

**CITY OF HURON**  
**BOARD OF BUILDING AND ZONING APPEALS**  
July 13, 2020 Regular Meeting

Chairman Frank Kath called the regular meeting to order at 6:30 p.m. on Monday, July 13, 2020, in the Council Chambers of the City Building, 417 Main Street Huron, Ohio. Members in attendance: Tom Sprunk, Jenine Porter, JoAnne Boston, and Jim Shaffer.

Also in attendance: Doug Green- City Engineer/Zoning Inspector and Christine Gibboney, Administrative Assistant.

There were no minutes available for adoption.

**Verification of Required Notice Period**

In response to a question by Mr. Kath, Mr. Green confirmed that notices were mailed to all affected property owners within 100' of the properties appearing on the agenda on July 2, 2020.

Mr. Kath explained the process/format of the meeting and asked that those in attendance turn off cell phones.

**Swearing In:** Mr. Kath swore in those in attendance wishing to testify before the Board on any of the cases appearing on the agenda.

**Old Business**

**362 Main Street, Parcel # 42-02081.001-42 to 42-02081.008- Use Variance**

***Project Description from staff summary:*** *The applicant is requesting a use variance to allow for first floor residential usage. The applicant's existing buildings are located within a B-2 district on the City's zoning map. The B-2 district, per section 1125.02, does not allow for residential use within the district, only business/commercial uses. The existing buildings currently have residential use on the second floor with commercial use on the lower floor. The existing residential usage on the second floor is allowable as an existing non-conforming use as the use pre-dates the implementation of this section of the Zoning Code. To extend the non-conforming residential usage to the first floor, however, would require the issuance of a use variance.*

**Motion by Mr. Sprunk to remove the case of 362 Main Street from the table. Motion seconded by Ms. Boston. Roll Call on the motion:**

**Yeas: Shaffer, Boston, Kath, Sprunk, Porter (5)**

**Nays: (0)**

**With three or more votes in favor, the motion to remove the case from the table passed.**

Mr. Green referenced the previous hearing and tabling of this case as well as referencing the correspondence from the city's Law Director relative to use variances. He then recapped the application request for a use variance to allow for ground floor residential use. Mr. Green referenced the current zoning of the parcel being B-2, explaining this does not allow for residential and noted the existing residential on the second floor is pre-existing, non-conforming. Mr. Green commented that the applicant has brought in handout information and distributed same to members of the BZA. **(attached and made part of the minutes)**

**Mr. Kath called the Public Hearing to order at 6:33p.m.**

**Applicant/Property Owner comments:** Garry Savage 1225 Marina Drive. Mr. Savage referenced the handout that outlined the rental occupancy history of the building and additional information prepared by his relator, Chris Wechter. Mr. Savage stated the property was part of Urban Renewal property noting the city was trying to bring back retail at the time. Mr. Savage noted he has owned the property since 1995 and referred to the handout referencing that the spaces have been rented for only 13 out of the 25 years. He explained that there was no interest in retail and noted the inquiries he has received are for ground floor residential use. He referenced his desire to have ground floor condominiums. He discussed the property not being conducive to retail use and referenced the lack of street visibility of the location. He made reference to Lindsley's Clothing Store and how they were not able to survive in the location. He noted he has put his own money into the business during the years of vacancies and referenced improvements to the property over the years that he has paid from his own proceeds, noting this is the only reason that the business survived. He reviewed recent improvements he has made to the property. He noted he wants to get the property up to a level where it can make money in order to maintain and continue to improve the property.

Mr. Kath commented that he believes all members of the committee understands what he is saying and doesn't disagree that this may be a good idea.

Ms. Porter inquired if the property was still for sale. Mr. Savage replied it was, but added that he has lost sales opportunities because residential use is prohibited. He commented that if the variance is approved, even if the property doesn't sell, he would develop it himself and start to build his own condo on the property. He referenced the tenant at 360 Main (HeatTech), and the large, tall, space it occupies, the history of this space and the concern over the retirement of the owner of HeatTech in the future. Mr. Kath asked how much of the ground floor space is currently leased/rented. Mr. Savage replied that half of units are occupied at this time and noted he pays for the others out of his own money from his business. He noted again, the spaces have only been rented 13 of the 25 years and he has covered the costs over the time of vacancy. He reiterated that no one is inquiring about retail or commercial and that residential is the only use that will carry the business.

Mr. Kath referenced the correspondence from the City Law Director relative to use variances and opinions regarding the fact that bulk of the first floor of this property is currently leased and that practical or real hardship is not evident at this time. Mr. Kath referenced the other opinion shared by the Law Director that this kind of a zoning variance is not something this board can do, as it is not the role of the BZA, it should be something that goes through City Council and/or City Administration.

