

**CITY OF HURON**  
**BOARD OF BUILDING AND ZONING APPEALS**  
February 12, 2024 Regular Meeting – 5:30p.m.

Chairman Frank Kath called the regular meeting to order at 5:30 p.m. on Monday, February 12, 2024, in the Council Chambers of the City Building, 417 Main Street Huron, Ohio. Members in attendance: Jim Shaffer, JoAnne Boston, Lisa Brady, and Scott Slocum.

Also in attendance: Erik Engle, Planning Director 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 (12-11-23)**

**Motion by Mr. Slocum to approve the minutes of 12-11-23 as submitted. Motion seconded by Ms. Boston. Ms. Brady abstained as she was not in attendance for that meeting. All in favor, motion passes and minutes approved.**

**New Business**

**807 Garden Drive     R-1                      PPN49-00046.000     Area Variance- Rear Yard Setback  
variance for an addition.**

***Project Description***

*The applicant is proposing to construct a 304sf, 1-story sun room addition, in place of the current 100sf sun room, on the east end home. The existing home is pre-existing/nonconforming to the code, lot is undersized, odd shape, and on a corner lot. As proposed the addition will require a rear yard setback variance of 17'-9".*

***Mr. Kath called the public hearing to order at 5:31p.m.***

Mr. Engle reviewed the application, zoning district, property size, and referred to the staff report noting the applicant is proposing to replace an existing 100sf sunroom with a 304 sf 1-story sunroom. He referenced the home is pre-existing/nonconforming, lot size is undersized, odd shape parcel, and on a corner lot. Mr. Engle reviewed the location of the proposed addition, photos, and staff report. He noted that as proposed, the addition will require a 17'-9" rear yard setback variance.

Mr. Kath asked if notices had been mailed to properties within 100' for each case on the agenda. Mr. Engle confirmed that notices had been issued.

**Applicant/Owner Statements: Mark Claus, 406 Winona.**

Mr. Claus reiterated the issues with the parcel: corner lot, odd-shaped, undersized lot, and the home is pre-existing/non-conforming. Mr. Claus referred to the site plan reflecting the property. Staff and Mr. Claus reviewed the neighboring lot photo on the presentation, noting that this is the garage side of the neighbor's home. It was also noted that the letter of support was from this neighbor. Mr. Kath inquired about any safety concerns from a safety perspective, Mr. Engle noted

that the minimum distance is 5' in the building code, so there are no issues with this. Mr. Claus pointed out the site plan showing the current zoning code setbacks and pointing out the small, unbuildable area that would result if applying current setbacks. He referenced that the issues relative to the lot noted above demonstrate the hardship to the parcel.

Ms. Boston acknowledged the reasons for the variance request relating to the property itself: corner lot, odd shape lot, undersized lot and has tried to stay within the existing design.

**Audience Comments: None**

**With no further comments or discussion, Mr. Kath closed the Public Hearing at 5:38p.m.**

**Motion by Ms. Boston to approve the request for an area variance to Section 1123.01 (e) Lot Area, Frontage and Yard Requirements, for a 17'-9" rear yard setback variance at 807 Garden Drive for an addition as submitted, citing the testimony presented in this hearing 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. Motion seconded by Mr. Shaffer. Roll call on the motion:**

**Yeas: Shaffer, Boston, Kath, Brady, Slocum (5)**

**Nays: (0)**

**Abstain: (0)**

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

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**304 Bogart Road     R-1     PPN 42-0175.000     Area Variance- Reduction to the frontage requirement for a proposed lot split.**

***Project Description -Non-Compliant Lot Split Request***

*The applicant is proposing a lot split of his property located at 304 Bogart Road. As proposed, the lot does not meet the minimum regulation for the minimum lot frontage within an R-1 Zoning District. The applicant/owner advises that there was a 50' right of way access easement to this parcel along Forest Hills Drive and when this right of way was vacated, it eliminated the access from Forest Hills Drive to this portion of his parcel. He is seeking consideration for a variance to Section 1123.01 for the lot frontage.*

