

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

Monday, June 10, 2019

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio on Monday, June 10, 2019.

Present were:

D. Chadd McKittrick, Vice Chairperson

Bruce Ashcraft

Alan Howe

TJ Rhodeback

City of Pataskala Planning and Zoning Department staff:

Jack Kuntzman, City Planner

Lisa Paxton, Zoning Clerk

Mr. McKittrick opened the hearing at 6:31 p.m., followed by the Pledge of Allegiance.

Roll call was made. Present were: Bruce Ashcraft, Alan Howe, Chadd McKittrick and TJ Rhodeback.

Variance Application VA-19-002, Watkins Road, Parcel No. 064-068442.00.047 remained tabled.

Next on the Agenda, remove from table Use Variance Application VA-19-011, 131 Oak Meadow Drive.

Mr. Ashcraft made a motion to remove from the table Use Variance Application VA-19-011. Seconded by Ms. Rhodeback. Mr. McKittrick, Ms. Rhodeback, Mr. Ashcraft and Mr. Howe voted yes. The motion was approved.

Next on the Agenda, Use Variance Application VA-19-011, 131 Oak Meadow Drive.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request for the property to be used as a small grocery store. Mr. Kuntzman noted the May 13, 2019 hearing being tabled and the request for Staff to meet with both the Applicant and neighboring property owner to discuss solutions to concerns raised during the hearing. A summation of the neighboring property owner's concerns along with the Applicant's response were noted.

West Licking Joint Fire District's comments were noted.

Gyanu Dulal, 440 Eleazor Wolcott Court, was placed under oath.

Ms. Rhodeback asked if products that will be sold will be homegrown.

Mr. Dulal stated products would be Southeast Asian along with homegrown items; spices, rice and herbs were also noted.

A note from the resident at 208 Isaac Tharp Street indicated having no issues with a grocery store being opened.

Findings of Facts were reviewed.

Ms. Rhodeback made a motion to approve Variance Application VA-19-011 with the following supplementary conditions:

1. The Applicant shall coordinate with the Planning and Zoning Department to address all parking, Lighting, signage, buffering, and other site design items as part of the Certificate of Compliance application process.
2. The Applicant shall coordinate with the Public Service Director to address how deliveries will be made to the site and for any driveway, parking lot and/or stormwater improvements.
3. The Applicant shall submit plans to the Licking County Building Department for approval for a change in use group.
4. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department prior to operation of the business.

Mr. McKitrick stated knowing the neighbor, Mr. Cope, from high school, which he has not seen in 20, 25 years, and believes he does not have a conflict of interest. Mr. McKitrick also noted a grocery store is needed in the City, but has concerns regarding spot zoning.

Ms. Rhodeback agrees there is a need for the grocery store; however, the zoning is an issue and could set a precedence.

Mr. Howe noted the Findings of Fact does not support the requested use.

Mr. Howe seconded the motion. Mr. Ashcraft, Mr. Howe, Mr. McKitrick voted no. Ms. Rhodeback abstained. The motion was denied.

Next on the Agenda, Variance Application VA-19-015, 14530 East Broad Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the applicant is seeking a variance to allow for the modification of an existing freestanding ground sign that will exceed the maximum permitted sign square footage for the Pataskala Banking Company.

Jim Sarosy, 14530 East Broad Street, was placed under oath.

Mr. Sarosy noted proposing a sign to be wrapped around the existing structure that will enhance the business and mirror the other location.

Findings of Facts were reviewed.

Mr. Howe made a motion to approve Variance Application VA-19-015 with the following supplementary conditions:

1. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Code Department within one (1) year of the date of approval.

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

Next on the Agenda, Variance Application VA-19-016, 40 Cypress Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the applicant's request for a variance to allow for the construction of a gravel parking lot extension. It was noted the Applicant received a variance on April 8, 2019 to enlarge the parking lot; however, when the Applicant submitted the zoning application, the parking lot exceeded what had been approved by the Board. Landscaping, fencing and access were noted.

Alex Yakhnitskiy, 1015 Cole Road, Galloway, Ohio was placed under oath.

Mr. Yakhnitskiy stated being the engineer on the project and noted there being a misunderstanding regarding the initial size of the graveled parking lot. Mr. Yakhnitskiy stated working with the Public Service Director. It was also stated the property will be used as a distribution center.

A discussion was had regarding the existing graveled area.

Mr. Yakhnitskiy gave an overview of the engineering requirements to extend the parking lot.

Scott Mueller, 768 Poppy Hills drive, Blacklick, was placed under oath.

Mr. Mueller noted 40 Cypress Street is currently listed for sale and concerns regarding future use, the parking lot being able to support trucks, and concerns regarding streets being able to handle traffic.

A discussion was had regarding previous use of the property.

Mr. Yakhnitskiy stated the gravel will support the truck traffic and noted surrounding properties being manufacturing and commercial uses.

Findings of Facts were reviewed.

