



Board of Zoning and Building Appeals

REGULAR MEETING FEBRUARY 18, 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, Mr. Lehman

Absent: No Board Member Absent

Officials Present: Thomas E. King, Community Development Director, Kris McMaster, Associate Planner.

Meeting minutes were taken by Carol Muesel, Board Clerk and hearing testimony was recorded by Susan Petro, 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, Kris McMaster, Associate Planner, and placed staff and all those persons in the audience wishing to speak under oath.

Mr. Lehman stated the January minutes would be approved at the March meeting.

PUBLIC HEARING

NEW BUSINESS

APPEALS DOCKET NO. 2009-58710

This hearing was called to consider a variance of five (5) feet on the south property line, from the requirement that parking lots shall have perimeter landscaping a minimum width of [10] feet, exclusive of vehicle overhang. This variance would be for a new parking lot to be constructed five (5) feet from the south property line resulting in (5) feet of landscaping. The perimeter landscaping shall contain sufficient plant material to achieve an effective, opaque screen of at least [3] feet in height within 2 years of installation; and also contain deciduous trees and allow adequate snow storage area pursuant to Section 1207.04(1)(3)(A)(B), "Perimeter Landscaping for Parking Lots".

The applicant is Daniel J. Bestic, 1749 East Sapphire Drive, Hudson, Ohio 44236 and the property owner is Domenic Mario DiLullo, 1738 Valley Road, Cuyahoga Falls, Ohio 44223.

Ms. McMaster gave an overview of the case stating Mr. DiLullo purchased the property in 1997. The applicant Dr. Bestic, Veterinarian, is requesting to construct a veterinary clinic with a footprint of 7,536 square feet. The proposed use would include routine veterinary medicinal, surgical, physical rehabilitation, obedience training, offer overnight indoor boarding, and daily exercising indoor and outdoor. Dr. Bestic has received conditional use approval from Planning Commission on February 8. Ms. McMaster said the variance for the reduced buffer landscape requirement allows the applicant's site design to meet site requirements for the parking stall length, required side yard setback to the north, and width of building. Ms. McMaster said the applicant stated that if the width of the building was reduced to meet code requirements, the operational use of the structure would deter the success of the business.

Ms. McMaster stated a previous variance granted in 2001 from the minimum lot width requirement is now not necessary due to a code amendment adding lot width to lot area as a non-conformity permitted to continue for a parcel of record.

Leon Sampat, Ls Architects, 28207 Center Ridge Road, Westlake, Ohio 44145, represented Dr. Bestic as he was unable to attend, and Mr. Lehman confirmed with Mr. Sampat that he did have authority to make a decision if necessary. Mr. Sampat described the facilities to be constructed and stated that it will be a two level building with a walk-out basement.

Mr. Jahn asked if other options had been considered and Mr. Sampat said they had looked at splitting the project into three separate structures, but when Dr. Bestic performs surgery it is better to be in one building. Mr. Jahn asked if another level had been considered and Mr. Sampat said it would not be practical with maneuvering large dogs.

Mr. Lewis asked if the impervious surface area was under the requirement and Mr. Sampat stated it was 49.4%.

Mr. Jahn requested Mr. Sampat give further explanation in regard to his statement that, "reducing the building size would render it less serviceable". Mr. Sampat said the rear area of 3000 sq. ft. was based on the size of the equipment required, 8' deep kennels and standard aisles. He said the aisles could be made smaller, but would not be functional.

Mr. Lewis confirmed with Mr. Sampat that the lower level of the building will be an open exercise area which will lead to the outdoor exercise area. Mr. Lewis also confirmed with Mr. Sampat that the width of the building could not be reduced. Mr. King said the plan shows concrete steps toward the back of the building. He asked whether the steps could be put internally in an alcove which would free up a dimension of five feet to add landscaping on the south. He also said that apartment buildings sometime have stairs

within a recessed area, but are open to outside elements. Mr. King said his point was that instead of traveling up the stairs to the landing, it would be open to the side and would be accommodated within the perimeter of the building freeing up five feet. Mr. Sampat said that may end up in a safety issue.

Mr. Lehman confirmed with Mr. King that the Fire Department had reviewed and will accept this plan. The canopy was revised.

Mr. Lehman asked Mr. Sampat to explain the storm water management system. He said the system in the rear will hold rain water and become a pond instead of overloading the City system. Mr. Lehman said this property has been before the Board three times and asked if there were any issues in terms of the previous decisions rendered. Mr. King responded that he had spoken with Mr. Hunt and issue of precedent does not arise if there are changed circumstances of a new applicant, new plan, and new circumstances.

