



City of Hudson, Ohio

Meeting Minutes - Final Board of Zoning & Building Appeals

*John Dohner, Chair
Kerri Keller, Vice Chair
Lydia Bronstein
Robert Kahrl
Louis Wagner*

*Greg Hannan, Community Development Director
Amanda Davey, Associate Planner*

Thursday, January 19, 2023

7:30 PM

Town Hall
27 East Main Street

I. Call to Order

Chair Dohner 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.

Mr. Dohner stepped aside as Chair, Ms. Keller assumed the Chair.

II. Roll Call

Present: 5 - Ms. Keller, Mr. Wagner, Mr. Kahrl, Mr. Dohner and Bronstein

III. Election of Officers

A motion was made by Mr. Dohner, seconded by Mr. Kahrl, that Ms. Keller be elected Chair of BZBA. The motion carried by the following vote:

Election of Officers

A motion was made by Mr. Dohner, seconded by Ms. Bronstein, that Mr. Wagner be elected as Vice-Chair of BZBA. The motion carried by the following vote:

Aye: 5 - Ms. Keller, Mr. Wagner, Mr. Kahrl, Ms. Bronstein and Mr. Dohner

IV. Identification, by Chair, of Amanda Davey - Associate Planner, Greg Hannan - Community Development Director & Marshal Pitchford - City Solicitor

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

Ms. Keller swore-in staff and all the persons wishing to speak under oath.

VI. Approval of Minutes

[BZBA
12-15-2022](#)

Minutes of Previous Board of Zoning & Building Appeals Meeting: December 15, 2022.

Attachments: [December 15, 2022 Meeting Minutes - Draft](#)

A motion was made by Mr. Wagner, seconded by Ms. Bronstein, that the December 15, 2022 Minutes be approved as amended. The motion carried by the following vote:

Aye: 5 - Ms. Keller, Mr. Wagner, Mr. Kahrl, Ms. Bronstein and Mr. Dohner

VII. Public Hearings - New Business

[BZBA 2023-3](#) The subject of this hearing is a request for an appeal, pursuant to Section 1212.01(c), from the final decision made by the Planning Commission to approve a Conditional Use request on December 12, 2022 for a proposed Institutional Residential Use requested by Hudson Community Living LLC, per case No. 2022-822.

The appellant is Mr. Wellborn Jack, III of 28 Fox Trace Drive, Hudson, Ohio 44236, represented by Daniel K. Wright, II - DKWright Law LLC, Attorney at Law, 56 Milford Drive, Suite 405, Hudson, Ohio 44236.

Attachments: [BZBA Staff Report - HCL Appeal](#)
[Request for Appeal](#)
[Site Plan - 12.12.22 Planning Commission Meeting](#)
[PC Staff Report 9.12.22](#)
[PC Staff Report 11.14.22](#)
[PC Staff Report 12.12.22](#)
[Planning Commission Decision](#)
[PC Meeting Minutes from 12.12.22 meeting \(DRAFT\)](#)
[HCL Appeal Neighbor Letters](#)

Chair Keller noted it is her understanding a settlement has been reached in this application.

City Solicitor Pitchford stated City Council will vote on January 24, 2023 to affirm or deny the settlement.

Mr. Majeed Makhlof, of Berns, Ockner & Greenberger, LLC, noted the applicant and City view the settlement as final and the applicant does not oppose BZBA tabling the matter and requests if another BZBA meeting is required, that a special meeting be scheduled. Ms. Keller noted the email from the applicants attorney which did not oppose tabling the BZBA discussion.

A motion was made by Mr. Kahrl, seconded by Mr. Dohner, in view that this matter has been settled between the parties and awaits City Council's approval or rejection, that BZBA table this matter to a special meeting at 7:30 p.m., February 7, 2023. The motion carried by the following vote:

Aye: 5 - Ms. Keller, Mr. Wagner, Mr. Kahrl, Ms. Bronstein and Mr. Dohner

[BZBA 22-1195](#) The subject of this hearing is a variance request of twelve (12) feet from the required fifteen (15) foot side yard setback for an accessory structure, resulting in a side yard setback of three (3) feet pursuant to section

1205.06(d)(5)(D)(4), “Property Development/Design Standards - Setbacks” of the City of Hudson Land Development Code in order to build a detached garage.

The applicant is Christen Burns - Diamond Ridge Construction, 27102 Royalton Road, Columbia Station, Ohio 44028. The property owner is, Kamran Kheder, 897 Ridgewood Blvd, Hudson, Ohio 44236 for the property at, 897 Ridgewood Blvd in District 3 [Outer Village Residential Neighborhood].

Attachments: [BZBA Staff Report - 897 Ridgewood Blvd](#)
[Approved Zoning Certificate Plans](#)

Ms. Davey introduced the application by displaying and describing the site plan and project, noting that inaccurate information was supplied to Community Development regarding the setbacks which lead to an incorrect approval resulting in a stop work order. Ms. Davey also noted the homeowners association opposes a variance being granted and reviewed the staff notes.