Mr. Savage commented that he didn't understand why then he had wasted his time in making the application. He recapped that he already went to Planning Commission and Council and was told to come here before this board. He questioned the opinion of the Law Director, stating that he is not correct, that some board should be able to make a decision. He recapped his previous

statements about residential desire and vacancies in the building that he has had to cover. Mr. Savage asked why he wasn't just contacted and told that this committee can't grant the variance. Mr. Kath referenced that since the time that the case was tabled, members received the requested legal correspondence on use variances. Mr. Savage questioned whether he has to now go to court and sue the city.

Mr. Green stated the issuance of a use variance requires certain legal hardships to be proven for the board to be able to issue a use variance. Mr. Green explained that the Law Director reviewed the case and reported that in his opinion the hardships have not been met. Mr. Savage asked what about the hardships he has mentioned. Mr. Green referenced the definition of legal hardships: a situation where you can't get profitable use from the building without the issuance of a variance. Mr. Green also referenced the zoning regulations that are in place, and have been in place since the building was purchased and Mr. Savage's knowledge of the zoning. Mr. Savage referenced the evidence of hardship with the fact that he has had to cover the costs of the vacant spaces over the years.

Ms. Boston referenced page 70 of the Planning & Zoning Code relative to conditionally permitted uses in a B-1 and asked Mr. Green if there are conditionally permitted uses in a B-2 as well. She noted she found the information provided by the applicant today was helpful, stating that it raised the question of potential conditional use as an option. Mr. Green replied no, and noted that the current zoning of the property is B-2 and uses are defined and specifically excludes residential.

Mr. Savage commented that the property is devalued because he can't build condos on the first floor, and noted that he lost sales because of this. He stated this is the hardship as well as the fact that he has been covering expenses for years except for the 13 years when it was fully rented. Mr. Savage noted that he had gone through every level of trying to get this changed to allow for residential use and would not have applied if this body cannot grant the variance. He expressed his frustration in the process and his rights as a resident and that this board has expressed it cannot grant the variance. He asked why was he even directed to apply here if this board cannot grant the variance.

Mr. Kath asked Mr. Savage if the property is usable. Mr. Savage replied that it is not profitable. Ms. Porter referenced that the financial history the owner has provided has proved that it is not profitable.

Mr. Green referenced the case law that the Law Director provided, noting that it has to go to a legal unnecessary hardship, reiterating again the definition of hardship. He referenced the property is utilized and rented out as are others in the area and commented that stating it could be a more profitable use in the future is not establishing a legal unnecessary hardship.

Mr. Green referenced the initial re-zoning application and denial by the Planning Commission and City Council and noted Mr. Savage asked if there was any other option following that action. Mr. Green noted Mr. Savage was advised of the right to submit an application to the BZA for a use variance.

Mr. Savage noted it would be ridiculous not to support the request, asking if the Law Director is aware of the hardship he has expressed; stating he pays out his business profits to keep up with the property. He stated the property needs to be profitable in order to make expenses and this is the hardship. Mr. Savage noted the property needs to be profitable in order to continue to be maintained like he has over the years and it is going to be an extreme hardship to continue carrying this property.

Mr. Kath commented that as the BZA it is not their role to implement spot zoning in the city. If the city wants to rezone or revise the zoning map that would be something that City Council would do. At this point, Mr. Shaffer exited the meeting due to an emergency at 6:53p.m.

Mr. Chris Wechter, 309 Riverside Drive, Lighthouse Real Estate, referenced the information that he had supplied regarding lack of retail. Mr. Wechter inquired about a PUD. Brief discussion over PUD and requirements ensued. Mr. Green noted he would have to look into requirements and noted he would get back to Mr. Savage. Mr. Wechter noted his disagreement and frustration with the process. Mr. Savage recapped again his hardship with covering costs, money he has invested and concerns for the future of the property. Mr. Wechter asked about next steps and referenced the amount of the time that Mr. Savage has waited for an answer up to this point. Mr. Kath states he believes, based on the legal advice, that Mr. Savage should talk to City Administration and Council. Mr. Green noted he would inquire to city administration and the Law Director. Mr. Savage commented on a lawsuit against the city. Mr. Green commented that he would inquire as he previously stated and would get back to Mr. Savage.

Ms. Boston commented that after reviewing the six unnecessary hardship standards and the information the applicant submitted tonight, she would be in favor, but noted she would have liked to have had more information about inquiries into residential and lost sales opportunities provided. Mr. Savage noted he could get this information.