Joe Saponaro, Attorney, 729 Oakwood Drive, Gates Mills, OH representing Stiegemeier Land Co. LLC, 5992 Darrow Road, Hudson, OH said the size and placement of the proposed building impedes on the Stiegemeier property and they are concerned about the property use. He said his clients will be exposed to nuisance, odor, and noise, and have experienced flooding in the past which may be another issue. His clients did agree to the curb cut by the City, but Dr. Bestic also wanted access to their property which was not granted. Mr. Saponaro asked for the type of landscaping and how close to the property line. Mr. Saponaro said Dr. Bestic's business will have nine employees and will be across the street from another veterinary hospital and will be competing.

Mr. King said the variance before the Board is to reduce a landscape buffer on the south property line. Mr. King said that Mr. Saponaro mentioned a number of concerns, but he did not see the correlation.

Mr. Lewis said water runoff was mentioned and asked about concern for wetlands in the area. Mr. King said the City Engineer looked at the drainage pattern and found no issues. A future site plan review meeting with Planning Commission is scheduled.

Mr. Lewis confirmed with Mr. King that Bufferyard "A" is required to the north and would extend from the front building line to the back of the property. Mr. Lewis asked Mr. King to describe Bufferyards "A", "B" and "C".

Mr. King said one problem with this site is that the driveway exit is very close to the Stoney Hill traffic light. Planning Commission suggested a permanent easement to allow travel to the installed traffic light and that could be handled with a cross-access easement and will be addressed at the March Planning Commission meeting. Mr. Saponaro said when his clients purchased the property, the driveway was in a different location, but the City said the driveway would be moved. Mr. Sampat said that Dr. Bestic will grant the easement.

Mr. Jahn confirmed with Mr. Sampat that animal waste would be picked up every 3rd day.

Mark Eddleman, 5828 Nicholson Drive, said two of the same type businesses located so close will limit their client base and growth, and tax revenue for the City, and it is possible there may be another vacant building. Mr. Eddleman said it is not in the best interest of the City to permit the same type of business so close to one another and questions the benefit to the City of granting the variance.

Dr. Glenn Thorson, Boston Heights Veterinary Hospital, 7040 Walters Road, expressed concerns of being able to support a facility of this size. He discussed the cost of the structure, number of clients needed to support the business, and that the three local veterinarians and their clients would all fit into this building. He questioned what the City will do in five years when the building may be vacant due to insufficient business.

Bob Roberts, 5939 Darrow Road, said he had some concerns. He has worked at the Hudson Veterinary Hospital for 26 years and said he knew how difficult it is to negotiate Route 91. He stated that he has a unique perspective and although this may not be the right meeting there is something that needs to be considered. When exiting at the end of the drive the natural reaction for traffic coming south is to slow down. The light at Stoney Hill does not help at all. He said another business will be operating and exiting onto Rt. 91. This traffic situation has not been adequately addressed and he is concerned about the traffic.

Mr. Lehman closed the public hearing portion of the meeting and there was discussion among the Board.

Mr. Lewis said a lot of good points were raised and asked whether, in the overall scheme of things, it is a good thing. The Board's authority is simply limited concerning the variance that is requested. The comments were well taken and made sense.

Mr. King stated that the matter before the Board is to hear the request by the applicant. Some of the issues raised were pertinent and others were pertinent to site plan approval.

Mr. Jahn said he agrees with Mr. Lewis. Testimony was not relevant with what we are charged to do.

Mr. Lewis said this use will have an outdoor kennel area and we might consider a landscape buffer on the north side. Mr. Lewis confirmed with Mr. King that this condition would be within the Board's jurisdiction. Mr. King said if you feel this variance will diminish the look of this site, 5' without a vehicle overhang should allow landscape plantings in this area. It could accommodate more plantings and less green area.

Mr. Jahn made a motion to grant a request for a variance a variance of five (5) feet on the south property line, from the requirement that parking lots shall have perimeter

landscaping a minimum width of [10] feet, exclusive of vehicle overhang, pursuant to Section 1207.04(1)(3)(A)(B), "Perimeter Landscaping for Parking Lots". The Board finds and concludes:

- 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 of the narrow lot limitations;
- b) the variance is insubstantial because the overall amount of the variance is minor;
- 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 nature of the variance;
- 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 1997 and the Land Development Code was adopted December, 1999;
- 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.

For all of the above reasons, the variance is granted with the following condition:

- During the site plan review for this property, we ask Planning Commission to consider increasing the amount of landscaping on the north side of the property in light of the lesser landscape area on the south side of the property.

Mr. Lewis seconded the motion and amendments.

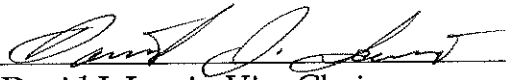
Amendments were made to the motion changing, "the property will not yield a reasonable return and there cannot be a beneficial use...", and also adding the condition to the motion. Mr. Jahn changed his motion to reflect the amendments.

ADJOURNMENT

There being no further business, Mr. Lehman adjourned the meeting at 9:08 p.m.



David W. Lehman, Chairman



David J. Lewis, Vice Chairman



Carol G. Muesel, Clerk