Mr. Mark Smith and Mr. Brian Stepp, Diamond Ridge Construction, stated prior to the stop work order they were unaware of any issues regarding zoning or the HOA regulations and believed they were in compliance with all necessary approvals. They also described the result of a survey they commissioned which shows the property line closer to the side setback than Hudson GIS.

The Board, staff and applicants discussed the discrepancy regarding the property lines, the homeowners association deed restriction which does not allow detached garages, the City application process which requires the applicant check a box indicating all information submitted is accurate and that GIS information is not a substitute for professional survey. Mr. Smith noted their information was from Hudson GIS and the first company hired by the applicant also used Hudson GIS information. Also discussed was the possibility and cost of moving the structure to an allowable place and the lack of a compelling reason to grant a variance .

Mr. Kim Kheder, homeowner, described the need for their four children to have their cars garaged, the additional cost of building an attached garage, communication from the HOA with no restrictions on building a detached garage, his belief that a detached garage may be built subsequent to the original construction of the house, that it will be too costly to move the already completed work and that if the problems associated with this construction were known ahead of time it would not have been started.

Ms. Nancy Naghavi, homeowner, noted she believed they did due diligence prior to the construction project, that moving the garage to an approved location is cost prohibitive and that the location of the garage is not very visible to the neighbors.

The Board, staff and applicant discussed the need for each child to have a car parked inside, the disclaimers on the City and contracted websites regarding a professional survey and that the contractors did rely on the Hudson GIS and did not find the pin for the property line. Also discussed was the homeowner already having four garage parking spaces, the possibility of building a single car garage to mitigate the requested variance and that the homeowners are in a situation not of their choosing after believing they have done due diligence .

The Board noted their personal obligation to the City in reviewing each case, that the service used by Diamond Ridge Construction clearly says it does not provide legal surveys and is non-certified with many disclaimers. Staff noted that from the street no other detached garages in the neighborhood could be seen, the homeowner was unsure if the HOA agreement contains language regarding construction of a detached garage, the difficulty of contacting the contractor and scheduling site visits, the cost of moving the existing work and the contractor did not secure a copy of the HOA contract.

Ms. Julie Shott, 860 Ridgewood Blvd, Secretary of Oak Point Commons Homeowners Association, clarified there are no detached garages in the neighborhood, the original email to a neighbor was regarding a garage extension to an existing structure, no questions were asked regarding a detached garage, that the covenants and restrictions were presented to all residents in September 2022 and the role of the HOA is to enforce the covenants and restrictions of the agreement.

Mr. John Susany, 881 Ridgewood Blvd., neighboring homeowner, stated no reason has been given that would support granting this large variance, that the property lines are public record, the pins are in place, that the character of the neighborhood will be changed if the requested variance is granted, that the salability of his house will be affected if the variance is granted and setback requirements for a side loading garage are 25-feet .

Ms. Becky Susany, HOA President, discussed an option for placement of a parking pad or garage .

The Board discussed options for making this an attached structure which are possibly more costly, the precedents for requiring work to be redone when in violation of the LDC, the lack of neighbors supporting the variance request, the precedent granting the variance may create for future cases, the HOA deed restrictions prohibiting changing the character of the neighborhood and the substantial variance requested .

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. Dohner made a motion, seconded by Mr. Kahrl, to deny the following:

A variance request of twelve (12) feet from the required fifteen (15) foot side yard setback for an accessory structure, resulting in a side yard setback of three (3) feet pursuant to section 1205.06(d)(5)(D)(4), “Property Development/Design Standards – Setbacks” of the City of Hudson Land Development Code in order to build a detached garage.

The Board finds and concludes;

- 1. The property in question will yield a reasonable return and there could be a beneficial use of the property without the variance. The property has existing two car garages and the owners could add a detached garage that meets the Land Development Code regulations.**
- 2. The requested variance is substantial as it represents an 80% deviation from the 15-foot side yard setback Land Development Code requirement.**
- 3. The essential character of the neighborhood would be substantially altered, and adjoining properties would suffer a substantial detriment as a result of the variance because the subdivision does not allow detached garage structures. Additionally, the neighboring property would suffer a substantial impact as the variance would allow a large wall span that would sit on top of a retaining wall and is only three feet from the property line.**
- 4. The variances would not adversely affect the delivery of governmental services.**
- 5. The existing regulations were in affect when the applicant purchased the property in 2016.**
- 6. The applicant's predicament can be resolved through some other method other than granting the variance. The owners could re-locate the accessory structure to meet the Land Development Code setback requirements. The owners could also explore using the existing foundation as an expansion to the driveway.**
- 7. The spirit and intent behind the zoning requirement would be observed and substantial**

justice would be done by denying the variance.

Aye: 5 - Ms. Keller, Mr. Wagner, Mr. Kahrl, Ms. Bronstein and Mr. Dohner

VIII. Other Business

Mr. Hannan thanked the Board for time spend preparing for the Hudson Community Living application .

IX. Adjournment

A motion was made by Ms. Bronstein, seconded by Mr. Dohner, that the meeting be adjourned. The motion carried by the following vote:

Kerri Keller, Chair

Lou Wagner, 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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