

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

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio, on Tuesday, December 11, 2018.

Present were:

Rob Platte, Chairman
Alan Howe
Chadd McKitrick
Bruce Ashcraft
TJ Rhodeback

City of Pataskala Planning and Zoning Staff:

Scott Fulton, Planning Director
Jack Kuntzman, City Planner
Lisa Paxton, Zoning Clerk

Also present: Brian Zets, City Law Director

Chairman Platte opened the hearing at 6:30 p.m., followed by the Pledge of Allegiance. Roll call was made. Present were: Rob Platte, Alan Howe, Chadd McKitrick, Bruce Ashcraft and TJ Rhodeback.

First on the Agenda, remove from table Variance Application VA-18-020, Faith Seed Investments.

Ms. Rhodeback made a motion to remove from table Conditional Use Application VA-18-020. Seconded by Mr. Howe. Mr. McKitrick, Mr. Howe, Mr. Platte, Ms. Rhodeback and Mr. Ashcraft voted yes. The motion was approved.

Next on the Agenda, Variance Application VA-18-020, Faith Seed Investments, 21 Benton Street.

Mr. Kuntzman gave an overview of the Staff Reporting, noting the applicant is seeking a variance to allow for an accessory building permit to be issued for a 140 square feet shed that has been constructed and fails to meet the maximum permitted size.

Jack Moser, Esq., 109 W Johnstown Road, Gahanna, was placed under oath.

Mr. Moser asked for a written or recording of the witness' testimony from the previous hearing. Mr. Moser presented Exhibits C, E, F and I to the Board. The accessory building was noted to be used for dogs. Failure to register dogs was also noted. Mr. Moser noted the five foot setback request, and the garage currently sitting on the property line. Mr. Moser indicated if the Board approves the Variance steps will be taken to make sure all is done in the appropriate way. Mr. Moser stated the applicant wants to work with the Zoning Board and the City.

Mr. Platte inquired if to the applicant was unaware that a permit was needed.

Mr. Moser stated the applicant was unaware permits were required. Mr. Moser also noted the applicant was previously cited for not obtaining a fence permit, and a fence permit was obtained; however, upon final inspection of the fence, the Zoning Inspector discovered a shed had been built without a permit.

Mr. Platte asked if a permit was issued for Permit No. 18-169.

Mr. Fulton stated the applicant submitted an accessory building application and during Staff review, it was determined the accessory building exceeded the size requirements, and the applicant was notified a variance was required. Mr. Fulton noted the accessory building application is on file, but cannot be approved until a variance is granted.

Mr. Platte pointed out the permit has not been signed, nor issued by any official of the City, and waiting to be approved pending action of the Board.

Mr. Fulton indicated in the affirmative.

Mary Jenny, 65 Benton Street, was placed under oath.

Mr. Jenny stated the vehicle has been moved from the sidewalk and also listed concerns with the BBQ truck, dogs, smoker in the yard and multiple vehicles parked on the property.

Mr. Moser stated he has been to the property, walked through the property and noted the applicant reclaims wood and is using it inside the home. Mr. Moser indicated the Zoning Inspector has also been in the home. Mr. Moser stated the applicant has improved the property. Mr. Moser's indicated his office is involved with the applicant, to work with him to understand he is not living in the country any longer. Mr. Moser indicated vehicles have been moved or retagged, and it is his understanding the BBQ truck is no longer on the property. Mr. Moser requested the Zoning Board issue the variance, and the applicant can properly do what is necessary, with the assistance of the City of Pataskala, to ensure the property is in compliance with the surrounding properties.

Mr. Platte asked for a clarification regarding the owner of the property.

Mr. Moser stated the property is owned by Faith Seed Investments and/or Paul Collins, Sr. It was noted Paul Collins, Sr., passed away on November 6th of this year, the reason for postponing the November hearing.

Mr. Platte asked if Mr. Moser would like the minutes read into the record or a recording of the November 2018 meeting.

Mr. Moser stated he would like a recording.

Mr. Platte indicated he would like the applicant to review the November 2018 recording and table the application to the January meeting to give Mr. Moser time to review the full record.

Mr. Platte made the motion to table Variance Application VA-18-020. Seconded by Mr. Ashcraft. Mr. Ashcraft, Mr. Platte, Mr. McKittrick, Mr. Howe and Ms. Rhodeback voted yes. The motion was approved.

