

**Board of Zoning and Building Appeals**  
**LAR MEETING June 21, 2012**  
**M. • Town Hall • 2<sup>nd</sup> Floor**  
**100 East 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 pm. in the 2<sup>nd</sup> Floor meeting Room of Town Hall, 27 East Main Street, Hudson, Ohio.

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

Officials Present: Mark Richardson, Interim Community Development Director,  
Kris McMaster, Associate Planner and Aimee W. Lane, Assistant City  
Solicitor

Meeting minutes were taken by Denise Soloman, 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 Mark Richardson, Interim Community Development Director, Kris McMaster, Associate Planner and Aimee W. Lane, Assistant City Solicitor.

Mr. Lehman placed staff and all those persons in the audience wishing to speak under oath.

Mr. Lehman stated that the board would defer approval of the May 17, 2012 minutes to the next meeting since two board members would not be present at this meeting.

Mr. Lehman explained that a vote must be unanimous for approval at this meeting due to only three board members present. If there were to be a split decision, the case could be carried over to the next regular meeting.

Mr. Wise entered the room at 7:35 p.m.

**PUBLIC HEARING**

## APPEALS DOCKET 2012-09

Mr. Lehman said that this hearing was called to consider Appeals Docket No. 2012-09, 7543 Woodland Avenue. The applicant is Jim Yarmas of Yardman's Home Service, 610 Golden Oak Parkway, Oakwood Village, Ohio 44146 and the property owners are Robert J. and Michelle M. Evans. The request is a variance of fifteen (15) feet to the minimum rear yard setback requirement of twenty-five (25) feet resulting in a deck and stairs constructed ten (10) feet from the property line.

Mrs. McMaster gave an overview of the case stating that the house was built in 2007 and the owners purchased the property in November of 2007. She explained that this lot was part of an "Open Space Conservation Subdivision". She added the property owners indicated that the variance request was due to safety concerns with the use and access of the rear yard as a result of the topography of the land.

Mr. Yarmas provided the board with a clear set of plans for the proposed deck and stairs. He stated that there was a separate variance approved to allow the existing egress stairs. He added that the owners would like to have the ability to use the lower part of their property and have easy access in an emergency. He said that the deck would not infringe on the land set aside as common area.

Mr. Jahn asked staff for clarification on Open Space Conservation Subdivisions. Mrs. McMaster explained the requirements for open space and indicated that this land could not be used by the individual property owners.

Mr. Jahn asked that applicant to specify the safety issues that would be solved by approval of the variance and asked if the problem could be solved by other means. Mr. Yarmas described the existing conditions of the lot including the steep incline from the driveway that made access to the rear yard unsafe. He said that this cannot be solved without encroaching into the required setback.

Mr. Wise asked if the house was built when the homeowners purchased the property, and if they were aware of the setback requirements at that time. Mr. Evans stated that it was a vacant lot when he purchased the property and he knew there were setback requirements; however, he did not know specific details.

There was further discussion on Open Space Conservation Subdivisions and the setback requirements for these lots. Mr. Richardson stated that conservations easements were part of the subdivision intended to leave the land in its natural state. He added that any structure including play equipment was not permitted in these easements.

Mr. Lehman opened the meeting for public comments.

Michelle Mondora, 7573 Woodland Avenue, stated that she fully supported the variance for the proposed deck. She stated that it would improve the property value and have no impact on the adjacent properties.

Mr. Lehman closed the public portion of the meeting.

Mr. Lehman stated that he walked the property and felt that the existing steep drop off could be used as part of the reasoning for the variance. Mr. Wise agreed that there was a safety concern and added that this was a unique situation.

Mr. Jahn made a motion to grant variance of fifteen (15) feet to the minimum rear yard setback requirement of twenty-five (25) feet for a deck and stairs resulting in a structure ten (10) feet from the rear property line pursuant to Section 1207.06(e)(2)(C)(iii), "Open Space Conservation Subdivision-Lot Dimensions-Minimum Rear Yard Setback".

- 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 proposed deck and stairs will enhance the usability and functionality of the property and provide a better and safer way to access the rear yard;
- b) the variance is substantial because the request is a 60% variance from the code requirement, but it is within the spirit and intent of an open space conservation subdivision;
- 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 deck and reduced setback face the rear of the property and the forested open space and would have no impact on the adjoining properties;
- 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 it will have minimal impact on other properties, and is within the spirit and intent of an open space conservation subdivision.

