

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

Tuesday, March 8, 2022

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, Pataskala City Hall, 621 West Broad Street, Pataskala, Ohio, on Tuesday, March 8, 2022.

Present were:

Alan Howe, Chairman

Rob Jimison, Vice Chairman

Richard Cooper

Douglas Dandurand

City of Pataskala Planning and Zoning Department Staff:

Jack Kuntzman, City Planner

Lisa Paxton, Zoning Clerk

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

Rollcall was made. Present were: Alan Howe, Rob Jimison, Richard Cooper and Douglas Dandurand. William Cook was not present.

First on the Agenda, Variance Application VA-22-004, 21 Depot Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request to allow for a reduced rear yard patio setback. Area map and site plan were reviewed. Pictures of current conditions were noted.

Josh Wise, 353A S Main Street, Pataskala, was placed under oath.

Mr. Wise noted the discovery of a septic tank during excavation. The tank was removed and capped off which is why the patio was extended to the rear property line.

Findings of Facts were reviewed.

Mr. Cooper made a motion to approve a variance from Section 1221.05(B)(2)(ii) of the Pataskala Code for Variance Application VA-22-004 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. Findings of Facts for Variance Application VA-22-004.

Seconded by Mr. Jimison. Mr. Dandurand, Mr. Cooper, Mr. Jimison and Mr. Howe voted yes. The motion was approved.

Next on the Agenda, Variance Application VA-22-005, 186 Cedar Street.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request to construct an accessory building within the front yard setback. Area map and site plans were reviewed. Pictures of current conditions were noted.

A discussion was had regarding the vacant alley to the north of 186 Cedar Street.

Aaron Crater, 186 Cedar Street, Pataskala, was placed under oath.

Mr. Crater stated needing the shed for extra storage.

Findings of Facts were reviewed.

Mr. Jimison made a motion to approve a variance from Section 1221.05(D)(1) of the Pataskala Code for Variance Application VA-22-005 with the following condition:

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. Dandurand. Mr. Howe, Mr. Jimison, Mr. Cooper and Mr. Dandurand voted yes. The motion was approved.

Next on the Agenda, Variance Application VA-22-006, 3994 Hazelton-Etna Road.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request of two (2) variances, the first from 1221.05(D)(1) to allow for the principal structure to be located behind an accessory building. The second, from Section 1225.05(C)(2) to allow for a reduced side yard setback from 50-feet to 20-feet for principal structures. Area map was reviewed. Existing conditions were noted. Preliminary site plans were reviewed.

Benjamin Pacheco Robles, 4100 Seigman Avenue, Columbus, was placed under oath.

Mr. Robles stated the barn will remain as it is in good condition.

A discussion was had regarding the planned location of a new home.

Findings of Facts were reviewed.

Mr. Dandurand made a motion to approve two Variances; one from Section 1225.05(C)(2) and one Section 1221.05(D)(1) of the Pataskala Code for Variance Application VA-22-006 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. Jimison. Mr. Cooper, Mr. Jimison and Mr. Dandurand voted yes. Mr. Howe abstained. The motion was approved.

Next on the Agenda, Variance Application VA-22-007, 14767 Morse Road SW.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request to allow for an automobile related use to be considered a permitted Home Occupation. Area map was reviewed. Pictures of current conditions were noted. It was noted complaints were received concerning an automotive repair business operating from the property. Mr. Kuntzman noted Type B Home Occupation requirements along with Pataskala Code 1267.03(b)(1) noting that any type of repair or assembly of vehicles or equipment with internal combustion engines, or any work related to automobiles, is prohibited as either a Type A or Type B Home Occupation, without a variance being approved to remove the prohibition on an automobile repair business. It was further stated if the variance is approved, a Conditional Use approval for a Home Occupation will be required. Planning and Zoning Staff comments, Zoning Inspector comments and Licking County Health Department comments were noted. It was also stated an email was received prior to the hearing from a neighbor, Kara Zitko, regarding their concerns.

A discussion was had regarding variances and conditional uses.

Stephen Buhrts, 14767 Morse Road SW, Pataskala, was placed under oath.

Mr. Buhrts noted purchasing the property and being an ideal location to work on hobbies and meet with friends. It was stated the last few years being rough and friends suggested doing a business. It was stated the business has been operating the last couple of months. Mr. Buhrts stated receiving an LLC in October of 2020, and started side jobs last summer. Repairing and modifications of cars were noted. Fencing and landscaping were also noted. Traffic from the industrial businesses across the street were also noted.

Steven Bogner, 14745 Morse Road SW, was placed under oath.

Mr. Bogner noted concerns with an automobile repair business in a residential neighborhood, including concerns with automotive waste.

Mr. Howe inquired as to other neighbor concerns regarding noise and traffic.

Mr. Buhrts stated having friends over on Sundays, working on cars, playing pool and watching Sunday games. Mr. Buhrts indicated having local vendors that deal with the automobile fluids. Metal and batteries are recycled, and using capped and sealed metal drums for hazardous material.

Mr. Howe noted Section 1211.07(b) of the Pataskala Code regarding Use Variances.

