



CODE ENFORCEMENT REPORT

July 2020 – Report Attached.

PLANNING AND ZONING COMMISSION

July 15, 2020 – Meeting minutes attached.

FINAL DEVELOPMENT PLAN REVIEW

Applicant: The Camber Company, LLC
Location: 2630 Carriage Road and 8061 Liberty Road
Existing Zoning: (FR-1) Farm Residence District – Liberty Township
Proposed Zoning: (PR) Planned Residence District – City of Powell
Request: To review a plan to annex land into the City of Powell for a single-family subdivision of twenty-three (23) lots on approximately 7.72 acres.

- *Request reviewed and approved with conditions.*

MINOR AMENDMENT TO APPROVED DEVELOPMENT PLAN

Applicant: Huli Huli
Location: 26 W. Olentangy Street
Existing Zoning: (PC) Planned Commercial District
Request: To review a proposal to create a patio space at the back of the existing building.

- *Request reviewed and approved with conditions.*

HISTORIC DOWNTOWN ADVISORY COMMISSION

July 2020 – No Meeting Held.

BOARD OF ZONING APPEALS

July 9, 2020 – Meeting minutes attached.

APPLICATION FOR VARIANCE

Applicant: Dave Petrozzi
Location: 240 Whitaker Avenue
Existing Zoning: (PR) Planned Residence District
Request: Approval of a variance to reduce the required 30' rear setback line to 24.67', in order to construct a three-season room.

- *Request reviewed and approved.*

APPLICATION FOR VARIANCE

Applicant: Pete Johnston
Location: 229 Glenworth Court
Existing Zoning: (PR) Planned Residence District
Request: Approval of a variance to locate a pool 12' from the property line within the existing drainage easement.

- *Request reviewed and approved with conditions.*

July Code Enforcement Report 2020

Date	Violation Description	Address	Name	Phone	Notes	Resolved Date
7/6/2020	Lawn Violation	690 Retreat Ln	Gregory Chalfant		overgrown lawn & landscaping	violation letter sent 7/6
7/6/2020	Lawn Violation	Old Pond Lane	David Brehm		overgrown lawn & noxious weeds	called & left voicemail, sent info letter



Planning & Zoning Commission
Donald Emerick, Chairman
Bill Little, Vice Chairman
Trent Hartranft

Shawn Boysko

Ed Cooper

Shaun Simpson

Elizabeth Bailik

MEETING MINUTES

July 15, 2020

Chairman Donald Emerick called a Zoom meeting of the Powell Planning & Zoning Commission to order on Wednesday, July 15, 2020 at 7:00 p.m. Commissioners present included Donald Emerick, Elizabeth Bailik, Shawn Boysko, Ed Cooper, Trent Hartranft, Bill Little and Shaun Simpson. Also, present were Rocky Kambo, Interim Director of Development, Elise Schellin, Development Planner, Pam Friend, Planning & Zoning Clerk and interested parties.

STAFF ITEMS

ACCESSIBILITY IN POWELL

Rocky Kambo: Elizabeth, Don and I are taking the OSU class and Elizabeth came across some information about accessibility. I think Elizabeth sent an email to everyone. Thank you Elizabeth for sending that out. I will let Elizabeth provide a brief overview of what it is you wanted to speak about.

Commissioner Bailik: I just wanted to pass it along because I am new to this and I was looking on the website to see whether or not we address those issues in planning, like accessibility, under-served populations and inclusion. I may have missed something but I did not see anything on the website. My thought was not necessarily from a code perspective but from a cultural perspective to maybe investigate it as something we want to include or add. I know the governor put out an executive order, which I found interesting to read and I liked it. I did not know if we would want to put that out there to say Powell also feels that it is important. I just wanted to see if you had any thoughts on it. You have all been doing this a lot longer than I, but I do know from the class we are taking that the biggest thing about planning is to be open to change, be progressive and inclusive. I do not know if anyone has any thoughts or if you want to think about it, but that was my intent.

Commissioner Hartranft: I have not had time to look through the emails, but were there any specific things you were looking to get our input on as far as inclusiveness or items you thought we needed to address outside of the ADA?