***Mr. Kath called the public hearing to order at 5:46p.m.***

Mr. Engle reviewed the application to split off a portion of the existing parcel at 304 Bogart Road. He noted, as proposed, the newly split-off parcel will have a 30' frontage on Bogart Road- 75' of frontage is required in a R-1 Zoning District. Mr. Engle referred to the application noting that at one time there was a 50' right of way on Forest Hills Drive to this portion of property but that right of way was vacated. Subsequently, the vacated area was split between the two abutting property owners on Forest Hills Drive. The only frontage is on Bogart Road. Mr. Engle noted the large size of the existing parcel and the location that the owner is proposing to split off on the east

end of the property. In doing so, this will create a "flag-shaped" lot. The proposed lot area size for the property meets the code. Mr. Engle advised that if the BZA were to grant the variance, he would recommend that a 15' buffer area from the rear of the neighboring property yard be required. Mr. Engle also noted that if Forest Hills Drive was not vacated, it would still have not met the 75' frontage requirement for this parcel. Mr. Engle confirmed that there are no utilities in existence in the former right of way area. Mr. Engle referenced the two letters from neighbors opposing the variance request deeming it substantial and changing the character of the area. He noted that the average frontage of neighboring properties is 150'.

**Applicant/Owner Statements: Owners, Jerry & Betty Weyer in attendance.**

Mr. Weyer pointed out that the current zoning calls for 75' of frontage, but stated that this is a "Property of Record" and the 75' requirement does not apply. He stated that there was a 50' right of way when they bought the property next to it. Mr. Weyer asked if this was correct. Members asked Mr. Engle for any information he could provide. Mr. Engle explained that the 75' frontage requirement applies to the zoning itself, the record of deed would have nothing to do with this requirement. Mr. Weyer disagreed and noted that that "Property of Record" is 50' or 46.17'. He noted that they have tried to maintain the character of the neighborhood. He referenced the right of way back to Forest Hills Drive stating that this gave them the right of way to exit at Forest Hills Drive, which was always the plan for the access to this property. He explained the neighbors on Forest Hills Drive did not want the traffic through their area and he wanted to be a good neighbor, so they never pursued it. He then explained that there was a vacation of the right of way and the property was purchased by the abutting two neighbors. He noted he was never notified of the vacation or the split. He referenced the hardship this has caused and how this has made them have to change their plans for this property. He stated that they are forced to use Bogart Road as an access. He noted the extensive landscaping that he and his wife have added to this entire parcel and they are determined to keep the look by adding deed restrictions that he has created. He noted all he is asking for is a driveway to allow for access to this property. He reviewed the proposed size of the driveway and property. He asked for consideration of the 30' variance needed to allow for the driveway. Mr. Kath noted, it would be a 45' variance needed; Mr. Weyer disagreed referencing the "Property of Record" and the 50' reference. Ms. Boston asked about what the process is when an easement is vacated. Mr. Engle noted we are strictly talking about this variance request, so when it comes to vacations and accesses- we are under the impression that there has always been access to Bogart, but there has never been a public right of way going through the property and so with regards to the Forest Hills Drive right of way vacation, this would have been done through Planning Commission and City Council and surrounding property owners would be notified. He noted again, we are again strictly talking about the variance request and the seven-way test to apply.

Mr. Weyer said he could sell the property today as it exists and does not need a variance but hopes the board will grant the variance. He noted either way, he can do a lot split and sell the property if they wish to.

Mr. Kath stated that the board must look at the application before them which is a frontage variance of 45'. Mr. Weyer noted this is not correct. Ms. Brady asked Mr. Engle to explain. Mr.

Engle referenced the Auditor's site and the one large parcel that exists for this property. Mr. Weyer stated that the Auditor's site is not correct, that he has two separate deeds. Ms. Boston suggested going back to the Auditor and get that corrected because the BZA must go by the rules of the board pursuant to the current zoning code. Mr. Weyer stated he has 46' of frontage on Bogart Road per his deed and that the property is sellable as it is.

