
MINUTES OF THE

CITY OF PATASKALA BOARD OF ZONING APPEALS

Tuesday, June 14, 2016

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio on Tuesday, June 14, 2016.

Present were:

Matt Dixon, Chairman

Catherine Baird, Vice Chairman

Kathleen Hasson

T.J. Rhodeback

Steve Valentine

City of Pataskala Planning and Zoning Department staff:

Scott Fulton, Director of Planning

Lisa Paxton, Zoning Clerk

Chairman Dixon opened the hearing at 6:31 p.m., followed by the Pledge of Allegiance. Roll call was made.

Present were: Matt Dixon, Catherine Baird, Kathleen Hasson, Steve Valentine and T.J. Rhodeback.

First on the Agenda, ***Variance Application VA-16-010.***

Paul Stephen Deason was placed under oath.

Mr. Deason reviewed his application, requesting to construct two accessory buildings that would be 704 square feet greater than the maximum size allowed. Mr. Deason noted the history of the previous structure, and stated the structure would be the same size as the previous building. Mr. Deason indicated he is wanting to begin construction immediately.

Mr. Dixon inquired as to the pictures the Zoning Inspector included in the hearing packet, showing cars and car parts in the yard.

Mr. Deason indicated they were his personal vehicles, and the new structure would allow for storage of same.

Mr. Fulton gave an overview of his Staff Report, noting the Applicant having two front yards, Main Street and Wood Street. Mr. Fulton stated the Applicant is requesting two variances, one to exceed the maximum allowed square footage of accessory buildings, a 96 square foot accessory building, and an 896 square foot accessory building to be placed in the front yard (Wood Street) of the principal structure, and exceeding the allowable maximum square footage by 704 square feet. Mr. Fulton noted letters of support from neighbors. Mr. Fulton reviewed pictures the zoning inspector provided, showing October and December 2015, and June 14, 2016. Mr. Fulton informed the Board the Zoning Inspector has been working with the Applicant.

Mr. Dixon inquired as to the structure being grandfathered in.

Mr. Fulton noted if the use lapses or the structure goes away in excess of two years, it becomes nullified and will need to come into current compliance.

A discussion was had regarding neighboring barns.

Ms. Baird made a motion to approve Variance Application VA-16-010 from Sections 1221.05(B)(2) and 1225.05(I)(1) of the Pataskala Code with the following modifications:

1. The Applicant shall construct the accessory buildings as submitted within one (1) year of the date of approval.
2. The accessory buildings shall not create drainage issues on adjacent properties.
3. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department prior to construction of the accessory building.

Seconded by Mr. Valentine. Mr. Dixon, Ms. Baird, Ms. Hasson, Mr. Valentine and Ms. Rhodeback voted yes. The motion was approved.

Mr. Dixon noted the 30-day appeal period.

Next on the Agenda, **Variance Application VA-16-012**.

Mr. Dixon recused himself from Variance Application VA-16-012, as he is the listing agent for Mr. Albright's property. Mr. Dixon was not present in Council Chambers for Variance Application VA-16-012.

Robert Albright, 345 Meadow Way, was placed under oath.

Mr. Albright reviewed the current zoning setbacks for his property. Mr. Albright indicated he is requesting 40 foot setbacks on the east and west side of the property, and would like to sell the property, or build a home.

Mr. Fulton gave an overview of his Staff Report, noting the property being located on the southeast corner of Graham Road and Merritt Road. The property is a corner lot, having two front yards, per the Code. The front and rear yard setbacks in the R-87 district are 75 feet, with side yard setback of 25 feet. The property has approximately 133 feet along Graham Road. Mr. Fulton indicated with the front yard setback of 75 feet from Merritt Road and 25 foot side yard setback from the eastern property line, the lot would have a buildable area of approximately 33 feet wide. This is in addition to a 75 foot rear yard setback from the southern property line which further limits the buildable area. The Applicant is requesting to reduce the front and rear yard setbacks to 40 feet from the required 75 feet, a reduction of 35 feet.

Ms. Baird asked if any builders have been to the site.

