

CITY OF HURON
BOARD OF BUILDING AND ZONING APPEALS
June 8, 2020 -Regular Meeting

Chairman Frank Kath called the regular meeting to order at 6:30 p.m. on Monday, June 8, 2020, in the Council Chambers of the City Building, 417 Main Street Huron, Ohio. Members in attendance: Jenine Porter, Tom Sprunk, JoAnne Boston, and Jim Shaffer.

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

Adoption of Minutes

Motion by Ms. Porter that the minutes of March 9, 2020 be approved as presented. Motion seconded by Ms. Boston. Roll call on the motion:

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

Nays: None (0)

With a majority vote in favor of the motion, motion passes and minutes approved.

Verification of Required Notice Period

In response to a question by Mr. Kath, Mr. Green confirmed that notices were mailed on 5-29-20 to all affected property owners within 100' of the properties appearing on the agenda.

Swearing In: Mr. Kath swore in those in attendance wishing to testify before the Board on any of the cases appearing on the agenda. Mr. Kath explained the process/format of the meeting.

Old Business

412 Miami Place, Parcel Number: 48-00299.000. *Setback variance for a 2-story home.*
Project Description from staff summary: The applicant is proposing to demolish an existing non-conforming single -story home and build a new two-story home in the footprint of the existing home with the exception of three areas (S.E. corner, North side, West side) which will extend outwards from the existing footprint. The proposed home will meet all code requirements in terms of height, rear setback, North side setback and front setback but will come within 5'-3" of the South side property line (in line with existing home wall) which will require a side setback variance of 2'-9" (8' side setback required per section 1123.01).

Mr. Kath called the Public Hearing to order at 6:31p.m. Mr. Green reviewed the application and summary noting that this item had been discussed and tabled in December 2019. He recapped the discussion and detail of the December meeting and referenced the newly revised plans. He noted that the property lines have been identified and a 2' side setback variance is being requested for the house. Members reviewed the applications and plans. Mr. Green confirmed that there was one letter of support received from a neighbor. No other correspondence was received.

Applicant/Property Owner comments: Bob Howell, the owner's architect, reviewed the plans for the home.

Audience Comments: None.

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 6:39p.m.

Motion by Ms. Boston that the variance be approved as presented for the 2'-9" side setback variance. Motion seconded by Mr. Sprunk. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk (4)

NAYS: 0

ABSTAIN: Porter (1)

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

403 Ohio Street, Parcel Number: 42-00711.000 *Setback variance for a detached garage.*

Project Description from staff summary: The applicant is proposing to demolish an existing 28'x25' non-conforming detached garage and install a new 28'x32' garage in its place. The proposed garage will meet the requirements of the code in terms of front setback (approx. 100' proposed, 60' minimum per code) and distance from other structures (12' proposed to existing pool, 6' minimum required by code). Code section 1121.06(g) states that an accessory building must be at least 5' from any lot line. The proposed garage will come within 2' of the side (North) and rear (West) property lines requiring a variance of 3' from the required 5' setback at both property lines.

Mr. Kath called the Public Hearing to order at 6:41pm. Mr. Green reviewed the application and variances being requested, noting that the distance from the property lines will not change from the existing, but because it is a non-conforming structure, it requires BZA approval. Mr. Sprunk asked if this is still going to be a garage and not a living space. Mr. Green confirmed it will be a garage and noted that one (1) letter of support was received from a neighbor. No other correspondence was received. Members reviewed the plans and discussed considering each variance separately.

Applicant/Property Owner comments: None

Audience Comments: None

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 6:44p.m.

Motion by Ms. Porter to approve the 3' side setback variance on the north property line. Motion seconded by Ms. Boston. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

NAYS: 0

With three votes or more in favor, the motion passes and variance granted as noted.

Motion by Mr. Sprunk to approve the 3' rear yard variance on the west side of the property. Motion seconded by Ms. Boston. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

NAYS: 0

With three votes or more in favor, the motion passes and variance granted as noted.

