

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

Tuesday, May 11, 2021

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, Pataskala City Hall, 621 West Broad Street, Pataskala, Ohio, on Tuesday, May 11, 2021.

Present were:

William Cook

Alan Howe, Chairman

Jenna Kennedy, Vice Chairperson

Christine Lawyer

TJ Rhodeback

City of Pataskala Planning and Zoning Department Staff:

Scott Fulton, Planning and Zoning Director

Jack Kuntzman, City Planner

Lisa Paxton, Zoning Clerk

Alan Haines, Public Service Director

Brian Zetz, City Attorney

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

Present were: William Cook, Alan Howe, Jenna Kennedy, Christine Lawyer and TJ Rhodeback were not present.

First on the Agenda, Remove from Table, Appeal Application AP-21-001.

Mr. Cook made a motion to remove from Table Appeal Application AP-21-001. Seconded by Ms. Lawyer. Mr. Howe, Ms. Lawyer, Mr. Cook, Ms. Rhodeback and Ms. Kennedy voted yes. The motion was approved.

Next on the Agenda, Appeal Application AP-21-001.

Mr. Fulton gave a summary of the Applicant's Appeal, noting the driveway's current use for emergency use only. 2016, 2019 permits were noted. It was noted the 2021 permit request to remove the Emergency Access Condition was disapproved due to traffic and safety concerns, and TS Tech is appealing that decision.

Scott Seaman, Project Manager/Traffic Engineer, GPD Group, was placed under oath.

Mr. Seaman noted the definition of a storage lane.

Darcy Jalandoni, Esq., 41 South High Street, was placed under oath.

Mr. Howe and Ms. Jalandoni discussed the previous hearing's requests.

A discussion was had regarding examination of Mr. Seaman.

Ms. Jalandoni noted issues with the traffic study.

A discussion was had regarding traffic accident reports and safety concerns.

Erin Wiggins, Esq., TS Tech, 8458 E Broad Street, was placed under oath.

Mr. Wiggins stated there were other options offered to the City.

Mr. Fulton noted previous meetings with TS Tech and no proposals were presented. Mr. Fulton further stated tonight's hearing is based upon the application that was denied.

Mr. Howe made a motion to approve the Applicant's appeal, pursuant to Section 1211.03 of the Pataskala Code, because the Planning and Zoning Department should have approved the driveway permit application removing the restrictions for emergency access only. Seconded by Ms. Lawyer. Mr. Howe, Ms. Lawyer, Mr. Cook, Ms. Rhodeback and Ms. Kennedy voted no. The motion failed.

Next on the Agenda, Variance Application VA-21-017, 35 Broad Street SW.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request to construct an accessory building that will exceed the maximum square footage allowable and be located within a "front yard". It was noted the property has frontage on three public rights-of-way. Aerial view, proposal and current conditions were reviewed.

A discussion was had regarding setbacks.

Brenda Colson, 35 Broad Street SW, was placed under oath.

Ms. Colson stated replacing the 80-year-old garage.

Findings of Fact were reviewed.

Ms. Lawyer made a motion to approve variances from Sections 1221.05(D)(1) and 1229.05(C)(4) of the Pataskala Code for Variance Application VA-21-017 with the following 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 not impair any public utilities with the proposed improvements.

Seconded by Mr. Cook. Mr. Cook, Mr. Howe, Ms. Kennedy, Ms. Lawyer and Ms. Rhodeback voted yes. The motion was approved.

Next on the Agenda, Variance Application VA-21-018, 124 Lincoln Street SW.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request of a Variance from Section 1279.03(A)(2) to allow for the construction of a fence that exceeds the maximum height when in a front yard. The property has three public rights-of-way. Aerial view, proposal and current conditions were reviewed. Public Service Director comments were noted.

A discussion was had regarding sight triangle.

Arica McKenzie, 124 Lincoln Street, SW, was placed under oath.

It was stated that if the City would need to improve the alley, the proposed fence would need to be modified accordingly.

It was noted the Applicant was not aware of the zoning restrictions.

Findings of Fact were reviewed.