Mr. Albright noted he has an interested party to purchase the property; however, they will not purchase if the setbacks are not changed, as they will be unable to build the type of home they are wanting.

Ms. Rhodeback asked if there were any building specifications in the packet.

Mr. Albright indicated he did not have any specifications.

Ms. Baird asked Mr. Fulton if the homes in the neighborhood meet the current zoning requirements.

Mr. Fulton noted the code allowing setback averaging; however, the property is located on a corner lot, which doesn't allow for setback averaging.

Carla Johnson, 14707 Graham Road, was placed under oath.

Ms. Johnson stated she lives on the opposite corner of the property. Ms. Johnson noted her concerns being the property would require a septic and well, and there are being current drainage issues in the area.

Ms. Baird asked Ms. Johnson if she has issues with the proposed setbacks.

Mr. Johnson noted tiles running under the road and current drainage issues, and indicated having no concerns as long as there were no future drainage issues.

A discussion was had regarding building requirements and drainage.

Mr. Valentine made a motion to approve variances from Section 1229.05(C)(1) and 1229.05(C)(3) of the Pataskala Code for application VA-16-012. Seconded by Ms. Hasson. Ms. Baird, Ms. Hasson, Mr. Valentine and Ms. Rhodeback voted yes. The motion was approved.

Ms. Baird noted the 30-day appeal period.

Next on the Agenda, ***Variance Application VA-16-013.***

Matt Dixon, 5694 Headleys Mill Road, was placed under oath.

Mr. Dixon stated he is asking for a HER real estate agency at the location of 263 Hazelton-Etna Road. Mr. Dixon noted he does not expect traffic issues. Mr. Dixon noted the City requesting four parking spaces and the City's Service Director requesting to close the driveway closest to the stop sign. Mr. Dixon stated this office would be closer to his and his wife's businesses and would allow them to build their real estate business.

Ms. Baird asked if there would be any odd hours.

Mr. Dixon noted 9:00 to 5:00, if a receptionist is hired; however, real estate dealings do happen after 5:00, but walk-in business would be 9:00 to 5:00.

Ms. Hasson inquired as to signage and parking.

Mr. Dixon stated he will be going before the Planning and Zoning Commission for the Transportation Corridor Overlay District. Mr. Dixon noted, logistically, parking can only be placed in the front of the house.

Mr. Fulton reviewed his Staff Report, noting this being a Use Variance for a use variance in a residential district. Mr. Fulton noted trying to rezone the parcel; however, it would be difficult as the Future Land Use Map recommendation it remains residential. Mr. Fulton reiterated the City's Public Service Director requesting eliminating the two access point and create one, and Mr. Dixon to work with the Public Service Director to design the driveway location as to not negatively impact Headleys Mill Road. Mr. Fulton noted the Transportation Corridor Overlay District regarding signage.

Mr. Dixon also noted the use variance would be non-transferable.

Mr. Fulton stated in the modifications, the property would only be used solely as a real estate office operated by Mr. and Mrs. Dixon.

Richard Cairney, 93 Oak Canyon Drive, was placed under oath.

Mr. Cairney noted having issues with the application process, and issues regarding placing a business in a residential setting, and the values of properties being decreased. Mr. Cairney stated he believes the immediate and ongoing negative impact in the overall neighborhood overrides the approval of the request.

A discussion was had regarding the driveway's access points.

Mr. Cairney noted his objection having a concrete parking lot rather than a residential-appearing business.

Mr. Dixon noted if comparing the property presently and three months from now, the property value would not go down. Mr. Dixon also noted if his property were changed to a commercial development, it would change surrounding property value.

Ms. Hasson inquired as to landscaping in front of the parking lot.

Mr. Fulton noted if the use variance is approved, per the provisions of the Code, landscaping would be required to be installed around the parking lot.

Mr. Valentine made a motion to approve a use variance, pursuant to Section 1211.07(B) of the Pataskala Code, for Application VA-16-013 with the following modifications:

1. The only commercial use permitted on the property without a home occupation permit shall be a real estate office.
2. The real estate office shall be operated only by the applicants.
3. The Applicant shall receive approval from the Public Service Director for the appropriate size, Construction n and location of the access drive.

