

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

Monday, July 8, 2019

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

Present were:

Robert Platte, Chairperson

Bruce Ashcraft

Alan Howe

TJ Rhodeback

City of Pataskala Planning and Zoning Department staff:

Scott Fulton, Planning and Zoning Director

Jack Kuntzman, City Planner

Mr. Platte opened the hearing at 6:32 p.m., followed by the Pledge of Allegiance.

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

First on the Agenda, nomination of Vice Chairperson.

Mr. Platte nominated Alan Howe to serve as Vice Chairperson. Seconded by Mr. Ashcraft. No vote was taken. Mr. Platte stated as there was only one nomination, Mr. Howe will automatically serve as the Vice Chairperson.

Next on the Agenda, Variance Application VA-19-002.

Mr. Platte noted Variance Application VA-19-002 has been requested to be tabled.

A discussion was had regarding allowing testimony to be heard.

Ms. Rhodeback made a motion to remove from the table Variance Application VA-19-002. Second by Mr. Howe. Ms. Rhodeback, Mr. Platte, Mr. Ashcraft and Mr. Howe voted yes. The motion was approved.

Drew Clark, 174 Wintergreen Loop, was placed under oath.

Mr. Clark noted referenced 1211.07(a) of the Pataskala Code.

Eric Fahner, 667 Forward Pass, was placed under oath.

Mr. Fahner agreed with Mr. Clark's comments. Noted concerns regarding drainage issues.

Mr. Platte asked that duplicate testimony not be made as there are a lot of people present.

Tim Barrett, 575 Richmond Drive, was placed under oath.

Mr. Barrett noted the Planning and Zoning Commission denied the TCOD application, and stated giving testimony at the July 1st City Council meeting, requesting Council to reconsider zoning. RM Districts were also noted.

Nancy Arledge, 459 Middleground Road, was placed under oath.

Ms. Arledge noted concerns with the future of the City, and traffic issues.

Gary Sunderman, 652 Monticello Court, was placed under oath.

Mr. Sunderman stated the property annexed into the City was to be used for condominiums, and referenced Chapter 1239.01 of the Pataskala Code.

Robert Sexton, Jr., 5447 Watkins Road SW, was placed under oath.

Mr. Sexton noted the Applicant not meeting the required standards under Chapter 1211.07.

A discussion was had regarding the Comprehensive Plan.

Mr. Platte made a motion to table Variance Application VA-19-002 to the August 12, 2019 Board of Zoning Appeals hearing. Seconded by Mr. Ashcraft. Mr. Howe, Mr. Ashcraft, Ms. Rhodeback and Mr. Platte voted yes.

Next on the Agenda, remove from the table Variance Application VA-19-017.

Mr. Platte recused himself and handed the meeting over to Vice Chairperson Howe.

Ms. Rhodeback made a motion to remove Variance Application VA-19-017 from the table. Seconded by Mr. Ashcraft. 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 Applicant's request for approval of two variances, one to allow construction of a residence that will fail to meet the required front yard setback, and to allow for the construction of a residence that will fail to meet the required side yard setback in the R-87 zoning district. Previous hearing Information was provided for reference. Mr. Kuntzman reviewed the Applicant's elevations and noted Legal Counsel's opinion stating an application cannot be denied based on current zoning violations.

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

Mr. Howe asked if the Applicant was working with a contractor or architect.

Mr. Chamblin indicated he has not purchased plans at this point.

A discussion was had regarding elevations and location.

Mr. Chamblin noted landscaping.

Jonathan Crum, 227 Woodside Drive SW, was placed under oath.

Mr. Crum noted previous zoning violations and presented time-stamped photos.

Mr. Howe reiterated Legal Counsel's opinion regarding violations.

Mr. Crum noted concerns regarding questions that were presented from the previous hearing.

Tami Crum, 227 Woodside Drive SW, was placed under oath.

Ms. Crum noted her concerns, referencing photos that were taken, along with landscaping and maintenance issues.

Location and setbacks were discussed.

Rob Platte, 371 Woodside Drive SW, was placed under oath.

Mr. Platte stated many homes on Woodside Drive not meeting current zoning setbacks due to the merger with Lima Township. It was indicated Woodside Drive subdivision was platted in the late '50s, and the homes are considered legal nonconforming. Mr. Platte reiterated Legal Counsel's comments, including weighing what is being requested, the Findings of Fact and the Zoning Code. A letter submitted by Mr. Perry was referenced. Mr. Platte noted Findings of Facts, and stated there being no basis to grant the variance.