Commissioner Bailik: Actually there are two links that I provided, one is a study that was put out by OSU on underserved populations and the other is the governor's executive order. In looking at those two documents, if you have any thoughts or think we could adopt or incorporate any of it. I just thought it was interesting and as I said, when I went to the website I could not find anything that addressed accessibility, inclusion and definitely not underserved populations because that is kind of a new facet in planning right now. Its basic function is for autism that is the primary focus of the underserved populations for this study. It talks about different ways to mitigate and items that you can incorporate into your planning that can help those individuals with autism. I think if you read it and there is interest maybe we can talk about it further.

Mr. Kambo: The only thing I will say from the staff's view and also members who have been on the commission for quite some time, you are right it may not be explicitly written in code or the web pages but certainly throughout the many projects that we have done over the course of many years. It is certainly a consideration, especially the aging in place, making sure that we are accessible by everyone. I can definitely agree there is no harm in putting it down on paper.

APPROVAL OF MINUTES

MOTION: Commissioner Bill Little moved to approve the minutes of June 24, 2020. Commissioner Hartranft seconded the motion. By unanimous consent of all Commission members present, the minutes were approved as written.

Vote: Y-7 N-0

FINAL DEVELOPMENT PLAN REVIEW

Applicant: The Camber Company, LLC
Location: 2630 Carriage Road and 8061 Liberty Road
Existing Zoning: (FR-1) Farm Residence District – Liberty Township
Proposed Zoning: (PR) Planned Residence District – City of Powell
Request: To review a plan to annex land into the City of Powell for a single-family subdivision of twenty-three (23) lots on approximately 7.72 acres.

Rocky Kambo: Just a quick introduction before they speak for those in the public listening, this is a continuation of the last meeting's public comment. This is the second time we are reviewing the final development plan. Chris Bradley is on here as well as Gary Smith from G2 and for all the public listening right now we have been open to receiving emails, phone calls, etc. but we are absolutely here to listen. None of the staff received any emails or calls from the residents for this meeting, which it is not to say maybe they do not have any comments left. I am not sure with the virtual setting if we will be able to get to the public comments, however for those listening in, if you want to write your comments in the chat box we will see them. If you are unable to comment and this is passed today there is still two more readings at City Council that you will be able to provide comment at as well. I just wanted to make sure that everybody is aware this is by no means the end of public comment. The other quick thing I will say is there has been no further changes to the proposal itself. There were some updates to the storm water design that changed minimally the size. It did not impact the site layout or the ultimate character of the site. I will let Gary and Chris give a brief reintroduction to the plan, but of course staff is here to answer any questions.

Chris Bradley – Camber Company: I think we have all seen the plan, I am not sure there is any need to go through the plan with fine detail when not a whole lot has changed since we were last together. What I would like to report is what we have done since we last met. Zenios is on the screen here too. We submitted some additional architecture to address the rear elevations that were requested last time we were together and your architectural advisor has seen those and likes them. He has gotten back to us with feedback and we have made some of the changes he requested so I think they are at a place where he is comfortable with those. I do not want to speak for him but that is what the email indicated. We sent in new storm calculations because Chris Huber was on site and had seen a couple of different things as it relates to drainage that he brought to our attention, which required us to look at it just slightly differently. EP Farris has done that and submitted updated calculations to the engineering department. The final thing I would say is that shortly after our last meeting we met with a couple of members of the Westchester HOA, including their active president Amy and another member of that board. We had a really good conversation and I think we cleared the air on a lot of these items that have been discussed in the past. I felt like we left there with a goal of working together. The biggest thing that came out of that was frankly the existing traffic situation. Regardless of this development there is an issue there today at that intersection, maybe not as extreme as some of the others along Liberty if you were to ask different folks from traffic departments. What we would like to do is get a small committee or task force to work with the county and the schools on trying to understand what it is we can do to make that area operate or function a little better. Particularly during school drop-offs and pick-ups. I have emailed Rocky and reached out to Bill Little about potentially having Bill participate on the committee from the City's standpoint. We have a commitment from the County to have somebody included and the HOA would like to be a part of it. We want to get four or five people together to figure out what is the best thing to do for this intersection. The preliminary feedback is not necessarily a roundabout, but we think even operationally there's got to be different routing and even more elementary things that can be done to at least help mitigate the situation relative to how it stands today.

