

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

Tuesday, November 10, 2020

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, Pataskala City Hall, 621 West Broad Street, Pataskala, Ohio, on Tuesday, November 10, 2020.

Present were:

Alan Howe, Chairman

William Cook

Christine Lawyer

TJ Rhodeback

City of Pataskala Planning and Zoning Department Staff:

Scott Fulton, Planning and Zoning Director

Jack Kuntzman, City Planner

Brian Zets, Esq., City Attorney

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

Present were: William Cook, Christine Lawyer, Alan Howe and TJ Rhodeback.

First on the Agenda, Conditional Use CU-20-008, 6747 Taylor Road.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request to use a portion of the property for the maintenance of trucks. A previous conditional use was approved earlier in the year for a portion of the property to be used for truck parking. The Applicant's Narrative Statement noted the use would be consistent with surrounding uses and the truck maintenance will take place within the existing building. Area map and site plan proposal were reviewed.

A discussion was had regarding traffic. Landscaping along Cypress Street was also noted.

Glen Dugger, Esq., 37 West Broad Street, Columbus, Ohio was placed under oath.

Mr. Dugger noted the facility will not generate a lot of truck traffic on Taylor Road. It was also stated the Use will be limited to the building, and a cap on the number of trucks.

Parking was discussed.

Findings of Facts were reviewed.

Mr. Cook made a motion to approve a conditional use, pursuant to Section 1215.08 of the Pataskala Code, for application CU-20-008, with the following conditions:

1. The Applicant shall provide L2 or equivalent landscaping along the frontage of Cypress Street SW.

2. The Applicant shall be limited to no more than 12 trucks per day.
3. 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 Ms. Rhodeback. Ms. Lawyer, Ms. Rhodeback, Mr. Howe and Mr. Cook voted yes. The motion was approved.

Next on the Agenda, Conditional Use CU-20-009, 94 West Avenue.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request to allow for a religious institution to be located in a residential zoning district. The Applicant is proposing to use the existing building, repair existing gravel parking lot and add additional gravel parking. Site plan and area map were reviewed. Service hours and landscaping were also noted.

A discussion was had regarding landscaping and the need for a correct revised plan.

Mr. Howe read written comments submitted by Mike Neff, 104 East Avenue.

Robert Aaron Fry, 7908 Birch Creek Drive, Blacklick, Ohio and Christopher McInturff, 920 Golden Drive, Newark, Ohio were placed under oath.

Mr. Howe inquired as to why an updated drawing was not submitted.

Mr. McInturff stated time constraint and had prepared the drawing the day before.

A discussion was had regarding submitting a correct site plan. Landscaping was further discussed.

Findings of Facts were reviewed.

Ms. Lawyer made a motion to approve a Conditional Use, pursuant to Section 1215.08 of the Pataskala Code, for Application CU-20-009 with the following conditions:

1. The Applicant shall address all comments from Planning and Zoning Staff.
2. The Applicant shall submit a revised Site Plan clearly showing the proposed improvements.

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

Next on the Agenda, Variance Application VA-20-017, 94 West Avenue.

Mr. Kuntzman gave an overview of the Staff Report, noting the Applicant's request to allow for the expansion of a gravel vehicle parking lot located at 94 West Avenue. The Narrative Statement noted the purpose of the Variance request is to allow the congregation to grow and, currently, the available parking on the property is limited. It was stated they believe asphalt or concrete would not be a reasonable solution. Site plan and area map were reviewed. It was noted Staff had no concerns regarding enlargement of the gravel parking area; however, the parking area shall meet other requirements of Chapter 1291. Departmental and Agency comments were noted.

Mr. Howe inquired as to the two access points on East Avenue.

Mr. McInturff noted the plan is to have a single entrance in, and a single entrance out on the east side.

Ms. Rhodeback made a motion to approve a variance from Section 1291.02(A)(4) of the Pataskala Code for application VA-20-017 with the following conditions:

1. The Applicant shall address all comments from Planning and Zoning Staff, the City Engineer, and the Public Service Director.

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

Next on the Agenda, Appeal Application AP-20-001, 6630 Taylor Road.

Mr. Fulton gave an overview of the Staff Report, noting a driveway application was submitted on or before August 6, 2020 for the existing driveway. The existing driveway, when approved in 2016, was to be used for emergency access only. The August 6, 2020 application, when submitted, no fee was included and based upon 1207.09 of the Pataskala Code, Staff cannot take any action on an application unless a fee is included. The application was deemed incomplete, and no action was taken. Fee was submitted on or about September 16, 2020 and at that time, the fee and application were returned with a letter stating Staff cannot approve or disapprove an existing driveway. Mr. Fulton stated the approved driveway permit from 2016, Application No. 16-356, noted the conditions of approval, which determined the driveway is an emergency access only driveway.

