

**Board of Zoning and Building Appeals**  
**REGULAR MEETING NOVEMBER 17, 2011**  
**7:30 P.M. TOWN HALL 2<sup>ND</sup> 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 2<sup>nd</sup> Floor Meeting Room of Town Hall, 27 E. Main Street, Hudson, Ohio.

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

Officials Present: 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 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. Dohner requested deferral of 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 December meeting. All members were in favor. Mr. Dohner made a motion to approved the October 20, 2011 Minutes as written. Mr. Jahn seconded the motion and all members were in favor.

**APPEALS DOCKET NO. 2011-16**

This hearing has been called to consider Appeals Docket No. 2011-16 for 2085 Middleton Road.

The request is a variance of twenty-nine (29) ft from the required fifty (50) ft setback of an accessory building or fenced enclosure for an agricultural use. The agricultural use and structure would be twenty-one (21) feet from the rear property line pursuant to Section 1207.19 (d)(2), "Special Development Standards"- "Special Setback Requirements Respecting Agricultural Uses".

The applicant is Katherine Giorgi and the owners are Katherine Giorgi and Kyle Davis, 2085 Middleton Road; Hudson, Ohio.

Ms. McMaster gave an overview of the case stating that the house was built in 1964 and the owner purchased the properties in September, 2011. To the east of the property is the Country Club of Hudson and to the north is the Hudson Montessori School. Ms. McMaster said Planning Commission has given Conditional Use approval for the two parcels for agricultural use and to be consolidated into one parcel. The existing barn located on the property was used for horses by the previous owners and the new owners are proposing to use the barn to keep ten (10) alpacas as approved by the Planning Commission. The accessory structure barn will be a nonconforming structure use. Code states that an accessory building or fenced enclosure associated with an agricultural use setback from a residentially zoned lot shall have (50) feet to the property line other than the residence of the person engaged in the agricultural use. Ms. McMaster said the subject of the hearing is to allow the barn to remain at a (21) foot setback. The owners have indicated that alpacas are quiet animals, do not smell and are known to be clean animals. The owners plan to keep existing fencing and add minimal new fencing and plan no additional yard lighting. Ms. McMaster said City Code Enforcement issued a verbal notice for work performed on the existing barn structure of adding an overhang without a zoning certificate.

Mr. Lehman entered into the record a letter from The Country Club of Hudson, 2155 Middleton Road opposing the approval of the variance. (Exhibit A).

Katherine Giorgi said they purchased the property not knowing that it did not meet Code to raise alpacas. She stated it would be a financial hardship to move the barn and stated that their property line was adjacent to the Montessori School, not The Country Club of Hudson.

Mr. Jahn stated that a number of his questions concerned the animals, but most of them have been answered and Planning Commission has granted approval. Mr. Jahn confirmed with the applicant that the overhang had been completed and the applicant was not aware a permit was necessary. Mr. Jahn confirmed with the applicant that a (25) ft variance would have been required instead of a (29) ft variance with the overhang added. Mr. Jahn confirmed that they purchased both lots and will be consolidating them for a 3.4 acre total lot size. Ms. Giorgi stated that they had called Hudson Community Development Department and were told alpacas would be permitted if both parcels were purchased. Mr. Jahn stated that the barn has been there for over 30 years, but the property was not used for agricultural purposes. Ms. McMaster stated that horses are not considered an agricultural use and there is a difference between horses and alpacas as written in the Code. Mr. Jahn said their application states that granting the variance would not alter the neighborhood or affect the neighbors. He asked if Ms. Giorgi wanted to alter her answer. Ms. Giorgi said they did not know it was a nonconforming use, but still believes it will not change the neighborhood.

Mr. Dohner confirmed with the applicant that the barn is 20' x 30' on a dirt floor and that the cost to relocate the barn would be between \$8,000-\$10,000. Mr. Dohner asked the distance from the barn to the Country Club of Hudson and Ms. McMaster

confirmed that it was at least 150 feet.