Members suggested that perhaps the case should be tabled to allow for Mr. Weyer to discuss the parcel with the Auditor's office and give staff time to investigate the Property of Record references with Legal. Mr. Engle advised that perhaps the issue will resolve itself if in fact Mr. Weyer can resolve the matter with the Auditor and bring back the separate deed. Mr. Weyer agreed to table.

**Audience Comments: Cory Brennan & Lydia Brennan, 113 Forest Hills Drive.**

Mr. and Mrs. Brennan expressed the desire to purchase the property behind them as they have access to the property via their property on Forest Hills Drive. Mr. Engle advised that they speak to Mr. & Mrs. Weyer about that and did note that he would want them to combine any property purchase with their lot.

With no further discussion, Mr. Kath asked for a motion to table the case until the next regular meeting to allow time for both the applicant and staff to research.

**Motion by Ms. Brady to table the case. Motion seconded by Ms. Brady. Roll call on the motion:**

**Yeas: Shaffer, Boston, Kath, Brady, Slocum (5)**

**Nays: (0)**

**Abstain: (0)**

**With three or more votes in the affirmative, the case was tabled until the next regular meeting.**

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**Other Matters**

Mr. Engle reviewed the materials in the packet regarding meeting protocols; area and use variances. He noted that staff had asked for Legal input as well and this has been included in the document. He referenced deliberating on the floor and tabling if needed.

Mr. Kath noted that he had asked about caucusing and noted that Legal has advised this is not recommended. Mr. Kath noted that legal is advising that the board must address any application before them. Mr. Engle reiterated that area variances can pertain to any section of the code, that decisions made by the BZA are not changing the code in any way, they are granting a variance to that section of the code for that specific case. Legal also advised that the BZA must act on any application before them, members can table if needed. Discussion ensued regarding what the BZA has been trained to apply to each case and members noted that there is a reason that the city has a BZA board and each case is to be taken with consideration of the criteria. Mr. Engle noted he is used to staff including a recommendation on the staff report, but that is something that is not done here, so the staff report provides the board the facts and corresponding code requirements.

A discussion on the Stride Mobility case ensued; the original variances granted, and the latest request. Mr. Engle referenced the code relative to off-premises signage and signage- it is very clear and is prohibited.

**Review/Discussion- Draft BZA Rules**

Ms. Boston asked if there can be anything included for remote access- in the event the we find we do not have a quorum, could this be something that can be done. Staff noted that they would consult with legal to see if this is something that can be done.

Mr. Engle explained that the content of the rules is completely up to the BZA, any edits/inputs members wish to have included, just let staff know.

Members mentioned the Board/Commission applications that were sent out to each of them prior to the end of year, some members said that they forgot about returning these and stated it was not clear why they were sent. Mr. Engle explained that it is City Council that makes the board/commission appointments and last year the Clerk of Council had sent applications out to all members when they were getting ready for year-end appointments. Members talked about the process that previous City Council has had in the past of advertising for openings and then interviewing candidates. Mr. Boston asked if the BZA board has any voice in selecting candidates, noting how important it is to have people with relatable experience serving on the board. She noted the past members of the BZA who had legal and construction experience. Staff explained that it is up to City Council as to the process and appointment of members.

Mr. Kath noted the importance of members looking at the agenda packets when they are issued to have time to research and reach out to staff and/or legal before the meeting if there are any questions rather than having to table at the meeting.

Mr. Engle noted he would be working on the rules and would like to get the BZA a final draft for a review and adoption.

With no further business, motion by Ms. Boston to adjourn. Motion seconded by Ms. Brady. All in favor, meeting adjourned at 6:28 p.m.

  
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Jim Shaffer  
Board of Building and Zoning Appeals Secretary

ADOPTED: April 15, 2024  
JS/cmg