

Board of Zoning and Building Appeals

REGULAR MEETING OCTOBER 21, 2010
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. Hojnacki, Mr. Jahn, Mr. Lewis arrived 8:30 p.m., Mr. Lehman, Mr. Wise
Absent: None

Officials Present: Thomas E. King, Community Development Director; Kris McMaster, Associate Planner; R. Todd Hunt, Assistant City Solicitor.

Meeting minutes were taken by Carol Muesel, Board Clerk, and hearing testimony was recorded by Joyce Zingale, of Merritt & Loew Court Reporting Service.

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 Tom King, Community Development Director, and Kris McMaster, Associate Planner, and R. Todd Hunt, Asst. City Solicitor. Mr. Lehman placed staff and all those persons in the audience wishing to speak under oath.

The September 16, 2010 Minutes were approved as written and all members present were in favor.

APPEALS DOCKET NO. 2010-13

This hearing was called to consider Appeals Docket No. 2010-13, for 6556 Stone Road.

The request is a variance of five hundred and sixty (560) square feet to the requirement that the maximum size of a residential accessory structure shall not be larger than 1,000 square feet of gross floor area resulting in an accessory structure with a total gross floor area of 1,560 square feet pursuant to Section 1206.03(d)(5), "Accessory Use Development and Operational Standards" - "Maximum Building or Structure Size".

The applicant and owner is Paul A. Palumbo, 6556 Stone Road; Hudson, Ohio.

Ms. McMaster gave an overview of the case stating the property was built in 1943 and the owner purchased the 4.17 acre property in March 2007. She stated the owner is requesting to construct an accessory structure garage as no garage is on the property. Ms. McMaster said the 1,560 square foot building is to be located 15 feet from the north side property line to line up with the existing driveway. The garage is designed to look like a carriage house and will be used for a workshop, storing personal vehicles, company vehicles, a work trailer, and tools for the owners' construction business. Ms. McMaster said the property currently has one accessory structure that is 192 square feet.

Mr. Palumbo stated that although Code permits three 1000 square foot buildings, he preferred one larger building to fit his needs and to be designed aesthetically pleasing.

Mr. Jahn confirmed with Mr. Palumbo that he owned a home improvement business and his work vehicles and trailer are currently in his yard and not under cover. Mr. Jahn confirmed with the owner that future additional space would be addressed as he was putting an addition on his 1600 square foot home and it would have a 2 to 3 car attached garage. Mr. Jahn also confirmed with Mr. Palumbo that no additional equipment would be necessary as he works with various hand tools and no heavy equipment. Mr. Jahn confirmed with Mr. Palumbo that the accessory garage would hold two personal vehicles, one work truck and two trailers.

Mr. Hojnacki confirmed with the owner that the addition he is contemplating will enlarge his home to approximately 2800 square feet, and that Mr. Palumbo would have no objection to the decision including a limit on the number of buildings on his property.

Mr. Wise confirmed with the owner that a carport would not work as Mr. Palumbo does not want any vehicle in view or in the weather. Mr. Wise asked about water runoff and Mr. Palumbo said he has a drop-off in the back of his land which is a natural water runoff for the property and also stated his house addition would be towards the rear of the property. Mr. Wise confirmed with the owner that the building would have electric and no water.

Mr. Lehman confirmed with Mr. King that stipulations for a business with equipment in a residential district would be that the equipment is to be inside a building and no work can be done at the home. Mr. King quoted from Section 1206.03, *Home Occupations*.

Mr. Hojnacki made a motion to grant a variance of five hundred and sixty (560) square feet to the requirement that the maximum size of a residential accessory structure shall not be larger than 1,000 square feet of gross floor area resulting in an accessory structure with a total gross floor area of 1,560 square feet pursuant to Section 1206.03(d)(5), "Accessory Use Development and Operational Standards" - "Maximum Building or Structure Size", and that 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 variance because the primary use of the residential property can be maintained;

b) the variance is substantial because the amount of the variance is over 50%, however, the large size of the lot is a factor;

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 lot size and distance from the neighbors;

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

e) the owner purchased the property with knowledge of the zoning restriction;

f) the applicant's predicament feasibly cannot be resolved through some method other than the variance; and

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

Mr. Hojnacki amended his motion to state that the accessory structure would be at least 20 feet from the side property line.

