



City of Hudson, Ohio

Meeting Minutes - Final Board of Zoning & Building Appeals

Kerri Keller, Chair
Lou Wagner, Vice Chair
Lydia Bronstein
Jane Davis
Robert Kahrl

Nick Sugar, City Planner
Lauren Coffman, Associate Planner

Thursday, October 26, 2023

7:30 PM

Town Hall
27 East Main Street

Special Meeting

I. Call to Order

Chair Keller called to order a special 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 - Ms. Keller, Mr. Wagner and Ms. Bronstein

Absent: 2 - Mr. Kahrl and Ms. Davis

III. Identification, by Chairman, of Lauren Coffman, Associate Planner.

Chair Keller introduced City Planner, Mr. Nick Sugar and Associate Planner, Lauren Coffman.

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

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

V. Approval of Minutes

There were no minutes to approve.

VI. Public Hearings - New Business

VII. Other Business

There was no Other Business.

[BZBA 23-952](#) 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 August 28, 2023 for a proposed golf

cart storage barn requested by Hudson County Club, per case No. 2023-556.

The appellants are Tim and Marlene Emery of 2199 Middleton Road, Hudson, Ohio 44236, represented by Mark J. Stockman, Frantz Ward LLP, Attorney at Law, 200 Public Square, Suite 3000, Cleveland, Ohio 44114 and Christopher and Colleen Beegle, 2217 Middleton Road.

Attachments: [Appeal Request - Tim and Marlene Emery](#)
[Appeal Request - Christopher and Colleen Beegle](#)
[23-952 - Staff Report - CCH Appeals](#)
[Determination of John Kolesar, City Solicitor, 8.31.21](#)
[Signed PC Decision from August 28, 2023 meeting](#)
[Exhibits From August 28, 2023 PC Meeting](#)

A motion was made by Mr. Wagner, seconded by Ms. Bronstein, that the meeting move to Executive Session. The motion carried by the following vote:

Aye: 3 - Ms. Keller, Mr. Wagner and Ms. Bronstein

The Public Hearing was called back into session from the Executive session.

Chair Keller appointed Ms. Bronstein acting chair.

Ms. Keller note deliberations were done in Executive Session.

The Board detailed the reasons for their affirmation of Planning Commission's Decision as follows:

- There are multiple ambiguous portions in the LDC, the table and the Conditional Use Standards regarding Principle and Accessory Structures.
- The Board tends to side with Hudson Country Club's view as presented at the meetings.
- While there is evidence regarding disruptions to the homeowners, the Commission has the authority to impose additional conditions to the approval, and Ohio law is clear regarding when there is ambiguity in the law regarding property, the property owner is to prevail.

Ms. Keller made a motion, seconded by Mr. Wagner, to affirm the final decision made by the Planning Commission to approve the Conditional Use request on August 28, 2023. This decision is based on the evidence and sworn testimony presented to the Board on Thursday, October 19, 2023 and then continued to Thursday, October 26, 2023. The Board of Zoning and Building Appeals considered an appeal of Planning Commission Decision 2023-556 for a golf cart storage barn for the Country Club of Hudson without deference to the decision of Planning Commission.

FINDINGS OF FACT

This matter having come before the Board of Zoning and Building Appeals and the Board having taken testimony and heard the evidence, the Board enters the following Findings of Fact:

- 1. After reviewing multiple sections of the Land Development Code, including purpose and intent, rules of construction and interpretation, and conflicting provisions with other ordinances, the Board finds multiple portions of the code to be ambiguous. Of note,**

“clubhouses” are mentioned as both “principal structures” and “accessory structures” in separate sections of the code.

2. The Board ultimately interprets the use as “Golf course, private” as listed in the use table of Section 1206.01. Applying additional uses and their accompanying provisions should not be considered as the code does not direct the reader to consider such.

3. The evidence presented by the appellants was substantial and was more than what the Planning Commission had previously heard regarding potential impacts to the adjacent homes. Section 1206.02(b)(2) of the Conditional Use Standards give the reviewing body authority to impose conditions on a proposed conditional use to ensure that potential significant adverse impacts on surrounding existing uses will be reduced to the maximum extent feasible. The Board considered this section and applied additional conditions to the approval.

4. Within the State of Ohio, the law states that if there is an ambiguity within the zoning code, it is interpreted in favor of the property owner.

Therefore, Based on the review of the appeal documents and sworn testimony, the Board of Zoning and Building Appeals approves the conditional use request with the following conditions:

1. The building shall have a minimum setback of 200 ft from any adjacent property line. This condition was added to the previous Planning Commission decision and is based on the additional testimony given from the appellants regarding potential impacts as they relate to Section 1206.02 Conditional Use Standards.

The following conditions from the September 5, 2023 Planning Commission Decision shall be incorporated:

2. The orientation of the garage doors shall be revised so that they do not face the south. All hard surfaces shall be removed from the south side of the building so only plantings are located between the building and the property line to the south.

3. The proposed stormwater management basin shall be relocated to comply with the 50 ft setback to protect the riparian corridor and to minimize disturbance near the adjacent residential properties. Additional landscaping shall be provided to shield the basin from the properties to the east.

4. Lighting – The proposed lighting plan shall be revised per the following per Section 1207.14:

- Lighting shall be reduced, activated by motion sensors devices, or turned off during non-operating hours to be compliant with Section 1207.14(d)(5).

- Reduce lighting levels along the southeast corner of the building where two adjacent exterior lights are proposed, creating average footcandles greater than 5.0. Utilize one light fixture or a less intensive fixture.

- Verify lighting levels would not exceed .1 footcandles at the property line per Section 1207.14(c)(3).

5. Landscaping:

- No trees shall be removed along the adjacent property boundary to the south.

- Revise the landscaping plan to include a minimum of eight Evergreens per 100 lineal feet, installed at a minimum height of 6 ft.

- Revise the landscaping plan to extend the buffer yard to include the entirety of the proposed limits of disturbance along the southern property line.

6. The comments of Assistant City Engineer David Rapp shall be addressed per the August 22, 2023 correspondence.

7. The comments of Fire Marshal Shawn Kasson shall be addressed per the August 15, 2023 correspondence.

8. The design of the building shall be approved by the Architectural and Historic Board of Review

9. The ball washing equipment shall be located inside the proposed building.

10. The applicant shall install silt fencing and/or polypropylene fencing to mark and protect the approved clearing limits, which shall be maintained by the applicant.

11. Satisfaction of the above conditions prior to scheduling of a preconstruction meeting with City Officials and no clearing or construction of any kind shall commence prior to the issuance of a Zoning Certificate.

Aye: 3 - Ms. Keller, Mr. Wagner and Ms. Bronstein

VIII. Adjournment

A motion was made by Mr. Wagner, seconded by Ms. Bronstein, that the meeting be adjourned. The motion carried by an unanimous vote.

Kerri Keller, Chair

Louis 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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