

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

Tuesday, November 14, 2017

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, City Hall, 621 West Broad Street, Pataskala, Ohio, on Tuesday, November 14, 2017.

Present were:

Catherine Baird

Robert Platte

TJ Rhodeback

City of Pataskala Planning and Zoning Department Staff:

Scott Fulton, Planning Director

Lisa Paxton, Zoning Clerk

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

Roll call was made. Kathleen Hasson was not present. Bruce Ashcraft arrived at 6:55 p.m.

First on the Agenda, Variance Application VA-17-025, 516 South Main Street.

Mr. Fulton reviewed the Staff Report, noting the applicant is seeking a variance to allow for an already-constructed patio, 370-square foot (27ft x 14.5ft), to be situated five feet from the rear property line and less than 1 foot from the side property line. Section 1221.07(B)(1) of the Pataskala Code states that patios shall not extend more than 50 percent into the required rear yard setback of the zoning district in which they are located. The minimum rear setback in an R-7 zone district is 35 feet. To comply with the patio setback requirement, the patio would have to be a minimum of 17.5 feet from the rear property line. In addition, Section 1221.07(B)(1) states that patios shall meet the required side yard setbacks of the zoning district or shall not extend further into the side yard setback than the principal structure, whichever is less. The minimum side yard setback in the zone district is 7 feet whereas the patio is less than 1 foot from the side property line – a difference of 6 feet. According to the applicant's narrative, the patio was installed because the rear/side yard used to be a "mud pit". Staff would like to note that considering the property is on a corner lot with small side and rear yards, the applicant would likely need a variance under most circumstances. The house does not meet the front or rear setback requirements and sits roughly 17 feet from the rear property line and 15 feet from the side property line. With those measurements, the applicant could comply with the minimum setback requirements by having a roughly 7ft x 17ft (120 square feet) patio rather than the proposed 27ft x 14.5ft (370 square feet) patio.

Deborah Saltsman, 516 South Main Street, was placed under oath.

Ms. Saltsman stated the side yard area is unusable due to constant shade and constantly muddy. Ms. Saltsman stated she was unaware a permit was required.

A discussion was had regarding neighboring properties.

Findings of Fact were discussed.

Ms. Rhodeback made a motion to approve a variance from Section 1221.07(B)(1)(ii) and from Section 1221.07(B)(1)(iii) of the Pataskala Code for Variance Application VA-17-025, with the following supplementary conditions:

1. The applicant shall obtain all necessary permits from the City of Pataskala.
2. The patio shall not negatively impact drainage to the adjacent property lines.

Mr. Platte seconded the motion. Mr. Platte, Ms. Baird and Ms. Rhodeback voted yes. The motion was approved.

Next on the Agenda, Conditional Use Application CU-17-014, Jennifer Jordan, 122 Christy Lee Drive.

Mr. Fulton reviewed the Staff Report, noting the applicant is seeking a conditional use to allow for the residence to be used for a dog grooming service, under "Type B" Home Occupation. The applicant's narrative noted she will be the only employee, have no more than five clients per day, hours of operation listed as 8am-5pm, Monday through Friday. Noise will be limited and no pets will be outside. The area map and surrounding properties were viewed. Mr. Fulton reviewed Sections 1267.03(C) and 1276.04 of the Pataskala Code and noted the applicant has met the requirements.

Mr. Fulton further stated comments were received from the Licking County Health District, noting they have had issued regarding orders to repair the septic system at the property on 5 separate occasions due to illegally discharging sewage. Only on one of those occasions has the applicant resided at the property. Mr. Fulton noted the applicant has obtained a maintenance agreement for routine maintenance.

Mr. Fulton noted the City Engineer's comment regarding parking; however, Staff does not see this as being an issue given that the applicant has stated that there will not be more than one client at a time and a vehicle will be at the location only to drop off and pick up the pets. No formal feedback from neighbors was noted.

A discussion was had regarding aeration and septic systems on Christy Lee Drive.

Jennifer Jordan, 122 Christy Lee Drive, was placed under oath.

Ms. Jordan stated he now has a service contract regarding the septic system.

Ms. Baird inquired as to noise.

Ms. Jordan noted having one window that would be kept closed to avoid noise issues.

Mr. Platte asked how long has the business been at the Christy Lee Drive location.

Ms. Jordan noted July of this year.

Ms. Baird inquired as to protecting the septic system from excessive dog hairs going into the septic system.

Ms. Jordan noted a hair trap has been installed.

Ms. Baird asked if Staff will be given copies of the service agreement and reports.

Mr. Fulton noted the Health Department would be doing the inspections.

Mr. Platte asked if the applicant was aware of needing a conditional use for the business.

The applicant stated she was not aware.

A discussion was had regarding noise, parking and septic concerns.

Mike Kapavik, 8470 Loudon Street, Johnston, Ohio 43031, owner of 96 Christy Lee Drive, was placed under oath.

Mr. Kapavik expressed concerns regarding traffic, lack of sidewalks, aging septic systems and possible well contamination. Mr. Kapavik stated that he is against the conditional use request.