The variance is granted with the following conditions:

- The structure which is the subject of this variance shall be at least 20 feet from the side property line.
- No future third accessory structure is to be built on the property.

Mr. Wise seconded both the amendment and the motion.

Roll Call:

Aye: Mr. Jahn, Mr. Wise, Mr. Hojnacki, Mr. Lehman

Nay: No One

The motion unanimously carried.

APPEALS DOCKET NUMBBER 2010-14

This hearing was called to consider Appeals Docket No. 2010-14, 7357 Hudson Park Drive.

The request is a variance of eighteen (18) feet from the required fifty (50) foot rear yard setback resulting in a thirty-two (32) foot rear yard setback for a deck addition with an arbor and steps pursuant to Section 1205.04(d)(5)(D)(i), "Property Development/Design Standards" - "Rear Yard Setbacks".

The applicants and owners are Robert F. and Janis M. Meyer; 7357 Hudson Park Drive; Hudson, Ohio.

Ms. McMaster gave an overview of the case stating the property is surrounded by single family residential except to the north which is the subdivision's open space land. She said the house was built in 1981 and the owners purchased the property in October 1995. Code Enforcement noticed new construction on the property without a zoning certificate, to replace an existing deck and add an arbor. Ms. McMaster said the owner was not aware a zoning certificate was needed, stopped work immediately, and came to the City office to make application. At that time it was discovered there was no record of a permit for an existing deck or additional steps to an existing enclosed room and that in 1989, the property received a rear yard setback variance of 8 feet. Ms. McMaster said an additional 10 feet is being requested for a total variance of 18 feet to the rear yard setback requirement. Ms. McMaster stated a letter had been received from Jerry and Trudy Kuhel, 7367 Hudson Park Drive, stating they have no issues regarding the requested variance.

Mr. Meyer submitted a letter for the record, from Melissa and Jonathan Durkee, 7376 Hudson Park Drive, stating their support for the variance as it will not negatively affect the neighbors on either side, and will increase the property's value.

Mr. Meyer apologized for doing this project without a zoning certificate.

Mr. Hojnacki had no questions.

Mr. Jahn confirmed with the owner that the existing deck was encroaching into the rear yard setback, the deck and steps from the porch did not have a zoning certificate, and the only variance was for a rear yard setback of 8 feet for the enclosed room. Mr. Jahn also confirmed with the owner that the steps are closer to the rear property line than what would be allowed under the variance given in 1989 and that the deck that never had a zoning certificate. Mr. Jahn stated the granting of the variance will be a clean-up for the property bringing everything into compliance.

Mr. Lehman confirmed that the arbor is being built for shade protection from the sun.

Mr. Jahn made a motion to grant a variance of eighteen (18) feet from the required fifty (50) foot rear yard setback resulting in a thirty-two (32) foot rear yard setback for a deck addition with an arbor and steps and that 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 variance because the primary use

of the residential property can be maintained;

b) the variance is insubstantial as although there was no permit for the original deck, this variance brings the deck, steps and arbor into conformance pursuant to the 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 of the minor nature of the variance and the lack of proximity to adjacent properties;

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

e) the owner purchased the property with knowledge of the zoning restriction;

f) the applicant's predicament feasibly cannot be resolved through some method other than the variance; and

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

Mr. Hojnacki seconded the motion.

Roll Call:

Aye: Mr. Hojnacki, Mr. Jahn, Mr. Wise, Mr. Lehman

Nay: None

Motion unanimously carried.

Mr. Lehman called a five minute recess at 8:25 p.m. and Mr. Lewis arrived. The full Board reconvened at 8:30 p.m.

APPEALS DOCKET NUMBER 2010-15

This hearing has been called to consider Appeals Docket No. 2010-15, for Parcel 3202042, Veterans Way, Veterans Way Park.