Findings of Fact were reviewed.

Ms. Rhodeback made a motion to approve from Sections 1229.05(C)(1) and 1229.05(C)(2) of the Pataskala Code for Variance Application VA-19-017 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. A variance from Section 1291.02(4) of the Pataskala Code shall be approved to allow for the expansion of a gravel driveway in a platted subdivision as part of variance application VA-19-017.
3. A variance from Section 1279.03(A)(1) of the Pataskala Code shall be approved to allow for the installation of a fence, no more than six (6) feet in height, to be constructed within the front building setback as part of variance application VA-19-017.

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

Mr. Platte rejoined the Board.

Next on the Agenda, Conditional Use Application CU-19-003, 470 East Broad Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request for a conditional use for a Tobacco Store located in the Kroger Shopping area. Area map was reviewed. Similar uses were noted. Department and Agency comments were noted.

Comprehensive Plan was noted.

Mr. Platte inquired as to standard items for conditional uses.

Mr. Fulton stated criteria would have been met with construction of the shopping center.

Findings of Fact were reviewed.

Mr. Howe made a motion to approve a conditional use pursuant to Section 1249.04(19) of the Pataskala Code for Conditional Use Application CU-19-003, 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.

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

Next on the Agenda, Variance Application VA-19-018, 332 Edenderry Drive.

Mr. Fulton gave an overview of the Staff Report, noting the Applicant's request for approval to allow an accessory building to be located in front of a principal structure. It was noted the proposed building is a 1,400 square foot detached garage. Elevations, setbacks and modifications were noted.

Findings of Fact were reviewed.

Ms. Rhodeback made a motion to approve Variance Application VA-19-018 from Section 1221.05(D)(1) of the Pataskala Code 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 identify the height of the proposed structure on the elevation plans when applying for the Accessory Building permit.

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

Next on the Agenda, Variance Application VA-19-019, 235 Wellington Place.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request for approval to allow for the construction of a fence exceeding 48-inches in height to be erected in front of the building setback line. It was noted the property has two adjacent right-of-ways, Wellington Place and East Broad Street. Area map was reviewed. No comments or concerns were received from Departments or Agencies.

Findings of Fact were reviewed.

Mr. Howe made a motion to approve Variance Application VA-19-019 from Section 1279.03(A)(1) of the Pataskala Code with the following supplementary conditions:

1. The Applicant shall obtain all necessary permits from the City of Pataskala within one (1) year of the

date of approval.

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

Next on the Agenda, Variance Application VA-19-020, 153 Mohican Lane.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request for approval of a variance to allow for the construction of a driveway that exceeds the 10 percent slope maximum. The approved zoning permit identified the slope of the driveway as 8.53 percent and during inspection of the forms, the slope measured at an average of 11.68 percent. It was noted the Applicant could either lower the garage floor or apply for a variance. No comments were received from Departments or Agencies.

Jorge and Marcia Espinosa, 3047 Avonlea Way, Lewis Center, were placed under oath.

Mr. Espinosa noted physical circumstances as to the excavator raising the house. Site plans were noted. Mr. Espinosa stated the floor could have been lowered minimally; however, they didn't want to cut into the swale of the neighboring lot.

Ms. Rhodeback asked if it was raised for water runoff.

Mr. Espinosa stated in the affirmative.

Ms. Espinosa indicated it was done to offer proper drainage.

Ms. Rhodeback asked if the property was lower than other surrounding properties.

Mr. Espinosa noted the elevations, and the excavator making adjustments.

Justin Hughes, 152 Mohican Lane, was placed under oath.

Mr. Hughes noted concerns with elevations, drainage and neighboring driveway slopes.

Joanne Docherty, 148 Mohican Lane, was placed under oath.

Ms. Docherty agreed with Mr. Hughes' comments, noted elevations and driveway grade issues.

Mr. Espinosa referenced the site plan, noted the driveway's dimensions and elevations.

Mr. Platte asked if it was intended to be built at the current height.

Mr. Espinosa agreed that the garage floor could have been adjusted, but not to the point where the 10 percent would have been met.

Mr. Platte noted the elevations on the site plan and asked if it was an error made by the excavator.

Mr. Espinosa stated to take drainage away from the house.

Ms. Espinosa indicated the building department allows changes in elevations. Ms. Espinosa stated it was not their intent to do what they wanted to do, but to build a nice home with proper drainage.

Ms. Rhodeback asked if there were unique circumstances that prohibited the property to be developed.

Mr. Espinosa indicated in the affirmative.

