

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

Tuesday, October 9, 2018

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio, on Tuesday, October 9, 2018.

Present were:

Rob Platte, Chairman

TJ Rhodeback, Vice Chairwoman

Alan Howe

Chadd McKitrick

City of Pataskala Planning and Zoning Staff:

Scott Fulton, Planning Director

Jack Kuntzman, City Planner

Lisa Paxton, Zoning Clerk

Chairman Platte opened the hearing at 6:34 p.m., followed by the Pledge of Allegiance. Roll call was made. Present were: Rob Platte, TJ Rhodeback, Alan Howe and Chadd McKitrick. Bruce Ashcraft was not present.

Mr. Platte noted Conditional Use Application CU-18-005 remains tabled.

Mr. Platte noted Variance Application VA-18-020 is being asked to be tabled and asked Mr. Moser, attorney representing the Applicant, if that was correct.

Mr. Moser answered in the affirmative.

Mr. Platte asked for a motion to move Variance Application VA-18-020 to the top of New Business.

Mr. Howe made a motion to amend the Agenda. Seconded by Ms. Rhodeback. Mr. Platte, Mr. Howe, Mr. McKitrick and Ms. Rhodeback voted yes. The motion was approved.

First on the Agenda, Variance Application VA-18-020, Faith Seed Investments and Paul Collins, 21 Benton Street.

Jack Moser, representing the Applicant, was placed under oath.

For the record, Mr. Platte asked Mr. Moser if he is requesting the Board to table the variance request to the November 13, 2018 meeting.

Mr. Moser answered in the affirmative.

Mr. Howe made a motion to table Variance Application VA-18-020 to the November 13, 2018 hearing. Seconded by Mr. McKitrick. Ms. Rhodeback, Mr. McKitrick, Mr. Howe and Mr. Platte voted yes. The motion was approved.

Next on the Agenda, Variance Application VA-18-020, Carlos Segovia, 5624 Mink Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request for a use variance to establish a wellness center that would include yoga, meditation, Tai Chi, mental therapy and massage therapy, as well as utilizing the outdoor space for classes and therapy sessions. Hours of operation and parking were noted.

Mr. Fulton explained the difference between variances, noting the business would function as a home occupation.

Mr. Platte asked if the property could be rezoned to a planned district.

Mr. Kuntzman indicated a planned district could be a possibility.

A discussion was had regarding planned district uses.

Carlos Segovia, 5624 Mink Street, was placed under oath.

Mr. Segovia stated he has owned the property for eight years and was unaware of the zoning requirements.

Mr. Platte noted concerns that the outdoor use changes a home occupation to a use variance.

Mr. Segovia described the benefits of outdoor use.

Ms. Rhodeback asked if classes were seasonal.

Mr. Segovia indicated cold yoga would be available if someone chooses.

Mr. Platte noted differences of an area variance, conditional use and use variance and stated that use variances are the most extreme requests that come before the Board.

Mr. Segovia explained that when he purchased the property he had no intentions of a business, however, it was after his children were born that he began practicing and really liked the quiet area. Mr. Segovia stated he would like to share nature with others by practicing meditation, yoga and Tai Chi, to bring people together, to grow a strong community by sharing where he lives, and an environment to deflate and destress.

Mr. Platte asked if there is a deadline or timeline.

Mr. Segovia indicate not having a timeline, would like to start as soon as possible but doesn't want to do anything that is not within the approval. Mr. Segovia stated he would be sad if it is not approved; however, he will move on and go somewhere that will allow it.

Mr. Platte asked if there were any issues with the Staff's recommendations for conditions.

Mr. Segovia noted he would like to add mental therapy and group classes, and would be quiet and respectful of the neighbors.

Mr. Fulton indicated there was some confusion regarding mental therapy that wasn't clearly defined. Previous discussions noted yoga and massage and didn't know if it involved a psychology aspect.

Mr. Segovia emphasized everything would be licensed and certified, along with networking with others that

have the same ideas.

Mr. Platte noted the engineer's response regarding not being able to accurately determine if traffic will be significantly impacted; however, Mr. Platte indicated he would consider this a low-impact use, and further stated he was not necessarily opposed to the use. Mr. Platte also noted the Health Department's comment regarding the private water system servicing more than 25 or more individuals on any given day, and the private water well system will become permitted through the Ohio EPA rather than being permitted through the County Health Department.

Mr. Segovia asked if the Board could give him one year and then revisit to see what the impact is within that timeframe.

Mr. Platte explained that he was unsure if the Board could take back a use if it wasn't met.

A discussion was had regarding supplementary conditions.

Ms. Rhodeback inquired as to how many clients are expected per day.

Mr. Segovia indicated yoga classes range between six and eight clients, three times a day; no more than 30 people a day. Mr. Segovia also added possibly having three full-time employees, including himself, as he is a certified massage therapist, yoga instructor and will be getting a certification in meditation instruction.

Ms. Rhodeback asked about indoor facilities during cold months.