Mr. Savage and members discussed inquiring with the Law Director and City Manager as to next steps and options. Mr. Kath suggested Mr. Savage needed to demonstrate all information to the city. Mr. Savage recapped, he is looking at first floor residential, stated that the surrounding businesses are different as they have bars on first floor, offices on the second and residential on the third, and all are owned separately. His complex is one-owner. Mr. Savage asked if all the information could be given to City Council and the City Manager.

Mr. Sprunk noted this is only the second use variance request that has come before the board, stating this case is more difficult relative to the B-2 district. He noted he would agree as a citizen if City Council were to re-zone the property and he would not have an issue with it, but added that this is a City Council matter to decide on.

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 7:07p.m.

**Motion by Mr. Sprunk to deny the use variance request. Motion seconded by Mr. Kath.  
Roll call on the motion:**

**YEAS: Sprunk, Kath (2)**

**NAYS: Boston, Porter (2)**

**ABSTAIN:**

**With a 2 to 2 vote, the motion fails (requires 3 votes for passage)**

Mr. Sprunk suggested the motion should have worded to approve the variance. Mr. Savage noted this was not done correctly; that the board should have all approved this motion and then he could go to the city to fight this.

**Motion by Ms. Boston to approve use variance request. Motion seconded by Ms. Porter  
Roll call on the motion:**

**YEAS: Boston, Porter (2)**

**NAYS: Sprunk, Kath (2)**

**ABSTAIN:**

**With a 2 to 2 vote, the motion fails (requires 3 votes for passage)**

---

**New Business**

**132 North Main Street, Parcel# 42-01943.000- Commercial Sign Size Variance**

*Project Description from staff summary: The applicant is requesting a variance for a wall sign. The applicant has painted the outside (North Face) of their existing wood fence with a mural that includes the logo and name of their establishment. Given the fact that the image includes the name/logo of a business this is to be considered a sign and not just a painted mural. Section 1129.03(b) details that the area of a sign must be calculated using the entirety of the display including the background image, not just the actual lettering. In this case, the portion of the mural that is contained on the fence should be considered the actual 'sign' for regulation purposes and the area of this section is 96sf. Section 1129, appendix 'A' regulates a maximum wall sign size within a B-3 district at 50sf. Approval of the sign would require a variance of 46sf from the maximum area defined in the code.*

Mr. Kath called the Public Hearing to order at 7:09p. m. Mr. Green reviewed the application and summary and recognized the property owner, Mr. Chris Blessing who was in attendance. Mr. Green noted a professional artist did the mural on the fence. He explained that once Mr. Blessing was advised that this matter needed to go to BZA, he immediately submitted the application. Mr. Green explained that legal counsel advised that the painting was actually a sign as the lettering on the fence advertises the business. He explained sign size maximums are 50sf and this sign is 96sf.; requiring a 46sf variance. Mr. Green added that if the variance is approved by BZA, the matter will have to go to the DRB as well. He reported there were no statements received.

**Applicant/Property Owner comments:** Chris Blessing, Port Clinton, referenced the improvements that were made since the purchase of the Harbor House and noted that once the fencing was exposed, they knew they needed to make improvements. He noted he wants to make sure that he is in compliance with the code.

Discussion ensued by members regarding what makes this a sign versus a mural. Mr. Green noted that if the painting did not have advertising on it, it would have been considered a mural. Members discussed the large variance needed.

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 7:18p.m.

**Motion by Mr. Sprunk that the variance be approved as presented, for the reason that it meets the spirit of the ordinance. Motion seconded by Ms. Porter Roll call on the motion:**

**YEAS: Boston, Kath, Sprunk, Porter (4)**

**NAYS: 0**

**ABSTAIN:**

**With three votes or more in favor, the motion passes and variance approved as submitted.**

-----

**432 Seneca Ave, Parcel# 49-00083.000 Setback Variances**

***Project Description from staff summary: The applicant is requesting setback variances for a home addition.***

***Side setback variance:***

*The proposed addition to the rear of the home which includes a new master bedroom and kitchen spaces will extend the existing North wall of the home 15' to the East. The existing North wall of the home is currently 6' from the North property line and the proposed addition will not come any closer to the North property line than the existing wall. Section 1123.01 establishes the minimum side setback along this side of the home at 8' from the property line. The proposed addition would require a side setback variance of 2'. (6' setback proposed, 8' setback required). The rear addition meets all other requirements in terms of side setback at the South property line, rear setback and height.*