Elevations and grade were discussed.

Mr. Platte stated that the decision was made to pour the garage floor instead of making the adjustment.

Mr. Espinosa indicated in the affirmative.

Mr. Fulton noted the house not being constructed per the approved plans.

Mr. Espinosa again noted the building department allows for adjustment.

Mr. Fulton indicated the zoning department is not the building department.

Mr. Platte stated building permits go through the Licking County Building Department.

Revising plans were discussed.

Mr. Platte indicated if Lot 171 would have been built prior to this lot, there wouldn't have been an issue.

Mr. Espinosa noted Lot 171 would have built at the existing elevation and this house would have to hit the same elevation. Mr. Espinosa noted the grade adjacent to the setback was defined because it was existing.

Mr. Hughes noted the reason for codes and approved revisions should have been made.

Mr. Platte noted being on the record for two hours and suggested a five-minute recess.

Mr. Howe made a motion for a recess. Ms. Rhodeback seconded the motion. Mr. Ashcraft, Mr. Howe, Mr. Platte and Ms. Rhodeback voted yes. Recess was taken.

Back on the record.

Findings of Facts were reviewed.

Mr. Howe made a motion to approve a variance from Section 1121.13 of the Pataskala Code for Variance Application VA-19- 020 with the following supplementary conditions:

1. The Applicant shall obtain all necessary permits from the City of Pataskala within one (1) year of the date of approval.

The Board had discussion regarding issues and concerns.

Seconded by Mr. Ashcraft. Mr. Ashcraft, Mr. Howe, Mr. Platte and Ms. Rhodeback voted no. The motion was denied.

Next on the Agenda, Findings of Fact:**Variance Application VA-19-017**

- | <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. Ashcraft made a motion to approve Findings of Fact for VA-19-017. Seconded by Mr. Howe. Mr. Ashcraft, Mr. Howe and Ms. Rhodeback voted yes. Mr. Platte abstained. The motion was approved.

Conditional Use Application CU-19-003

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| ✓ | | 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 |

- ✓ 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,
- ✓ 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.

Mr. Howe made a motion to approve Findings of Facts for CU-19-003. Seconded by Ms. Rhodeback. Ms. Rhodeback, Mr. Platte, Mr. Ashcraft and Mr. Howe voted yes. The motion was approved.

Variance Application VA-19-018

- | <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> |

Ms. Rhodeback made a motion to approve Findings of Facts for VA-19-018. Seconded by Mr. Howe. Mr. Howe, Ms. Rhodeback, Mr. Platte and Mr. Ashcraft voted yes. The motion was approved.

Variance Application VA-19-019

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|------------------------------------------------------------------------------------------------|
| ✓ | | a) <i>Whether the property in question will yield a reasonable return or if there can be a</i> |

- beneficial use of the property;*
- ✓ 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.*

Mr. Ashcraft made a motion to approve Findings of Fact for VA-19-019. Seconded by Ms. Rhodeback. Mr. Ashcraft, Mr. Howe, Mr. Platte and Ms. Rhodeback voted yes. The motion was approved.

Variance Application VA-19-020

- | <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</i> |

- ✓ i) zoning restriction;
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. Ashcraft made a motion to approve Findings of Fact for VA-19-020. Seconded by Mr. Howe. Mr. Ashcraft, Mr. Howe, Mr. Platte and Ms. Rhodeback voted yes. The motion was approved.

Next on the Agenda, Excuse of Absence for Rob Platte from the June 10, 2019 meeting.

Mr. Ashcraft made a motion to excuse the absence of Mr. Platte from the June 10, 2019 Meeting. Seconded by Ms. Rhodeback. Ms. Rhodeback, Mr. Ashcraft and Mr. Howe voted yes. Mr. Platte abstained. The motion was approved.

Next on the Agenda, approval of the June 10, 2019 regular meeting minutes.

Ms. Rhodeback made a motion to approve the amended minutes from the June 10, 2019 regular meeting minutes. Seconded by Mr. Howe. Mr. Howe, Mr. Ashcraft, Ms. Rhodeback and Mr. Platte voted yes. The motion was approved.

Next on the Agenda, Other Business.

Discussion was had regarding conditional uses.

Mr. Ashcraft made a motion to adjourn the meeting. Seconded by Ms. Rhodeback. Mr. Howe, Mr. Ashcraft, Ms. Rhodeback and Mr. Platte voted yes. The meeting was adjourned at 9:01 p.m.

Minutes of the July 8, 2019 meeting were approved on

_____, 2019.
