

Board of Zoning and Building Appeals
REGULAR MEETING April 19, 2012
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
Absent: Mr. Wise

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.

Mr. Lewis gave a Proclamation of Thanks for Mr. King's 14 years of service to the Board of Zoning and Building Appeals. Mr. Lehman presented the proclamation to Mr. King.

Ms. Lane placed staff and all those persons in the audience wishing to speak under oath.

Mr. Lewis made a motion to approve the January 19, 2012 Minutes as amended and the March 15, 2012 Minutes as written. Mr. Dohner seconded the motion and all members present were in favor.

PUBLIC HEARING

NEW BUSINESS

APPEALS DOCKET NO. 2012-01

Mr. Lehman stated that this case for Parcel 3200794 on Thirty Acres Lane had been withdrawn by the applicant and owner Laura P. DiNovi; 5880 Laurawood Lane; 72

N. Main Street, Suite 300; Hudson, Ohio.

The request was a variance to permit a water well and septic system to be available at the time of occupancy for a new residential structure pursuant to Section 1207.11(b)(1)(B), “Adequate Public Facilities-Water/Wastewater”.

APPEALS DOCKET NO. 2012-06

Mr. Lehman stated that this case had been called to consider Appeals Docket No. 2012-06, 126 Old Orchard Drive. The applicants are Donald C. Jr. and Patricia M. Molten; 6530 Blackfriars Lane; Hudson, Ohio; the property owner is Patricia M. Molten, Trustee.

The requests are: (1) A variance of five (5) ft from the side yard setback requirement of fifteen (15) ft resulting in an addition ten (10) feet from the side property line pursuant to Section 1205.06(d)(5)(D)(i)Property Development/ Design Standards - Minimum Side Yard **Setbacks**”; and, (2) A variance to the requirement that a nonconforming structure may be expanded provided the proposed expansion does not exceed 50% of the existing footprint so as to permit an addition of two hundred and twenty-five (225) square feet over the permitted expansion of seven hundred and eighty-one (781) square feet resulting in a house footprint of two thousand five hundred and sixty-seven (2,567) square feet pursuant to Section 1206.50(f)(1)(A), Nonconforming Structures - **Enlargement**”.

Mr. Lehman confirmed with staff that legal notices had been mailed and placed in the newspaper.

Ms. McMaster gave an overview of the case stating that the house was built in 1963 and the owners purchased the home in February 2012. Ms. McMaster said that under the Village Planning and Zoning Code the side yard setback for this district was ten (10) feet. The owners are requesting an addition to expand the master bedroom, kitchen and dining room, and family room.

The variance request to expand a nonconforming structure is due to an insufficient side yard setback changed by a Code amendment. Ms. McMaster said that an amendment to the Land Development Code in 2005 stated, “A nonconforming structure may be expanded without approval from the BZBA provided the proposed expansion does not exceed 50% of the existing footprint and the expansion does not increase the degree of **nonconformity**.” The second request is to expand the original footprint by 64% which is 14% above the 50% Code permits for expanding a nonconforming structure. Ms. McMaster stated that staff has determined that the expansion of the dwelling does not increase the degree of nonconformity and adjacent properties will not be affected as the addition will be next to the property owned by Western Reserve Academy which is open space Ms. McMaster said the applicant desires to improve the appearance and use of the proposed floor plan by the requested variances.

Barb McDonald, the architect for the project, stated she did not realize the house was a nonconforming structure. She said the owners have spoken to Western Reserve Academy and they are not opposed to the variances. Mrs. McDonald said the rooms proposed for the addition are not exceptionally large.

Mr. Jahn confirmed with staff that the existing west side of the house is within ten (10) feet of the side property line. He also confirmed with Mrs. McDonald that no one is presently living in the house. Mr. Jahn said it looked as though work was being done at the property. Mr. Molten stated that there was a water problem as roots had grown into the foundation and the sewer line was also plugged with roots. Mr. Jahn confirmed with Mrs. McDonald that the sunroom in the rear of the house had been removed, and that the rear elevation is where the major part of the work will be done. Mr. Jahn confirmed that the rear addition will be one story.

Mr. Dohner confirmed with Mrs. McDonald that the house had been vacant since August 2011. Mr. Dohner asked if the house was on the market and Mr. Molten said it had not been. Mr. Molten said they met the **owner's** son who said his mother was going into an assisted living facility and they were selling the house.

