



City of Hudson, Ohio

Meeting Minutes - Draft Board of Zoning & Building Appeals

David Lehman, Chair
John Dohner, Vice Chair
Robert Drew
Frederick Jahn
Louis Wagner

Kris McMaster, Associate Planner
Matthew Vazzana, Assistant City Attorney

Thursday, September 21, 2017

7:30 PM

Town Hall

I. Call to Order

Chairman Lehman called to order the regularly scheduled meeting of the Board of Zoning & Building Appeals at 7:30 p.m., in accordance with the Sunshine Laws of the State of Ohio, O.R.C., 121.22.

II. Roll Call

Present: 5 - Mr. Dohner, Mr. Drew, Mr. Jahn, Mr. Lehman and Mr. Wagner

III. Identification, by Chairman, of Kris McMaster, Associate Planner, and Matthew Vazzana, Assistant City Attorney.

Except where otherwise noted, public notice as required in the Land Development Code was provided for all matters that come before this meeting of the City of Hudson Board of Zoning and Building Appeals.

Meeting minutes were taken by Mr. Joe Campbell, Executive Assistant.

IV. Swearing in of Staff and Audience Addressing the Board.

Mr. Vazzana swore-in staff and all persons wishing to speak under oath.

V. [BZBA 8-17-17](#) MINUTES OF PREVIOUS BOARD OF ZONING & BUILDING APPEALS MEETING: August 17, 2017

Attachments: [BZBA Minutes August 17, 2017](#)

Mr. Drew made a motion to approve the minutes of the August 17, 2017 meeting as submitted. Mr. Jahn seconded the motion.

The motion carried with the following vote:

Aye: 5 - Mr. Dohner, Mr. Drew, Mr. Jahn, Mr. Lehman and Mr. Wagner

VI. Public Hearings - Continuation

Mr. Lehman confirmed with Mrs. McMaster that all required notices were posted and explained that it is the applicants obligation to persuade the board why a variance should be granted.

A. [BZBA 2017- 14](#)

The subject of this hearing is the request for a variance of two feet, eight inches (2' 8") from the maximum fence height in the side yard of four (4) feet resulting in a six (6) foot brick fence and a six foot, 8-inch (6' 8") brick pier post and gate pursuant to Section 1206.03(a)(5)(A), "Accessory Uses/Structures-Fences and Walls, Residential" of the City of Hudson Land Development Code.

The applicant is Rick Hawksley, Architect, P.O. Box 664, Kent, OH 44240 and the owner is RLR Investment Partners, LLC., 7941 Ravenna Street, Hudson, Ohio 44236 for the property at 147 Hudson Street in District 3 [Outer Village Residential Neighborhood].

Attachments: [BZBA Staff Report 9-15-2017](#)

Mr. Rick Hawksley, the architect representing the owners, RLR Investment Partners and Mr. Randy Nye were present for the meeting and discussion of this variance request that is a continuation from August 17, 2017.

Mrs. McMaster introduced this application concerning a house built in 1920 that was purchased by the present owners in October 2016. Previous variances were granted for an addition, garage addition and front facing garage by the BZBA at the August 17, 2017 meeting.

Mr. Hawksley stated that the Architectural and Historic Board of Review (AHBR) informally reviewed the request for a six-foot brick wall on the side of the house and a six-foot, eight-inch gate and post in the front of the house and determined the design, material and height of the gate was appropriate for this house. Mr. Hawksley requested the Board grant the requested variance and affirm the decision of AHBR.

The Board questioned Mr. Hawksley whether the six-foot, eight-inch front gate was a necessity or a want? Mr. Hawksley responded that it is for both privacy and the belief that it will look nicer than a lower gate. However, it cannot be called a necessity to the project.

The Board noted that this is a unique house that needed the previously granted variances for improvements and these approved variances fit the character of the neighborhood. But the neighborhood does not have other 6-foot, eight-inch fences. The Board further noted that this variance will exist in perpetuity and the next owner might change the gate.

Mr. Lehman closed the public portion of the meeting.

During discussion, the Board noted other cases where high walls were requested to fix a short term need. Here the desire for privacy can be met by using the backyard and while many homes in the neighborhood have front facing garages, none have a fence almost seven feet tall in front of the garage doors. Mrs. McMaster further noted that the request for a six-foot-tall side yard fence is also part of the variance request .

After reviewing the application, the hearing of evidence under oath, reviewing all documentary submissions of interested parties and by taking into consideration the personal knowledge of the property in question, Mr. Drew made a motion, seconded by Mr. Dohner to deny this request for a variance.

