, as shown on the design plans and the applicant said the design flow from the front to the back would be smoother.

Mr. Dohner asked if any consideration was given to making the existing garage side facing and put an additional bay in the back. The applicant said there was not enough space to enter from the side. Ms. McMaster stated that 25' is needed for a side entry and the applicant has only 18'. Mr. Teutsch said that option would be cost prohibitive. Mr. Dohner said the problem he had was the Code does not permit what the applicant wants. Mr. Dohner stated that in the owner's neighborhood, the homes are large and the lots are small. Mr. Teutsch said that the biggest issue is the impact it will have on his neighbors.

Mr. Lewis asked the applicant to distinguish why his variance should be granted. Mr. Lewis did not want the owner to interrupt and Mr. Lewis said he would give him a chance when he was done with his questions. Mr. Lewis stated that the applicant's need was to accommodate vehicles and confirmed with him that there were no other reasons. Mr. Teutsch said he had no idea if there were deed restrictions when asked by Mr. Lewis.

Ms. McMaster stated that the City has issued zoning permits for detached garages in that neighborhood.

Mr. Lewis asked the applicant why his application was different than 5905 Nicholson which was denied by this Board. Mr. Teutsch said: 1) "It is the best use of the property"; and 2) "The way my house is situated, the houses are far apart." The applicant said his home is substantially further apart from neighbors than homes that are straight and parallel to the street. He also said that 5905 Nicholson is different due to the bike path along that property. The applicant said that the variance request for 6009 Nicholson was more similar. Mr. Lewis asked, "How?" Mr. Teutsch said the requested side yard variance was also 8' and the garage went towards the neighbor's house. The applicant said the two properties, 6009 Nicholson and the neighbor, are much closer than his. He stated that the neighbor's driveway and his would still be 25' apart and his garage addition would look as though it belonged.

Mr. Lewis stated the need to consider the next person that would move in. Mr. Teutsch said the purpose of the garage is for a vehicle and stated he would have a garage one way or another.

Mr. Lehman confirmed that the present garage and the new garage would have a man door. Mr. Lehman said it is better to have cars in garages than in the driveways. Mr. Lehman said he drove by the house and the neighbors' home is at 90 degrees so he felt it was reasonable to consider the variance. Mr. Lehman asked if there was an ordinance to have this type of issue resolved. He said that Nicholson Drive was developed under the old Zoning Resolution, but the philosophy that eventually variances not permitted by Code will "wither and die on the vine" such as for signs, does not fit. Mr. Riehl stated that perhaps one of the seven factors comes into play and the Board may want to consider that the applicant purchased the property without knowledge of the zoning restriction.

Mr. Dohner said there are a number of considerations when granting a variance. He stated that opinions of adjacent neighbors are a relevant factor, but do not determine whether or not the variance will be granted.

Andrew Franklin, the builder, clarified how the neighbor's house is oriented on the corner lot. Mr. Franklin stated he felt the owner has thought of every detail such as setting the proposed garage back two feet so it won't be seen when driving by. Mr. Franklin said the neighbors do not want a building in the middle of the back yard.

Mr. Dohner gave a hypothetical scenario about granting the variance and the neighbor next door. He said he was looking for substantiation from the owner. Mr. Dohner said there are not many 3-car front facing garages.

Mr. Lewis said he was struggling with, "what is the impact?"

Mr. Jahn said he agreed with what Mr. Franklin added and felt it was important. Mr. Jahn said the alternatives, from an aesthetic standpoint, are not good options. Mr. Jahn said he did not like the garage at 5905 Nicholson and would not want to be next door to it.

Mr. Lewis said the request was for a temporary purpose to have a 3-car garage just to house a car for a student driver.

Mr. Lehman said in looking at the back yards, the alternatives would be less appealing.

Mr. Dohner questioned why a 3-car garage was necessary other than for a temporary use.

After much deliberation, Mr. Lewis said the focus should be on what is the impact on the neighborhood.

Mr. Dohner stated that Hudson is a town that homeowners have had to come up with solutions that fit the Code. He asked, "Is there enough evidence in front of the Board and has the applicant met his burden of proof?"

Mr. Teutsch stated he has lived there for 20 years, before Nicholson was a thru street. He said it was not a temporary solution. The Architectural and Historic Board of Review had no objection during the informal hearing; and the neighbors have no objections.

Mr. Franklin said he does not think anyone today would build a house with only a 2-car garage stating people cannot be held to a way of living that is not up to 2011 standards. He said the addition will add to the property value and the neighbors are all in agreement and do not want a detached garage in the back yard. Mr. Franklin said if there is another way that is better we will do it. If garage is built in the back yard, when the next door neighbors family room or outside area, they will be staring at the addition. Mr. Franklin said the uniqueness of the property is that the Teutsch's home is not next to another house.

Mr. Lewis made a motion to deny a variance of eight (8) feet to the minimum side yard setback of fifteen (15) feet to permit an attached garage to be seven (7) feet from the side yard property line, and a variance from the requirement that doors of attached garages shall not face the street. The Board finds and concludes:

- a) the property in question will yield a reasonable return and there can be a beneficial use of the property without the variances;
- b) the variances are substantial because they do oppose the Code;

c) the essential character of the neighborhood will be substantially altered and adjoining properties will suffer a substantial detriment as a result of denying the variances because the neighbors submitted their written approval of the requests;

d) the variance would not adversely affect the delivery of governmental services;

e) the owner purchased the property without knowledge of the zoning restrictions as the property was purchased in 1990 before the adoption of the Land Development Code in December 1999;

f) the applicant's predicament feasibly can be resolved through some method other than the variances; and

g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by denying the variances because the applicant bears the burden of persuading the Board and he has failed.

Mr. Dohner seconded the motion.

Roll Call:

Aye: Mr. Lewis, Mr. Dohner, Mr. Jahn,

Nay: Mr. Lehman


Motion carried to deny the variances.

OTHER BUSINESS

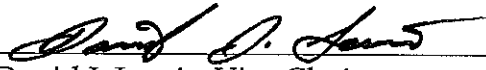
Ms. McMaster stated that no applications were received for the March meeting. She did state that if applications came in during the following week, they would be processed for the March meeting.

ADJOURNMENT

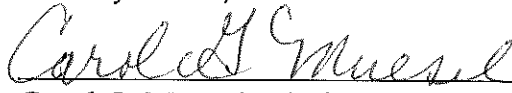
As there was no further business, Mr. Lehman adjourned the meeting at 9:20 p.m.



David W. Lehman, Chairman



David J. Lewis, Vice Chairman



Carol G. Muesel, Clerk