Mr. Howe asked if the Board is determining if the Planning and Zoning Department should or should not have acted on the application when submitted, and not the driveway itself.

Mr. Fulton indicated the hearing is only to determine if Staff should or should not have acted upon the application once the fee was submitted.

Mr. Howe asked what the application request was for.

Mr. Fulton stated the driveway application was a request to lift the conditions of the emergency access only.

Mr. Howe inquired as to what would need to be done to change the purpose of the driveway.

Mr. Fulton indicated numerous aspects needed to change the purpose of the driveway. Mr. Fulton again noted conditions placed upon the 2016 application, along with a 2019 construction application, with the same conditions placed upon that application. It was further stated the Applicants did not appeal either application decision, or conditions, in the 30-day appeal period.

C. Darcy Jalandoni, on behalf of TS Tech USA Corp, 6330 Taylor Road, was placed under oath.

Ms. Jalandoni noted TS Tech is seeking to remove the conditions that are located on the driveway application.

Mr. Howe indicated the issue for tonight's hearing is only for the application and if the Planning and Zoning Department should have acted upon the application.

Ms. Jalandoni noted Pataskala Ordinances and appeals.

Ms. Rhodeback asked what the process is for TS Tech to work with the City regarding the conditions.

Ms. Jalandoni stated they have been trying to find out the answer.

Mr. Fulton noted there have been conversations but no clear proposal from TS Tech.

Ms. Rhodeback inquired as to what the appropriate application should be to start the correct process.

Mr. Fulton indicated it is dependent upon the type of improvements they are looking to install.

Erin Wiggins, 8458 East Broad Street, Reynoldsburg, and Cassandra Rice, 41 South High Street, Columbus, were placed under oath.

Direct Examination of Mr. Wiggins by Ms. Rice was had regarding information and knowledge of the permitting process he's had with the City Staff.

Mr. Howe inquired as to what direction the City has requested.

Mr. Wiggins noted conversations with City Administration and no direction was received. Mr. Wiggins noted informing the City on how they would like to use the driveway.

Exhibits were reviewed.

Further Direct Examination of Mr. Wiggins by Ms. Rice was had regarding emails and meetings between City Staff and Mr. Wiggins.

Mr. Howe reiterated the hearing is to determine if the Planning and Zoning Department should or should not have acted on the application when submitted.

Ms. Rice noted Zoning Ordinances regarding zoning applications.

Ms. Rhodeback and Mr. Howe indicated needing more time to review the information submitted.

A discussion was had regarding needing more time for review.

Traffic studies and the cross-dock was noted.

A recess was taken at 8:03 p.m.

Back on the record at 8:27 p.m.

Mr. Howe noted the City and Applicant need to meet and an exact direction on what the next steps are. It was indicated a response will be submitted to the Applicant within 30 days.

Next on the Agenda, Findings of Fact.**Conditional Use CU-20-008:**

<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 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 CU-20-008. Seconded by Ms. Rhodeback. Ms. Lawyer, Ms. Rhodeback, Mr. Howe and Mr. Cook voted yes. The motion was approved.

Conditional Use CU-20-009

<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 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 CU-20-009. Seconded by Mr. Howe, Mr. Cook, Ms. Rhodeback and Ms. Lawyer voted yes. The motion was approved.

Variance Application VA-20-017:

- √ a) *Whether the property in question will yield a reasonable return or if there can be a 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. Howe made a motion to approve Findings of Facts for Variance Application VA-20-017. Seconded by Mr. Howe. Mr. Cook, Ms. Lawyer, Mr. Howe and Ms. Rhodeback voted yes. The motion was approved.

Next on the Agenda, Excuse of Absence of William Cook from the October 13, 2020 Regular Meeting.

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

Next on the Agenda, approval of the October 13, 2020 Regular Meeting Minutes.

Ms. Lawyer made a motion to approve the minutes of the October 13, 2020 regular meeting. Seconded by Ms. Rhodeback. Ms. Lawyer, Ms. Rhodeback, Mr. Howe and Mr. Cook voted yes. The motion was approved.

Next on the Agenda, Other Business.

No other business was given.

Mr. Howe made a motion to adjourn the meeting. Seconded by Mr. Cook. Mr. Cook, Mr. Howe, Ms. Lawyer and Ms. Rhodeback voted yes. The motion was approved. The meeting was adjourned at 8:42 p.m.

Minutes of the November 10, 2020 regular meeting were approved on

_____, 2021.