Next on the agenda, Variance Application VA-18-022, Christopher Smith, 124 Shawnee Loop North.

Mr. Kuntzman gave an overview of the Staff Report, noting the applicant is seeking a variance to allow for a permit to be issued for a 1,066-square foot concrete patio that has been constructed and fails to meet the required side yard setback.

Christopher Smith, 124 Shawnee Loop North, was placed under oath.

Mr. Smith indicated knowing a permit was required, but wasn't planning on pouring until the spring; however, he was given a bid on a Friday, prepped on a Saturday and poured on Tuesday. Mr. Smith stated the permit slipped his mind.

Mr. Howe asked if there was an HOA.

Mr. Smith indicated there was no HOA; however, he spoke to the neighbor closest to the patio and stated having no problem with it.

Mr. McKitrick inquired as to outside lighting.

Mr. Smith explained having porchlights, and has no plans on adding additional lighting.

Mr. McKitrick asked if the applicant was aware of the setback requirement.

Mr. Smith noted he would have adjusted the dimensions of the patio; however, the intention was a basketball court for his daughters.

Findings of Facts were reviewed.

Ms. Rhodeback made a motion to approve Variance Application VA-18-022 with the following modification:

1. The applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department for the patio.

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

Next on the agenda, Variance Application VA-18-023, Alan Henson, unimproved properties off Headleys Mill Road SW.

Mr. Kuntzman gave an overview of the Staff Report, noting the applicant is seeking a variance to allow for the creation of a lot that would fail to meet the required minimum lot width of 250 feet for the Agricultural District. The properties are located between Old Maids Lane and Headley Mill Road. The applicant is proposing to split the first parcel along the river to create a 18.4-acre lot; the proposed split meets the requirements of the Code and does not require a variance. The applicant is proposing to split the southern lot, which is approximately 31 acres and create a 18.5-acre lot with a width of 53.77 feet along Old Maids Lane. The AG – Agriculture district requires a minimum lot width of 250 feet; therefore, the proposed 18.5-acre lot would fail to meet the minimum lot width by 196.23 feet. The applicant could utilize additional width from the northern lot to bring the proposed 18.5-acre lot into compliance with the requirements of the AG – Agriculture district; however, in doing so it would create two (2) oddly shaped lots.

Mr. Howe asked if the properties were vacant.

Mr. Kuntzman indicated there is a barn on the northern parcel.

Ms. Rhodeback inquired as to subdivisions.

Mr. Fulton explained the differences of major and minor subdivisions.

An area map of the parcels were reviewed.

Reconfiguring the parcels and road frontage was discussed.

Alan Hinson, 7518 Ogden Woods, Boulevard, New Albany, was placed under oath.

Mr. Hinson noted the parcels are recorded as Old Maids Lane parcels. Mr. Hinson indicated the property owner lives on Headleys Mill Road and is wanting to preserve the view. Mr. Hinson also pointed out the flood plain.

Dewey Davis, 3234 Old Maids Lane, was placed under oath.

Mr. Davis noted possible driveway issues if not constructed properly.

Mr. Fulton stated the lots are to be graded to ensure water flows in the proper direction and construction cannot impeded the natural flow of water.

Mr. Platte inquired as to the use of the Old Maid parcels.

Mr. Hinson noted the parcels are being farmed, however, the buyer is purchasing both lots and intends to build on the north parcel.

Findings of Facts were reviewed.

Mr. Platte made a motion to approve Variance Application VA-18-023 with the following modification:

1. The applicant shall follow the Minor Subdivision regulations pursuant to Chapter 1115 of the Pataskala Code.

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

Next on the agenda, Variance Application VA-18-024, Brett Hatcher, 14135 E Broad Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the applicant is seeking a variance to allow for a permit to be issued for a 59.785-square feet freestanding ground sign that has already been installed. The sign exceeds the maximum permitted sign face area by 27.785-square feet.

Mr. Platte asked if the sign will be larger than the original frame.

A discussion was had regarding the previous signage and legal non-conforming.

Mr. Cory Bonda, 84 West 2nd Avenue, Columbus, was placed under oath.