Commissioner Little: Chris, I would like to add to that a little bit. A couple of months ago I started to go down that path and we got pushback and we moved on to the next meeting, but when you reached out I said I would support that kind of activity. We are talking about maybe routing the buses down to the other entrance. There are things that once the City takes control over the intersection we could restrict left turns at various times of the day. Are you thinking the HOA would take the lead on that or would you take the lead on it? What's that arrangement?

Mr. Bradley: I will be happy to reach out and set up the initial meeting with the group. I think the real key to being successful is engaging the schools and also the County. Zenios you can chime in here if you want but I am pretty sure that you had talked with somebody at the County and there is a gentleman there that could be a potential liaison and I believe Amy from the HOA was reaching out to the schools.

Zenios Michael Zenios – 3 Pillar Homes: When we met with the HOA on the commission's suggestion the concerns were not so much the architecture because we knew that we could work through that but we knew that we had a concern for the existing homeowners and frankly for my future homeowners that are coming in. We are going to form

a task force and I would suggest that Chris and Amy kind of lead us. We will engage Mike Love from Delaware County Engineer's office, I reached out to Rob Riley and he said that Mike would be willing to help us with whatever we need. I reached out to the school superintendent Mark Raiff. He has his hands full right now as you can imagine, but said when we get closer he is happy to listen and assign whatever resources he needs to assign. So between Delaware County's Engineer's office representatives, school representative, HOA for Romanelli & Hughes side, 3 Pillars side (me for now), Amy Wilson from Westchester, Chris Bradley and obviously the City of Powell engineer we can hopefully have something to bring to the table and raise awareness and maybe expedite some future funds.

Mr. Kambo: Just to make P&Z members aware, Kevin Sullivan with Shyft Collective is stepping in for Steve Reynolds tonight if you have any questions about the architecture.

Commissioner Emerick: Do we have any other questions from commission members on what has been done to this point?

Commissioner Bailik: I would just like to thank Chris and Zenios. I appreciate you reaching out to the HOA. I think that is a win-win. I am glad that they were able to walk away with something you think you can work together on. I really appreciate it.

Mr. Bradley: Thank you for the suggestion and it was kind of our intent all along. It may have seemed like we were not heading there in the past, but it was our intention. They were excellent in terms of feedback and being practical. I just really appreciated how they approached it as well. I am not sure if Amy or the others are on but we are grateful for how the meeting went and how we are working through it.

Commissioner Simpson: Amy did comment on there.

Commissioner Hartranft: She put in a chat that says Amy Wilson is in listen mode and I am happy to be part of the task force.

Commissioner Emerick: If there are no other questions or comments, Bill do you have a motion ready?

Commissioner Little: So just to clarify, we are not having any public input at this point and it was asked to be done prior to the meeting?

Mr. Kambo: Yes, it was asked to be done prior to the meeting but as everyone noticed with Amy, if anyone is on right now they can type in the chat box and of course we would be happy to oblige. We did not receive any emails or calls about it. The one other item between the last meeting and this meeting was when we looked at the existing plot plan, we noticed there is a bridle path along the north side of the property line, which had been used for horses to traverse from this lot across the rear lot lines of all the neighbors. This can be easily taken care of during the replating if we get to that stage is the developer just vacate it, so that when these lots are plated it cleans it all up. Again, not a big deal just something that can be done later, it is just an added condition that staff put in the staff report.

Commissioner Little: I just had one other question. As an example, I think we had talked about the bike paths along both Carriage and Liberty. It is within the wording of staff recommendations, so do any other commission members have any further comments before we declare a motion?

Commissioner Emerick: I think we should ask that it be put in.

Commissioner Hartranft: Just to clarify it is the bike path on Carriage or on Liberty?

Commissioner Little: The way the staff report references it would be both along the property.

Commissioner Hartranft: I also think that needs to be put in and I want to thank the developer for coming back in front of us. I know we have been through quite a bit since this first started and I appreciate their patience. I also want to thank the residents of the subdivision and community for coming together. I know there were a lot of different opinions and views when this first started, but as Chris just mentioned in the latest meeting with them, I think we have come a long way. I think the task force or committee is a huge step forward in developing this into part of that neighborhood possibly but also helping to develop the traffic flow through there because that has been a mess for a while. There has been different things put in place by the County, whether it is the speed limit or speed tables going through the neighborhood, but that intersection has always been a hard spot to get through. I think we are in a good spot working with the schools and everybody recognizes that is a huge piece of the puzzle. The school has probably not taken initiative and controlled the traffic flow through there as well as they could. Not to put the schools down, they have a lot of other things to worry about with safety of the kids. The builder and developer working together is a huge win.

