

Board of Zoning and Building Appeals
REGULAR MEETING AUGUST 18, 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. Lehman, Mr. Lewis, Mr. Wise
Absent: No one

Officials Present: Thomas E. King, Community Development Director; Kris McMaster, Associate Planner and Aimee W. Lane, Assistant 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. Lehman introduced Thomas E. King, Community Development Director; Kris McMaster, Associate Planner, and Aimee W. Lane, Assistant City Solicitor. Ms. Lane placed staff and all those persons in the audience wishing to speak under oath.

Mr. Wise made a motion to table the July 21, 2011 Minutes in order to review the court reporter's transcript for 131 Keswick Drive along with an errata sheet and approve at the August meeting. Mr. Dohner seconded the motion and all members were in favor.

APPEALS DOCKET NO. 2010-13

This hearing has been called to consider Appeals Docket No. 2011-13 for 137 Keswick Drive. The request is a variance of seven (7) ft from the fifteen (15) ft side yard setback requirement to construct an accessory structure, detached garage resulting in the accessory structure to be located eight (8) ft from the side property line pursuant to Section 1205.06(d)(5)(D)(iv)Property Development/ Design Standards - Minimum Side Yard Setbacks”.

The applicants and owners are Charles C. and Kathy B. Juda, 137 Keswick Street; Hudson, Ohio.

Mr. Lehman requested Ms. McMaster give an overview of the case. Ms. McMaster stated the house was built in 1966 and the owner purchased the property in June 1996. She said the parcel is 100 feet wide by 100 feet deep. Ms. McMaster said

the owners are proposing to construct a 20 x 20 foot (400 square feet) detached garage at the end of an existing concrete driveway. The accessory structure will be adjacent to the location of the **neighbor's** detached garage and will not affect the **neighbor's** view due to the **neighbors'** existing garage. Ms. McMaster said the owner has stated if the structure were built to Code it would create an ineffective use of the backyard space; and meeting the side yard setback requirement would make it difficult for vehicles to enter or exit the garage.

Ms. McMaster stated in December 1999 the Land Development Code was adopted requiring District 3 to have a minimum lot width of 150 feet and accessory structures rear and side yard minimum setback to be (15) feet from the rear and side yard property lines. The previous Code for this property required accessory structures to have rear and side yard minimum setback of (3) feet from all lot lines of adjoining lots.

Ms. McMaster said the owners at 145 Keswick Drive to the east of the subject property, constructed a detached garage 9 feet from the side property line in 1995 meeting the minimum code requirement at that time of 3 feet.

Mr. Juda did state for the record that the depth of his lot is 172 feet and not 100 feet as stated in the staff report. Mr. Juda said if he abided by the setback it would make getting vehicles in and out difficult and would make less usable space in the back yard. He stated that both garages would be approximately the same number of feet from the side property line.

Mr. Jahn confirmed with the owner that the accessory structure would be used for two cars and the owner needed more space as he is presently storing his equipment in the **neighbors'** garage. Mr. Jahn also confirmed that the **neighbors'** garage and the **applicants'** garage would be about 15 to 16 feet apart.

Mr. Wise asked if there were air flow concerns when the Code was written and Mr. King said fire safety and aesthetics were considered.

Mr. Dohner confirmed with staff that an accessory structure is to be a minimum of (5) feet from the house

Mr. Lewis confirmed with the applicant that the right side of the driveway and the right side of the building would line up. Mr. Lewis confirmed with the applicant that ingress and egress would be difficult as a very tight turn cutting right and then left to enter the garage would be necessary. Mr. Lewis confirmed with the applicant that there will be no living quarters in the garage.

Mr. Lehman closed the public portion of the meeting.

Mr. Dohner stated he understood about the location proximity to the **neighbor's** garage. He said he was not confident about the ingress and egress problem and as far as preserving yard space they also have a deck and a gazebo. Mr. Dohner said he was not persuaded that the variance was needed.

Mr. Lehman stated that yard space also refers to sitting on your deck and looking at the green space beyond.

Mr. Lewis asked staff why the Code was revised from a (3) foot side yard setback to a (15) foot setback. Mr. King said when the Village and Township were merged there were many districts. Some neighborhoods had (3) foot side yard setbacks and the former township districts were (15) feet. It was felt that at the time (3) foot was not desirable so it was increased to (15) feet for accessory structures. Mr. King said it was not a perfect scenario for every property, but for majority. Mr. Lewis said that perhaps (15) feet would be more appropriate for a wider lot.

Mr. Dohner said that as he reviewed the aerial of the neighborhood, he felt maybe the symmetries were important and would be in keeping with the neighborhood.

Mr. Jahn said he agreed with Mr. **Dohner's** comments, and stated that matching the front yard setback of both garages would be more appealing.

Mr. Jahn made a motion to approve a variance of seven (7) ft from the fifteen (15) ft side yard setback requirement to construct an accessory structure, detached garage resulting in the accessory structure to be located eight (8) ft from the side property line. The Board finds and concludes with the following conditions:

- There shall be no living quarters for human habitation in the subject accessory structure detached garage, now or in the future.
- No other accessory structures shall be constructed on the property.

a) the property in question will yield a reasonable return and there can be a beneficial use of the property without the variance however the beneficial use will be the enhancement of the property and the improved accessibility of entering and exiting the garage.

b) the variance is insubstantial because the accessory structure will be in the same position as a accessory structure at the next door property at 145 Keswick Drive, resulting in similar side by side uses that are roughly an equal distance from each property line;

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 the next door property at 145 Keswick Drive has an identical accessory structure with the same front property line setback as the proposed structure;

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

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; and

g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance because of the minor impact on neighboring properties and the coordinated appearance with the neighborhood.

Mr. Dohner seconded the motion.

Roll Call:

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

Nay: None

Motion unanimously carried.

OTHER BUSINESS

Ms. McMaster stated that no applications had been received by the August 17 application deadline for the September 15 meeting.

The Nuisance Board ruled on 131 Keswick Drive and the owner has 45 days to remediate or demolish. The decision can be appealed within 10 days from service of the decision which would be August 29.

ADJOURNMENT

As there was no further business, Mr. Lehman adjourned the meeting at 8:25 p.m.

David W. Lehman, Chairman

David J. Lewis, Vice Chairman

Carol G. Muesel, Clerk