The Board finds and concludes:

1. The property in question will yield a reasonable return and there can be a beneficial use of the property without the requested variances because the variances previously approved for the subject property at the August 17, 2017 BZBA meeting for both the addition and garage allowed the needed significant improvements to the house.
2. The variances are substantial because the request for a wall, six-foot in height and a gate that is six-feet, eight-inches in height is a fifty-percent increase to the Land Development Code.
3. The essential character of the neighborhood would be substantially altered and adjacent properties would suffer a substantial detriment as a result of the variances because although there are other front facing garages in the neighborhood, none are fronted by an almost seven-foot-tall fence.
4. The variances would not adversely affect the delivery of governmental services, (e.g. water, sewer, garbage).
5. The applicant purchased the property with knowledge of the zoning restriction.
6. The applicant's predicament feasibly can be resolved through some method other than the requested variances such as having a permitted four-foot high fence and gate and using the back yard for privacy.
7. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by denying the variance because the six-foot, eight-inch high front facing gate and post and the six-foot high side yard wall are higher than the Land Development Code allows and the driveway space is still usable without this variance.

The motion carried by the following vote:

Aye: 4 - Mr. Dohner, Mr. Drew, Mr. Lehman and Mr. Wagner

Nay: 1 - Mr. Jahn

VII. Public Hearings - New Business

A. [BZBA 2017-16](#)

A variance from the requirement to utilize public water and sewer in order to have one water well and one septic system on the subject properties to construct one new house pursuant to Section 1207.11(b)(1)(B), "Adequate Public Facilities-Water/Wastewater" of the City of Hudson Land Development Code.

The applicant is Bradley and Elizabeth Sommers, 8189 S Bedford Road, Macedonia, OH 44056 for the property owner, Lee Everett Shumate, 6075

Strausser Ave NW, Canton, OH 44720 for the parcel numbers #30-02791, 30-02793, 30-02795, 30-02788; and Bradley and Elizabeth Sommers, 8189 S Bedford Road, Macedonia, OH 44056 for the parcel number #30-01091 located on Lincoln Blvd in District 1 [Suburban Residential Neighborhood].

Attachments: [BZBA Staff Report 9-15-2017](#)

Mr. Brad Sommers, the applicant, and Mr. Lee Evertt Shumate the property owner were present for the meeting and discussion.

Mrs. McMaster introduced this application for a variance to the requirement that public water and sewer be used when a new house is built. The closest public water and sanitary sewer are approximately 1200 feet away from the property, located at Barlow Road. The CE Engineering Firm stated the cost of connecting to a public water line and sanitary sewer line will be approximately \$288,000. Ms. McMaster stated that the city has no plans to run public water lines, or sanitary sewer lines down Lincoln Boulevard in the near future.

Mr. Sommers stated the cost estimate was a minimum estimate to avoid the cost of a full estimate. He further stated that Summit County has tested the soil and the proposed septic system is feasible and the surrounding neighbors do not have public water or sewer lines. Mr. Sommers plans to purchase a total of five parcels, three located on Lincoln Boulevard and two behind them, these five parcels will be consolidated into one buildable lot. Mr. Sommers stated he has no intention to build other homes on the parcels behind the lots on Lincoln Boulevard because there is no access to the parcels.

Mr. Vazzana reported that before consolidation of the parcels behind the subject five parcels on Lincoln Boulevard can take place, the ownership of the "paper" streets must be determined when the subdivision was platted in 1927.

Mr. Lehman closed the public portion of the meeting.

After reviewing the application, the hearing of evidence under oath, reviewing all documentary submissions of interested parties and by taking into consideration the personal knowledge of the property in question, Mr. Jahn made a motion, seconded by Mr. Drew to grant this request for a variance with the following condition:

1. If public water and/or sewer becomes available to Lincoln Boulevard, then the property owner is required to connect to the service(s).

The Board finds and concludes:

1. The property in question will not yield a reasonable return and there cannot be a beneficial use of the property without the variance because the lots are not buildable without the variance.
2. The variance is insubstantial because without the variance the property is not buildable.
3. The essential character of the neighborhood would not be substantially altered and adjacent properties would not suffer a substantial detriment as a result of the variance because the other properties on Lincoln Boulevard use a well and septic system.
4. The variance would not adversely affect the delivery of governmental services, (e.g. water, sewer, garbage).

5. The applicant purchased the property with knowledge of the zoning restriction.
6. The applicant's predicament feasibly cannot be resolved through some method other than the requested variance.
7. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance because the house cannot be built without the variance.

The motion carried by the following vote:

Aye: 5 - Mr. Dohner, Mr. Drew, Mr. Jahn, Mr. Lehman and Mr. Wagner

VIII. Other Business

Mrs. McMaster stated there is one case for next month.

Mr. Vazzana reported that the Land Development Code rewrite is continuing and that there is a BZBA section that the Board is welcome to review.

IX. Adjournment

Mr. Lehman adjourned the meeting at 9:02 p.m.

David W. Lehman, Chair

John M. Dohner, Vice Chair

Joe Campbell, Executive Assistant

Upon approval by the Board of Zoning & Building Appeals, this official written summary of the meeting minutes shall become a permanent record, and the official minutes shall also consist of a permanent audio and video recording, excluding executive sessions, in accordance with Codified Ordinances, Section 252.04, Minutes of Architectural and Historic Board of Review, Board of Zoning and Building Appeals, and Planning Commission.

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