

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

Tuesday, January 8, 2019

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio on Tuesday, January 8, 2019.

Present were:

Robert Platte, Chairperson

D. Chadd McKitrick, Vice Chairperson

Bruce Ashcraft

Alan Howe

TJ Rhodeback

City of Pataskala Planning and Zoning Department staff:

Scott Fulton, Planning Director

Jack Kuntzman, City Planner

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

Roll call was made. Present were: Bruce Ashcraft, Alan Howe, D. Chadd McKitrick, Robert Platte and TJ Rhodeback.

Conditional Use Application CU-18-005 remained tabled.

Next on the Agenda, Remove from table Variance Application VA-18-020.

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

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

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant is seeking a variance to allow for an accessory building permit to be issued for a 140 square foot shed that has been constructed and fails to meet the maximum permitted size and side yard setback. Comments from the Licking County Humane Society were noted. Mr. Kuntzman reviewed sections of the Pataskala Code regarding kennels. Concerns of loose dogs, previous violations and Zoning Inspector comments were noted.

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

Mr. Moser indicated Exhibit D not an exhibit to be entered into the record. Mr. Moser stated his client doesn't believe it is a building, and indicated issues with the Zoning Inspector. Mr. Moser stated Mr. Collins does not have a dog kennel and has been advised if he is selling dogs, he cannot do so because it is in the City limits.

Mark Marzluf, 488 South Main Street, was placed under oath.

Mr. Marzluf stated there have been improvements to Mr. Collins' property and felt bad due to the neighbors complaining. Mr. Marzluf reported issues with dogs running loose, along with maintaining the property to the east of his property and having issues with dog "piles"; however, he stated Mr. Collins always apologizes for the dogs and promises to take care of it, but it doesn't always happen in a timely manner.

Mr. Moser asked Mr. Marzluf if he objects to having the accessory building for the dogs.

Mr. Marzluf stated having no objection to the accessory building, but is concerned regarding future precedents.

Don Lewis, 10810 McIntosh Road, on behalf of Pataskala United Methodist Church, was placed under oath.

Mr. Lewis noted concerns regarding dogs chasing parishioners, and the secretary refuses to get mail. It was also noted the Pastor has had an encounter with a dog. Mr. Lewis indicated not liking the appearance of the shed.

Ms. Rhodeback asked if the essential character of the neighborhood has been altered due to the shed.

Mr. Lewis stated he doesn't think it has helped the appearance of the neighborhood.

Ms. Rhodeback inquired as to the current situation with the dogs on the property.

Mr. Lewis indicated they need to be well contained.

Ms. Rhodeback asked if it is detrimental to the neighborhood.

Mr. Lewis answered in the affirmative.

Mr. Moser asked where Mr. Lewis lives.

Mr. Lewis stated he lives on McIntosh Road.

Mr. Platte asked Mr. Moser to present questions to the Board.

Mr. Moser inquired as to how it's a detriment if he doesn't live in the neighborhood.

Mr. Lewis noted being on the church's board of trustees and is responsible for maintenance and upkeep of the church, which is an immediate neighbor to the Applicant's property, and detriment due to all the complaints from parishioners.

Paul Collins, Jr., 21 Benton Street, was placed under oath.

Mr. Collins reviewed pictures of his property. Mr. Collins gave a narrative of building a roof over a fence. Noted updating the interior of the home, and will begin updating the exterior of the home. Previous issues with violations he received while renting a commercial building were noted. Mr. Collins stated he does not have a

dog kennel but has two Great Danes that have had puppies. Mr. Collins stated he is trying to do what the City wants. Mr. Collins indicated he's received multiple violations over the last two years. Mr. Collins stated part of the garage is his "man cave", and noted placing "dog kennel" on the application just as an answer. Mr. Collins stated the dogs don't chase nor have they ever bit anyone and are well behaved. Mr. Collins inquired as to how square footage is counted and noted the accessory building does not have a foundation and uses the same posts as the fence.

Mr. Fulton noted the maximum square footage for an accessory building, and the current square footage exceeds what is permitted without a variance. Mr. Fulton stated there were previous violations and appearances at mayor's court.

Mr. Collins stated the shed was not built until May and noted concerns regarding the violations and asked if there is anyone else in the City with as many violations.

Mr. Fulton stated the majority of residence follow the rules.

Mr. Platte noted questions need to be presented to the Board.

Mr. Fulton stated Mr. Collins has indicated the dogs are well behaved but there is a police report from February 2017 where the officer indicated a complaint was received from a neighbor that was fearful of dogs that were out. When the officer arrived at the property, the dog started barking and growling.

Mr. Collins stated he knows nothing about that incident. Mr. Collins asked what that has to do with the variance for a shed. Mr. Collins also asked if the square footage for a doghouse is counted towards the square footage of what is already there.

Mr. Platte asked if a doghouse requires a permit.

Mr. Fulton stated based upon the definition of the code it does count as an accessory structure.

Mr. Platte asked Staff if the audio recording from the November hearing was provided to the Applicant's counsel.

Mr. Fulton indicated in the affirmative.

Mr. Moser stated he listened to the November audio and based on what he heard, the only concern that was brought before the Board was about the dogs.

Mr. Marzluf stated he has never had an issue with dogs, except one incident with a girlfriend's child, and that may have been playful banter. Mr. Marzluf stated it comes down to the containment of the dogs.

Zoning application process was discussed.

Findings of Facts were reviewed.

Mr. Platte gave a summary of a discussion that was had with the City's legal counsel's recommendation for motions.

Mr. McKitrick made a motion to approve Variance Application VA-18-020. Seconded by Mr. Howe.

Mr. McKitrick and Mr. Platte stated their decision is based on testimony and evidence with regards to the structure and not with regards to the dogs.

Mr. McKitrick, Mr. Platte, Ms. Rhodeback, Mr. Ashcraft and Mr. Howe voted no. The motion was disapproved.

Next on the Agenda, New Business.

No new business was given.

Next on the Agenda, Findings of Fact.

Variance Application VA-18-020:

<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>

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

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

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

Next on the Agenda, Other Business.

Mr. Platte noted speaking before City Council regarding Licking Heights Local Schools.

Mr. McKitrick made a motion to adjourn the meeting. Seconded by Mr. Howe. Mr. Platte, Mr. Howe, Mr. Ashcraft, Ms. Rhodeback and Mr. McKitrick voted yes. The meeting was adjourned at 7:45 p.m.

Minutes of the January 8, 2019 meeting were approved on

_____, 2019.
