

**Minutes of the Board of Zoning Appeals  
August 07, 2019  
City of Huber Heights**

I. Chair Don Stewart called the Meeting of the City of Huber Heights Board of Zoning Appeals to order at 7:00 p.m.

II. Roll call was taken. Present were: Mr. Deam, Mr. DiFlora, Ms. Newby, and Mr. Stewart.

Members Absent: Ms. Yoe

Staff present for this meeting: Don Millard, Code Enforcement Administrator, and Geri Bellingar, Planning & Zoning Administrative Secretary.

III. **Approval of Agenda**

**Motion** made by Ms. Newby to approve the agenda. Seconded by Mr. DiFlora. No roll call needed for approval of agenda.

IV. **Swearing of Witnesses**

Mr. Stewart explained the proceedings for tonight's meeting and swore in all applicants and persons wishing to speak tonight. All present responded in the affirmative.

V. **Old Business**

None.

VI. **New Business**

1. **BZA Case No. 19-07**

**The applicant, Alan Bogard, is requesting a variance to construct a pole barn that will encroach into the required 5-foot setback. Property address is 5474 Coleraine Drive, Huber Heights, OH.**

Don Millard explained this is a request of a variance of code section 1191.01 which requires the location of an accessory structure entirely in a rear yard. As proposed the structure will encroach 2 feet into the required 5-foot setback from the side property line. There is no 5 ft easement there. Utility easements do exist along the west and south property lines. It is a single-family home, structure would be North side of the property in rear yard. No city utilities in play. Engineering department had no comments on this request.

**Board Discussion**

Ms. Newby asked if building had been started. Alan Bogard said no it has not.

Ms. Newby moved to approve the requested variance. Seconded by Mr. DiFlora.

Roll call showed: YEAS: Mr. Deam, Mr. DiFlora, Ms. Newby, and Mr. Stewart. NAYS: None. Motion to approve carried 4-0.

**Variance Standards**

A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Answer: Yes.

B. Whether the variance is substantial. Answer: Yes.

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. Answer: No.

D. Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer or garbage removal. Answer: No.

E. Whether the property owner purchased the property with the knowledge of the zoning restriction. Answer: No.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Answer: No.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Answer: Yes.

**2. BZA Case No. 19-08**

**The applicant, Randy Rodgers, 8700 Watergate Drive, is requesting a variance to construct a detached garage in the side yard on the north side of the property.**

Mr. Millard explained the property is zoned Planned Residential. Code requires it to be in the rear yard not within 5 ft. of property lines. Due to a shallow back yard and a steep drop in terrain along with utility easement the placement of the garage in the back yard is not feasible. The proposed placement will not encroach any utility easements. Being a corner property, the property has 2 front yards. Lot is about a quarter of an acre. Engineering Department did not have any comments on this request.

Randy Rodgers was available for questions, but there were none.

Mr. Deam moved to approve the requested variance. Seconded by Mr. DiFlora. Roll call showed: YEAS: Mr. Deam, Mr. DiFlora, Ms. Newby, and Mr. Stewart. NAYS: None. Motion to approve carried 4-0.

**Variance Standards**

A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Answer: Yes.

B. Whether the variance is substantial. Answer: No.

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. Answer: No.

D. Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer or garbage removal. Answer: No.

E. Whether the property owner purchased the property with the knowledge of the zoning restriction. Answer: No.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Answer: No.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Answer: Yes.

### **3. BZA Case No 19-09**

**The applicant, Julie Taylor, 5689 Benedict Road is requesting a variance to construct a storage building in the rear yard without 5-feet of separation from the house and property line.**

Mr. Millard stated this is a residential property zoned R4. Section 1189.01 requires an accessory structure to be located not within 5 ft. of the property lines or any other buildings. Due to the house being on a corner lot with two front yards and a substantial real addition, the rear yard is quite restricted for an additional structure. Location is further complicated by a 10 ft wide utility easement across the rear property line. The building would be less than 5 ft from the house and less than 5 ft from the property line. It would encroach 3 ft into the south easement, therefore being only 2 ft away from both the house and the south property line. The lot is approx. a quarter of an acre, utility easements exist along the west and south property lines, no city utilities would be impacted. Single family home, location would be the south side of the property in the rear yard. Engineering Department had no comments.

Letter from 5679 Benedict Road in opposition of this variance was read.

Lengthy discussion on the property line, the fence, the utility easement and the size of the shed.

Julie Taylor stated the shed is required to put all their belongings. Mr. Stewart asked if Board members could see the property and where the shed is being located.

Ms. Newby moved to table the requested variance until they can go out to see the property before the next month BZA meeting scheduled for 9/4/19 and that the property owner is notified 2 days in advance. Seconded by Mr. Deam.

Roll call showed: YEAS: Mr. Deam, Mr. DiFlora, Ms. Newby, and Mr. Stewart. NAYS: None. Motion to approve tabled 4-0.

### **4. BZA Case No 19-10**

**The applicant, Lenetta Harrison, 6573 Rolling Glen Drive, is requesting a variance to construct a storage building in the side yard on an existing concrete pad and without 5-feet of separation from the house.**

Mr. Millard stated this is a residential property. Section 1911.01 requires an accessory structure to be in the rear yard not within 5 ft of the property lines or any other building. Due to drainage issues and landscaping in the rear yard, the applicant wishes to place the building on an existing concrete slab at the side of the house. Not encroach into the 5 ft. setback. The lot is approx. a quarter of an acre, utility easements exist along the north, west, and south property lines. No city utilities would be impacted. The placement will be on the west side of the property in the side yard. Engineering Department did not have any comments.

Mr. DiFlora asked if there was a gas meter. Mr. Millard stated that the slab is over the gas line. Anna Marie Norgrove on behalf on the applicant brought pictures. She stated will build on site 10 x 8. She doesn't mind the shed being put there. A letter from 6564 Rolling Glen Drive was read, they have no objections.

Mr. DiFlora moved to approve the requested variance. Seconded by Ms. Newby. Roll call showed: YEAS: Mr. Deam, Mr. DiFlora, Ms. Newby, and Mr. Stewart. NAYS: None. Motion to approve carried 4-0.

### **Variance Standards**

A. Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance. Answer: Yes.

B. Whether the variance is substantial. Answer: No.

C. Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. Answer: No.

D. Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer or garbage removal. Answer: No.

E. Whether the property owner purchased the property with the knowledge of the zoning restriction. Answer: No.

F. Whether the property owner's predicament feasibly can be obviated through some method other than a variance. Answer: No.

G. Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. Answer: Yes.

## **VII. Additional Business**

None.

**VIII. Approval of the Minutes**

Without objection, the minutes of the July 10, 2019, BZA meeting are approved.

**IX. Adjournment**

There being no further business to come before the Board, the meeting was adjourned at approximately 7:52 p.m.

  
\_\_\_\_\_  
Don Stewart, Chair

9-4-19  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Don Millard, Code Enforcement Administrator

9-4-19  
\_\_\_\_\_  
Date