

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

**Tuesday, July 13, 2021**

The City of Pataskala Board of Zoning Appeals convened in Council Chambers, Pataskala City Hall, 621 West Broad Street, Pataskala, Ohio, on Tuesday, July 13, 2021.

Present were:

William Cook

Alan Howe, Chairman

Jenna Kennedy, Vice Chairperson

Christine Lawyer

City of Pataskala Planning and Zoning Department Staff:

Scott Fulton, Planning and Zoning Director

Jack Kuntzman, City Planner

Lisa Paxton, Zoning Clerk

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

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

***First on the Agenda, remove from table Variance Application VA-21-021.***

Mr. Howe made the motion to remove from table Variance Application VA-21-021. Seconded by Mr. Cook.

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

***Next on the Agenda, Variance Application VA-21-021, 218 South Fork Circle.***

Mr. Kuntzman gave an overview of the Staff Report, noting the request for approval of a Variance from Section 1297.02(B)(4) to allow for the installation of a swimming pool that will not be enclosed by a fence with a minimum height of five feet. It was noted the backyard is currently enclosed with a ~4.17-foot fence. Area map, site plan and proposal were reviewed. There were no Departmental or Agency comments.

Ben Breen, 218 South Fork Circle, was placed under oath.

A discussion was had regarding pool access.

Mr. Breen noted the pool can only be accessed from the deck of the home.

Findings of Facts were reviewed.

Ms. Lawyer made a motion to approve variance from Section 1297.02(B)(4) of the Pataskala Code for Variance Application VA-21-021, 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 Ms. Kennedy. Ms. Kennedy, Mr. Howe, Ms. Lawyer and Mr. Cook voted yes. The motion was approved.

***Next on the Agenda, Variance Application VA-21-022, 0 Mill Street, Parcel No. 064-152880-00.004.***

Mr. Kuntzman gave an overview of the Staff Report, noting the request for approval of a Variance from Section 1225.05(B) to allow for the creation of an ~18.92-acre lot that will not meet the required minimum lot width at the right-of-way. The Applicant proposes the lot split to allow for themselves and the Applicant for VA-21-023 to each purchase a portion of the 39.92-acre parcel and each build a single-family home and run small family farms. Area map and proposed lot splits were reviewed. Pataskala Utilities and Licking County Health Department comments were noted.

Bradley Bryant, 1287 Shawnee Loop, Pataskala, was placed under oath.

Mr. Bryant noted he would be building a home in a couple years along with having a farm.

Findings of Facts were reviewed.

Mr. Cook made a motion to approve a variance from Section 1225.05(B) of the Pataskala Code for Variance Application VA-21-022 with the following conditions:

1. Applicant shall address all comments from the Licking County Health Department
2. 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. Lawyer. Ms. Lawyer, Mr. Cook, Mr. Howe and Ms. Kennedy voted yes. The motion was approved.

***Next on the Agenda, Variance Application VA-21-023, 0 Mill Street, Parcel No. 064-152880-00.004.***

Mr. Kuntzman gave an overview of the Staff Report, noting the request of approval of a Variance from Section 1225.05(B) to allow for the creation of a ~15-acre lot that will not meet the required minimum lot width at the right-of-way. The Applicant proposes the lot split to allow for themselves and the Applicant for VA-21-023 to each purchase a portion of the 39.92-acre parcel and each build a single-family home and run small family farms. Area map and proposed lot splits were reviewed. Pataskala Utilities and Licking County Health Department comments were noted.

No further comments were noted.

Findings of Facts were reviewed.

Ms. Kennedy made a motion to approve a variance from Section 1225.05(B) of the Pataskala Code for Variance Application VA-21-022 with the following conditions:

1. Applicant shall address all comments from the Licking County Health Department
2. 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. Lawyer. Ms. Lawyer, Mr. Cook, Mr. Howe and Ms. Kennedy voted yes. The motion was approved.

***Next on the Agenda, Conditional Use Application CU-21-013, 6747 Taylor Road SW.***

Mr. Kuntzman gave an overview of the Staff Report, noting the request of approval to allow a portion of the property to be used for the storage of vehicles and boats. An area map was reviewed, noting the two properties with the address of 6747 Taylor Road SW; a 22.28-acre parcel and a 5 -acre parcel. Proposed use will operate from the pole barn that is located on the 22.28-acre parcel. It was noted the Applicant submitted a site plan showing the approximate area where the use will be located; however, no further details were included. The Applicant's lease for this location expires in August of 2022. It was noted, the Applicant's purpose for the Conditional Use is to allow them to keep their sales license for wholesaling cars at this location.