Mr. Lewis asked what alternatives had been considered and what the impact would be on the neighborhood. Mrs. McDonald stated that the addition would not seem large on the property. The width of the addition is necessary to build and access the rooms and they would not be able to reduce the size. Mrs. McDonald said her clients purchased with the intent of adding on to the house. Mr. Lewis said he still felt they were creating their own problem. Mrs. McDonald said the addition will not impact the neighbors and the home is smaller than other homes in the neighborhood. Mr. Lewis asked if she knew why there was a 50% enlargement limitation and Mrs. McDonald said because some homes are just too large for the size of their lot.

Ms. McMaster stated the addition is 225 square feet over the 50% permitted.

Mr. Lehman confirmed with Mrs. McDonald that there were three bedrooms upstairs. Mr. Lehman asked about the five (5) foot side yard variance and Mrs. McDonald stated that the garage is entered from the rear, also the driveway area has been limited and more green space has been added.

Mr. Jahn clarified the square footage figures presented with staff. Ms. McMaster said the existing footprint is 1561 square feet. The addition is 1,006 square feet for a total of 2,561 square feet. The new one-story addition footprint is 1,006 square feet and includes kitchen, family room, master bedroom and bathroom, and laundry room. Mr. Jahn stated that if some of the space was moved to the second floor, a variance would not be needed.

Mr. Lehman closed the public portion of the meeting.

Mr. Dohner said it is a peculiar lot as two sides face the open space of the school property. It also has an odd shape lot and the home is one of the smaller on the street. Mr. Dohner said the addition would be fairly reasonable and the neighbor impacted the most would be the school. Mr. Dohner said it seems in character with the neighborhood. He said discussing the house elevations is not the **Board's** job, but the addition is unique and still allows the homeowners to meet their goals. Mr. Dohner said he does not have much of a problem with this request.

Mr. Lehman said the owners bought the property from an older person who

probably had not done much to the house in the last few years.

Mr. Lewis asked staff why is it a 50% standard over which BZBA has jurisdiction.

Mr. King said it is a common threshold over which justification for a greater percentage change must be justified based on relevant criteria. A nonconforming structure cannot be rebuilt if it is destroyed by more than 50%. Mr. Lewis asked if this owner could rebuild and Mr. King said if rebuilt in one year, but must begin in six months and completed in 24 months. Mr. Lewis said maybe this kind of request on a different lot might not be justified.

Mr. Lewis said there is more than a 50% change, but perhaps it is justified due to the size of the lot and the neighborhood.

Mr. Dohner said Mrs. McDonald explained it was necessary to have the space to allow access from room to room. Mr. Dohner said that because the variance is going along the school property he did not feel strongly as it would not impact the other neighbors.

Mr. Jahn was also in agreement stating that 14% over the permitted 50% expansion is very small.

Mr. Jahn made a motion to grant a variance of five (5) ft from the side yard setback requirement of fifteen (15) ft resulting in an addition ten (10) feet from the side property line pursuant to Section 1205.06(d)(5)(D)(i)Property Development/ Design Standards - Minimum Side Yard **Setbacks**"; and, a variance to the requirement that a nonconforming structure may be expanded provided the proposed expansion does not exceed 50% of the existing footprint so as to permit an addition of two-hundred and twenty-five (225) square feet over the permitted expansion of seven-hundred and eighty-one (781) square feet resulting in a house footprint of two-thousand, five hundred and sixty-seven (2,567) square feet pursuant to Section 1206.50(f)(1)(A), Nonconforming Structures - **Enlargement**". 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 the existing home is suitable for habitation, but the variances will substantially enhance the livability and usefulness of the property;
- b) the variances are insubstantial because the side yard setback variance will bring the existing home equal to the existing side yard setback of ten (10) feet; and the expansion of 64% is only 14% over the expansion limit of 50% of the footprint;
- 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 variances and, in fact, the variances would enhance the neighborhood as the addition is in the rear yard facing the open space owned by the Western Reserve Academy and does not face other homes, therefore, other homes are not affected by the addition;

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 variances because they are insubstantial; there is no impact on adjacent properties; and the variances are an enhancement to the neighborhood and adjoining properties.

Mr. Dohner seconded the motion.

Roll Call:

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

Nay: None

Motion unanimously carried.