Mr. Segovia noted no indoor facility for yoga, only meditation.

Mr. McKitrick asked if he has spoken to neighbors about his plans.

Mr. Segovia indicated his neighbor to the south has no objection, but does not know the other neighbor as there are woods between the properties.

Mr. McKitrick asked if there would be any issues when conducting yoga classes and the neighbor is mowing the lawn.

Mr. Segovia stated that was part of life.

Mr. McKitrick asked to expand on the mental therapy request.

Mr. Segovia pointed out that there are restrictions on mental health-type facilities. Mr. Segovia noted social workers as being mental therapists, and that would be the type of therapy provided.

Mr. McKitrick inquired as to prescribing mental health medications.

Mr. Segovia stated social workers cannot prescribe medication, only a licensed doctor of psychology.

Mr. Howe inquired as to business hours.

Mr. Segovia noted 10:00 a.m. to 4:00 p.m.

Mr. Platte noted, for the record, there were no others present to speak on the application.

Mr. Platte reiterated a use variance being the most extreme request the Board considers and scrutinizes use variances a little more; however, he stated not being opposed to the use request, as it will be low-impact. Mr. Platte noted the intent is to maintain a harmonious and low-impact use of the property. Mr. Platte further stated he would like more information from legal if he could draft conditions and table the application to review and have a clear idea of the conditions to be placed and present them at the next meeting.

Mr. Segovia noted no issues with tabling the application.

Ms. Rhodeback also noted she would prefer to see that the private water conditions are met.

Mr. Segovia stated he will file paperwork with the EPA that the well is suitable.

Ms. Rhodeback noted the Board is doing their due diligence for the future of the City, and for the applicant, as this use request will set precedence.

Mr. Segovia indicated he understood.

A discussion was had regarding tabling the application.

Ms. Rhodeback made a motion to table Variance Application VA-18-018. Seconded by Mr. Howe. Mr. Howe, Mr. McKitrick, Mr. Platte and Ms. Rhodeback voted yes. The motion was approved.

Next on the Agenda, Variance Application VA-18-019, Dan Dustin, 78 Granville Street.

Mr. Kuntzman gave an over of the Staff Report, noting Staff received an Ohio Utilities Protection Service notification regarding a patio request. The Zoning Inspector informed the Applicant a permit was required. The Applicant submitted an application. After a review of the application, it was determined the proposed patio would fail to meet the required side yard setback. A signed letter from the neighbor that lives immediately to the west of the Applicant states she and her husband have no problems with the proposed patio.

Dan Dustin, 78 Mill Street, was placed under oath.

Mr. Dustin noted the patio is for entertainment and add value to the home.

Ms. Rhodeback asked the Applicant if he was aware of the zoning requirements for permits.

Mr. Dustin stated he was unaware.

Findings of Fact were reviewed.

Ms. Rhodeback made a motion to approve Variance Application VA-18-019, with the following modifications:

1. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department prior to construction of the patio.
2. The Applicant shall insure the proposed patio will not alter current drainage pattern.

Seconded by Mr. Howe. Ms. Rhodeback, Mr. McKitrick, Mr. Platte and Mr. Howe voted yes. The motion was

approved.

Next on the Agenda, Findings of Fact, Variance Application VA-18-019.

Mr. McKitrick made a motion to approve Findings of Fact for Variance Application VA-18-019. Seconded by Mr. Howe. Mr. Platte, Mr. McKitrick, Ms. Rhodeback and Mr. Howe voted yes. The motion was approved.

Variance Application VA-18-019 Findings of Fact:

<u>Yes</u>	<u>No</u>	
✓		<i>Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;</i>
✓		<i>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;</i>
✓		<i>Whether the variance requested is substantial;</i>
✓		<i>Whether the essential character of the neighborhood would be substantially altered or the adjoining properties would suffer a substantial detriment as a result of the variance;</i>
✓		<i>Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;</i>
✓		<i>Whether the variance, if granted, will be detrimental to the public welfare;</i>
✓		<i>Whether the variance, if granted, would adversely affect the delivery of government services;</i>
✓		<i>Whether the property owner purchased the subject property with knowledge of the zoning restriction;</i>
✓		<i>Whether the property owner's predicament can be obviated through some other method than variance;</i>
✓		<i>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,</i>
✓		<i>Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.</i>

Next on the Agenda, approval of September 11, 2018 meeting minutes.

Ms. Rhodeback made a motion to approve the minutes of the September 11, 2018 meeting. Seconded by Mr. Howe. Mr. Howe, Mr. Platte, Ms. Rhodeback and Mr. McKitrick voted yes. The motion was approved.

Next on the Agenda, Other Business.

No other business was noted.

Mr. Howe made a motion to adjourn the meeting. Seconded by Mr. McKitrick. Mr. McKitrick, Mr. Platte, Mr. Howe and Ms. Rhodeback voted yes. The meeting was adjourned at 7:44 p.m.

Minutes of the October 9, 2018 meeting were approved on

_____, 2018.