Mr. Wise seconded the motion.

Roll Call:     Aye:  Mr. Jahn, Mr. Wise, Mr. Lehman  
                  Nay:  None

Motion unanimously carried.

#### APPEALS DOCKET 2012-11

Mr. Lehman said that this hearing was called to consider Appeals Docket No. 2012-11, 1693 Middleton Road. The applicant George H. Winkelmann, AIA, Architect, 1433 Rowles

Drive, Akron, Ohio 44313, and the property owners are Michael D. and Castellarin Ann Bianchi . The request is a variance to permit a 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-General Standards-Water/Wastewater”.

Mrs. McMaster gave an overview of the application and explained that the zoning certificate to demolish the existing house has been issued. She added that the request for a water well was withdrawn by the property owners since there was an existing water line across the street. She said that the cost associated with a tie in to public sewer and water was included in the packet.

Mr. Winkelmann described the need for the variance and further explained the costs.

Mr. Wise asked staff if the accessory structure would also have water available. Staff was not certain. Mr. Bianchi stated that there would be water in the barn for the horses, but there was no plan for a restroom.

There was discussion on the existing structures on the property and the location of the proposed new house and the proximity of utilities to the property.

Mr. Lehman opened the meeting to public comment.

Bonnie Evans, 1745 Middleton Road, stated that she lived to the east of this property and also had well and septic on her property. She stated that she was happy to see people moving in with horses and that she was in favor of the variance.

Kirk Stiffler, 7491 Andover Way, questioned if there was a requirement for the amount of property needed to surround a septic system. Mrs. McMaster stated that well and septic systems were monitored by the Summit County Health Department and even if the variance was granted, approval would still be needed from them.

Michael Wichert, 1708 Middleton Road, spoke in favor of the variance. He said that septic has been a good system over the years.

Bob Benic, 1682 Middleton Road, commented that 90% of all septic systems today were closed systems and there would be no drainage. He said that he was looking forward to new neighbors and was in favor of the request.

Mr. Lehman closed the public portion of the meeting.

Mr. Jahn stated that development of this property was positive and the requirements of the health department would only permit a safe and sanitary system. He said that he did not see an issue with the variance.

Mr. Jahn made a motion to grant the variance to permit a 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-General Standards-Water/Wastewater” with the following condition:

- When City sanitary sewer becomes available to the property, the property owner is required to connect to these services.
  - This variance does not alleviate the current or future property owners from assessments for public sanitary sewer lines that may in the future be available to 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, residential development of this property would be substantially facilitated by allowing a septic system due to the substantial cost savings in dealing with sanitary waste disposal;
  - b) the variance is insubstantial because it will have a minimal impact on the neighbors and due to the size of the parcel being approximately five (5) acres resulting in sanitary waste disposal having a neutral effect on the property;
  - 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 once installed, no visible difference between a septic system and sanitary sewer would result;
  - 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 from a cost standpoint, and
  - g) the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance because development of this property would result in a residence compatible with the surrounding properties.

Mr. Wise seconded the motion.

Roll Call:     Aye:  Mr. Wise, Mr. Jahn, Mr. Lehman  
                   Nay:  None

Motion unanimously carried.

APPEALS DOCKET NO. 2012-12

Mr. Lehman stated that this case was called to consider Appeals Docket No. 2012-12. The applicant and property owner is LDA Builders, Inc., 6683 Olde Eight Road, Peninsula, Ohio for the property located at 1817 Norton Road. The request is for variances to the requirement that cul-de-sacs should not exceed a maximum length of 600 feet and to the requirement that dead-end streets may not exceed 600 feet in length without a second point of access with an approved connection to another public street.

Mrs. McMaster referred to the staff report and gave an overview of the case. Mr.

Lehman asked staff to clarify the meaning of a reservation strip. Mrs. McMaster stated that a reservation strip was a five foot section of land at the end of a street that requires the City's release in the event of a possible road or utility extension in the future. Mr. Jahn asked staff if the land east of this property was open space. Mr. Richardson said that the land to the east was the rear yards of lots fronting Norton Road. Mr. Wise asked if there were existing neighborhoods in the City of Hudson where cul-de-sacs were allowed to be longer than 600 feet. Mrs. McMaster replied yes; however, they were approved prior to the current code requirements. Mr. Lehman questioned the difference between one house being built on a cul-de-sac that did not comply with current code and the addition of four new lots. Mrs. McMaster stated that the difference, in this case, was that the four new lots are proposed and were not platted prior to this code.