Mr. Bonda indicated the original sign was in need of repair, and stated the previous owner indicated the sign was "grandfathered in". Mr. Bonda also gave an overview and description of the new signage.

Findings of Fact were reviewed.

Mr. Platte made a motion to approve Variance Application VA-18-024 with the following modification:

1. The applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department for the sign.

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

Next on the Agenda, Randy Almendinger, Joe Kerner, and Ronald Kinietz, 350 Main Street.

Mr. Fulton gave an overview of the Staff Report, noting the applicants are requesting a conditional use to allow two apartments to be located in a commercial building in the DB – Downtown Business District for property located at 350 Main Street

Joseph Kerner, 350 Main Street, was placed under oath.

Mr. Kerner noted tenants had moved from the office space located in the building, and owe back rent. An attempt to rent the building commercially has been unsuccessful, and is renting space to displaced persons. Mr. Kerner noted one of the renters has caused issues, and is currently in a facility. Mr. Kerner is hopeful to receive the conditional use and to also rent out office space. Mr. Kerner also indicated someone may be interested in purchasing the building.

Ms. Rhodeback inquired as to bathrooms.

Mr. Kerner indicated there are full bathrooms on both floors.

Ms. Rhodeback asked if there are any professionals monitoring the residents?

Mr. Kerner indicated he would like to have the relatives provide help and assistance to monitor the individual that has been causing issues, but doesn't know if that is possible.

Mr. Platte made a motion to take a brief recess. Seconded by Mr. McKitrick. Ms. Rhodeback, Mr. McKitrick, Mr. Platte, Mr. Howe and Mr. Ashcraft voted yes. The motion was approved.

Recess taken at 8:19.

Back on the record at 8:24.

Tom Lee, 7482 Columbia Road, was placed under oath.

Mr. Lee indicated his son operates Depot Street Coffee, located at 36 East Depot Street and noted multiple police and fire runs to 350 Main Street. Mr. Lee has witnessed intoxicated people in the parking lot, fighting, and a third person, a female, which has been causing issues in the area. There have been issues at the coffee shop by the female and has witnessed the female urinating in the bank parking lot. Mr. Lee indicated charges are pending against the female, due to attacking and stealing from a customer at the coffee shop, and has been to court three times.

Dan Hayes, 377 South Main, was placed under oath.

Mr. Hayes stated as a resident and business owner his concerns are for his son's safety and not being able to walk to the local pizza shop or coffee shop. Mr. Hayes noted the south wall of the building had collapsed and

not repaired. Mr. Hayes noted the property owners do not live in Pataskala. Mr. Hayes believes there are no kitchens in the building, nor full bathrooms with tubs and showers. Mr. Hayes indicated if the Conditional Use is approved, oversight is need. Multiple police and fire runs were noted to 350 Main Street. Delinquent taxes were also noted.

Mr. Kerner declared the observations were correct and noted the female is also no longer in the area. Money has not been available to pay taxes. Mr. Kerner is hoping to have the building repaired.

Mr. McKitrick indicated he doesn't like to say no, but sometimes saying no is in their best interest and doesn't think it is in the applicants' best interest to pursue the application.

Findings of Facts were reviewed.

Mr. Platte made a motion to disapprove Conditional Use Application CU-18-006. Seconded by Mr. McKitrick. Mr. Howe, Ms. Rhodeback, Mr. Platte, Mr. Ashcraft and Mr. McKitrick voted yes. The motion was approved.

Next on the Agenda, Findings of Fact.

Variance Application VA-18-022:

Yes No

- | | | |
|--------------------------|--------------------------|--|
| ✓ | <input type="checkbox"/> | a) <i>Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property;</i> |
| <input type="checkbox"/> | ✓ | 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> |
| <input type="checkbox"/> | ✓ | c) <i>Whether the variance requested is substantial;</i> |
| <input type="checkbox"/> | ✓ | 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> |
| <input type="checkbox"/> | ✓ | e) <i>Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;</i> |
| <input type="checkbox"/> | ✓ | f) <i>Whether the variance, if granted, will be detrimental to the public welfare;</i> |
| <input type="checkbox"/> | ✓ | g) <i>Whether the variance, if granted, would adversely affect the delivery of government services;</i> |
| <input type="checkbox"/> | ✓ | h) <i>Whether the property owner purchased the subject property with knowledge of the zoning restriction;</i> |
| ✓ | <input type="checkbox"/> | i) <i>Whether the property owner's predicament can be obviated through some other method than variance;</i> |
| ✓ | <input type="checkbox"/> | 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> |
| ✓ | <input type="checkbox"/> | k) <i>Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.</i> |