The request is a variance from the prohibited activities of disturbing a wetland and from the required setback of fifty (50) feet from the delineated edge of a wetland resulting in a zero (0) ft. setback in order to construct a park with trails, boardwalk, basketball court, parking, and accessory structures pursuant to Section 1207.03(c), "Wetland Protection-Prohibited Activities"; and Section 1207.03(e)(2), "Wetland Protection-Wetland Setbacks".

The applicant is Eric Hutchinson, Parks Superintendent representing the property owner, City of Hudson, 27 East Main Street; Hudson, Ohio.

Mr. King gave an overview of the proposed additions to Veterans Way Park located in both Districts 4 and 5. Mr. Hutchinson is requesting to construct a park with trails, boardwalk, basketball courts, parking, and restrooms which Mr. Hutchinson said will result in higher quality wetlands. Mr. King said that both Eric Hutchinson, and Jeff Kerr, consultant from Floyd Browne Group, were in attendance. Mr. King stated that staff did not advertise for a stream setback as it does not meet the City of Hudson definition of a stream. Mr. King said there must be a water course and have riparian habitat. However, it is a field ditch with broken drain tiles. Mr. King explained that a riparian area is a wet environment with growth on the bottom such as cattails, willow, and other wetland plants.

Mr. Hutchinson, Jeff Kerr, of Floyd Browne Group, and Rob Swedenborg of the Hudson Park Board were in attendance. Mr. Hutchinson said the park is 33 ½ acres in size and there is currently a skateboard park located there. He stated the plans represent a significant effort and have been a long time in the making. The plans have been adjusted to increase the distance of active areas from property lines to the south. He said it has been a shared project with Leadership Hudson and Community First.

Mr. Kerr explained there would be a Meadow Walk which leads through a restored meadow and a Wetland Walk through a restored wetland. The trails are made of an aggregate material and the boardwalk is made up of 3' x 3' pads which float on top of the wetland. Mr. Kerr stated that they are not filling any wetlands and are doing work inside the wetlands making them a higher grade of wetland. Mr. Kerr said one-half acre of new wetlands will be created in the park. He said the goal is to get people close to the wetlands so they can be enjoyed.

Mr. Hojnacki asked about the boardwalk composition. Mr. Hutchinson stated that wooden struts were used previously to support a boardwalk, but this is a newer system of large pillows of boardwalk support instead of posts that do not go into the ground. He said this system is being used on a regular basis by the Cleveland Metro Parks.

Mr. Jahn asked the definition of a high quality wetland and the applicant confirmed that instead the land here was of low quality category 1 and 2 as outlined on the drawings. Mr. Kerr further described the invasive species occupied most of the land, which need to be eradicated. He said diversity is created with woodland wetlands, water wetlands, and emerging wetlands which bring in different flora and fauna and in turn creates a higher quality wetland. Mr. Jahn asked how can nature be improved and Mr. Kerr responded they are trying to manage for better wetlands. He stated it is an art and a science and requires management, but they have done this in the past. Mr. Kerr further described the boardwalk supports as being like a snowshoe on snow. He said the system is self-leveling and allowed to move based on the features of the land. Mr. Jahn also confirmed with Mr. Kerr that the parking lot and skateboard park did not disturb the wetlands and the only lighting would be security lights for the restroom facility.

Mr. Wise had no questions.

Mr. Lewis confirmed with Mr. Kerr that this wetland technology has been used in Beachwood Ohio, Akron-Canton Airport, Liberty Park in Twinsburg, and Metro Park in Munroe Falls. Mr. Lewis confirmed with Mr. Kerr that the boardwalks would require minimal maintenance and parking areas would be asphalt and pavement and would be built with a swale to divert storm water. Mr. Lewis asked what other uses are possible for this land and Mr. Hutchinson said the amenities were based on input from residents and community groups. The land could be used as park, but could not incorporate the various items wanted were it not for the variances.