607 Oneida View, Parcel Number: 48-00014.000 Setback *variances for an attached garage. Project Description from staff summary: The applicant is proposing to construct a 15'x22' addition to their existing one-story single car garage. Per section 1123.01, the required setbacks are 30' (front), 30' (rear) and 7' (side) for a single-story home within an R-1 district. The proposed garage addition would extend the existing single car garage 15' to the East while maintaining the rear wall at its current distance of 8' from the rear property line. The proposed setbacks would be 8' at the rear (30' required), 5' at the East side (7' required) and 10' at the front (30' required). This would require setback variances of 22' at the rear, 2' at the East side, and 20' at the front.*

Mr. Kath called the Public Hearing to order at 6:46pm. Mr. Green reviewed the application and summary, noting the applicant is seeking to add a garage bay to an existing single car garage which will stay in line with the existing rear and front of the house. He recapped the variances that would be required with the proposed plan and noted that one (1) letter of support was received from a neighbor. No other correspondence was received. He also noted that a neighbor reported that years ago there was a carport in this location.

Applicant/Property Owner comments: Jeff Kerner, 607 Oneida view reviewed the proposed plans and referenced the poor condition of the concrete, noting that they will be replacing the driveway and re-siding the home. He also referenced the support of neighbors and pointed out the lack of parking areas on the street.

Audience Comments: None.

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 6:52p.m.

Motion by Mr. Sprunk to approve the 2' side yard variance request as presented. Motion seconded by Ms. Porter. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

NAYS: 0

With three votes or more in favor, the motion passes and the 2' side yard variance approved as presented.

Mr. Green noted referenced the need for three (3) separate variance considerations (rear, east, front).

Motion by Mr. Sprunk to approve the rear yard variance request as presented. Motion seconded by Ms. Porter. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

NAYS: 0

With three votes or more in favor, the motion passes and the 22' rear yard variance approved as presented.

Motion by Ms. Porter to approve the 20' front yard variance request as presented. Motion seconded by Ms. Boston. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

NAYS: 0

With three votes or more in favor, the motion passes and the rear yard variance approved as presented.

422 Cleveland Road West, Parcel Number: 42-01640.00-Setback variance for detached garage. Project Description from staff summary: *The applicant is requesting a setback variance for an attached garage. The applicant is proposing to construct a 26'x40' detached garage. Section 1121.0G(g) states that all accessory buildings must be at least 5' from any property line. The proposed garage meets all other code requirements including front setback, distance from other structures and height but would come within 3' of the West side property line which would require a side setback variance of 2'.*

Mr. Kath called the Public Hearing to order at 6:55pm. Mr. Green reviewed the application and summary, noting the applicant is seeking a 2' variance due to the angle and ability to pull into the garage. Mr. Kath inquired if the building could be moved 2' over.

Applicant/Property Owner comments: Property owner, Matt Faust: referenced the several large trees in the yard that would have to be significantly trimmed if he were to try and move the garage. Mr. Sprunk referenced the 40' depth of garage and the applicant acknowledged he would be storing his boat in this building as well. In response to a question from Mr. Sprunk, Mr. Green noted that no statements from neighbors were received. Members noted large depth of the property.

Audience Comments: None.

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 6:59p.m.

Motion by Ms. Boston to approve the 2' side setback variance request as presented. Motion seconded by Mr. Shaffer. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

NAYS: 0

With three votes or more in favor, the motion passes and the 2' side yard variance approved as presented.

250 Cleveland Road E., Parcel Number: 42-00316.000- Setback variance for a self-storage building.

Project Description from staff summary: *The applicant is requesting a setback variance for a new self-storage building: The applicant is proposing construct a 40'x50' self-storage building*

within their existing self-storage development. Code section 1126.15 specifically regulates self-storage developments within the City of Huron. The proposed structure meets the regulations set forth in 1126.15 in terms of overall development density, height, front setback and location relative to any residential districts. The code also requires that all self-storage buildings be at least 30' from any rear lot line and 15' from any side lot line. The proposed structure would come within 10' of the Eastern (side) property line and 15' of the South (rear) property line. This would require a side setback variance of 5' (15' required, 10' proposed) and rear setback variance of 15' (30' required, 15' proposed).