Ms. Jordan stated the dogs do not go outside; however, waste is picked up and disposed of properly.

Ms. Rhodeback inquired as to how many dogs will be there at one time.

Ms. Jordan noted the most she would have at one time is a family of three small dogs.

Mr. Platte stated having no concerns with the use; however, he noted his concerns regarding traffic and a dead end cul-de-sac.

A discussion was had regarding traffic in the neighborhood.

Alan Haines, Pataskala Public Service Director, 621 West Broad Street, was placed under oath.

Mr. Haines noted no concerns regarding the roadway, no sidewalks; however, would like to see the septic issues addressed by the Licking County Health Department.

Ed Rich, 140 Christy Lee Drive, was placed under oath.

Mr. Rich noted traffic concerns, septic system issues. Mr. Rich further noted failed septic inspections.

Ms. Jordan noted not being aware of the Health Department issues. Ms. Jordan further stated she would have the system pumped more often, if required. Ms. Jordan further stated there would be no impact with traffic.

Mr. Platte stated he would like more information from the Health Department, and asked Ms. Jordan if she objects to tabling the application.

Ms. Jordan stated having no issue with tabling the application.

Mr. Platte made a motion to table Conditional Use Application CU-17-014 to the December 12, 2017 meeting. Seconded by Ms. Rhodeback. Mr. Platte, Ms. Rhodeback, Ms. Baird and Mr. Ashcraft voted yes. The motion was approved.

Next on the Agenda Conditional Use Application CU-17-013.

Mr. Fulton reviewed the Staff Report, noting the applicant is requesting to amend a conditional use permit, pursuant to Section 1239.04(4) of the Pataskala Code, in order to amend the development plan by updating the Foor Farms II plans to reflect landscaping changes that have been constructed, but not approved. In 2005, Foor Farms Phase 1 & 2 was approved as a conditional use for condominiums; however, the conditional use permit for Phase 2 expired. The applicant reapplied for a Phase 2 conditional use and was approved. The property in question is part of the Foor Farms Phase 2. The applicant has recently installed mounding along the west and north property lines contrary to the approved development plan that will affect drainage patterns on the abutting properties. What was approved on the north side of the property line is significantly different from what was installed. A swale was approved on the north property line whereas the applicant installed a roughly 6-foot mound. On the west property line, a ridge was approved to be installed approximately half way along the property line starting from the southwest corner. The applicant has installed mounding on the entire length of the property line, increasing the height of the mounding roughly two feet higher than what was approved. The applicant is also proposing to install landscaping that incorporates elements of L2 through L5 landscaping requirements by using the mounds and 6ft spruce trees in place of shrubs as the landscaping. Section 1283.07 of the code requires L4 landscaping (6ft fence, one tree per 30 feet, and high shrubs) when abutting a lower density residential use along the rear and side property lines.

The applicant has stated that the mounds are intended to be part of the overall landscaping plan. The applicant further states that the minimum standards identified in Section 1283.06 of the Pataskala Code may be waived upon presentation of an equivalent plan subject to the approval of the Zoning Inspector. The applicant is questioning why an appearance before the Board of Zoning Appeals is necessary. The appearance is necessary because the applicant is proceeding with construction contrary to the approved plans part of the conditional use. Therefore, the applicant is required to amend the plans from the conditional use. The applicant has not submitted a landscaping plan that would deviate from the requirements of the code for review by the Zoning Inspector. Furthermore, mounding was installed contrary to the approved plans that negatively affects drainage on adjacent properties. No plans were supplied for review and the City Engineer and Public Service Director did not have an opportunity to review any plans to see how drainage could be affected. As a result, the drainage pattern has been negatively impacted which has led to several complaints from neighbors. To date, the applicant did not supply revised plans detailing how drainage has been affected.

Staff is willing to consider a landscaping plan that deviates from the minimum standards pursuant to Section 1283.06. The City Engineer has commented that there is not a clear plan for how drainage will be handled with the new mound height. The mound will force storm water to flow along the neighboring properties to the south which can cause issues. A note has been added to the site plan stating that the developer will work with adjacent property owners to develop a solution that will work. The City Engineer notes that there is no guarantee to this approach and there is no confirmation that the drainage along the property line will work. The Engineer recommends that a formal revision to the construction plan is required to clarify the intent for the north and side property lines.

The Public Service Director has commented that he concurs with the City Engineer's comments. The Zoning Inspector has commented that there have been several repeated code and EPA violations at the Foor Farms II site for failure to maintain sediment and erosion control measures which have resulted in two stop work orders, one Mayor's Court summons, and multiple complaints from residents being effected by the construction site. The Zoning Inspector recommends that, if approved, the applicant shall abide by the local and state laws and build as per approved site plans.

Connie Klema, representing the applicant, PO Box 991, Pataskala, was placed under oath.

Ms. Klema noted recently becoming involved with the Conditional Use Application. Ms. Klema stated she spoke with her client and agreed to table the application to prepare plans. Ms. Klema also provided her telephone number if residents would like to contact her to discuss the plans.