Commissioner Little: At the last meeting we talked about the ordinance would include the City and County Engineers working together basically to decide what the final solution is for the intersection. I think everyone is good with that condition. An additional comment that I had now that we have initiated the activity with the HOA, I think it would be good for the motion to include something about continuing that effort and even to the point of the HOA wanting a monthly update that might be a good gesture and in turn they would perhaps have somewhere to contact if construction debris would end up in yards or any other issues. I would like to see something like that added.

MOTION: Commissioner Little moved to approve the Final Development Plan for the property located at 2630 Carriage Road and 8061 Liberty Road represented by the Camber Company for the purpose of building 23 single-family homes on 7.72 acres. Subject to the following condition(s):

1. The City and County Engineers shall work together to determine the proper solution for the intersection of Carriage and Liberty Roads. For example; roundabout or traffic signal.
2. The applicant will work with the building and engineering departments to satisfy their requirements.
3. The applicant will take into account staff recommendations on the architecture of the buildings, as well as those of the architectural advisor.
4. Bike paths shall be built on both the west and south property lines on Liberty and Carriage Roads.
5. The applicant will work with the HOA to take into account their reasonable input and provide monthly construction updates should they be requested by the HOA and demonstrate receptiveness to construction related concerns; such as trash, etc. should they bring those concerns forward.
6. The existing bridle path shall be vacated once replating is completed.
7. The developer shall initiate a task force to work with the City, the residents and/or the HOA, the schools, the County and any other involved parties to consider interim traffic solutions prior to the implementation of the longer term solution.
8. City Council shall approve annexation into the City, whereas the existing zoning Liberty Township (FR1) Farm Resident District shall be changed to City of Powell (PR) Planned Residential District. Annexation to the City shall include the intersection of Liberty and Carriage Roads.

Commissioner Simpson seconded the motion. By unanimous consent of all Commission members present, the motion passed. **Vote: Y – 7 N – 0**

MINOR AMENDMENT TO APPROVED DEVELOPMENT PLAN REVIEW

Applicant: Huli Huli
Location: 26 W. Olentangy Street
Existing Zoning: (PC) Planned Commercial District
Request: To review a proposal to create a patio space at the back of the existing building.

Dustin Sun, Huli Huli, 26 W. Olentangy Street, Powell: What we are trying to do here is seek permanent patio space approval, which is really essential for our business to survive even after the pandemic. There is definitely a value in the patio space and right now we have temporary expansion from the City, Health Department and the Liquor Board. We are probably one of the first to get approval, so we see the value in that. We did not extend any seating or tables besides the fact that we spread it out a little bit more. As far as the first year to this year, the first year we obviously struggled a lot because again last summer we had three tables in the back because we combined two of the tables to make it one. This year we have five or six tables outside and we feel like we opened it up to make it more open and safer, people are willing to sit out there and it is really essential for our business. We have revamped ourselves and are trying to be more of a restaurant than just a bar. We have really focused on online and delivery. We are just trying to survive and I feel like with the temporary space we have in order to move on in the years to come we need to get this space approved to be permanent. I feel like the parking requirements will still be met with the ADA still in place. We are seeking 43 X 15 square feet, which is approximately 645 square feet. We are just asking for approval and we have tried to follow guidelines from the start and want to make this space even better.

Mr. Kambo: When this was originally approved back in 2018 there was no rear patio space as part of this approval. There is the front space that allowed for opening of the front door but there was actually no outdoor patio space. You are seeing this because it is a minor amendment because they are decreasing the number of parking spaces by one. We gave this a great amount of thought and ultimately we are in difficult times, but we cannot make decisions just based on what I hope to be short-term problems. With that being said, the State allowed for temporary expansion of patio spaces to allow for social distancing for patrons. Many of our other bars already have existing patio space. In

