



Board of Zoning and Building Appeals
REGULAR MEETING February 21, 2013
7:30 P.M. • Town Hall • 2nd Floor
27 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 2nd Floor meeting Room of Town Hall, 27 East Main Street, Hudson, Ohio.

Present: Mr. Dohner, Mr. Jahn, Mr. Lehman, Mr. Lewis and Mr. Wise
Absent: None

Officials Present: Kris McMaster, Associate Planner, Mark Richardson, Community Development Director 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.

Mrs. Lane swore in Mr. Jahn to his new term as member of the Board of Zoning and Building Appeals.

ELECTION OF OFFICERS

Mr. Lewis made a motion to nominate Mr. Lehman as Chair and Mr. Dohner seconded the motion. Mr. Lehman accepted the nomination.

Roll Call:

Aye: Mr. Jahn, Mr. Wise, Mr. Dohner, Mr. Lewis and Mr. Lehman
Nay: None

Motion unanimously carried.

Mr. Dohner made a motion to nominate Mr. Lewis as Vice-Chair and Mr. Wise seconded the motion. Mr. Lewis accepted the nomination.

Roll Call:

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

Nay: None

Motion unanimously carried.

Mr. Lehman introduced Kris McMaster, Associate Planner, Mark Richardson, Community Development Director and Aimee W. Lane, Assistant City Solicitor.

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

Mr. Lehman explained the role of this board and stated that the burden of proving the need for a variance was on the applicant. He described the format of the meeting and pointed out that there was a court reporter present. He stated that there would not be a transcription of the meeting unless requested; however, there would be minutes from the Board Clerk and an unpublished video recording to assist in the standard minutes.

APPROVAL OF MINUTES

Mr. Lewis made a motion to approve the December 20, 2012 minutes as amended. Mr. Dohner seconded the motion and all members present were in favor.

PUBLIC HEARING

APPEALS DOCKET NO. 2013-01

Mr. Lehman said that this hearing was called to consider Appeals Docket No. 2013-01. The applicant is LDA Builders, Inc. 6683 Olde Eight Road, Peninsula OH 44264, for the property owner LDA Land Group, 6683 Olde Eight Road, Peninsula OH 44264, for the property located at 1731 Norton Road.

The request is to allow the creation of four (4) lots in a proposed subdivision where the Land Development Code would allow two (2). Variances are requested for: 1] A variance of forty (40) feet from the minimum lot width requirement of one hundred (100) for a parcel on Norton Road resulting in a lot width of (60) feet; and 2] A variance of forty (40) feet from the minimum lot width requirement of one hundred (100) feet for a parcel to be located on the extended East Sapphire Drive/Sapphire Drive resulting in a lot width of (6) feet or in the alternative, two (2) lots fronting on Norton Road and two (2) lots fronting on extended East Sapphire Drive/Sapphire Drive with all four (4) lots having eighty-five (85) foot lot widths.

Mrs. McMaster stated that the applicant came forward before the meeting and withdrew the forty (40) foot variance request for the property located on Norton Road. She stated that only the variance request for the property located on East Sapphire Drive/Sapphire Drive extension would be discussed tonight.

Mrs. McMaster referred to the staff report and gave an overview of the application. She stated that several emails and letters that were received after the packets were distributed to the board members, and they were presented to the board tonight. Mr. Lehman directed staff to include this correspondence as part of the permanent record.

Mr. Tony Lunardi, President of LDA Builders, presented the variance request. Mr. Lunardi stated that the variance request was to allow a flag lot so that he could extend the road between Sapphire Drive and East Sapphire Drive and still have two lots. He said that he did not intend to take down the existing house facing Norton Road; however, it would be cleaned up and maintained. He explained that 1731 Norton Road was purchased for an access easement between Sapphire Drive and East Sapphire Drive since he originally purchased 1817 Norton Road to develop thinking the six hundred (600) foot requirement for the maximum length of a cul-de-sac would be measured from East Sapphire Drive not Norton Road. He said that there was currently a flag lot near this property and another flag lot fronting Norton Road. He said that he would prefer to incorporate flag lots over the option of having two (2) lot widths of eighty-five (85) due to the amount of room between houses. He pointed out that five (5) existing properties in this neighborhood had lot widths of less than one hundred (100) feet. He stated that he felt granting this variance would add value to the neighborhood since larger upscale homes would be built. He said that he knows that many residents do not want the two cul-de-sacs to be connected though he believed adding full access would be safer for all property owners. He said that approval of this variance would benefit all parties involved.

