



City of Hudson, Ohio

Meeting Minutes - Final Board of Zoning & Building Appeals

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

Kris McMaster, Associate Planner
Aimee Lane, Assistant City Solicitor

Thursday, March 16, 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. Section 121.22.

II. Roll Call

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

III. Identification, by Chairman Lehman, of Kris McMaster, Associate Planner, Aimee W. Lane, Assistant City Solicitor and Matt Vazzana, Assistant City Solicitor.

Ms. Aimee Lane was recognized by Chairman Lehman with a bouquet of flowers for her eight and one-half years as Assistant City Solicitor and her service to the Board of Zoning and Building Appeals. Mr. Lehman indicated that the City of Hudson's legal needs have grown and an assistant full-time solicitor has been hired who will be legal council to the BZBA Board. The members of the Board wish Aimee the best as she continues her career.

Meeting minutes were taken by Joe Campbell, Executive Assistant.

A video recording of this meeting is available on the City of Hudson website.

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

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

Mrs. Lane swore-in staff and all the persons wishing to speak under oath.

V. Approval of Minutes

A. [BZBA 1-19-17](#) MINUTES OF PREVIOUS BOARD OF ZONING & BUILDING APPEALS MEETING: 1-19-2017

Attachments: [BZBA Minutes January 19, 2017](#)

Mr. Drew made a motion seconded by Mr. Wagner to approve the January 19, 2017 minutes as submitted.

The motion was approved by the following vote:

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

Abstain: 1 - Mr. Dohner

B. [BZBA 2-16-17](#) MINUTES OF PREVIOUS BOARD OF ZONING & BUILDING APPEALS MEETING: FEBRUARY 16, 2017

Attachments: [BZBA Minutes February 16, 2017](#)

A discussion took place regarding whether more of the Board discussion should be included in the written minutes in order to help people quickly understand what was discussed or if the official video is sufficient.

Mr. Drew made a motion seconded by Mr. Wagner to approve the February 16, 2017 minutes with the correction of 'narrowing' to 'narrowness' in conclusion number three.

The motion was approved by the following vote:

Aye: 3 - Mr. Drew, Mr. Lehman and Mr. Wagner

Abstain: 2 - Mr. Dohner and Mr. Jahn

VI. Public Hearings - New Business

All hearings have received due public notice.

- A. [BZBA 2017-05](#)** A request for a variance of four (4) feet from the required fifty (50) foot rear yard setback to allow a deck addition resulting in a forty-six (46) foot rear yard setback pursuant to Section 1205.04(d)(5)(D)(i), "Rear Yard Setbacks-Principal Structure" of the City of Hudson Land Development Code.

The applicant is Chris Meltzer, MLA for Brothers Grimm Landscape & Design Company, 2413 S. Arlington Road, Akron, Ohio 44319 and the owner is Robert Stephen & Katherine G. Barger 2134 Edgeview Drive, Ohio 44236 for the property located at 2134 Edgeview Drive in District 1 [Suburban Residential Neighborhood].

Attachments: [BZBA 2017-05 Staff Report](#)

Mrs. McMaster reviewed the variance request.

Mr. Jacob Grimm, owner of Brothers Grimm Landscaping & Design Company, representing the homeowner was present to explain the variance request and discuss the project with the Board. Mr. Grimm explained that the existing deck will be removed and replaced with the proposed new deck. The purpose of the new deck is for the comfort and use of the family and their friends. He also believes that the proposed design is more balanced with the size and shape of the house than the existing deck. The (4) four foot variance being requested to to extend the deck is to accommodate a

table, chairs and the gathered family. Mr. Grimm stated that the rules of scale and functional use of the family does not allow a narrower deck to work. The addition of the stairs is to allow access from the deck to the back yard. Deer resistant plants will be used for landscaping. He stated he is unaware of any plans for a sound or video system to be installed.

The Board's principle concern was encroaching on public park property which belongs to all the citizens of Hudson. This concern was tempered in that the deck will not be visible from the existing walking path through the park.

Mr. Lehman opened the meeting to public comment.

There being no public comment Mr. Lehman closed the public hearing.

The Board considered the staff report and testimony from the applicant.