his particular case the applicant does not have dedicated patio space. As staff we are not promoting that all temporary expanded spaces become permanent formalized spaces. We do believe this is a unique case because this would help the applicant not only short-term, so that he knows he has the space he can invest in and also with the Covid pandemic, but also in the long-term this would help the applicant. In addition, we know that we are trying to create a vibrant walkable downtown core and by adding the patio space in this particular user's site is ultimately going to help in achieving that goal. When this proposal was initially approved the code in some ways required the Planning & Zoning Commission to take whatever the required seating was and reduce it by fifty percent, so had no reduction been allowed this applicant would have been required to provide 28 spaces. When it was approved 14 spaces were required with 9 spaces on site and the applicant rented 5 spaces off site from Dr. Waddell to which he is now on a month to month basis. Staff took the opinion to look at this proposal with the eyes of back when this was approved, when fifty percent reduction was allowed. If that is the case, we are losing one parking space to gain a patio space and in staff's opinion that is a good return on investment to get another outdoor space for the residents of Powell to enjoy, for the restaurant to be able to keep his business going and invest in his business is why staff is in favor of providing approval. We would like to make clear that since the initial approval was for forty seats that be kept in place. So at any one time no more than forty seats are in place. I think that Dustin alluded to the fact that he has not been doing more than forty seats rather just spreading out the existing forty seats so that is good to hear. Staff does recommend approval for the minor amendment to the improved development plan subject to the following two conditions: one that all engineering department comments are addressed. We do not foresee any engineering comments but we would like to have that blanket statement there. Second the applicant continue with the limit of 40 seats for both indoor and outdoor. I think I might want to add in a third condition, I will leave it up to the commission if you want to do a Certificate of Appropriateness. If you would like Dustin to come back once he has his formalized design in place, he can come back to P&Z for a quick review or you could have it that staff reviews his final design. There is that option as well. I have great confidence that he is going to do something very nice back there.

Commissioner Emerick: Any questions from the commission?

Commissioner Simpson: Is the spot we are losing a handicap spot or just a normal spot?

Mr. Kambo: Fortunately it is a normal spot and the handicap spot is one over from that and the landing for the handicap is one over from that so it will not be impacted.

Commissioner Bailik: Let's say things get better and he wants to increase the number of seats. Does he have that option later on?

Mr. Kambo: He would have to come back before Planning & Zoning to ask for additional seating.

Commissioner Little: We put that in the initial motion when we passed the current situation. From my perspective, I have a little bit of mixed emotions here. I have a little bit of principle tapping me on the shoulder. We spent a lot of time debating what to do here back when this was originally approved, downtown was vibrant, and we were not in the Covid-19 situation. A lot of local debate on parking spots, number of parking spots and availability. We worked through it and figured out where we could make the parking work. Since then things like Nocterra have come onboard and they obviously have absorbed a lot of the parking along the railroad that we thought might be an alternative for Huli Huli, but from my own observation I think the residents of the community have figured out the parking albeit walking or using the city lot. I have not seen too many problems other than when we have a major city event, which are few and far between right now as well. The principle in me is we gave it quite a bit of thought before and now we are talking about another reduction in a parking spot. We really do not have the number of permanent parking spots that by nature we should, however the changing of my mind and flexibility allows me to consider this. I think from my standpoint coming back with a Certificate of Appropriateness so that we can actually see the engineered proposal would be something that I would like to see.

Commissioner Emerick: I would agree with that because I remember those discussions that we had and how much time we spent talking about the number of parking spaces required.

Mr. Sun: I believe last time we were looking at twenty-five spaces and then divided by two, which would have been twelve and a half spots, then rounded up to thirteen spots. I believe I have thirteen with Dr. Waddell's right now. I don't know if that number has changed? Rocky I thought you had said we need fifteen spots so it is a little bit different than before.

Mr. Kambo: No, sorry Dustin, I said fourteen spaces. I did that based on the past staff report that said 14 spaces are required.

Commissioner Boysko: I agree with the approach and I appreciate the value that the rear patio space has to offer. I think it is a great solution temporarily. As Rocky had mentioned, if we look at it as if this was a new development, obviously we are concerned about parking. If this is going to be a permanent solution we would approach it just like

any other development and ask how you are going to develop the patio area. Is it going to be something more than just stanchions and rope to separate the parking from the patio area? Dustin is that a part of your long-term plan when you make this a permanent space to create some sort of barriers, planters or something to separate the parking area?