Ms. Rhodeback made a motion to approve Findings of Fact for Variance Application VA-18-022. Seconded by Mr. Howe. Mr. Ashcraft, Mr. Howe, Mr. McKitrick, Mr. Platte and Ms. Rhodeback voted yes. The motion was approved.

Variance Application VA-18-023

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

Mr. Howe made a motion to approve the Findings of Fact for Variance Application VA-18-023. Seconded by Mr. McKitrick. Ms. Rhodeback, Mr. McKitrick, Mr. Platte, Mr. Howe and Mr. Ashcraft voted yes. The motion was approved.

Variance Application VA-18-024

- | <u>Yes</u> | <u>No</u> | |
|--------------------------|--------------------------|---|
| ✓ | <input type="checkbox"/> | a) Whether the property in question will yield a reasonable return or if there can be a beneficial use of the property; |
| <input type="checkbox"/> | ✓ | 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; |
| <input type="checkbox"/> | ✓ | c) Whether the variance requested is substantial; |
| <input type="checkbox"/> | ✓ | d) 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; |

- ✓ e) Whether the variance, if granted, will substantially or permanently impair the appropriate use or development of adjacent property;
- ✓ f) Whether the variance, if granted, will be detrimental to the public welfare;
- ✓ g) Whether the variance, if granted, would adversely affect the delivery of government services;
- ✓ h) Whether the property owner purchased the subject property with knowledge of the zoning restriction;
- ✓ 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.

Mr. McKitrick made a motion to approve Findings of Fact for Variance Application VA-18-024. Seconded by Mr. Ashcraft. Mr. Platte, Mr. Howe, Mr. McKitrick, Mr. Ashcraft and Ms. Rhodeback voted yes. The motion was approved.

Conditional Use Application CU-18-006

Yes No

- ✓ 1. 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.
- ✓ 2. 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.
- ✓ 3. 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.
- ✓ 4. Will not be hazardous or disturbing to existing or future neighboring uses.
- ✓ 5. 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 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.

Ms. Rhodeback made a motion to approve Findings of Fact for Variance Conditional Use CU-18-006. Seconded

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

Next on the Agenda, Excuse of Absence of TJ Rhodeback from the November 13, 2018 hearing.

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

Next on the Agenda, Approval of Minutes from the November 13, 2018 hearing.

Mr. Ashcraft made a motion to approve the November 13, 2018 hearing minutes. Seconded by Mr. Howe. Mr. McKitrick, Mr. Ashcraft, Mr. Howe, Ms. Rhodeback and Mr. Platte voted yes. The motion was approved.

Next on the Agenda, Other Business.

Mr. Fulton gave an overview of the Pataskala Oaks Care Center extension request.

Mr. Platte made a motion to approve a six-month extension for Conditional Use CU-18-001 with the following conditions:

1. The extension shall be valid for a six-month period from the December 11, 2018.

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

A discussion was had regarding tabled Conditional Use Application CU-18-005, Pataskala Storage, LLC.

Next on the Agenda, Executive Session.

Mr. Platte made a motion to enter into executive session, pursuant to Ohio Revised Code section 121.22(G)(3), for a conference with an attorney, for the public body, concerning disputes involving the public body that are subject to a pending or imminent court action. Mr. Ashcraft seconded the motion. Mr. Ashcraft, Mr. Platte, Mr. McKitrick, Ms. Rhodeback and Mr. Howe voted yes. The motion was approved.

The Board went into Executive Session at 9:07 P.M.

Next on the Agenda, Adjournment.

Mr. Ashcraft made a motion to adjourn the meeting. Seconded by Mr. Platte. Mr. Howe, Ms. Rhodeback, Mr. Platte, Mr. Ashcraft and Mr. McKitrick voted yes. The meeting was adjourned at 9:44 p.m.

Minutes of the Tuesday, December 11, 2018 meeting were approved on

_____, 2019.