Mr. Drew made a motion seconded by Mr. Dohner for a variance of four (4) feet from the required fifty (50) foot rear yard setback to allow a deck addition resulting in a forty-six (46) foot rear yard setback. 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, the Board of Zoning and Building Appeals finds and concludes that the variance be granted.

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 variance because there is an existing deck but more space is needed to create a useable deck area.
2. The variance is insubstantial because it is only two (2) feet for the deck and four (4) feet for the bay area to allow for enough room for a table which is overall a small percentage of the variance, about eight (8) percent.
3. The essential character of the neighborhood would not be substantially altered and adjoining properties would not suffer a detriment because while being mindful of the protection of public parkland, there is an existing deck, there will only be a four (4) foot encroachment into the setback, and the trees in the park will make the new deck not visible from the park path.
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 of the needs of the homeowner, the proposed deck design being suitable for this structure and the variance will have minimal impact on the adjacent property.

The motion was approved by the following vote:

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

- B.** [BZBA 2017-06](#) A variance from the requirement to utilize public water and sewer in order to have a water well and septic system on the property to construct a new house pursuant to Section 1207.11(b)(1), “Adequate Public Facilities-Water/Wastewater” of the City of Hudson Land Development Code.

The applicant is Joseph Burgoon for Lewis Land Professionals, 8691 Wadsworth Road, Suite 100, Wadsworth, OH 44281 for the property owner, Ann Michele Tharp, 6879 Windsor Road, Hudson, OH 44236 for the property at 6867 Windsor Road in District 3 [Outer Village Residential Neighborhood].

Attachments: [BZBA 2017-06 Staff Report](#)

Mrs. McMaster reviewed the variance request.

Mr. Joseph Burgoon for Lewis Land Professionals Utilities representing the owner reported the cost of public water and sewer at approximately \$400,000 and there would also be a cost of a pump station. The lot has been tested and a permit has been issued from Summit County Public Health that the soil will adequately support a mound septic system, leaching trenches (tile system) or spray system. The surrounding neighborhood does not have public water or sewer.

Mr. Don Tharp, husband of the property owner was sworn in by Ms. Lane and explained the project to the Board and answered questions regarding the project and adjacent neighbors.

Mr. Lehman opened the meeting to public comment.

There being no public comment Mr. Lehman closed the public hearing.

The Board considered the staff report and testimony from the applicant and property owner.

Mr. Jahn made a motion seconded by Mr. Drew to grant the variance from the requirement to utilize public water and sewer in order to have a water well and septic system on the property to construct a new house. 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, the Board of Zoning and Building Appeals finds and concludes that the variance be granted with the following condition.

1. If City water and/or sewer become available to Windsor Road, the property owner is required to connect to these services.

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 of the high cost to extend public water and sewer to the property to make the lot buildable.
2. The variance is substantial because of the strict nature of the requirement for new residential construction to use public water and sewer.

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 adjacent properties also are not using public water and sewer.
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 without the variance the property is not buildable and with the variance the property can be used for residential use.

The motion was approved by the following vote:

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

VII. Other Business

Mrs. McMaster reported that:

1. The Community Development plan for electronic submittals continues to move forward.
 - a. Applicants will apply online with the Duncan Factors and attachments included.
 - b. Applicants will create an account with login.
 - c. Applications when complete will be viewable on the city website through the agenda.
 - d. Mid April is the target date for Community Development Departmental applications to begin electronic submittal.

A. [BZBA Rules](#) Amendments to the Board of Zoning and Building Appeals Administrative Rules

Attachments: [BZBA Administrative Rules](#)

A second reading and discussion of the amendments to the Board of Zoning and Building Appeals Administrative Rules took place.

Regarding Page 5, item 12c - 'Hearings and Procedures', the Board discussed the meaning of 'Interested Persons' being allowed to speak during a meeting. At present this is 'Public Comment' with any person permitted to speak. Board members, Ms. Lane and Mrs. McMaster spoke to the issue of limiting comments from the public to interested persons.

Mr. Drew made a motion, seconded by Mr. Jahn that the Board of Zoning and Building Appeals administrative rules as presented be approved.

The motion was approved by the following vote:

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

VIII. Adjournment

At 9:29 Mr. Lehman adjourned the meeting.

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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