Mr. Dennis Stoffer and Mr. Tony Lunardi of LDA Builders presented the variance requests. Mr. Stoffer stated that this was a unique situation where both Pine Grove Drive and East Sapphire Drive were installed as stub streets with the intent to extend them in the future. He said that now if Pine Grove Drive was allowed to be extended, it would not comply with code requirements due to having only one access to a public street. He added that this project had been discussed with staff previously and this part of the code was only mentioned recently. He stated that it was the intent of LDA Builders to build everything to code with the same quality as the existing homes in the neighborhood.

Mr. Jahn referred to the affidavit from Fire Chief Carter and asked if the applicant had a response to his comments. Mr. Stoffer stated that it was difficult to disagree with safety forces and with what Chief Carter feels is needed to fight fires safely; however, 600 feet was not required in other communities and he was aware of cul-de-sacs within Hudson that were also greater than 600 feet. Mr. Jahn asked the applicant if other options were considered. Mr. Stoffer said that this was a narrow parcel and there was no way to meet the lot requirements and add a secondary access with this parcel alone. He said that they had tried unsuccessfully to purchase additional land. He added that the options mentioned by Chief Carter were not practical for this application.

Mr. Lehman read a letter submitted to the board from Clarence Berkley that was not included in the packet.

Mr. Lehman asked staff if the safety risk would apply only to the four new lots or would the risk increase for all existing homes in the development. Mr. Richardson stated that he was reluctant to comment since he was not a fire safety expert. Mr. Lehman said that it would be safer for all homes if the roads could be connected. Mrs. McMaster stated that the land between Sapphire Drive and East Sapphire Drive was privately owned.

Mr. Lehman opened the meeting to public comment.

Bill Currier, 1718 East Sapphire Drive, clarified that the area of this project was East Sapphire Drive. He stated that he was concerned with the application because of increased traffic and now because of the safety concerns of the Fire Chief. He stated that he was opposed to the project since it could potentially decrease property values. He said that this neighborhood was wooded and secluded, and he would regret losing that appeal.

Mr. Richardson commented that the variance request was one step in the approval process. The application will proceed to Planning Commission for review of items such as traffic and storm water management. He added that adjacent property owners would also be notified of Planning Commission meetings.

Jolee Swann, 1792 East Sapphire Drive, stated that this neighborhood still had contractor roads which she did not believe could handle construction traffic. She provided a photograph of her house and the neighborhood and pointed out the location of a house that caught fire in 1997. She stated that the fire trucks could not access this house.

Sandy Currier, 1718 East Sapphire Drive, stated that the Fire Chief has recommended that the plans were unsafe as proposed by the developer. She said that his opinion should be given the highest consideration.

Mr. Lehman closed the public portion of the meeting.

Mr. Jahn said that Chief Carter's opinion was a compelling and important concern.

Mr. Wise said that looking at both sides; a solution was to connect the streets if the land owners would agree. He said that it was important to consider if granting the variance would make the situation worse and if it would impact more than just these four lots.

Mr. Lehman stated that the application for St. George Drive, also on this agenda, was a lot in a much larger development in a similar situation. He stated that he would prefer that Chief Carter was present to clarify the amount of risk involved. Mrs. Lane stated that the goal was to have the board as informed as possible and if having Chief Carter available to answer questions was necessary, that could be done by a continuance of the case to next month.

There was discussion on relocating the reservation strip. Mr. Stoffer stated that Pine Grove Drive would be extended to the east end of the property and there would be a five foot reservation strip at the end of the road so that any extension beyond that would need City approval.

The board discussed continuing the case to the next meeting to give the applicant the opportunity to explore connecting Sapphire Drive and East Sapphire Drive and for the Board to be able to pose questions to Chief Carter.

Mr. Wise made a motion to continue this case to the next meeting. Mr. Jahn seconded the motion.

Roll Call:     Aye:   Mr. Jahn, Mr. Wise, Mr. Lehman  
                  Nay:   None

Motion unanimously carried.

Mr. Richardson left the meeting at 9:15. The board took a five minute break.

