

**CITY OF HURON**  
**BOARD OF BUILDING AND ZONING APPEALS**  
August 14, 2023 Regular Meeting – 5:30p.m.

Chairman Frank Kath called the regular meeting to order at 5:32 p.m. on Monday, August 14, 2023, in the Council Chambers of the City Building, 417 Main Street Huron, Ohio. Members in attendance: Jim Shaffer, JoAnne Boston, and Scott Slocum. Members absent: Lisa Brady.

Also in attendance: Erik Engle, Planning Director, Jeff Fantozzi, Zoning Inspector, and Christine Gibboney, Administrative Assistant.

Mr. Kath explained the meeting format and protocol and swore in those in attendance wishing to testify before the Board on the case(s) appearing on the agenda.

**Approval of Minutes: (6-29-23)**

**Motion by Mr. Slocum to approve the minutes of 6-29-23 as printed and received. Motion seconded by Ms. Boston. All in favor, motion passed and minutes approved.**

**Old Business**

**531 Berlin                      PPN 42-01067.000    Appeal to Housing Code  
(Hearing Continued from 6-29-23)**

***Project Description- Requested Hearing Pursuant to Section 1358.06***

*The property owner, Nancy Hawk, has requested a hearing pursuant to Section 1358.06 to request an extension of time on a Code Enforcement order relative to property that has been condemned. The home has been vacant for some time and the owner is seeking additional time in order to remove personal property from the premises.*

***Mr. Kath called the public hearing to order at 5:33p.m.***

Mr. Engle recapped the applicant's request for hearing relative to Section 1358.06, for an extension of time on a code enforcement order of property that has been condemned by the Building Official. He referenced this is a continuation of the hearing held during the special meeting of June 29, 2023 which afforded the city time to meet with the bank appointed contractor from Safe Guard Properties to see if repairs could be made, and provided the owner additional time to continue to remove items from the home. Mr. Engle read from the staff report, noting that city officials met with the Safe Guard contractor at the home on 7-6-23 and noted the condition of the home prevented any of them to walk through. He referenced that there has now been an additional 46 days since the June 29<sup>th</sup> meeting. Mr. Engle reported that there has been no contact from Safe Guard Properties or the bank and noted that staff is not supporting the request for additional time due to the condition of the home and safety concerns. Mr. Kath asked if the request is for another 30-day extension, Mr. Engle confirmed that it would be. Mr. Slocum asked if there has been any progress or activity in the home. Mr. Engle noted that the city cannot confirm, this would be a question for the owner, Ms. Hawk. Mr. Fantozzi noted that some of the items in the shed have been removed and noted that the condition of the home is unsafe, stating that the contractor from Safe Guard Properties did not enter the home due to the condition. He referenced the photos that were taken from the entryway which show the deteriorating conditions, water

damage, mold, and dangerous flooring conditions. Mr. Fantozzi noted that due to the condition of the home, he, Mr. Zimmerman, and the contractor did not enter the property.

**Applicant/Owner Statements:** Nancy Hawk, 714 Marvin Street, Apt. 304, Fremont, OH 43420. Ms. Hawk explained she had been working at the home three days per week to remove items and noted that she is staying out of rooms that are dangerous to access. She referenced a recent illness that has hindered her efforts to continue, but did note that when she was actively removing items, she was making progress and was able to donate many items and sold others that were still in good shape. She stated that she believes a 30-day extension would allow her to finish removing all the items she wants from the home. Ms. Hawk referenced a trolling boat motor that remains in the shed.

