

**MINUTES OF THE  
CITY OF PATASKALA BOARD OF ZONING APPEALS**

**Tuesday, March 14, 2017**

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio on Tuesday, March 14, 2017.

Present were:

Catherine Baird  
TJ Rhodeback  
Robert Platte  
Bruce Ashcraft

City of Pataskala Planning and Zoning Department staff:

Scott Fulton, Planning Director  
Zack Cowan, City Planner  
Lisa Paxton, Zoning Clerk

Also present: Brian Zets, City Law Director

Chairwoman Baird opened the hearing at 6:30 p.m., followed by the Pledge of Allegiance.

Roll call was made. Present were: Bruce Ashcraft, Catherine Baird, Robert Platte and TJ Rhodeback. Not present: Kathleen Hasson.

***First on the Agenda, Variance Application VA-17-004, 419 Oak Meadow Drive.***

Mr. Cowan reviewed the Staff Report, noting the Applicant requesting a variance to construct a 12' x 12' rear porch that would extend three feet into the minimum rear setback of 35 feet; the porch is intended to cover a hot tub. Mr. Cowan noted an error on the application, as there is no easement located in the rear property.

William Cook, 419 Oak Meadow Drive, was placed under oath.

Mr. Cook noted having no extra comments.

Ms. Baird asked if the hot tub had been installed.

Mr. Cook indicated in the affirmative.

Jim Helfrich, PO Box 921, Pataskala, was placed under oath.

Mr. Helfrich asked if the addition will be placed on the existing patio.

Mr. Cook indicated the addition will incorporate the existing patio.

Ms. Rhodeback made a motion to approve Variance Application VA-17-004 with the following modifications:

1. The Applicant shall construct the porch as submitted within one (1) year of the date of approval.
2. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department prior to constructing the porch.

Mr. Ashcraft seconded the motion. Ms. Baird, Mr. Platte, Ms. Rhodeback and Mr. Ashcraft voted yes. The motion was approved.

***Next on the Agenda, Variance Application VA-17-005, 15 West Broad Street.***

Mr. Cowan gave an overview of the Staff Report, noting the Applicant proposing to install a 32-square foot sign 15 feet inside the right-of way; the code requires a minimum 10-foot setback from the right-of-way. Mr. Cowan stated the need for the variance as the right-of-way covers the available green space for the sign to be installed. Mr. Cowan also noted if the variance is approved, placing the sign in the right-of-way would be at the risk of the owner, as the City reserves the rights to use lands within the right-of-way. Mr. Cowan also noted the City Engineer commented that future lane widening on Broad Street is very possible and suggested an agreement be signed by the Applicant stating the Applicant is responsible for moving the sign in such case. Mr. Cowan also stated the City Engineer recommended that the variance, if approved, should be rescinded if the property changes ownership or if the use changes.

A discussion was had regarding an affidavit and change of ownership, change of use.

Tony Catalogna, 10520 Jug Street, Johnstown, was placed under oath.

Mr. Catalogna noted he agrees that he is fully responsible for the removal of the sign, if needed. Mr. Catalogna stated he will be adding landscaping.

A discussion was had regarding the right-of-way.

Ms. Rhodeback inquired as to the space below the sign.

Mr. Catalogna stated he will add "specials" under the sign.

Mr. Platte inquired as to different sign sizes.

Mr. Catalogna noted his name being large, and wanting to use a standard size business sign.

A discussion was had regarding the size of the parking lot.

A discussion was had regarding a previous sign at the location. Subway signage and landscaping was also discussed.

Alan Haines, Pataskala Public Service Director, was placed under oath.

Mr. Platte noted his concern regarding liabilities of the right-of-way.

Mr. Haines noted the sign being outside of the clear zone of the roadway. Mr. Haines also noted sight distance.

Mr. Haines also stated if applicants are approved to place items in the right-of-way, it is at the applicant's risk that the right-of-way may be taken for utilities or roadway improvements.

Ms. Rhodeback inquired as to risk factors to the owner regarding snow, asphalt, etc., striking the sign.

Mr. Haines noted it will be at the risk of the owner for placing the sign in the right-of-way.

Mr. Platte asked if there is a requirement for breakaway post, etc., or if there are any concerns with the way the application is presented.