Jeffrey Hanson, 1421 Foor Boulevard, was placed under oath.

Mr. Hanson noted concerns regarding fencing, water, trash, drainage and grade issues.

A discussion was had regarding drainage issues.

Ms. Baird asked Mr. Hanson to email pictures to Staff.

Joyce Grasso, representing Catalina Club, 100 Catalina Lane, was placed under oath.

Ms. Grasso, noted drainage has created excess water issues for Catalina Club.

Steven Rodriguez, 1225 Foor Boulevard, was placed under oath.

Mr. Rodriguez indicated where his property is located, and presented pictures to the Board, noting the progression of the past two years. Mr. Rodriguez stated his concerns of trash, a dirt mound, rodents, and vole infestation. Mr. Rodriguez also noted questions he had for Mr. Arnspiger regarding landscaping.

Ms. Baird asked if there have been any drainage issues on Mr. Rodriguez' property.

Mr. Rodriguez noted no drainage issues, as there is a 2.5 foot drop on Foor Farms, Phase II where the water goes. Mr. Rodriguez noted in the past year it was standing water; it has since been dredged out.

A discussion was had regarding weeds and rodents.

Bill Harris, 133 Stonegate Drive, was placed under oath.

Mr. Harris reviewed storm water, drainage and catch basin plans.

Ms. Rhodeback asked Mr. Hanson how long water stands in the back of his property.

Mr. Hanson noted it not being fast moving water, and takes a few days to a week to drain.

Scott Haines, Jobes Henderson, 59 Grant St, Newark, OH 43055, was placed under oath.

Mr. Scott Haines noted a concern regarding a swale coming from the Catalina Club. Mr. Haines noted there was not enough information provided to be reviewed.

Mr. Alan Haines also noted drainage issues.

Anthony Moye, 1433 Hoover Way, was placed under oath.

Mr. Moye noted issues with water settling in the backyard, standing water. Mr. Moye noted not much space between the hill and his deck. A rodent issue was also noted. Mr. Moye indicated he spoke with a contractor regarding landscaping, and a 6' fence on the embankment would enclose his property like a compound.

Ms. Rhodeback inquired as to how long the standing water stays in the backyard.

Mr. Moyer stated 2 to 3 inches and stays for a few days.

Mr. Harris stated he believes the drainage issue has been caused by Legacy Estates developer.

Mr. Ashcraft made a motion to table Conditional Use Application CU-17-013 to the December 12, 2017 hearing, as requested by the applicant. Ms. Rhodeback seconded the motion. Ms. Baird, Mr. Platte, Ms. Rhodeback and Mr. Ashcraft voted yes. The motion was approved.

A short recess was taken.

Back on the record at 8:22.

Next on the Agenda, Findings of Fact.

Mr. Platte made a motion to approve Findings of Facts for Variance Application VA-17-025:

- | <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> |

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

Next on the Agenda, Excuse of Absence for Bruce Ashcraft from the October 10, 2017 meeting.

Mr. Platte made a motion to approve the absence of Mr. Ashcraft from the October 10, 2017 meeting. Seconded by Ms. Rhodeback. Ms. Baird, Mr. Platte and Ms. Rhodeback voted yes. Mr. Ashcraft abstained. The motion was approved.

Next on the Agenda, Excuse of Absence for Kathleen Hasson from the October 10, 2017 meeting.

Mr. Platte made a motion to approve the absence of Ms. Hasson from the October 10, 2017 meeting. Seconded by Ms. Rhodeback. Ms. Rhodeback, Ms. Baird, Mr. Platte and Mr. Ashcraft voted yes. The motion was approved.

Next on the agenda, remove from the table the Excuse of Absence for Catherine Baird from the September 12, 2017 meeting.

Mr. Platte made a motion to remove from the table the September 12, 2017 excuse of absence of Ms. Baird. Seconded by Ms. Rhodeback. Mr. Ashcraft, Mr. Platte, Ms. Baird and Ms. Rhodeback voted yes. The motion was approved.

Next on the Agenda, Excuse of Absence for Catherine Baird from the September 12, 2017 meeting.

Mr. Platte made a motion to approve the absence of Ms. Baird from the September 12, 2017 meeting. Seconded by Ms. Rhodeback. Ms. Rhodeback, Mr. Platte and Mr. Ashcraft voted yes. Ms. Baird abstained. The motion was approved.

Next on the Agenda, approval of the October 10, 2017 regular meeting minutes.

Mr. Platte made a motion to approve the October 10, 2017 regular meeting minutes. Seconded by Ms. Rhodeback. Mr. Platte, Mr. Ashcraft, Ms. Rhodeback and Ms. Baird voted yes. The motion was approved.

Next on the Agenda, Other Business.

No new business.

Ms. Rhodeback made a motion to adjourn the meeting. Seconded by Mr. Platte. Ms. Baird, Mr. Platte, Mr. Ashcraft and Ms. Rhodeback voted yes.

The meeting was adjourned at 8:37 p.m.

Minutes of the October 10, 2017 meeting were approved on
_____, 2017.

Chairperson Baird