Mr. Kath called the Public Hearing to order at 7:01p.m. Mr. Green reviewed the application and summary, noting this is the last proposed building for the Man Cave Storage and 40' x 50' self-storage building, significantly smaller than the existing buildings. Mr. Green referenced the code section specific to self-storage facilities and the 15' side and 30' rear setback requirements. He referenced and reviewed the map provided, and reviewed the variances being requested of 5' side setback variance and a 15' rear setback variance. Members reviewed and discussed where the front of the building and front property line is located. Mr. Green noted he had reviewed the plans with the Huron Fire Department for access and they had no issues. Mr. Green reported that the city did receive one (1) letter from an adjacent property owner, Mr. Hammerschmidt who owns the plaza and had concerns with the building getting so close to his property. Mr. Green recognized owner Rick Mesenburg in attendance and mentioned that, if approved for the variance, this project would then have to go through the Planning Commission and DRB. Mr. Kath inquired as to if the roof height would remain consistent with the other buildings.

Applicant/Property Owner comments: Rick Mesenburg, 130 Wheeler Drive. Mr. Mesenburg noted the height is the same as the other buildings, adding that the proposed building will look the same as the others, only smaller. Mr. Sprunk asked if there were any other comments from neighbors. Mr. Green and Mr. Mesenburg noted that there were not. Ms. Porter commented on the nice appearance of the existing buildings and thought he has proposed the building in the best possible way. Mr. Kath recapped the variance details and noted the odd shape of the lot.

Audience Comments: None.

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 7:08p.m.

Motion by Mr. Sprunk to approve the 5' side yard variance request as presented. Motion seconded by Mr. Boston. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

NAYS: 0

With three votes or more in favor, the motion passes and the 5' side yard variance approved as presented.

Motion by Mr. Sprunk to approve the 15' rear yard variance request as presented. Motion seconded by Ms. Porter. Roll call on the motion:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

NAYS: 0

With three votes or more in favor, the motion passes and the 15' rear yard variance approved as presented.

360 Main Street, Parcel Number: 42-02081.008- Use variance to allow for first floor residential use.

***Project Description:** The applicant is requesting a Use variance to allow for first floor residential usage: The applicant 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.*

Mr. Kath called the Public Hearing to order at 7:09p.m. Mr. Green recapped the history of the action by the owner, Garry Savage, with regard to seeking first floor residential usage, by submission of a rezoning application to the Planning Commission and City Council. He referenced the current zoning of the property being B-2 explaining this does not allow any residential use and noted the existing residential on the second floor is a pre-existing non-conforming use. Mr. Green explained the applicant was seeking to be able to have first floor residential use. Mr. Green then reviewed the process of the rezoning application from B-2 to B-3, at the Planning Commission level, noting the request was not supported as the committee referenced concern relative to other uses allowable in a B-3 and concern over spot zoning. He explained that City Council supported the recommendation of the Planning Commission and denied the rezoning request. Mr. Green then explained that Mr. Savage is seeking a use variance to allow for residential use on the first floor of this property. He explained the building is fully utilized currently, and referenced the existing surrounding facilities in the same zoning which also has office space on the first floor and residential (existing non-conforming) on the second floor. Mr. Green referenced advising the applicant that the burden is on the property owner as to legal hardship when submitting a use variance request.

Applicant/Property Owner comments: Garry Savage, 1225 Marina Drive. Mr. Savage noted his wife's ownership of the parcel for the last 25 years and recapped the history of the property and tenants. He explained that there has not been a request for retail space since Lindsley's Clothing Store vacated and stated that spaces were vacant for 5 years before American Eagle Mortgage moved in. He explained he has had no inquiries or interest for commercial/retail but noted he does get many inquiries for residential on the ground floor level. He commented that a ground floor residential unit would be beneficial to disabled and elderly residents and referenced the convenient location close to banking and Main Street amenities. He referenced the impact there would be if HeatTech (company that leases the largest space in the complex) would leave as that space will be hard to rent. He referenced that over the years when improvements were made to the property, he had added handicap accessible features. He added that this use variance will not impact anyone around him and feels this would be the best possible use for the property. He referenced the location and view of the boat basin, noting this is a unique property. He recapped his action of submission of an application to re-zone the property and the concerns expressed by the Planning Commission and Council relative to allowable uses in a B-3 that could result in the future.