Mr. Dandurand noted concerns with accumulation of vehicles.

Mr. Jimison inquired if this was his primary business.

Mr. Buhrts stated it is for extra income and having no plans to add on to the business.

Findings of Facts were reviewed.

Mr. Howe made a motion to approve a variance from Section 1267.03(B)(1) of the Pataskala Code for Variance Application VA-22-007 with the following conditions:

1. Conditional Use Application CU-22-004 must be approved by the Board of Zoning Appeals before the approval shall take effect.

2. The Use Variance approved by this Application shall only apply to the Applicant, and only to the subject property (PID: 063-141696-06.000).

Seconded by Mr. Cooper. Mr. Cooper, Mr. Howe and Mr. Dandurand voted no. Mr. Jimison voted yes. The motion was denied.

A discussion was had regarding moving forward with Conditional Use Application CU-22-004, as the approval of a Conditional Use Application is contingent on the approval of the Variance Application.

Mr. Kuntzman noted the prohibition on automotive uses as a home occupation and believes the conditional use would be void, and without the approval of a variance, the conditional use could not be approved.

Mr. Howe indicated the Conditional Use application would be null and void.

Next on the Agenda, Findings of Fact.

Variance Application VA-22-004

<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 Variance Application VA-22-004. Seconded by Mr. Cooper. Mr. Dandurand, Mr. Cooper, Mr. Jimison and Mr. Howe voted yes. The motion was approved.

Variance Application VA-22-005

- | <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 Variance Application VA-22-005. Seconded by Mr. Jimison. Mr. Howe, Mr. Jimison, Mr. Cooper and Mr. Dandurand voted yes. The motion was approved.

Variance Application VA-22-006

- | <u>Yes</u> | <u>No</u> | |
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| ✓ | | 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) *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 Facts for Variance Application VA-22-006. Seconded by Mr. Dandurand. Mr. Cooper, Mr. Howe, Mr. Jimison and Mr. Dandurand voted yes. The motion was approved.

Variance Application VA-22-007

- | <u>Yes</u> | <u>No</u> | |
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| ✓ | | 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. Howe made a motion to approve Findings of Facts for Variance Application VA-22-007. Seconded by Mr. Cooper. Mr. Jimison, Mr. Cooper, Mr. Howe and Mr. Dandurand voted yes. The motion was approved.

Next on the Agenda, Approval of Minutes from the February 8, 2022 Regular Meeting.

Mr. Howe made a motion to approve the Minutes of the February 8, 2022 regular meeting. Seconded by Mr. Jimison. Mr. Cooper, Mr. Howe, Mr. Jimison and Mr. Dandurand voted yes. The motion was approved.

No other business was given.

Mr. Cooper made a motion to adjourn the meeting. Seconded by Mr. Howe. Mr. Dandurand, Mr. Cooper, Mr. Jimison and Mr. Howe voted yes. The meeting was adjourned at 7:55 p.m.

After the hearing was adjourned, it was noted although Variance Application VA-22-007 was denied, Conditional Use Application CU-22-002 was required to be heard by the Board and the meeting was reopened.

Rollcall was made. Present were: Alan Howe, Rob Jimison, Richard Cooper and Douglas Dandurand. Mr. Cook was not present.

Next on the Agenda, Conditional Use Application CU-22-004, 14767 Morse Road SW.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request to allow a Home Occupation, consisting of a general automotive repair business, to be established at the property. Area view was noted. Fencing was noted along with a survey of sound readings. Home Occupation Type B requirements and restrictions were noted. Nuisance regulations of Chapter 1287 were noted. Zoning Inspector comments were noted along with Licking County Health Department comments.

No further comments were made.

Findings of Facts were reviewed.

Mr. Dandurand made a motion to approve a Conditional Use pursuant to Section 1215.08 of the Pataskala Code for application CU-22-004 with the following conditions:

1. The Applicant shall obtain all necessary permits from the City of Pataskala, the Licking County Health Department, and the Licking County Building Department within six (6) months of the date of approval.
2. Variance Application VA-22-007 must be approved by the Board of Zoning Appeals before this Conditional Use may come into effect.
3. The Conditional Use approval shall only apply to the Applicant, and only to this property (Parcel ID: 063-141696-06.000).

4. Applicant shall adhere to all applicable Home Occupation requirements of Chapter 1267.

Seconded by Mr. Jimison. Mr. Howe, Mr. Jimison, Mr. Dandurand and Mr. Cooper voted no. The motion was denied.

Next on the Agenda, Finding of Facts.

Conditional Use Application CU-22-004

Yes No

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| ✓ | 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 Conditional Use Application CU-22-004. Seconded by Mr. Jimison. Mr. Howe, Mr. Jimison, Mr. Dandurand and Mr. Cooper voted yes. The motion was approved.

No other business was given.

Mr. Howe made a motion to adjourn the meeting. Seconded by Mr. Jimison. Mr. Dandurand, Mr. Cooper, Mr. Howe and Mr. Jimison voted yes. The meeting was adjourned at 8:16 p.m.

Minutes of the March 8, 2022 regular meeting were approved on

_____, 2022.