Ms. Rhodeback made a motion to approve a variance from Section 1279.03(A)(1) of the Pataskala Code for Variance Application VA-21-018 with the following 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 Board of Zoning Appeals shall approve a Variance from 1279.03(A)(5) of the Pataskala Code until such time as the alley is improved.
3. The Applicant shall agree that the City of Pataskala reserves the right to improve the alleyway along the northern rear property line, and should said alleyway be improved, then the Applicant shall modify the fence to meet the sight triangle requirements of 1279.03(A)(5).

Seconded by Mr. Cook. Ms. Kennedy, Ms. Rhodeback, Mr. Howe, Mr. Cook and Ms. Lawyer voted yes. The motion was approved.

Mr. Howe made a motion for a recess. Ms. Kennedy seconded the motion. Mr. Cook, Ms. Rhodeback, Mr. Howe, Ms. Kennedy and Ms. Lawyer voted yes. The motion was approved.

Off the record at 7:46 p.m.

Mr. Howe made a motion back on the record. Seconded by Ms. Lawyer. Ms. Kennedy, Ms. Rhodeback, Mr. Cook, Ms. Lawyer and Mr. Howe voted yes. The motion was approved.

Back on the record at 7:51 p.m.

Next on the Agenda, Variance Application VA-21-019, 3671 Headleys Mill Road SW.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request for a variance from Section

1225.05(C)(3) to allow for the construction of a Single-Family Home that will not meet the required rear yard setback, and Section 1221.05(D)(1) for an existing Accessory Building to be in front of the primary structure. Aerial view, proposal and current conditions were reviewed.

No comments were presented.

It was noted the property owners were not aware of the zoning restrictions.

Findings of Fact were reviewed.

Ms. Kennedy made a motion to approve variances from Section 1225.05(C)(3), and Section 1221.05(D)(1) of the Pataskala Code for Variance Application VA-21-019 with the following 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. Cook. Ms. Rhodeback, Mr. Cook, Mr. Howe, Ms. Kennedy and Ms. Lawyer voted yes. The motion was approved.

Next on the Agenda, Conditional Use CU-21-001, 370 East Broad Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant is requesting approval of a Conditional Use, pursuant to Section 1249.04(17) of the Pataskala Code, for a primary care medical office. Aerial view, proposal and current conditions were reviewed. Pataskala Utilities Department comments were noted.

It was noted the location was previously approved for a dental office.

Jason Koma, 6150 East Broad Street, Columbus, was placed under oath.

Mr. Koma noted providing the community with primary care services.

Findings of Fact were reviewed.

Ms. Lawyer made a motion to approve a conditional use, pursuant to Section 1215.08 of the Pataskala Code, for application CU-21-001 with the following conditions:

1. The Applicant shall obtain all necessary permits from the City of Pataskala within six (6) months of the date of approval.
2. The Applicant shall address all comments from the Pataskala Utilities Department.

Seconded by Mr. Cook. Ms. Lawyer, Ms. Rhodeback, Ms. Kennedy, Mr. Cook and Mr. Howe voted yes. The motion was approved.

Next on the Agenda, Conditional Use CU-21-002, 15000 East Broad Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant is seeking approval of a Conditional Use to allow for a restaurant with a drive-thru facility. It was noted the Applicant is proposing to demolish the existing structures that are located within the lot and construct a "Dairy Queen Grill & Chill". Aerial view, proposal and current conditions were reviewed. Departmental, School District and Agency comments were

noted.

A discussion was had regarding the parking lot, lighting and flooding issues.

Mr. Fulton noted the development will go before the Planning and Zoning Commission with a Transportation Corridor Overlay District Application.

Todd Parker, PO Box 86, New Albany, was placed under oath.

Mr. Parker noted being the architect that prepared the preliminary site plan. If approved, surveyors will begin next week on elevation and grades and will work on storm water management. Mr. Parker stated all comments will be addressed. Access was also noted.

Findings of Fact were reviewed.