Mr. Lehman confirmed with Mr. Hutchinson that bicycle use is permitted on the paths and the Aurora-Stow Trail which had been before the Board several times, will be completed in two weeks.

Rob Swedenborg, Hudson Park Board, said the other parks have trails through them, but this park and its trails will be educational and enhance the wetlands. The philosophy is different with this park.

Raija Daley, 132 S. Main Street, Hudson, Ohio, stated her property adjoins the 33+ acres. She said 7 natural springs drain down the hill and the parking lot should be gravel instead of asphalt. She said wetland mitigation where it has been done and she has read that it is not always successful. She said the basketball courts and parking do not belong there as it is a very serene place and south of Hines Hill Road near Herrick Park would be a better location. Mrs. Daley said she has a problem with the City asking for a variance and the area will be congested. She asked about snow removal and ice melters for the trails and Mr. Hutchinson stated there are currently 9 miles of trails in Hudson and no snow removal of any kind is done on them. He also stated that there are cross country skiers in Hudson that prefer the City not remove snow on the trails. Mr. Hutchinson said two different methods for storm water area for the parking lot on the north side are being considered and the Park Board will actually be able to field test them.

Mr. Lewis asked why the basketball court was being proposed. Mr. Swedenborg said Community First, an organization that works with young people in the community, commissioned a study from a grant from the Burton Morgan Foundation. A student poll was taken asking the types of activities they wanted and those results were incorporated into the planning of the park and the park is close to the center of town.

Mr. Swedenborg said the Hudson Fire Department no longer wants a children's playground near the Fire Station. Leadership Hudson is currently doing fund raising activities for a playground to be located in the park.

Patricia Stokes-Cook, 15 Stokes Lane, Hudson, Ohio, stated her grandfather bought the property in 1920 and her father grew up on the property. She said it was a lake before the railroad drained it and it is the only wetland left close to the City. She said there are other places for the basketball court. As it is now, she said kids are in the skateboard park

after dark. Mrs. Cook said it is not possible to not destroy the wetlands. Mrs. Cook said the City is trying to appease everyone. The person who pushed to move the skateboard park to this location no longer lives in Hudson. Mrs. Cook felt the Youth Development Center land could be considered for these proposed uses.

Mr. Hojnacki said there is an opportunity to improve the wetlands and there will not be an impact on the wetlands.

Mr. Lehman said a basketball court could be put in without a variance or nothing could be done with the park and we would all be worse off. After further discussion, it was stated that site plan changes were out of the Boards' jurisdiction and would be handled by the Planning Commission.

Ms. McMaster stated that this project will be going to Planning Commission for site plan approval.

Mr. Jahn confirmed with Mr. Hutchinson that all parks in Hudson close at dusk.

Mr. Jahn made a motion to grant a variance from the prohibited activities of disturbing a wetland and from the required setback of fifty (50) feet from the delineated edge of a wetland resulting in a zero (0) ft. setback in order to construct a park with trails, boardwalk, basketball court, parking, and accessory structures and that 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 because substantial improvements to create a park can be made without disturbing wetlands;
- b) the variances are insubstantial because the overall impact of the variance can be made minimal;
- 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 measures have been taken pursuant to a wetland delineation report to improve the wetlands and to maintain the natural character of the 33 acres;
- d) the variances would not adversely affect the delivery of governmental services;
- e) the applicant's predicament feasibly cannot 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 granting the variances because the totality

of the improvements for the community are in keeping with the Hudson Parks Master Plan.

Mr. Lewis seconded the motion.

Roll Call:

Aye: Mr. Jahn, Mr. Wise, Mr. Hojnacki, Mr. Lewis, Mr. Lehman

Nay: None

Motion unanimously carried.


OTHER BUSINESS

Ms. McMaster briefly described the two cases for the November meeting.


ADJOURNMENT

There being no further business, Mr. Lehman adjourned the meeting at 9:50 p.m.


David W. Lehman, Chairman


Frederick Jahn, Board Member


David J. Lewis, Vice Chairman


Carol G. Muesel, Clerk