APPEALS DOCKET NO. 2012-07

This hearing was called to consider Appeals Docket No. 2012-07. The applicant is Zach Goebelt, of Complete Outdoor Instillation, LLC; 3479 Kent Road; Stow, Ohio 44224 representing the owner Kristina D. Roegner, Trustee; 2222 E. Streetsboro Road; Hudson, Ohio.

The request is a variance of four (4) feet to the requirement that the maximum height of a residential fence or wall shall not exceed four (4) feet above the elevation of the surface of the ground to result in a driveway entrance wall and pillars totaling eight (8) feet pursuant to Section 1206.03(5), "**Accessory Uses/Structures**" - "**Residential Fences and Walls**".

Ms. McMaster gave an overview of the case stating that the property is 14.54 acres in District 3. The house was built in 1981 and the owner purchased the home in 2002. Ms. McMaster said the owner is proposing to construct an entranceway stone wall with pillars to represent the architecture of the home and believes the fence wall will enhance the property. The existing fence along W. Streetsboro Street will be connected to the new entrance way. Ms. McMaster said the applicant has indicated light fixtures will be located within the stone wall and an iron gate over the driveway will be added to the project in the future.

Mr. Goebelt said they were requesting two stone pillars eight (8) foot in height flanking the driveway. He said it would be similar to the entrance across the street with an arched iron gate connected to the pillars and the entrance would not be aesthetically pleasing if the arch of the gate were higher than the pillars.

Ms. McMaster said the entrance across the street was done under the Hudson Township Code.

The applicant said the gate would add to the security of the home and the owners felt it would give guests a glimpse of what was to come.

Mr. Lehman said the gate could attract exactly what they are trying to stop.

Mr. Lewis asked the applicant for his best persuasive argument. Mr. Goebelt said the property has over 600 feet of frontage and the variance would not impose on other properties. He said typically the arch of a gate starts at the hinge point and the visual impact and aesthetics would not be there with four foot pillars.

Mr. Dohner confirmed with the applicant that eventually the owner wanted to replace the existing wood fence with a double sided round stone fence similar to the walls at Stan Hewett. Mr. Dohner asked if the owners had considered other alternatives, but Mr. Goebelt was not sure. Mr. Dohner stated, the fact that the owner wants eight (8) foot pillars does not help the Board see the need and asked for other reasons. Mr. Goebelt said it would help the functionality of the gate, but said it is all aesthetics as the project is just an entrance way.

Mr. Jahn asked if other designs had been considered for the entrance way that would not require a variance. The applicant asked the Board to envision a three-hundred (300) foot stone fence on each side of the entrance using the pillars to elevate the area which would look appropriate for the home. The applicant said he had discussed four (4) foot pillars with the owners, but they did not like that option.

Mr. Jahn asked about traffic issues and the applicant said the property sits well behind the right-of-way line as there is still thirty feet before you pull onto the street so there are none.

Mr. Lewis confirmed with the applicant that there would not be any impact on public services as far as access.

Mr. Lehman closed the public portion of the meeting.

Mr. Lehman said in the Code subdivision walls are permitted to be eight (8) foot. He stated he wished the Board had prints to see the project more clearly.

Mr. Dohner said it seems like too much for this property as it is not a subdivision. It seems that there is not sufficient reason to grant the variance.

Mr. Lewis said the size of the lot and the distance off E. Streetsboro Street would make it more palatable than if it were a small lot. Mr. Lewis said he understood the request to be more than four feet, but asked why eight feet. Mr. Goebelt said the eight foot was suitable given the height of the proposed gate. Mr. Lewis stated that the Board strives to reduce the amount of a variance whenever they can.

Mr. Dohner stated that it would have helped if the Board had elevations of the

project to better visualize the proposed entrance. Ms. McMaster clarified with the Board that they want to see elevations and an explanation as to why it is necessary to have a variance and a better option for the project.

Mr. Lewis made a motion to continue the case to the May meeting so additional visual aids could be presented by the applicant.

Mr. Dohner seconded the motion.

Roll Call:

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

Nay: None

Motion to continue unanimously carried.

ADJOURNMENT

As there was no further business, Mr. Lehman adjourned the meeting at 9:15 p.m.

David W. Lehman, Chairman

David J. Lewis, Vice Chairman

Carol G. Muesel, Clerk