Ms. Rhodeback made a motion to approve a Conditional Use, pursuant to Section 1215.08 of the Pataskala Code, for application CU-21-002 with the following conditions:

1. The Applicant shall address all comments from Planning and Zoning, City Engineer, and the Public Service Director, and the Licking Heights Local School District.
2. The Applicant shall carry out the proposed use within six (6) months of the date of approval.
3. Any Conditions from Section 1215.05 that the Board of Zoning Appeals feels appropriate for the proposed use:
 - 1215.05(A)(7): All permitted installations shall be kept in a neat and orderly condition so as to prevent injury to any single property, individual, or to the community in general.
 - 1215.05(B)(1): No lighting shall constitute a nuisance and shall in no way impair safe movement of traffic on any street or highway.
 - 1215.05(E)(7): Such use should be subject to the restrictions outlined in Chapter 1259, Transportation Corridor Overlay District.

Ms. Lawyer seconded the motion. Ms. Kennedy, Ms. Lawyer, Mr. Cook, Ms. Rhodeback and Mr. Howe voted yes. The motion was approved.

Next on the Agenda, Findings of Fact.

Variance Application VA-21-017

- | <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) *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. Howe made a motion to approve Findings of Fact for VA-21-017. Seconded by Mr. Cook. Ms. Rhodeback, Mr. Howe, Ms. Kennedy, Ms. Lawyer and Mr. Cook voted yes. The motion was approved.

Variance Application VA-21-018

- | <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> |

Mr. Howe made a motion to approve Findings of Fact for VA-21-018. Seconded by Ms. Lawyer.
Mr. Howe, Ms. Lawyer, Mr. Cook, Ms. Rhodeback and Ms. Kennedy voted yes. The motion was approved.

Variance Application VA-21-019

- | <u>Yes</u> | <u>No</u> | |
|------------|-----------|--|
| ✓ | | a) <i>Whether the property in question will yield a reasonable return or if there can be a 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 Fact for VA-21-019. Seconded by Ms. Kennedy. Ms. Lawyer, Ms. Rhodeback, Ms. Kennedy, Mr. Cook and Mr. Howe voted yes. The motion was approved.

Conditional Use CU-21-001

- | <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 Conditional Use CU-21-001 Findings of Fact. Seconded by Mr. Cook. Mr. Cook, Ms. Rhodeback, Mr. Howe, Ms. Kennedy and Ms. Lawyer voted yes. The motion was approved.

Conditional Use CU-21-002

- | <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 Conditional Use CU-21-002 Findings of Fact. Seconded by Ms. Kennedy. Ms. Kennedy, Ms. Rhodeback, Mr. Cook, Ms. Lawyer and Mr. Howe voted yes. The motion was approved.

Next on the Agenda Excuse of Absence of Ms. Rhodeback from the April 13, 2021 meeting.

Mr. Howe made a motion to approve the absence of Ms. Rhodeback. Seconded by Ms. Lawyer. Ms. Lawyer, Ms. Kennedy, Mr. Cook and Mr. Howe voted yes. Ms. Rhodeback abstained. The motion was approved.

Next on the Agenda Excuse of Absence of Ms. Kennedy from the April 13, 2021 meeting.

Mr. Howe made a motion to approve the absence of Ms. Kennedy. Seconded by Mr. Cook. Ms. Rhodeback, Mr. Howe, Ms. Lawyer and Mr. Cook voted yes. Ms. Kennedy abstained. The motion was approved.

Next on the Agenda, approval of April 13, 2021 Regular Meeting Minutes.

Mr. Howe made a motion to approve the April 13, 2021 regular meeting minutes. Seconded by Mr. Cook. Ms. Kennedy, Mr. Howe, Mr. Cook and Ms. Lawyer voted yes. Ms. Rhodeback abstained. The motion was approved.

No other business was given.

Adjournment of Meeting to Tuesday, June 8, 2021.

Mr. Cook made a motion to adjourn the meeting to June 8, 2021. Seconded by Ms. Kennedy. Mr. Howe, Ms. Kennedy, Ms. Rhodeback, Ms. Lawyer and Mr. Cook voted yes. The motion was approved.

The hearing was adjourned at 8:43 p.m.

Minutes of the May 11, 2021 regular meeting were approved on

_____, 2021.