Mr. Haines noted being outside of the clear zone, eight feet for 35 miles-per-hour, and having no concerns.

Mr. Platte made a motion to approve Variance Application VA-17-005 with the following modifications:

1. The Applicant shall install the sign as submitted within one (1) year of the date of approval.
2. The Applicant shall obtain all necessary permits from the City of Pataskala prior to installing the sign.
3. The Applicant shall sign an affidavit stating that he/she is responsible for moving the sign if work in the right-of-way is required.
4. The variance shall expire upon change of ownership of the property or upon change of use of the property.

Seconded by Ms. Rhodeback. Mr. Ashcraft, Mr. Platte, Ms. Baird and Ms. Rhodeback voted yes. The motion was approved.

***Next on the Agenda, Variance Application VA-17-006, 5222 Mink Street.***

Mr. Fulton gave an overview of the Staff Report noting the Applicant is seeking variances to allow for flexibility in reconstructing a home on the property if the existing home were to be destroyed by a catastrophe, such as a fire. Mr. Fulton also noted Pataskala Code allows a nonconforming structure to be rebuilt in the same footprint within two (2) years if destroyed, however, the owner is seeking more flexibility. Mr. Fulton further stated as part of the Mink Street Phase II project, additional right-of-way is being acquired by the City along Mink Street. Mr. Fulton added the Public Service Department filed the variance requests on behalf of the property owner. The Public Service Department is proposing 25 foot setbacks from all property lines in order to add flexibility if the house needs to be rebuilt and if the owner wishes to add a deck or patio to the existing home. Mr. Fulton stated Staff understands the owner's desire for greater flexibility, as the reduction of setbacks could allow the home to be rebuilt further from the intersection; furthermore, the greater flexibility would allow the potential for an improvement, such as a patio or deck, to be installed without the need for a variance. Mr. Fulton noted that it is staff's opinion that, pursuant to Section 1211.07(1)(k) of the Pataskala Code, substantial justice would be done by granting the variance as the acquisition of additional right-of-way increases the nonconformity of the property which is, arguably, in the inappropriate zoning district.

Mr. Haines reiterated Mr. Fulton's review.

A discussion was had regarding nonconforming lots and setbacks.

Ms. Baird asked if more requests will be asked for along Mink Street.

Mr. Haines indicated being 75% through the acquisition process and this property being the only one wanting something more specific.

Mr. Platte asked the need for a 25' setback.

Mr. Haines noted the size of the property and based it off similar properties.

Mr. Fulton added it is a compromise between the property owner and Public Service Department.

Ms. Baird asked if other property owners have given any feedback.

Mr. Fulton stated there have been no feedback from neighbors.

Mr. Platte asked if the Board could be seeing more of these types of applications.

Mr. Haines stated there is a possibility, but noted this property as being unique.

Mr. Platte asked if there are any objections from the Public Service Department for this request.

Mr. Haines noted no objection.

Ms. Rhodeback asked if the variance would go to the new owner if the property sold.

Mr. Fulton indicated in the affirmative, as the variance will stay with the property.

A further discussion was had regarding setbacks and two front yards.

Mr. Platte made a motion to approve Variance Application VA-17-006. Seconded by Mr. Ashcraft. Ms. Rhodeback, Ms. Baird, Mr. Platte and Mr. Ashcraft voted yes. The motion was approved.

***Next on the Agenda, Variance Application VA-17-007, 371 Woodside Drive.***

Mr. Platte recused himself from the Board regarding Variance Application VA-17-007.

Mr. Cowan gave an overview of the Staff Report, noting the Applicant is seeking a variance to construct a 24' x 48' addition and a 12' x 40' breezeway connecting to the dwelling. The Applicant is proposing to construct a rear home addition sharing a common wall with a breezeway connected to the house totaling 1,632 square feet setback 25 feet from the rear property line. The code requires a minimum 75-foot setback from the rear property line. Staff feels that although the proposed 25-foot setback far exceeds the required 75-foot requirement, there is sufficient distance between the addition and the nearest neighboring house of 230 feet that compensates the reduced setback. Mr. Cowan noted Staff receiving a letter in support of the requested variance from a neighbor located at 395 Woodside Drive SW.

Robert Platte, 371 Woodside Drive, was placed under oath.

Mr. Platte reviewed pictures of his property that were taken by Mr. Cowan. Mr. Platte also noted needing more space for his growing family.