Seconded by Ms. Hasson. Ms. Hasson, Ms. Baird and Mr. Valentine voted yes. Ms. Rhodeback voted no. The motion was approved.

Ms. Baird reviewed the 30-day appeals period.

Ms. Baird turned the gavel over to Mr. Dixon.

Next on the Agenda, Variance Application VA-16-014

Codie Stanley, AZ Contracting, 8220 Richardson Road, Groveport, Ohio, was placed under oath.

Ms. Stanley noted the homeowner is wanting to install a 6-foot privacy fence on a corner lot. Ms. Stanley gave an overview of where the fence would be located.

Ms. Baird asked if the fence would be located in the back of the house, in an easement.

Mr. Fulton stated he has spoken with the homeowner, and the pool would be a temporary pool that could be relocated.

Rhonda Imes, 624 Pack Street, was placed under oath.

Ms. Imes noted the options regarding four-foot fences, and wanting to install the 6-foot fence for privacy.

Mr. Fulton noted due to the corner lot, it is the two-front yards situation.

Ryan O'Halloran, 755 Ridgeview Drive, was placed under oath.

Mr. O'Halloran stated he lives across the street from 624 Pack Street. Mr. O'Halloran noted the deed restrictions restricting 6-foot fences in the neighborhood.

Mr. Fulton noted deed restrictions are enforced by the homeowners' association. Mr. Fulton stated the City only goes by the Zoning Code and cannot enforce deed restrictions. Mr. Fulton noted if the Board approves the 6-foot fence, the homeowner needs approval from the homeowners' association.

Mr. O'Halloran noted the homeowners' association has not existed in the past six, eight years, but could come back into play and a lien could be placed on the property because it does not meet the deed restrictions that are in place. Mr. O'Halloran also noted there being six-foot fences in the neighborhood, which the homeowner took upon themselves, and took that chance. Mr. O'Halloran also noted not wanting to see a six-foot fence outside his front door, right across the street.

Ms. Hasson asked if Mr. O'Halloran would notice a difference between a four-foot and six-foot fence.

Mr. O'Halloran noted a four-foot fence is within the rules.

Ms. Stanley approached the Board, showing the type of privacy fences they build.

Ms. Baird asked if there were any other concerns received by neighbors.

Mr. Fulton indicated no other comments being received.

Ms. Rhodeback made a motion to disapprove a variance from Section 1279.03 (A)(3) of the Pataskala Code for Application VA-16-014. Ms. Hasson seconded the motion. Mr. Valentine, Ms. Rhodeback, Mr. Dixon, Ms. Baird and Ms. Hasson voted yes. The motion was not approved.

Mr. Dixon noted the motion was disapproved probably due to the deed restrictions, and the homeowners' association that may or may not be involved.

Next on the Agenda, Variance Application VA-16-015, has been requested to be tabled.

Ms. Baird made a motion to table Variance Application VA-16-015. Seconded by Ms. Hasson. Mr. Dixon, Ms. Baird, Ms. Hasson, Mr. Valentine and Mr. Rhodeback voted yes. The motion was approved.

Next on the Agenda, Variance Application VA-16-011.

Quinta Ntemgwa, 950 Sara Court, was placed under oath.

Ms. Ntemgwa stated she is requesting a variance to construct a 12' by 18' deck in the rear of her property. Ms. Ntemgwa noted the deck would be a beneficial use for her backyard.

Mr. Dixon asked if there are any other decks in the back of the other units.

Ms. Ntemgwa noted a deck in the back of unit 990.

Mr. Fulton stated, per the code, decks have to meet the required setback of the principal building, and the setback for the condominium is constructed at the 30' setback. Mr. Fulton noted the two variances from 2015 being approved in this development. Mr. Fulton reviewed the issues regarding the need for variances for decks, and noted working on an amendment to allow some relief regarding variances.

Ms. Baird asked if the development allows decks.

Mr. Fulton indicated in the affirmative. Mr. Fulton noted this particular development, when it was developed, any deck would need a variance due to the construction.