Mr. Kath noted and read the reference material relative to variances: "A variance is not be granted because of a personal hardship of an individual owner or the desire to put the property to a more

profitable use". Mr. Green noted what Mr. Kath read is part of the Duncan Factors. He referenced the information included in BZA application packets for applicants. Members and Mr. Green reviewed practical difficulties and hardship criteria. Mr. Green referenced the criteria explaining the lack of a variance would have to remove all profitable use from the land or the building.

Ms. Porter referenced knowing the owner of HeatTech noting she is aware that he has talked about retiring. Mr. Savage noted that HeatTech is utilizing a 5,000sf. space (15,000 as he is utilizing height space as well) and noted his concern if/when the business vacates. Ms. Porter noted she can understand the concern in trying to fill this space with a commercial/industrial entity. She noted in her opinion this would be difficult to do. Ms. Porter asked if the property was still for sale? Mr. Savage confirmed it was.

Chis Wechter, 309 Riverside Drive/Lighthouse Real Estate. Mr. Wechter advised that two months ago there was a purchase agreement on the property which fell through due to the fact that residential is not allowed. As he wanted to convert the property to all residential. Mr. Wechter stated that he has had two other inquires of the property and the also wanted residential use. He referenced the past use of the property and commented that Clipper Ship Cove apartments nearby have first floor residential. Mr. Wechter expressed his support of Mr. Savage in his efforts to have residential on the ground floor and added that the retail market in Huron is tough and commented that he believed the office/retail spaces are going to be hard to fill.

Ms. Boston poised the question of whether this is an issue of the City not having a good economic development strategy; Mr. Wechter said he would welcome discussion on the topic. Ms. Boston noted she is disturbed to see busines zoned property turned to residential but can appreciate the position of the owner in this case. She noted she is struggling with the concept and has concerns to take this out of a business zone and referenced the city's 2020 Master Plan.

Ms. Porter noted there are vacant properties along North Main and there has been no interest in these. She stated she does not believe retail or industry will ever come back to Huron. Ms. Boston noted she has always heard that there is nothing to come to Huron for as there is nothing to do here in Huron.

Mr. Kath referenced concern for the precedent that would be set if this use variance was granted. He asked members for their input. Mr. Green noted he understands Mr. Savage's position and doesn't disagree with his thinking on residential, but noted there is a higher threshold to meet for a use variance and there must be proof that there is zero financial benefit to the parcel in general, if the variance is not granted.

Mr. Wechter stated handcuffing the property owner to have to do retail or commercial is not fair, referencing residential use in existence and vacant properties that are not seeing interest in retail or commercial.

Ms. Porter discussed the small size of the second-floor residential living spaces in the neighboring complex and the lack of larger size condos in the area. In response to a question by Mr. Kath, Mr. Savage explained he is looking at long term condo rentals for the ground floor, not transient rentals. Mr. Savage noted the best use for this property is residential, citing again no inquiries/interest from retail and the lack of visibility relative to retail. He referenced his own plans for retirement and again the possibility of HeatTech leaving when that owner retires. He referenced the demise of the property if the property becomes vacant, stating this is the detriment of the property and it wouldn't have an economic value to it. He recapped the vacancies over the

years. In response to a question relative to ownership, Mr. Savage stated he owns all the condos on the second floor and Mr. Savage confirmed that he charges \$1000/mo. for these units. Discussion ensued that the condos could be sold individually in the future. Ms. Porter commented that while there may not be a current hardship, there may be a hardship in the future.

Mr. Kath inquired if the lack of visibility for retail could be considered a hardship. Ms. Boston and Ms. Porter commented they felt this would be a hardship factor. Ms. Porter referenced an issue relative to trying to get into the Huron Yacht Club because the road is blocked with loading/unloading from HeatTech and could be considered a nuisance.

Mr. Sprunk stated that he doesn't see where this reaches the standard for a use variance and doesn't think to rezone the city in a spot zoning way is a good use of this committee; adding it should have been done by Planning Commission and City Council. He added that if they did not want it, there must have been a reason- they are the ones that adopt the zoning code not the BZA. Mr. Savage noted they were not against residential, but concerned for the rezoning to B-3 and future uses allowable under that zoning. Mr. Savage added that this is the best way to do it, as the property remains in the B-2, but allows the residential and allows the property to remain valuable.