Ms. Boston commented that if the building is unsafe for the Zoning Inspector and owner to enter, then how is it possible that Ms. Hawk can enter the building, is it legal? Ms. Hawk said it is not unsafe but not a place you would want to stay in for long periods of time. Mr. Fantozzi noted that this is still Ms. Hawk's property and she would have a right, and the city cannot monitor access to the home every day. Ms. Boston was concerned about the fact that the city believes it is unsafe, and is not clear whether this allowed and/or legal. A discussion by members ensued relative to concern for safety and the potential legal position relative to entry to a home that has been condemned and who may be liable. Mr. Kath referenced the length of time the owner has had up to this point to remove items. Ms. Hawk asked for empathy in this matter, referencing her health conditions and asking for additional time. She also referenced an item remaining in the shed. Mr. Slocum asked her what the ultimate plan for the property is. Ms. Hawk replied she has no information and has no plan. She noted that she has not had communication from PNC Bank and does not know if they will try to sell the property. Ms. Hawk noted her only plan is to get some of the things she wants from the property out. Ms. Hawk recapped the history of the home when she and her late husband resided there and the maintenance and repairs, they had done. Mr. Slocum asked who is liable, the bank or owner and what if someone gets hurt in the home? Mr. Engle said he understands the concern for safety and explained the home was condemned by the Building Official who had explained that Ms. Hawk was allowed to go in and remove items. Mr. Kath asked if the board were to approve an additional extension, could the board limit this to be the last extension. Mr. Fantozzi responded to Ms. Hawk's comment regarding empathy; referencing the city's concern for her safety and anyone else who may be going in. Ms. Hawk noted that PNC Bank was mowing the grass, but they have stopped and the yard is now overgrown which could lead to people going in. She referenced locks had been placed on some doors to the home and the shed. Mr. Engle noted that he understood from PNC that the property is in pre-foreclosure and he speculated that the locks were put on by the bank, as the city did not place the locks. Ms. Hawk noted that she did get a letter from PNC Bank that said they are considering foreclosure, adding that she would hope so since she has not been paying anything. Mr. Engle noted that there has been no further communication from Safe Guard Properties and/or PNC Bank and noted that the city would like to proceed with the demolition process. Mr. Kath asked if Ms. Hawk could ask anyone for help.... church, volunteers, etc. Ms. Hawk noted that due to the conditions of the home talked about today, she would not want to invite anyone into the home.

**Audience Comments:** None

**With no further comments or discussion, Mr. Kath closed the Public Hearing at 5:51p.m.**

**Motion by Ms. Boston to deny the request for a modification to the My 24, 2023 Notice seeking additional time relative to the demolition of 531 Berlin Road as sufficient testimony has not been presented to extend the deadline. Motion seconded by Mr. Shaffer.**

**Yeas: Shaffer, Boston, Kath, Slocum (4)**

**Nays: (0)**

**Abstain: (0)**

**With four votes in the affirmative, motion passes and request for an extension denied.**

Ms. Hawk asked what will happen now and if she is able to continue going into the home at this point, or will charges be pressed against her? Members advised that this is not a question they could answer. Mr. Engle noted that city will get in touch with the Law Director and then get back in touch with her of the process going forward.

#### **New Business**

##### **804 Lakeway Drive PPN49-00062.000 Area Variance- Driveway Width & Setback**

##### ***Project Description- Post Construction Driveway***

*The applicant submitted the application following a Property Maintenance Violation and Order to Correct relative to a driveway poured without a permit and being non-compliant with the code for exceeding the maximum driveway width of 24' and lack of 3' side yard setback.*

*As constructed the driveway will require the following variances pursuant to Section 1133.15 (a) & (b) respectively:*

- *23' width variance*
- *3' side yard setback variance*

##### ***Mr. Kath called the public hearing to order at 5:53p.m.***

Mr. Engle referenced the BZA application was submitted following a property maintenance order to correct relative to pouring a driveway without a permit and being noncompliant with the code for exceeding max driveway width of 24' and lack of the 3' side yard setback. Ms. Boston referenced similar driveways on the street and asked about the city's ability to go back and review surrounding properties to see if they had permits or variances granted. Mr. Engle advised that the department can do a digital search of more recent applications, but files inherited are not in a searchable format. Ms. Boston asked if the owner or anyone representing was in attendance to speak on the matter. No response was made from the audience. Ms. Boston expressed her concern, referencing a similar case recently, and the precedent that was set there as the variance was denied. She referenced the code and what is required currently, but also noting in this case the similar driveways along the street. She commented that she would have personally looked at these and would have probably granted a variance if an application had been submitted. She noted she feels boxed-in and having no choice but to be consistent with her decisions. Mr. Slocum asked if the city needed more time to research surrounding permits. Mr. Engle noted that old records were not filed by parcel number or address, so it is not a system that is searchable. Ms. Boston added that she couldn't understand how a contractor would not have pulled a permit. Mr. Engle noted that they had done a lot of renovations and did not follow what was presented,

similar to the other case. Mr. Kath referenced the staff summary note that the contractor advised Zoning staff that the owner was not receptive to correct. Mr. Kath referenced the before and after photos, adding that the correction will be substantial. Mr. Kath noted he agreed with Ms. Boston, in that the board does not like to be boxed in a corner.

