

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

Tuesday, October 10, 2017

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio, on Tuesday, October 10, 2017.

Present were:

Catherine Baird

Robert Platte

TJ Rhodeback

City of Pataskala Planning and Zoning Department Staff:

Scott Fulton, Planning Director

Zack Cowan, City Planner

Lisa Paxton, Zoning Clerk

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

Roll call was made. Bruce Ashcraft and Kathleen Hasson were not present.

First on the Agenda, Variance Application VA-17-024, 153 Cedar Street.

Mr. Cowan reviewed the Staff Report, noting the applicant is proposing to install a 6-foot high fence around a dumpster that is located in a front yard. Section 1249.05(G) of the Pataskala Code notes trash and garbage container systems not be located in front yards. In addition, Section 1283.06 states trash disposal units shall be screened when a general business zone abuts a residential zone, thus requiring a continuous fence of 100% opaque on all four sides of the disposal unit. The applicant is proposing to install a 6-foot fence around the dumpster to comply with the screening requirements; however, the property abuts three different right-of-ways, constituting a front yard along each right-of-way, and per Section 1279.03 of the Code, a fence cannot exceed 4 feet in height in the front yard.

Larry Walker, PO Box 244, Pataskala, was placed under oath.

Mr. Walker noted the dumpster's current location allows ease of access for garbage truck access, and frees up space for trailer storage.

A discussion was had regarding alternative locations for the dumpster.

John Mathews, was placed under oath.

Mr. Mathews also noted the dumpster's current location and trailer storage.

Findings of Fact were reviewed by the Board.

Ms. Rhodeback made a motion to approve the variances from Section 1279.03(A)(1) and from Section 1249.05(G) of the Pataskala Code for Variance Application VA-17-024 with the following supplementary conditions:

1. The applicant shall install the fence within one (1) year from the date of approval.
2. The applicant shall obtain all necessary permits from the City of Pataskala prior to installing the fence.
3. The fence shall be 100% opaque pursuant to Section 1283.06(13) of the Pataskala Code.

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

Next on the Agenda, Conditional Use Application CU-17-012, 131 Oak Meadow Drive.

Mr. Cowan reviewed the Staff Report, noting the applicant is seeking a conditional use to allow for the building to be used as an adult day care facility. The property contains a roughly 2,200 square foot building and previously used as a medical office and clinic. According to the applicant's narrative, there will be 3-4 employees with 3-5 residents. The hours of operation will be 24 hours. The business will provide room, board, supervision, and personal care assistance with basic (non-medical) activities including personal hygiene, dressing, feeding and walking.

Parking spaces was also noted.

The City Engineer commented it would be important to know how much traffic would be generated by the proposed use, which could require turn lanes; however, given the provided information, it seems unlikely that turn lanes would be required.

The Utility Director commented a water backflow prevention device would be required as well as a testable device with a minimum double check prevention. A possible condition has been placed to address this.

The Zoning Inspector commented that the Licking County Adult Protective Services has seen an increase of reports of elderly abuse in 2017. While the zoning regulations will address the physical requirements of an adult day care facility, there are several federal, state, and county regulations that provide protection for the residents. The Zoning Inspector has attached a copy of Ohio's adult day care regulations. A possible condition has been placed to address the comments.

Mr. Cowan also reviewed Section 1215.05 (A)(B)(E) and (G) as other factors to consider.

Ms. Baird inquired as to the Zoning Inspector's comments.

Mr. Cowan noted issues with adult day care services, but not specific to this location.

A discussion was had regarding previous use of the office building.

Hussein Mousa, 5449 Lakota Drive, Westerville, Ohio was placed under oath.

Mr. Mousa noted the property has not been purchased yet, depending if the conditional use is approved.

Ms. Baird asked if the day care will be an overnight facility.

Mr. Mousa stated he is working with the State regarding different licensing.

Ms. Rhodeback asked if it would be for short-term stays.

Mr. Mousa noted in the affirmative.

Ms. Baird asked if clients could attend the day care if they have medical issues.

Mr. Mousa noted non-life threatening conditions; basic elderly care.

Ms. Baird asked Mr. Mousa if he has experience in this type of area.

Mr. Mousa noted having an MBA in Health Administration, and this would be his first facility.

Ms. Rhodeback inquired as to ADA guidelines.

Mr. Mousa again noted working with the State.

Mr. Platte asked if the facility could potentially house more than five clients.

Mr. Mousa stated no more than five and would need a larger facility for more than five clients.

Ms. Baird asked if a kitchen is required.

Mr. Mousa noted hiring a company to bring in food; however, it is still in the planning stage.

Jim Helfrich, PO Box 921, Pataskala, Ohio.

Mr. Helfrich noted his concerns regarding property maintenance, property values, strain on public services and asked that conditions be placed if the conditional use is approved.

A discussion was had regarding the City's Comprehensive Plan.

Ms. Baird asked Mr. Mousa where patients would come from.

Mr. Mousa listed local communities in the area.

Ms. Rhodeback asked if there would be a medical staff.

Mr. Mousa noted STNA staff.

Mr. Platte stated not being against the proposed use, but there are a lot of criteria for the Board to look through regarding conditional uses and future considerations.