Mr. Jahn referred to the variance application form and asked the applicant to confirm that he was aware of the zoning restriction at the time the property was purchased. Mr. Lunardi stated that he was aware of, and understood the zoning code restrictions. He added that the property was purchased to provide access for the properties to the east. Mr. Jahn said that Mr. Lunardi indicated that the lots would be suitable for upscale homes. He asked if Mr. Lunardi had received any interest from potential buyers. Mr. Lunardi stated that there had been interest; however, nothing in writing.

Mr. Wise asked what the size difference would be between a house built on an eighty-five (85) foot lot versus the flag lot. Mr. Lunardi stated that the width of the house would be forty-five (45) feet instead of approximately seventy-five (75) feet due to setback requirements. He added that there would also be an increase in the number of trees that would need to be removed. Mr. Wise asked staff if there were any comments from safety forces on the request for flag lots. Mrs. McMaster stated that there were no comments at this time and that this would be part of the Planning Commission review. She added that the idea of eighty-five (85) foot wide lots was not proposed by the applicant; it was presented by staff as an alternative.

Mr. Lewis asked the applicant if he was aware of any other neighborhoods in Hudson where sixty (60) foot lots exist. Mr. Lunardi stated that he was not aware of other neighborhoods having sixty (60) foot lots, but he presented an aerial view of the properties along Norton Road where other flag lots exist. Mr. Lewis asked for an update on the redemption rights and the ownership of the parcel. Mr. Lunardi stated that thirty (30) days have passed with no issues, so he was waiting for the county to process the transaction so that he could close on the property.

There was discussion on other options for lot configurations if the variance was not granted.

Mr. Dohner asked the applicant to clarify the difference between a road and an access drive and to provide information on the cost difference. Mr. Lunardi stated that to install the access drive, trees would be cleared for a gravel drive. He did not have exact cost amounts but stated that there would be a significant cost difference due to the pavement, sewer lines and the extended water main that would be required for a road. He stated that the cost was approximately \$695 per foot of street. He added that he would need to sell the lots for \$150,000 each which would not be possible.

Mr. Lehman asked the applicant if city water would be brought to these lots. Mr. Lunardi replied, yes, the lots would have city water and fire hydrants would be added.

There was further discussion on the economics of the cost of the road connection and the value of the proposed lots.

Mr. Lehman opened the meeting to public comment.

Ralph Waszak of Stark and Knoll, representing Mr. and Mrs. LaFountain, 1728 Sapphire Drive, stated that many of the neighbors received maps with different lot numbers than those discussed by the board. Mrs. McMaster stated the plan Mr. Waszak referred to was not distributed by the city. She gave Mr. Waszak a copy of the plan reviewed by the board.

Mr. Waszak pointed out the application indicates that LDA Builders is the owner of the property; however, as of today the deed had not transferred. He stated that while there were other existing flag lots in Hudson, they were not created under the current codes. He described the factors of the Duncan test and how they relate to this application. He stated that based on these factors, he did not believe the applicant met the test to allow a variance.

Mr. Lehman asked staff if the zoning code was updated to the current standards to eliminate flag lots or to allow for greater lot width. Mrs. McMaster stated that the intent was to have frontage on a public street. Mr. Richardson stated that both were factors in the code change. He stated that zoning typically wants to have houses aligned and also to prevent flag lots that were pervasive especially in the former township. Mrs. McMaster added that fire and safety concerns were incorporated in the code on 1999. Mr. Richardson commented that the Fire Department did not oppose the flag lots proposed.

Ethan Benore, 1679 East Sapphire Drive stated that he and his wife had written a letter to the board and he summarized the main points. He provided a copy that was entered in the permanent record. He said that he purchased his property because of the cul-de-sac and he believes that the reduction of trees, the additional driveways and increased traffic would cut down on the appeal of his property.

Louis Barone, 1789 East Sapphire Drive, said that he respected the right of the builders to develop the property, but he did oppose the variance. He stated that there were no flag lots on

East Sapphire Drive, only on Sapphire Drive. He added that there was a difference between the two neighborhoods.

Karen Lincicone, 1739 East Sapphire Drive, mentioned that she did not receive a copy of the map in her notification. Mrs. McMaster stated that plans are not included with the notice of public hearing sent to the adjacent property owners. Ms. Lincicone commented on the Goldsmith property and said that the difference between this property and the proposed flag lots was the proximity to East Sapphire Drive.