**Applicant/Owner Statements: None**

**Audience Comments: None**

**With no further comments or discussion, Mr. Kath closed the Public Hearing at 6:00p.m.**

**Motion by Ms. Boston to deny the request for area variances at 804 Lakeway for a side yard setback variance of 3' and a 23' width variance for the driveway as constructed as sufficient testimony has not been presented in this public hearing that the requested variance meets the criteria set forth in the seven-way test. Motion seconded by Mr. Slocum.**

**Yeas: Boston, Kath, Slocum (3)**

**Nays: Shaffer (1)**

**Abstain: (0)**

**With three or more votes in the affirmative, motion passes and variances denied.**

Ms. Boston noted this case was very challenging, adding that if an application for a variance had come to the board first, she would have supported it, but referenced the similar case recently was denied and it would be wrong. She noted she had to be consistent. Mr. Kath inquired as to what had been proposed to the contractor to correct the issue. Mr. Engle noted the contractor was advised to cut a strip and leave it as landscape thus making a section more of a patio area and then cut a strip 3' from the property line on the other end, that would have been accepted. He noted the city tried to work with the contractor to correct.

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**111 Ohio Street      PPN42-01131.000      Area Variance-Rear Yard Setback**

***Project Description***

*Applicant is proposing a rear yard addition for a first-floor master suite and the addition of an attached third car garage bay. As proposed, the garage will meet the minimum side yard setback and would not require a variance. The addition will require a rear yard setback variance.*

*As proposed, the new addition would be 17' from the rear property line and would require a rear yard setback variance of 13'.*

***Mr. Kath called the public hearing to order at 6:03p.m.***

Mr. Engle reviewed the site plan for the proposed improvements to the property. He noted the additional garage bay meets the code; the rear yard addition will require a rear yard setback variance of 13'. Mr. Engle referenced the location of the home on the parcel and the fact that, as existing, the home is pre-existing/non-conforming for the rear yard setback. Mr. Engle referenced the current setback is 16' from the property line, he noted that as proposed, the addition will have a 17' setback from the property line. He referenced properties within 100', noting one of which has a 0' rear yard setback and one that has a 10' rear yard setback. Ms. Boston noted this is an improvement to the current rear yard setback.

**Applicant/Owner Statements:** Owner Steve Irwin noted he, his wife, and his architect were in attendance. He noted his brother-in-law & Architect, Joe Whiteman, would be speaking on their behalf. Mr. Whiteman was sworn in by Chairman Kath. Joe Whiteman, 2525 Indianola Ave, Columbus OH 43214 addressed the board, noting that Mr. Engle had covered everything on the application. Board members had no questions.

**Audience Comments:** Nora Kelley, (mother resides at 113 Ohio Street). Ms. Kelly noted she did not have an objection, but had some questions. She referenced the rear setback variance, and noted in the application itself it said it was "insubstantial," adding that where the stakes are for the garage it appears to come close to the property line. She asked for clarification of what is considered substantial or insubstantial on the application. She referenced the positioning of the house; the side of the house is also the front of the house on Ohio Street. Mr. Engle explained that on the application, the question as to whether the variance request is substantial or non-substantial has to do with the ask, the variance(s) being requested. He referenced the site plan of this case, noting the rear setback is being improved in this case, the variance is considered insubstantial. Ms. Kelly noted the ownership is an LLC and what they meant in terms of any related zoning. Mr. Kath noted the ownership of the property being an LLC would not be something to be considered by this body, and referenced the city has other codes relating to rentals. The owner, Steve Irwin commented that they have no intention of renting this property.

**With no further comments or discussion, Mr. Kath closed the Public Hearing at 6:11p.m.**

**Motion by Ms. Boston to approve the request for an area variance at 111 Ohio Street for a rear yard setback variance of 13' for an addition as proposed, as testimony presented has shown that the granting of this variance is not significant, will not adversely affect the public health, safety, or welfare; will not alter the essential character of the neighborhood; will not cause a hazard or a nuisance to the public; and will serve the spirit and intent of the zoning regulations. Motion seconded by Mr. Shaffer.**

**Yeas: Shaffer, Boston, Kath, Slocum (4)**

**Nays: (0)**

**Abstain: (0)**

**With three or more votes in the affirmative, motion passes and 13' rear yard setback variance granted.**

With no further business, motion by Ms. Boston to adjourn. Motion seconded by Mr. Shaffer All in favor, meeting adjourned at 6:12 p.m.

  
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Jim Shaffer  
Board of Building and Zoning Appeals Secretary

ADOPTED:

JS/cmg

Dec. 11, 2023