Recess taken at 7:15 p.m. and reconvened at 7:27 p.m.

Mr. Platte asked if there would be any issues if limitations were placed for residences not staying more than seven contiguous days.

Mr. Mousa noted it could be an issue.

Mr. Platte stated the Board will place a 7-day limit and noted Mr. Mousa may come back before the Board in the future for the Board to reconsider.

Findings of Facts were reviewed.

Mr. Platte made a motion to approve Conditional Use Application CU-17-012 with the following supplementary conditions:

1. The applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department prior to operating the facility.
2. All applicable permits and licenses for adult day care services shall be obtained through the State of Ohio, Licking County, and any other applicable federal agencies.
3. The applicant shall address all comments provided by the Utility Director.
4. Residents and/or clientele shall be limited to five persons maximum.
5. Applicant shall meet the following, as required in Section 1215.05:
 - 1215.05(a)(7) All permitted installations shall be kept in a neat and orderly condition so as prevent injury to any single property, any individual, or to the community in general.
 - 1215.05(a)(8) There shall be no more than one sign oriented to each abutting street identifying the activity.
 - 1215.05(b)(4) The facility shall be operated so that guests reside at the facility for no longer than one contiguous week.
 - 1215.05(e)(8) The applicant shall submit a parking and traffic circulation plan to the Planning and Zoning Staff for approval. The design, location, and surface of the parking areas and vehicular approaches shall be subject to approval by the Planning and Zoning Staff so as to reduce congestion, promote safety, and reduce the impact on the residential character of the neighborhood. The plan shall provide for the separation of incoming and outgoing vehicles during high volume periods and shall, if applies, provide a safe drop off point for pedestrians that will not impede other traffic.
 - 1215.05(g)(1) The conditional use permit shall be subject to periodic review by Planning and Zoning Staff to insure compliance with the terms of the permit.

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

Next on the agenda, Findings of Facts:

Ms. Rhodeback made a motion to approve the following Findings of Facts for Variance Application VA-17-024:

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|--|
| ✓ | | a) <i>Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;</i> |
| ✓ | | b) <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> |
| ✓ | | c) <i>Whether the variance requested is substantial;</i> |
| ✓ | | d) <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> |
| ✓ | | e) <i>Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;</i> |
| ✓ | | f) <i>Whether the variance, if granted, will be detrimental to the public welfare;</i> |
| ✓ | | g) <i>Whether the variance, if granted, would adversely affect the delivery of government services;</i> |
| ✓ | | h) <i>Whether the property owner purchased the subject property with knowledge of the zoning restriction;</i> |
| ✓ | | i) <i>Whether the property owner's predicament can be obviated through some other method than variance;</i> |
| ✓ | | j) <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> |
| ✓ | | k) <i>Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.</i> |

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

Ms. Platte made a motion to approve the following Findings of Facts for Conditional Use Application CU-17-015:

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|--|
| ✓ | | 1. <i>Is in fact a conditional use as established under the provisions of Title Three of the Planning and Zoning Code for the specific zoning district of the parcel(s) listed on the application.</i> |
| ✓ | | 2. <i>Will be harmonious with and in accordance with the general objectives or with any specific objective of the City comprehensive plan and/or this Code.</i> |
| ✓ | | 3. <i>Will be designed, constructed, operated, and maintained so as to be harmonious in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area.</i> |
| ✓ | | 4. <i>Will not be hazardous or disturbing to existing or future neighboring uses.</i> |
| ✓ | | 5. <i>Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer, and schools; or that the persons or agencies responsible for the establishment</i> |

- ✓ *of the proposed use shall be able to provide adequately any such services.*
- 6. *Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community.*
- ✓ 7. *Will not involve uses, activities, processes, materials, equipment and conditions of operations that will be detrimental to any persons, property, or the general welfare, including but limited to excessive production of traffic, noise, smoke, fumes, glare, odor, potential for explosion, and air or water pollution.*
- ✓ 8. *Will have vehicular approaches to the property which shall be so designed as to not create an interference with traffic on surrounding public thoroughfares.*
- ✓ 9. *Will not result in destruction, loss or damage of a natural, scenic, or historic feature of major importance.*

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

Next on the agenda, Excuse of Absence for Bruce Ashcraft from the September 12, 2017 meeting.

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

Next on the Agenda, Excuse of Absence for Catherine Baird from the September 12, 2017 meeting.

Ms. Baird made a motion to table the request. Seconded by Mr. Platte. Ms. Baird, Mr. Platte and Ms. Rhodeback voted yes. The motion was approved.

Next on the Agenda, approval of the September 12, 2017 regular meeting minutes.

Mr. Platte made a motion to approve the September 12, 2017 regular meeting minutes. Seconded by Ms. Rhodeback. Mr. Platte, Ms. Rhodeback and Ms. Baird voted yes. The motion was approved.

Next on the Agenda, Other Business.

Mr. Fulton gave an overview of the November agenda.

Mr. Platte made a motion to adjourn the meeting. Seconded by Ms. Rhodeback. Ms. Baird, Mr. Platte and Ms. Rhodeback voted yes.

The meeting was adjourned at 7:39 p.m.

Minutes of the October 10, 2017 meeting were approved on
_____, 2017.

Chairperson Baird