Mr. Howe made a motion to approve Variance Application VA-19-016. With the following supplementary conditions:

1. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department within one (1) year of the date of approval.
2. The Applicant shall address all comments of the City Engineer and the Public Service Director.
3. The Applicant will perform a tree survey of the area to be developed which will be submitted to Planning and Zoning Staff.
4. The Applicant will provide L2-type landscaping along the frontage of Klema Drive.

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

Next on the Agenda, Variance Application VA-19-017, 253 Woodside Drive.

Mr. Kuntzman gave an overview of the Staff Report, noting the applicant is seeking approval of a variance to allow for the construction of a new single-family home that will fail to meet the required front and side yard setbacks. The Applicant is proposing to demolish the existing home, while retaining the original

Basement walls, and construct a new home on the site.

Matthew Chamblin, 253 Woodside Drive, was placed under oath.

Mr. Chamblin noted the current home having black mold and would like to demolish and build a new home. Pervious lawn care equipment being located on the property was noted, along with wanting to repair and sell the equipment. Mr. Chamblin stated he is trying to clean the property up.

A discussion was had regarding the proposed structure.

A discussion was had regarding current zoning code violations.

John Crum, 227 Woodside Drive, was placed under oath.

Mr. Crum noted concerns regarding equipment on the property, properties being affected by pesticides that have been used, plywood and drywall that have sat for two years. Mr. Crum also noted violations on the property.

Mr. Chamblin indicated not being the one that used pesticide, but the neighbor to the south of his property sprayed weed killer on the driveway causing the killing of neighboring grass.

A discussion was had regarding the construction of the "barndominium".

Mr. Ashcraft would like to see what the structure would look like.

A further discussion was had regarding code violations.

Mr. Chamblin stated the zoning violations would be taken care of with the building as he will store the equipment inside.

Ms. Rhodeback stated zoning is about esthetics.

Mr. McKitrick stated the violations need to be taken care of, regardless of the application.

Mr. Chamblin stated he was informed as long as he was working on the violations

Mr. McKitrick stated, in his opinion, simply constructing a building is not taking care of the violations.

Ms. Rhodeback noted concerns that the Applicant is not complying with zoning code violations, and has concerns that other codes will not be followed.

Mr. McKitrick would like to speak with the Law Director to provide an opinion with regards to the Board's consideration of an application with current code violations.

Timothy Coontz, 180 Woodside Drive, was placed under oath.

Mr. Coontz stated a business was being ran out of 153 Woodside Drive in 2015. Mr. Coontz also noted pesticides being used. Mr. Coontz also indicated he will be moving and has concerns regarding the subject property.

Mr. Chamblin noted he was informed by the Zoning Inspector he could construct a building to store his equipment.

Mr. McKitrick asked if the Applicant intends to live at 153 Woodside Drive.

Mr. Chamblin indicated in the affirmative.

The Board noted they would like to see the elevation plans along with the Zoning Inspector's progress report for the July hearing.

Ms. Rhodeback made a motion to table Variance Application VA-19-017 to the July 8, 2019 hearing. Seconded by Mr. Howe. Mr. Ashcraft, Mr. Howe, Mr. McKitrick and Ms. Rhodeback voted yes. The motion was approved.

Next on the Agenda, Findings of Fact:

Variance Application VA-19-011

- | <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> |
| ✓ | | a) <i>The applicant/owner created the alleged hardship; or</i> |

- ✓ b) *The Board finds that the application is primarily made for purposes of convenience or profit; or 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) *A substantial ground offered in support of an application for use variance is the existence of other non-conforming use of neighboring lands, structures, or buildings, in the same zoning district or in other zoning districts.*

Mr. Ashcraft made a motion to approve Findings of Fact for VA-19-011. Seconded by Mr. Howe. Mr. Howe, Mr. Ashcraft, Ms. Rhodeback and Mr. McKitrick voted yes. The motion was approved.

Variance Application VA-19-015

- | <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> |

Mr. Howe made a motion to approve Findings of Facts for VA-19-015. Seconded by Mr. Ashcraft. Mr. Ashcraft, Mr. Howe, Mr. McKitrick and Ms. Rhodeback voted yes. The motion was approved.

Variance Application VA-19-016

- | <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) *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;*
- ✓ 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.*

Ms. Rhodeback made a motion to approve Findings of Facts for VA-19-016. Seconded by Mr. Howe. Ms. Rhodeback, Mr. McKitrick, Mr. Ashcraft and Mr. Howe voted yes. The motion was approved.

Next on the Agenda, Other Business.

None was given.

Next on the Agenda, approval of the May 13, 2019 regular meeting minutes.

Mr. Howe made a motion to approve the May 13, 2019 meeting minutes. Seconded by Ms. Rhodeback. Mr. Howe, Mr. Ashcraft, Mr. McKitrick and Ms. Rhodeback voted yes. The motion was approved.

Mr. McKitrick noted he will be moving from Pataskala and issuing a letter of resignation.

Mr. Ashcraft made a motion to adjourn the meeting. Seconded by Mr. Howe. Mr. Howe, Mr. Ashcraft, Ms. Rhodeback and Mr. McKitrick voted yes. The meeting was adjourned at 8:55 p.m.

Minutes of the June 10, 2019 meeting were approved on

_____, 2019.