***Front setback variance:***

*The proposed plan would include the installation of a 6' deep covered porch and steps in the front of the existing home. Section 1123.01 sets the minimum front setback within an R-1 district at 30' from the front property line. Section 1137.03 allows for relief to the above 30' requirement up to the average front setback of the two immediately adjacent neighbors which in this case is 25'. The proposed covered porch would come within 19' of the front property line which would require a front setback variance of 6'. The proposed porch meets all other applicable requirements in terms of side setbacks and the steps are allowed to project up to 6' into any required setback as long as they are uncovered which they are. (the overhang or 'eave' from the covered porch can project up to 2'-6" into any required setback)*

Mr. Kath called the Public Hearing to order at 7:19p.m. Mr. Green reviewed the application and summary and recognized the applicants and their architect, Mr. Bob Howell, in attendance. He recapped the two variances being requested: 1) rear addition requiring a 2' side variance 2) Proposed porch on the front of the house requiring a 6' variance. Mr. Green explained that currently the front of the house is exactly as close to the front property line as it can be, the proposed porch will project 6' into the front yard. Mr. Green referenced noted that steps do not count toward the variance. Mr. Green referenced the letter of support signed by neighbors that have been provided to members.

**Applicant/Property Owner comments:** Robert Howell, 424 Kiwanis Ave. In response to questions by Mr. Sprunk relative to the addition, Mr. Howell noted the existing back yard screened porch would be removed and recapped the dimensions of the addition. Mr. Sprunk inquired as to the distance between the house to the north and the proposed addition. Mr. Green noted the proposed addition is 6' from the property line. Property owner, Don Craske, noted the portion of the neighbor's house is a garage so the living areas will not be adjacent to each other. Members reviewed the distance between the two homes. Mr. Green noted that the proposed addition is 6' from the property line plus the distance beyond that to the neighbors house.

In response to a question by Mr. Kath, Mr. Howell confirmed the proposed porch will be an open porch. Mr. Green advised this can be specified "as submitted" in the motion if desired.

**Audience Comments:** none

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 7:25p.m.

**Motion by Mr. Sprunk to approve the 2' side setback variance for the addition as presented. Motion seconded by Ms. Boston. Roll call on the motion:**

**YEAS: Boston, Kath, Sprunk (3)**

**NAYS: Porter (1)**

**ABSTAIN:**

**With three votes or more in favor, the motion passes and variance approved as submitted.**

**Motion by Ms. Boston to approve the 6' front setback variance for the addition of an open porch as presented. Motion seconded by Ms. Porter. Roll call on the motion:**

**YEAS: Boston, Kath (2)**

**NAYS: Sprunk, Porter (2)**

**ABSTAIN: None (0)**

**With less than the required three votes or more in favor, the motion fails., variance denied.**

With no further business, motion by Ms. Porter to adjourn, motion seconded by Ms. Boston. All in favor, motion passes and meeting adjourned at 7:29p.m.

  
Jim Shaffer  
Board of Building and Zoning Appeals Secretary

JS/cmg

Find messages, documents, photos or people



gstaxfree@ya... 69  
asiflorida.

HRCA documents

Yahoo/Inbox



Rachel Jenkins <rjenkins@advancedstrategies.net>  
To: gstaxfree@yahoo.com

Mon, Jul 13 at 2:19 PM

- Inbox 69
- Unread
- Starred
- Drafts 119
- Sent
- Archive
- Spam
- Trash
- ⌵ Less
- Views Hide
- Photos
- Documents
- Subscriptions
- Travel
- Folders Show

Garry,

I have attached the documents regarding the property.

Summary:

- You purchased the property in 1995
- Lindsey's occupied to space from January 1995 until August 1997
- News to You occupied the space from November 2003 until November 2008
- American Eagle has occupied the space since May 2015

In the 25 years you have owned the property, that unit has been occupied and providing income for approximately 13 of the 25 years.

Download all attachments as a zip file







340 & 342 Main St.- Matrix office -1<sup>st</sup> floor

350 Main St.- Matrix office -lower level

346 Main St.- Hartung surveyors office - 1<sup>st</sup> floor

346 A & B Main St.- condos -2<sup>nd</sup> floor

352 Main St.- office- 1<sup>st</sup> floor

352 A & B & C- condos- 2<sup>nd</sup> floor

354 Main St.- Bar- lower level

356 Main- Bar- lower level

358 Main St.- office- 1<sup>st</sup> floor

358A- condo- 2<sup>nd</sup> floor

Thank you,

*Chris Wechter*