A discussion was had regarding roof pitch and accessory building.

Mr. Ashcraft made the motion to approve Variance Application VA-17-007 with the following modifications;

1. The Applicant shall construct the addition as submitted within one (1) year of the date of approval.
2. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department prior to constructing the addition.

Seconded by Ms. Rhodeback. Ms. Rhodeback, Ms. Baird and Mr. Ashcraft voted yes. The motion was approved.

Next on the Agenda, Findings of Fact.

**Mr. Platte made a motion to approved Findings of Fact A, I, J and K for Variance Application VA-17-004.**

- a) Whether the property in question will yield a reasonable return or if there can be a beneficial use
- i) Whether the property owner's predicament can be obviated through some other method than variance;
- j) Whether the variance, if granted, will represent the minimum variance that will afford relief and represent the least modification possible of the requirement at issue; and,
- k) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Seconded by Ms. Rhodeback. Mr. Ashcraft, Mr. Platte, Ms. Baird and Ms. Rhodeback voted yes. The motion was approved.

**Mr. Platte made a motion to approved Findings of Fact A, B, C, I and K for Variance Application VA-17-005:**

- a) Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;
- b) Whether there are unique physical circumstances or conditions that prohibit the property being developed in strict conformity with the zoning regulation such that a variance is necessary to enable the reasonable use of the property;
- c) Whether the variance requested is substantial;
- i) Whether the property owner's predicament can be obviated through some other method than variance;
- k) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Seconded by Ms. Rhodeback. Ms. Rhodeback, Mr. Ashcraft, Ms. Baird and Mr. Platte voted yes. The motion was approved.

**Mr. Ashcraft made a motion to approve Findings of Fact A, B, C, I, J and K for Variance Application VA-17-006:**

- a) Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;
- b) Whether there are unique physical circumstances or conditions that prohibit the property being developed in strict conformity with the zoning regulation such that a variance is necessary to enable the reasonable use of the property;

- c) Whether the variance requested is substantial;
- i) Whether the property owner's predicament can be obviated through some other method than variance;
- i) Whether the property owner's predicament can be obviated through some other method than variance;
- k) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Seconded by Mr. Platte. Mr. Platte, Ms. Baird, Mr. Ashcraft and Ms. Rhodeback voted yes. The motion was approved.

Mr. Platte recused himself from the Board regarding VA-17-007.

**Mr. Ashcraft made a motion to approve Findings of Fact Variance Application VA-17-007 with the following modifications:**

- a) Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;
- b) Whether there are unique physical circumstances or conditions that prohibit the property being developed in strict conformity with the zoning regulation such that a variance is necessary to enable the reasonable use of the property;
- c) Whether the variance requested is substantial;
- i) Whether the property owner's predicament can be obviated through some other method than variance;
- k) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance,

Seconded by Ms. Rhodeback. Ms. Baird, Ms. Rhodeback and Mr. Ashcraft voted yes. The motion was approved.

***Next on the Agenda, excuse of absence for Kathleen Hasson from the February 14, 2017 hearing.***

Ms. Baird made a motion to approve the absence of Kathleen Hasson. Seconded by Mr. Ashcraft. Mr. Platte, Ms. Baird, Ms. Rhodeback and Mr. Ashcraft voted yes. The motion was approved.

***Next on the Agenda, Approval of Minutes.***

Mr. Platte made a motion to approve the minutes from the February 14, 2017 hearing. Seconded by Ms. Rhodeback. Ms. Rhodeback, Ms. Baird, Mr. Ashcraft and Mr. Platte voted yes. The motion was approved.

Ms. Rhodeback made a motion to approve the minutes from the January 10, 2017 regular meeting minutes. Seconded by Mr. Platte. Mr. Platte, Ms. Baird and Ms. Rhodeback voted yes. The motion was approved.

***Next on the Agenda, Other Business.***

Mr. Cowan noted the applications for the April 11, 2017 hearing.

Mr. Platte made a motion to adjourn the meeting. Seconded by Mr. Ashcraft. Mr. Ashcraft, Ms. Rhodeback,

Ms. Baird, and Mr. Platte voted yes. The meeting was adjourned at 7:57 p.m.

Minutes of the March 14, 2017 meeting were approved on

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Chairperson Baird