Ms. Baird asked if the deck would be 12 by 18 or 15 by 18.

Ms. Ntemgwa noted 12 by 18.

Ms. Rhodeback asked if there will be railing.

Ms. Ntemgwa indicated in the affirmative.

Ms. Hasson made a motion approve a variance from Section 1231.05(c)(3) of the Pataskala Code for Application VA-16-011, with the following modifications:

1. The Applicant shall construct the deck as submitted within one (1) year of the date of approval.
2. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking county Building Department prior to construction of the deck.

Ms. Rhodeback seconded the motion. Mr. Rhodeback, Mr. Valentine, Ms. Hasson, Ms. Baird and Mr. Dixon voted yes.

Mr. Dixon noted the 30-day appeal process.

Next on the Agenda, **Findings of Fact.**

Ms. Baird made a motion to approve **Findings of Fact B, D, E, F, G, H, I, J and K for Variance Application VA-16-010**. Mr. Valentine seconded the motion. Mr. Dixon, Ms. Baird, Ms. Hasson, Mr. Valentine and Ms. Rhodeback voted yes. The motion was approved.

Ms. Baird made a motion to approve **Findings of Fact A, B, C, D, E, F, G, H, I, J and K for Variance Application VA-16-011**. Ms. Hasson seconded the motion. Ms. Rhodeback, Mr. Valentine, Ms. Hasson, Ms. Baird and Mr. Dixon voted yes. The motion was approved.

Ms. Hasson made a motion to approve **Findings of Fact A, B, C, D, E, F, G, H, I, J and K for Variance Application VA-16-012**. Ms. Baird seconded the motion. Ms. Baird, Ms. Hasson, Mr. Valentine and Ms. Rhodeback voted yes. Mr. Dixon abstained. The motion was approved.

Ms. Hasson made a motion to approve **Findings of Fact A, B and C for Variance Application VA-16-013**. Ms. Baird seconded the motion. Ms. Hasson, Ms. Baird and Mr. Valentine voted yes. Ms. Rhodeback voted no. Mr. Dixon abstained. The motion was approved.

Ms. Baird made a motion to approve **Findings of Fact A, B, C, D, E, F, G, H, I, J and K to disapprove Variance Application VA-16-014**. Ms. Rhodeback seconded the motion. Mr. Valentine, Ms. Rhodeback, Mr. Dixon, Ms. Hasson and Ms. Baird voted yes to disapprove. The motion was approved.

Ms. Baird made a motion to approve the May 10, 2016 regular meeting minutes. Seconded by Ms. Hasson. Mr. Dixon, Ms. Baird, Ms. Hasson, Mr. Valentine and Ms. Rhodeback voted yes. The motion was approved.

Mr. Fulton reviewed the City's Law Director's recommendation regarding Board Members representing an applicant at a hearing, and noted the following Law Director's guidance:

- While there is nothing unethical or unlawful about a member of the Board of Zoning Appeals representing an applicant, it does give the perception of impropriety and should be avoided.

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- If a member of the Board of Zoning Appeals has an application that is for their own property, they may represent themselves.
 - If an application comes before the Board of Zoning Appeals that could constitute a conflict of interest for a member of the Board, it is highly recommended that the member recuse themselves from that portion of the hearing and wait outside of Council Chambers until the next application is called.
 - It is up to the member to determine if there is a potential conflict of interest and it is recommended that the member err on the side of caution.

Mr. Fulton noted Mr. Dixon leaving Council Chamber for Variance Application VA-16-012 was the proper protocol. Mr. Fulton also noted it is up to the member of the Board to determine if there is a conflict of interest, and to err on the side of caution and to recuse oneself just so there is no gray area.

Ms. Baird made the motion to adjourn the meeting to July 12, 2016. Seconded by Mr. Valentine. Mr. Valentine, Ms. Rhodeback, Ms. Hasson, Ms. Baird and Mr. Dixon voted yes. The meeting was adjourned at 8:07 p.m.

Minutes of the June 14, 2016 Board of Zoning Appeals Meeting were approved on

_____, 2016

Chairman Matt Dixon