Members spoke about use variance versus re-zoning and the concerns of future uses by the Planning Commission if the property had been re-zoned to B-3. Ms. Porter expressed she now understands what their reasoning was as Mr. Savage had a buyer interested and how would the city what the future use could have been.

Mr. Kath referenced the surrounding businesses and comparisons of meaningful uses as referenced in the staff summary. Mr. Green referenced the residential use above I-5's and Hartung's office, noting his point in the summary was the neighboring properties in the same B-2 zoning.

Mr. Sprunk noted if the city wants to turn this into mixed use zoning to allow anything to go I, then the city should do it, he stated that what you are doing is taking away the concept that this is a business district and if the city wants to do that then they should. He added that Mr. Savage's argument makes sense, however, the area is zoned as the City has mandated per the Zoning Code. Mr. Savage noted that this is not conducive to retail and makes sense for residential. Mr. Savage spoke of the view from these potential residences and if the city wants to help people of Huron then this would be the best possible use and stated that what the city wanted in the past does not work today as retail is not of interest. He recapped the vacancy issues and the fact that people are asking for residential. He spoke of the concern from Planning and Council with rezoning to a B-3 and that he should have just started with requesting a variance.

Mr. Kath noted he believes all members understand his position, but setting a precedence is a concern. Mr. Savage noted there is only one other property like his - next door and they are not as nice as far as compatibles and noted they are individually owned. He noted he owns the whole property.

With no further comments, Mr. Kath closed the public hearing and returned to the regular meeting at 7:51p.m.

Ms. Porter stated she would like to explore the case more, noting that she understands and agrees with everything Mr. Savage has said, but would like more time to research. Mr. Kath noted he

would like to research more as well. Discussion ensued between members about use variances. Mr. Green referenced a previous use variance case and the conditions of that case. Members expressed they were struggling with this case. Mr. Green clarified the board has to determine if there is or is not a hardship here. Members discussed if the without this variance would the property becomes less valuable. Mr. Sprunk clarified it is not whether it is less valuable -it would have to be of no value. Ms. Porter stated she believes all are in agreement with regard to retail and commercial, and future impact. Ms. Porter stated she would make a motion to support the variance request, but doesn't know if it will get approved today as there are still questions by members. She asked Mr. Savage if he would be willing to have the case tabled so members can research further. Mr. Savage expressed his support to table, adding that he has already lost an investor over this.

Mr. Green reminded members that no discussions can be held between members, as this would be considered a public meeting, but members can research/inquire on their own. Members asked if they could talk to other people about it, Mr. Sprunk commented that members are free to discuss the concept of use variances, but not the case specifically. Mr. Green agreed. Mr. Sprunk asked if the board could get training/opinion on use variances from legal. Mr. Green referenced the city Law Director could be contacted.

Motion by Ms. Porter to approve the variance for 360 Main Street as presented. Motion seconded by Mr. Sprunk. Motion by Ms. Boston to table the motion; motion seconded by Mr. Shaffer. Roll call on the motion to table:

YEAS: Shaffer, Boston, Kath, Sprunk, Porter (5)

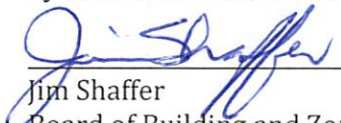
NAYS: 0

With three votes or more in favor, the motion passes and the case tabled.

Mr. Green stated he has a meeting with the Law Director tomorrow and discuss this with him. Members suggested maybe a work session or special meeting to review use variances and it was noted this would be an open public meeting. The applicant was advised that when the case is back on the agenda, he would be notified.

Mr. Green reported that the BZA will have Mucci Farms signage on a future meeting.

There being no further business before the Board, Ms. Boston moved to adjourn; motion seconded by Ms. Porter. The motion carried and the meeting was adjourned at 8:05p.m.



Jim Shaffer
Board of Building and Zoning Appeals Secretary

JS/cmjg