Mr. Lewis asked the applicant to explain their alternatives. Ms. Giorgi explained that they did not have the money to move the barn with additional costs of the application fees for the entire process and boarding their alpacas at \$600 per month. Mr. Lewis confirmed with the applicant that, money aside, the barn could be moved. Mr. Lewis confirmed with the applicant that the structure was not intended for human occupancy and there is no second level in the barn.

Paolo Giorgi, 6748 St. James Circle, the **applicant's** father, stated that his daughter did not have the finances to either move the barn or build a new barn. Mr. Giorgi stated that if the barn were to be relocated, it would be closer to the Hudson Country Club who objected to the variance request, then where the barn is currently located.

Mr. Jahn confirmed with the applicant that she has been boarding five alpacas for the last three years, however, only paying a boarding fee for the last three months.

Ms. Giorgi said they needed the variance as they cannot afford to move the barn. She stated they need to bring the alpacas home and said that the animals would be coming in and out of the front of the barn only and would not be in the rear of the barn.

Mr. Lewis confirmed with Ms. Giorgi that to prepare for the alpacas fencing had to be purchased, various permits for agricultural use of the property had to be obtained, and overhangs built on the barn at a cost of approximately \$3,000 and \$8,000.

Mr. Dohner stated he did not see a problem with the request. The nearest property is the Montessori School but the property is heavily wooded.

Mr. Lehman confirmed with Ms. McMaster that any structure can be replaced, but not more than 50%.

Mr. Jahn said the location is buffered by trees and cannot be seen. He said that the owners have already spent a considerable amount of money.

Mr. Lewis said he agreed with much of what has been said. The Montessori School has expressed no objection nor have the neighbors to the west. Mr. Lewis confirmed with the applicant that they will not board other **people's** animals and no commercial activities would be conducted.

Mr. Dohner made a motion to grant the variance. The Board hereby approves: A variance of twenty-nine (29) ft from the required fifty (50) ft setback of an accessory building or fenced enclosure for an agricultural use. The agricultural use and structure would be twenty-one (21) feet from the rear property line pursuant to Section 1207.19 (d)(2), "**Special Development Standards**"-"**Special Setback Requirements Respecting Agricultural Uses**".

The variance has been granted with the following conditions:

- The structure is not to be used for human occupancy now or in the future.

- If structure is removed or destroyed, the new structure would be required to meet all current zoning codes.
- No boarding of animals for fees or commercial use of the property is permitted.

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 property has existed for some time without this type of variance. What was acceptable to raise horses is not acceptable to raise alpacas without a variance as horses are an allowed residential accessory use and alpacas are an agricultural use in the Land Development Code.

b) the variance is insubstantial because of the character of the adjacent properties that have a different purpose other than District 1 residential use that being a school and a country club;

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 property is heavily wooded and is not accessible;

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

e) the property 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.

Mr. Jahn seconded the motion.

Roll Call:

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

Nay: None

Motion unanimously carried.

### **APPEALS DOCKET NO. 2011-17**

This hearing has been called to consider Appeals Docket No. 2011-17 for 6611 Chestwick Lane.

The request is a variance from the requirement that lot widths of 150 feet or less are permitted no more than one driveway curb cut per lot. This variance request is to allow two driveway curb cuts for a circular driveway pursuant to Section

## 1205.06(d)(14)(A), "Property Development Design Standards" - "Driveway Curb Cuts".

The applicant is Chris Brown, Prestige Homes, 17 W. Streetsboro Street, Hudson, Ohio for the property owners Deer Creek Partners, Inc., 17 W. Streetsboro Street, Hudson.

Ms. McMaster gave an overview of the case stating that the potential homeowners have indicated they would like to install two curb cuts for a circular driveway. Their reasons for this request are easier access to the home, to provide a conforming element in the neighborhood and the belief that a circular driveway is keeping with the character of the neighborhood. Ms. McMaster said the Estates at Canterbury on the Lakes Subdivision has a total of (22) lots with ten of the lots having less than 150 feet frontage and are subject to the limitation of only one driveway curb cut. She said that the Board recently approved a variance to install two curb cuts at 6591 Chestwick Lane in May 2011.