A discussion was had regarding lighting, fencing and striping the parking lot.

Brian Joseph, 7272 Fox Tale Drive, Blacklick, was placed under oath.

Mr. Joseph stated the property completely fenced. The lease expires in August of 2022 and would use the location for storage of vehicles, boats and trailers.

Mr. Howe inquired as to the wholesale business.

Mr. Joseph stated he's been in the used car business for 40+ years and moved his business to this area for safety reasons. Mr. Joseph stated he wholesales vehicles to new car dealerships by reconditioning and selling them.

Mr. Howe noted the application is not a conditional use to sell cars.

Mr. Joseph stated not being able to pay rent if he can't sell cars, and if he can't sell cars then he would like to use the property to store vehicles.

Ms. Kennedy stated she interprets that the conditional use would be for storage.

Mr. Howe noted Mr. Joseph having a zoning violation at this location for the better part of the year.

A discussion was had regarding maintaining a license to sell cars.

Mr. Joseph noted using the conditional use for parking vehicles.

Mr. Howe noted his concerns that the site plan was incomplete, and the application notes selling of cars.

Mr. Joseph stated he would like to sell cars, but he doesn't have to.

Ms. Kennedy indicated if the conditional use is approved, the Applicant would address questions and comments from the Planning and Zoning Department.

Mr. Howe stated the Applicant would have six months to comply to the conditional use, then they could apply for a six-month extension, which would be a year, when their lease is up, and the Board would basically be approving the conditional use to sell cars.

Mr. Joseph stated if he were to receive the conditional use, he would discontinue selling vehicles.

Mr. Howe reiterated the violation concerns along with the application being incomplete.

Findings of Facts were reviewed.

Ms. Kennedy made a motion to approve Conditional Use Application CU-21-003 with the following conditions:

1. The Applicant shall address all comments from the Planning and Zoning Department.
2. The property shall not be used for the sale of automobiles.
3. The Applicant shall obtain all necessary permits from the City of Pataskala and the Licking County Building Department within six (6) months of the date of approval.

Seconded by Mr. Cook. Ms. Kennedy voted yes. Mr. Howe, Mr. Cook and Ms. Lawyer voted no. The motion failed.

***Next on the Agenda, Appeal Application AP-21-002, 460 Connor Avenue, request to table to August 10, 2021.***

Mr. Howe made a motion to table Appeal Application AP-21-002 to the August 10, 2021, hearing. Seconded by Mr. Cook. Mr. Howe, Ms. Lawyer, Mr. Cook and Ms. Kennedy voted yes. The motion was approved.

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

***Variance Application VA-21-021:***

- | <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</i>                                                                                                                                                   |

- ✓ *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 VA-21-021. Seconded by Ms. Lawyer. Ms. Kennedy, Mr. Howe, Ms. Lawyer and Mr. Cook voted yes. The motion was approved.

**Variance Application VA-21-022:**

- | <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 VA-21-022. Seconded by Ms. Kennedy. Ms. Lawyer, Mr. Howe, Mr. Cook and Ms. Kennedy voted yes. The motion was approved.

**Variance Application VA-21-023:**

- | <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</i> |

- 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 VA-21-023. Seconded by Mr. Cook. Mr. Cook, Mr. Howe, Ms. Kennedy and Ms. Lawyer voted yes. The motion was approved.

### **Conditional Use CU-20-003**

- | <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 Findings of Facts for CU-21-003. Seconded by Ms. Lawyer. Mr. Howe, Ms. Lawyer, Mr. Cook and Ms. Kennedy voted yes. The motion was approved.

***Next on the Agenda, Excuse of Absence of William Cook from the June 8, 2021, Meeting.***

Mr. Howe made a motion to approve the absence of William Cook from the June 8, 2021, hearing. Seconded by Ms. Lawyer. Ms. Kennedy, Mr. Howe, and Ms. Lawyer voted yes. Mr. Cook abstained. The motion was approved.

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

The hearing was adjourned at 7:29 p.m.

Minutes of the July 13, 2021, regular meeting were approved on

\_\_\_\_\_, 2021.