Mr. Sun: Absolutely, we would invest a lot of money into the back of the building. We would do a huge thatch roof to put up a cover and we would obviously have blockage whether it's planters or metal fencing to match the existing fence. We want to make sure our guest are comfortable and safe from vehicles. Something for you guys to think about is that from a restaurant side we feel like the patio is more important than our kitchen at this point. If it is better to not be a restaurant and be something else in order to have patio space it would really help the business, so that is how much this patio means to us. Again, that is why we are even considering putting that much more money into it. If we get this approval we definitely will make the back different and to our standard. I think it will really fit our theme and our restaurant and it would really help us. Depending on the outcome of this meeting or decision in the near future this will dictate what we do with our business.

Commissioner Boysko: One of Bill's comments was to request a Certificate of Appropriateness. Rocky is that something where when we went through that review we would see more detail, more information on how those barriers are created and what that looks like?

Mr. Kambo: My understanding is that this approval would allow him to at least move forward with the basic stuff like putting in a fence or something, but for anything greater, like a mini bar or a canopy or any kind of large scale development he would have to bring that before Planning & Zoning Commission for a Certificate of Appropriateness or staff review whichever you choose.

Commissioner Boysko: So we would make those conditions in this approval that we would like to see, what is proposed with a permanent patio because that is what is being purposed is a permanent patio not a temporary one?

Mr. Kambo: Yes, exactly. You can, in your approval if given, specify the items that in some ways kick it up to a Certificate of Appropriateness review, so things that are minimal in order to get him going you can say whatever but then specify some of the items that would require him to come back before P&Z.

Commissioner Boysko: I remember a very long discussion regarding the parking and the value of those parking spaces. Dustin went to great lengths to go to Dr. Waddell's property to put in five more spaces. I agree the parking is valuable but I would concede a parking space for the patio. I think the patio is definitely more valuable. We have also done studies to represent that there is sufficient off-site parking to allow for that reduction. One of the things we talked about was for the off-site parking is to provide some type of signage pointing patrons to where additional parking is located. Was that ever initiated for this project, off-site parking?

Mr. Sun: It was not because when we open and close the barn doors it covers it up, but we can definitely put something up. Especially in front of the building, I just don't know how large it can be and how it can actually be seen from the street.

Commissioner Boysko: My thought is that the appropriate place to put it would be in the back parking lot where you erect some kind of barrier between the parking and patio area. That would be a good place so that when people pull in and the spots are full you could have a sign pointing them to the municipal parking areas. We had talked about working with staff to develop a common sign or theme that is simple and easy enough to direct people to alternate parking spaces.

Commissioner Little: I think we proposed both the front and the back when went through this if my memory is correct. I think we put the same requirement on Nocterra and they have a sign that references the alternate parking spaces.

Commissioner Boysko: It seems like that would be a good concession if we are going to concede a parking space for a patio. The other concession is add that signage on the front and the back, enough to direct people to alternate parking.

Commissioner Bailik: Are there maps on your website that show possible parking? Sometimes that provides somebody ahead of the game where to park. Maybe you could add something on your website which shows potential places to park.

Mr. Sun: We can definitely do that though we do not really have a page for it yet. I know for a lot of our curbside we have them park in the front for safety purposes. If it is full they know to pull in back maybe not in a parking spot, but just pull in the middle so we can bring the food & drinks out. I know certain businesses have taken spots in the front

for a designated pick-up area, but something like that would really benefit us. Whatever signage is necessary we would definitely try to accommodate.

Commissioner Bailik: Forgive me I am not aware of what you talked about before, but maybe as a mitigated measure for losing a parking space, are there bike racks anywhere? I do not know if anything like that is available nearby, but it would promote people to just ride their bikes and lock them up. The rest of you can correct me if I am wrong, but just a thought.

Mr. Kambo: There are actually bike racks right outside his site.

Mr. Sun: It is right next to the building where there is a designated public sitting area.

Commissioner Little: I think if we look at it like Local Roots. Originally they came in wanting to put in the beer garden or whatever we call the area when they added live bands. In that case we went through a lot of specificity and we granted a temporary permit. They came back at the end of that season and went through the motion of making it permanent. I guess the question for the commission is where each of us stands on at least wanting a shot at looking at what is going to be done with a certain amount of specificity such as drawings as a condition of approval.

Commissioner Simpson: I feel comfortable saying that I would be for the prospect of losing the parking spot to gain a patio. I think having a restaurant in that spot or something like that is so much more valuable. If he needs approval of some sort to get going and get the cost associated with designing opposed to doing the design cost before getting approval. I would be more than happy to give approval to get started and then bring it back to us to get approval on the actual design.