Jon Russell, Prestige Homes, stated he would be speaking for Chris Brown who was not in attendance. Mr. Russell said the potential homeowners would like a circular drive stating that this type of driveway is very common in the area. He said the lots are one acre and surrounded by green space. Mr. Russell said the homeowners feel it would enhance the property and eliminate backing onto the street or parking on the street.

Mr. Lewis stated that the lot at 6591 Cheswick was 145 feet wide whereas this lot is only 120 feet wide and asked Mr. Russell to give reasons why this request should be granted. Mr. Russell suggested widening the curve of the driveway by approximately six feet by having 15 ft curb cuts instead of the 18 ft. Mr. Lewis stated that 10 lots in this subdivision have lots with less than 150 ft frontage. Mr. Lewis confirmed with the applicant that the alternative would be that the potential buyers decide not to purchase the house. Mr. Lewis also confirmed with Mr. Russell that the lot can still be sold, but possibly not to the interested couple.

Mr. Dohner confirmed that Mr. Russell has overseen the construction of many homes in Hudson and stated that he should be aware of the circular driveway frontage limitation. Mr. Russell stated that six of the nine homes do not have circular driveways. Some of the buyers elect to not pay the \$12,000 for the driveway.

Mr. Jahn asked about question 7b in the application supplemental information and questioning the impact of a 15 ft utility easement along the right property line. Mr. Russell said that Chris Brown had filled out the application, but Mr. Russell did not feel the easement had any impact. Mr. Jahn asked the applicant to explain the "look" of the neighborhood. Mr. Russell said a circular drive enhances the front entry and there are more landscape possibilities. Mr. Jahn confirmed with the applicant that many circular driveways would be more aesthetically pleasing than few or all. Mr. Russell stated he was not sure if a circular driveway would be appropriate on a corner lot. Mr. Jahn asked the applicant to explain the desired front courtyard. Mr. Russell said the surface would be paving bricks with flowers and shrubs. The potential owners liked the feeling of approaching the front entry with a courtyard between the driveway and the house. Mr. Jahn asked about the loss of green space due to "many" circular driveways in the subdivision. Mr. Russell said that more than 50% of the subdivision is dedicated to

green space which is in the back of the properties and at the entry to the Estates of Canterbury.

The public portion of the hearing was closed and the Board discussed the case among themselves.

Mr. Dohner said to grant this request because it is a nice convenience and would enhance the property are not reasons that we can consider based on the Code . Mr. Dohner said, “**Why** is this lot so **unique?**” “**Why** does it need a double curb cut for a circular driveway?”

Mr. Lewis said Mr. Russell has stated that this is unique for this buyer’s opinion and interest, for this property, at this time.

Mr. Lewis made a motion to deny the request for a variance from the requirement that lot widths of 150 feet or less are permitted no more than one driveway curb cut per lot. This variance request is to allow two driveway curb cuts for a circular driveway pursuant to Section 1205.06(d)(14)(A), “**Property Development Design Standards**” - “**Driveway Curb Cuts**”. 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;
- b) the variance is substantial because it is a **30’** variance approximately **25% of the lot width of 120’**;
- c) the essential character of the neighborhood would not be substantially altered and whether adjoining properties would suffer a substantial detriment is questionable because subdivision is not fully developed;
- d) the property owner purchased the property with knowledge of the zoning restrictions;
- e) the **applicant’s** predicament feasibly can be resolved through some method other than the variance because a standard driveway could be constructed; and
- f) the spirit and intent behind the zoning requirement would be enforced and substantial justice done by denying the variance.

Mr. Dohner seconded the motion.

Roll Call:

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

Nay: Mr. Jahn

Motion to Deny Carried.

## **OTHER BUSINESS**

Ms. McMaster gave a brief overview of the cases for the December meeting.

The 2012 Meeting Calendar was approved by all members present.

### **ADJOURNMENT**

As there was no further business, Mr. Lehman adjourned the meeting at 9:35 p.m.

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David W. Lehman, Chairman

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David J. Lewis, Vice Chairman

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Carol G. Muesel, Clerk