Tim Ujvari, 1661 Sapphire Drive, asked the board to consider the safety issues from the increased traffic if this becomes a thru street.

Mr. Lehman asked staff if there were methods of traffic calming that could be incorporated. Mr. Richardson stated that speed bumps and road narrowing were examples of traffic calming. He added that the Land Development Code requires more connectivity between roads.

Doug Goldsmith, 1668 Sapphire Drive, stated that this development would have a distinct impact on this neighborhood and he had great concerns with how the neighborhood would change.

Garret Brown spoke on behalf of Mr. Bill Currier, 1718 Sapphire Drive. He stated that Mr. Currier had similar concerns as Mr. Goldsmith. He stated that Mr. Currier sent a letter indicating that the application violates the community character and expressing the importance of preserving the trees and vegetation in the area. He added that Mr. Currier believes that the hardship was self-imposed.

Michelle Goldsmith, 1668 Sapphire Drive, stated that she has a gravel driveway that was part of an easement. She asked if the new lots would have similar easements for the driveways. Mr. Richardson replied to the question by stating that Mrs. Goldsmith's property gains access through an easement on another property. The proposed lots would have access on the lot without an easement.

Gregory Young, 1689 East Sapphire Drive, stated that he came to the meeting tonight to request that the board deny the application for variance. He stated that there were preferable and viable ways to subdivide the property without a variance.

Mr. Lehman closed the public comment portion of the meeting. He adjourned the meeting for a break at 9:05 p.m.

The meeting reconvened at 9:12 p.m.

Mr. Lehman asked the applicant if plans for a house that could be built on an eighty-five (85) foot lot were available. Mr. Lunardi replied no, he would need to design a house to fit that size lot. He added that the Sapphire Drive and East Sapphire Drive cul-de-sacs were originally installed to be temporary.

Mr. Dohner stated that he could see the desirability of more connections in neighborhoods and the benefit of making utilities available in this area, but it appears that if the plan was reduced by one lot, the property would still yield a reasonable return. Mr. Lehman asked Mrs. Lane to clarify this board's responsibility to consider a reasonable return or better. Mrs. Lane stated that the board had no obligation to allow for the best return, but strict application of the code could render less return.

The board discussed the costs of installing the road based on the figures presented as evidence. They determined that based on the presented information, the property could yield a reasonable return. Mr. Richardson stated that even with three lots, a road must be built since code requires lots to face a public street. Mr. Lehman commented that some consideration could be given to the profit associated with the Phase I development by installing the connection. Mr. Lewis stated that the question is whether the applicant could make a profit on the construction of two homes versus three with the cost of the connection, the sale of properties A, B, and C; and the ability to extend Pine Grove Estates included. The board determined that evidence proving a hardship was not presented.

Mr. Lunardi stated that home prices on the list presented were the asking prices and there was no expectation of getting that amount. He added that the sale of the center lots and the house fronting Norton Road would barely cover the cost of the property not the cost of the road. He added that he did not believe that the cost benefit of a separate property should be considered.

Mr. Dohner made a motion to not grant a variance of forty (40) feet from the minimum lot width requirement of one hundred (100) feet for a parcel to be located on the extended East Sapphire Drive/Sapphire Drive resulting in a lot width of sixty (60) feet, pursuant to Section 1205.04 (d)(4)(B), "Property Development/Design Standards"- "Minimum Lot Width",

- 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 testimony and figures used in the discussion, and the rebuttal from the applicant show that the applicant would financially break even without the variance and it is not the Board's duty to maximize profits;
- b) the variance is substantial because according City staff, the City's code encourages the connectivity of roads, but discourages flag lots;
- 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 lot immediately to the west is almost a mirror image of what would be created;
- d) the variance would not adversely affect the delivery of governmental services if granted;
- 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;

g) the spirit and intent behind the zoning requirement would not be observed and substantial justice not done by granting the variance.

Roll Call:

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

Nay: None

Motion unanimously carried.

OTHER BUSINESS

Mrs. McMaster said that there were no cases for the March meeting. There was discussion on open cases.

ADJOURNMENT

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

Hearing no further business, Chairman Lehman adjourned the meeting at 10:22 p.m.

David W. Lehman, Chairman

David J. Lewis, Vice Chairman

Denise M. Soloman, Board Clerk