Commissioner Hartranft: I am in agreement with the patio. I think it would be a nice addition so that Dustin could be successful there for many, many years. I would welcome that but to the point where Rocky mentioned putting up a fence now and kind of blocking that in as a permanent structure is fine for temporary. If it becomes more of a grand structure or elaborate concept I think coming back in front of us and showing us what it is going to turn into is a necessity.

Commissioner Emerick: In case you have not noticed there are a couple of comments in the chat area in support of the patio area.

Commissioner Little: Again, the question to the commission how many are in favor of basically what we are saying. I am guessing the applicant does not want to spend a whole lot of money if we are against the proposal, however, I guess what we are implying here is if we were to approve this would you want one of the stipulations to be once he is done with his engineering he comes back to give us a one-time look before he moves forward. Rocky we are in the historic district so what requirements do we have there?

Mr. Kambo: So being that this is a commercial site Planning & Zoning Commission has the purview. You of course have the authority if you wish to take it to HDAC otherwise you can just make the decision today. Now, I am assuming that his improvements today are going to be pretty basic, but when he comes back with his finalized design I would assume then you would probably want to send that to HDAC.

Commissioner Little: So comeback one time or not?

Commissioner Boysko: Yes, I would agree that he comes back. I don't know if we want to set a time limit say within the next three or four months, realizing you are going to put up something temporarily and come back in a reasonable time period and provide more detail on what the permanent solution is going to look like.

Commissioner Simpson: I personally would be ok giving approval and then having him comeback with a design.

Commissioner Cooper: I would agree with Shaun Simpson. I would go ahead and approve this but I would want to see what the end result would look like before he did anything permanent.

Commissioner Bailik: I am good either approving it now or waiting. I think when you look at the times we are in I think we have to be a little bit more flexible to help businesses get through this time.

Commissioner Emerick: I am fine with it but I do think we need to have a Certificate of Appropriateness down the road.

Commissioner Little: I think Dustin you have heard whether people are in favor of the idea. I think you might be a little gun-shy from your previous experience and are afraid of what that might entail but I think we could probably do a real quick drive by in the meeting whenever you are ready to get started.

MOTION: Commissioner Little moved to approve a Minor Amendment to an Approved Development Plan for the business known as Huli Huli located at 26 Olentangy Street to create a patio in the back of the existing building subject to the following condition(s):

1. All engineering department comments are addressed.
2. Total number of seats both indoors and outdoors shall not exceed 40.
3. The applicant shall return prior to construction to gain approval of a Certificate of Appropriateness after completion of the engineering drawings.
4. The applicant shall add signage pointing out alternate parking locations as was stipulated in the original approved development plan.

Commissioner Cooper seconded the motion. By unanimous consent of all Commission Members present, the motion passed. **Vote: Y – 7 N – 0**

OTHER COMMISSION BUSINESS

Commissioner Emerick: We had planned on recognizing Joe Jester’s tenure as a Planning & Zoning Commissioner but Rocky informed us that Joe would like to delay that at this point. Rocky did he give you any indication as to when he is thinking?

Mr. Kambo: Not at this time but he said sometime later on.

Commissioner Cooper: I was looking at that certificate and you may want to check the dates. Joe actually started on the Board of Zoning Appeals prior to joining the Planning & Zoning Commission. I didn’t know if you wanted to include that time from 2009 or not. I know he was there with me during the Target hearings.

Mr. Kambo: We will definitely have to add that, I think this was just his tenure on P&Z but we will certainly want to make mention of BZA as well.

Commissioner Emerick: Do we have anything for the July 29 Rocky?

Mr. Kambo: At this point nothing on the agenda that is the optional meeting.

Commissioner Emerick: At this point we will plan on an August 12, 2020 meeting.

ADJOURNMENT

MOTION: Chairman Emerick moved at 8:00 p.m. to adjourn the meeting. By unanimous consent, the meeting adjourned.

