



# 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*  
*Matthew Vazzana, Assistant City Attorney*

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Thursday, May 18, 2017

7:30 PM

Town Hall

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### **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:** 3 - Mr. Jahn, Mr. Lehman and Mr. Wagner

**Absent:** 2 - Mr. Dohner and Mr. Drew

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

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

Minutes were taken by Joe Campbell, Executive Assistant.

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

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

### **V. Approval of Minutes**

#### **A. [BZBA 4-20-17](#) MINUTES OF PREVIOUS BOARD OF ZONING & BUILDING APPEALS MEETING: APRIL 20, 2017**

**Attachments:** [BZBA Minutes April 20, 2017](#)

Mr. Wagner made a motion to accept the minutes as submitted for the April 20, 2017 meeting. Mr. Jahn seconded the motion.

**The motion was approved by the following vote:**

**Aye:** 3 - Mr. Jahn, Mr. Lehman and Mr. Wagner

## **VI. Public Hearings - New Business**

Chairman Lehman noted that since only three members of the Board of Zoning and Building Appeals are present, votes must be unanimous in order to pass.

Chairman Lehman informed those requesting a variance that it is the obligation of the applicant to persuade the board as to why there is justification for the variance.

- A.**     [BZBA 2017-09](#) A variance of five (5) feet from the required fifteen (15) foot yard setback to permit the construction of an accessory structure, detached garage resulting in an accessory building to be located ten (10) feet from the property line. to Section 1205.06(d)(5)(D)(iv), "Property Development/Design Standards-Minimum Side Yard Setbacks", of the City of Hudson Land Development Code.

The applicant is Richard Cissell, 45 East Washington Street, Suite 104, Chagrin Falls, OH 44022 and the owner is Edward B. and Susan D. Mailey, 153 Old Orchard Drive, Hudson, OH, 44236 for the property at 153 Old Orchard Drive in District 3 [Outer Village Residential Neighborhood.]

**Attachments:**     [BZBA 2017-09 Staff Report 05-12-2017](#)

Ms. Rebecca Pantuso from Clemens Architecture came before the Board to request this variance.

Mrs. McMaster introduced the application.

Through questioning the Board clarified that the existing house has a two car attached garage. If the variance is granted for the detached garage there will be an additional space for two cars for a total of four places for vehicles. It is difficult for the applicant to make the structure smaller because of the size of the owners truck and the number of their children of driving age. The structure will be built at the end of the existing driveway. The top floor of the garage will be used as an office and the lower floor will be used for vehicle storage and storage of equipment that is currently stored on-site, outside.

Chairman Lehman opened the meeting for public comment. There being no public comment Chairman Lehman closed the public hearing.

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 and Mr. Wagner seconded the motion that the Board of Zoning and Building Appeals finds and concludes that the variance be granted with the following condition:

1. No living quarters (including, bedrooms and/or cooking facilities) for human habitation in the subject structure, now or in the future.

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 however granting this variance will yield an enhanced utility to the property and owners.
2. The variance is insubstantial because although it is one-third (33%) of the required setback of fifteen feet, in real terms it is five feet and insubstantial compared to size of the lot.
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 variance of five feet is negligible and barely noticeable to adjacent properties.
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 because this is a challenging lot and this is the best alternative.
7. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance because in real terms the variance is only five feet and insubstantial and will benefit the property owners.

**The motion carried by the following vote:**

**Aye:** 3 - Mr. Jahn, Mr. Lehman and Mr. Wagner

- B.**     [BZBA 2017-11](#) A variances to construct a new house: 1] Variance from the requirement to utilize public water and sewer in order to have a water well and septic system on the property and 2] a variance to permit an existing accessory structure barn in the front yard when code permits accessory structures to be located only in the rear yard pursuant to Section 1207.11(b)(1), "Adequate Public Facilities-Water/Wastewater" and Section 1206.03(d)(1), "Accessory Use Development and Operational Standards-Front Setback" of the City of Hudson Land Development Code.

The applicant is John Russel for Prestige Homes, 17 W. Streetsboro Street, Hudson, OH 44236 and the owner is George Vizmeg, 2771 Barlow Road, Hudson, OH 44236 for the property at 2771 Barlow Road in District 2 [Rural Residential Neighborhood.]