APPEALS DOCKET NO. 2012-13

Mr. Lehman said that this hearing was called to consider Appeals Docket No. 2012-13, 49 Prescott Drive. The applicant and owners are John and Karen Murphy, 49 Prescott Drive, Hudson OH 44236. The request is for a variance of nine (9) feet to the minimum front yard setback of fifty (50) feet to permit a porch addition resulting in a structure forty-one (41) feet from the front property line pursuant to Section 1205.06 (d)(5)(C) (i) property Development/Design Standards-“Minimum Front Yard Setbacks”

Mrs. McMaster gave an overview of the request and explained what was meant by “necessary landings” in the code.

Mr. Murphy described the proposed porch and the reason for the variance. He stated that the current flat roof portico has caused water damage and resulted in extensive repairs and now needs to be removed. He said that he hoped to create a more usable front porch and he did not feel it would affect the aesthetics of the neighborhood. He pointed out that his neighbor’s house has a porch that extends ten feet into the required setback as built. He said that several neighbors submitted letters indicating their approval of the project.

Mr. Jahn asked staff to clarify the variance request and the meaning of a necessary landing. Mrs. McMaster stated that code allows for steps and associated landings to extend a maximum of six feet into the required setback, and in this case the proposed porch would extend three more feet beyond the existing porch resulting in a nine foot variance request.

Mr. Lehman opened the meeting to public comment. There were no comments and the public portion of the meeting was closed.

Mr. Jahn made a motion to grant a variance of nine (9) feet to the minimum front yard setback of fifty (50) feet to permit a porch addition resulting in a structure forty-one (41) feet from the front property line pursuant to Section 1205.06 (d)(5)(C) (i) property Development/Design Standards-“Minimum Front Yard Setbacks” .

- 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 proposed porch would enhance the appearance of the property, enhance the neighborhood, and solve serious water problems with the existing porch roof;
- b) the variance is insubstantial because in gross terms it would only move the porch two (2) to three (3) feet closer to the street than the existing porch;
- 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 difference between the front yard setback of the existing porch and the proposed porch would be only two (2) to three (3) feet;
- 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.

Mr. Wise seconded the motion.

Roll Call:     Aye:  Mr. Wise, Mr. Jahn, Mr. Lehman  
                  Nay:  None

Motion unanimously carried.

#### APPEALS DOCKET 2012-14

Mr. Lehman stated that this hearing was called to consider Appeals Docket No. 2012-14, 2852 Saint George Drive. The applicants are Jim and Adriana Rickon, 4930 Spring Run Court #F, Stow, Ohio and the property owner is Maranett Co., 2339 Mingo Trail, Akron, Ohio 44312. The request is a variance to permit a water well on the property to construct a new house pursuant to Section 1207.11 (b)(1)(B), "Adequate Public Facilities-General Standards Water/Wastewater".

Mrs. McMaster gave an overview of the variance request and the estimated costs associated with a tie in to the public water line provided by the City Engineering Department.

Mrs. Rickon stated that it was cost prohibitive to tie in to the public water line given the distance from their property.

There was discussion on the costs and the opportunity for five adjacent lots to tie in to the water line.

Mr. Jahn made a motion to grant a variance to permit a water well on the property to construct a new house pursuant to Section 1207.11 (b)(1)(B), "Adequate Public Facilities-General Standards Water/Wastewater" with the following conditions:

- When City water becomes available to the property, the property owner is required to connect to these services.
- This variance does not alleviate the current or future property owners from assessments for public water lines that may in the future be available to 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, there would be a considerable cost penalty without the variance since the cost of a well would be approximately \$4500.00 versus the cost to connect to public water at \$29,620.00;

- b) the variance is insubstantial because water wells exist elsewhere in Hudson, specifically wells exist on the four other properties on Saint George Drive;
- 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, again, the four adjacent properties also have water wells;
- 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 can be resolved through some method other than the variance; however, the financial aspect of the other method is prohibitive, and
- g) the spirit and intent behind the zoning requirement would be observed and substantial justice done as this type of variance has been granted in other similar situations.

Mr. Wise seconded he motion

Roll Call: Aye; Mr. Jahn, Mr. Wise, Mr. Lehman  
Nay: None

Motion unanimously carried.

## **ADJOURNMENT**

Mr. Jahn made a motion to adjourn the meeting. Mr. Wise seconded the motion and all members present were in favor.

Hearing no further business, Chairman Lehman adjourned the meeting at 9:50 p.m.

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David W. Lehman, Chairman

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Frederick J. Jahn, Board Member

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Denise M. Soloman, Board Clerk