**Attachments:**     [BZBA 2017-11 Staff Report 05-12-2017](#)

Mr. John Russel representing Prestige Homes and Mr. George Vizmig, the property owner were present to explain the project and answer questions.

Mrs. McMaster introduced this application.

Through questioning regarding the first variance the board determined that public water and sewer will be required to go across the entire front of the property line. Currently public water is approximately 1200 feet from the property and sanitary sewer is approximately 700 feet from the property. Mr. Russel stated that because of the property elevation the sewer will require a pumping station resulting in a financial hardship. Mr. Russel also stated the homeowner would not want to run water or sanitary sewer from the road (if utilities become available to the proposed home) which would be approximately 900 feet.

Regarding the second variance, the Board determined that the barn has existed for over 60 years and is currently used as a stall, riding area and space for crop storage. The distance between the proposed house and barn is between 600 and 700 feet. Mr. Russel stated that if this variance is not granted the house will not be built. Mr. Russel also stated that there is no current plan to subdivide the property.

Chairman Lehman opened the meeting for public comment. There being no public comment Chairman Lehman closed the public hearing.

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 and Mr. Wagner seconded the motion that the Board of Zoning and Building Appeals finds and concludes that variance one (1) be granted with the following conditions:

1. If city water and sewer become available along Barlow Road there will be no requirement to tap into the city water or sewer in the future as long as there is only one house built on the property.
2. However, if a major subdivision (four or more lots) of the lot occurs in the future, the property owner will be required to tap into the city sewer and water 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 costs associated with water and sanitary sewer lines as well as ancillary pumping stations which may become a requirement upon building on the property.
2. The variance is substantial because this is potentially a complete variance to the requirement of public water and sanitary sewer to the property however without the variance there is no true ability to develop the property in an economic manner.
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 this is a large ninety-acre property.
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 variance.

7. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance.

**The motion for Variance 1 was approved by the following vote:**

**Aye:** 3 - Mr. Jahn, Mr. Lehman and Mr. Wagner

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 that variance two (2) be granted, Mr. Wagner seconded the motion.

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 however by granting the variance the historic barn with useful life remaining will continue to exist and enhance the value of the property.
2. The variance is substantial because accessory buildings are not permitted in front yards, but this is qualified because this is an existing structure that is already located in the front yard that is large and old.
3. The essential character of the neighborhood would not be substantially altered as a result of the variance and adjacent properties would not suffer a substantial detriment because of the large size of the lot and that the existing structure is old that presently exists in the front yard.
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.
7. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting the variance because the nature of this variance request is not a normal front yard and the accessory building is an existing structure.

**The motion for Variance 2 was approved by the following vote:**

**Aye:** 3 - Mr. Jahn, Mr. Lehman and Mr. Wagner

## **VII. Other Business**

Mrs. McMaster reported there is one case for the June meeting.

### **A. [BZBA 2017](#) Discussion of the Strengths and Weaknesses of the Current Land**

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### **Development Code and Goals for the Upcoming Land Development Code Rewrite.**

Mr. Vazzana gave his opinion that the Land Development Code (LDC) discussion should take place in a public meeting. He also reported that the Board of Building and Zoning Appeals should deal with LDC issues at a "high level". He then gave a series of questions for the Board to consider.

The Board discussed the application process and expressed appreciation for Mrs. McMaster's knowledge of the LDC. A continuing issue is for the Board to understand the "why" behind the LDC, it is difficult to state the "spirit and intent" is being met if the reason for the code is not known.

The Board expressed hope that the LDC rewrite will help unify the historical Hudson, Hudson Township and the nine different districts, possibly using an online searchable version.

Mr. Vazzana stated that the goal of this process is not to do a complete rewrite since much of the code works well. The goal of the LDC discussion it is to reflect the reality of Hudson today and tomorrow and answer some of the 'whys' which will make the LDC more usable for today.

### **VIII. Adjournment**

Mr. Wagner moved to adjourn the meeting at 9:18 p.m., Mr. Jahn seconded the motion.

**This matter was approved by the following vote:**

**Aye:** 3 - Mr. Jahn, Mr. Lehman and Mr. Wagner

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**David W. Lehman, Chair**

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**Fred Jahn, Board Member**

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**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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