DATE MINUTES APPROVED:

Donald Emerick Date
Chairman

Pam Friend Date
Planning & Zoning Clerk



Board of Zoning Appeals
Randy Duncan Bob Hiles Janice Hitzeman Jim Hrivnak Greg Short

**MEETING MINUTES
July 9, 2020**

Board member Jim Hrivnak called a meeting of the Board of Zoning Appeals to order on Thursday, July 9, 2020 at 6:30 p.m. Members present included Randy Duncan, Janice Hitzeman and Robert Hiles. Board Member Gregory Short was absent. Also, present were Rocky Kambo, Interim Director of Development; Elise Schellin, Development Planner; Pam Friend, Planning & Zoning Clerk; Jennifer Koontz, Certified Senior Digital Reporter, US Court Support and interested parties.

CHAIRPERSON NOMINATION AND VOTE

Randy Duncan nominated Jim Hrivnak as the Chairman. Robert Hiles seconded the nomination. By unanimous consent of all Board members present, Jim Hrivnak was elected Chairman of the Board of Zoning Appeals.

Vote: Y-4 N-0 (Absent: Short)

STAFF ITEMS

Rocky Kambo, Interim Director of Development: Thank you all for your flexibility today with the meeting emails going back and forth regarding Covid-19 picking up. We were trying to figure out the best course of action for this meeting and I think we have good social distancing. Again, thank you for your patience while we were getting things in order.

Andy White, Powell City Manager: I want to introduce myself to the board and I want to thank you for your service and volunteering on behalf of the community. I think staff does a nice job with this board, planning and development in general.

HEARING OF VISITORS FOR ITEMS NOT ON THE AGENDA

Chairman Hrivnak: We will open the public comment session for items not on the agenda. Hearing no comments, he closed the public comment session.

APPROVAL OF MINUTES

MOTION: Board Member Robert Hiles moved to approve the minutes of March 12, 2020. Board Member Janice Hitzeman seconded the motion. By unanimous consent of all Board members present, motion passed.

Vote: Y-4 N-0 (Absent: Short)

STAFF REPORT

Chairman Hrivnak: The next item on the Agenda is the staff report. Do you have a report other than the two cases we are hearing this evening?

Elise Schellin: No and I believe we hear from the applicants first.

Chairman Hrivnak: This would be things not related to the two variances.

Elise Schellin: No, there is nothing additional other than the two-variance applications.

Mr. Kambo: Maybe this is a great time for me to jump in and talk about processes. Staff and in this case, Elise will be taking the lead today going over the staff report and I will supplement as needed. Applicant will give their introduction, and then Elise will go over the staff report. The BZA will ask any questions, deliberate and give their decision.

APPLICATION FOR VARIANCE

Applicant: Dave Petrozzi
Location: 240 Whitaker Avenue
Existing Zoning: (PR) Planned Residential District
Request: Approval of a variance to reduce the required 30' rear setback line to 24.67', in order to construct a three-season room.

Chairman Hrivnak: Good, thank you. All right, the first application for variance is from Dave Petrozzi at 240 Whitaker Avenue. The existing zoning is (PR) Planned Residential and the request is approval of a variance to reduce the required 30' rear setback line to 24.67' in order to construct a three-season room. Dave I have to swear in anyone that is going to make testimony in the case this evening. You or anyone else in the room that is going to talk regarding the case at 240 Whitaker. If you would raise your right hand please.

Dave Petrozzi, 240 Whitaker Avenue, Powell: I do hereby solemnly swear to tell the whole truth and nothing but the truth in this hearing.

Chairman Hrivnak: Thank you. Do you want to go ahead and tell us a little bit about your application? I will then call on staff for their report.

Mr. Petrozzi: I am Dave Petrozzi and I live at 240 Whitaker Avenue here in Powell. I am here because I have applied for a variance for building a screened in porch in my backyard. The screened in porch will extend into the 30' setback as shown on the picture here. It will be about 6' into that setback. We do have a tree-lined backyard so the people in the back of our house will not see the screened in porch. On the left side where we are going to place the porch, the other house is on an angle so their backyard does not even face into it. So at this point, I do not see it being a problem from a neighbor's perspective. We do have approval from the Homeowners Association. I have provided some pictures of my backyard and I can go through those if you like. What we are looking at on the right hand side is something like that as far as the screened in porch itself. We also have some pictures of the backyard. This is the front of the house so you can see on the left hand side that house is kind of angled away from our house so you will not be able to see into the screened in porch or even see the screened in porch from their backyard. Here is a little different angle on the side of the house from the left side of our house, then from the back looking into the street and then the next picture is our backyard. We will be placing the screened in porch on the back corner of the house. There is the tree line and you cannot really see any houses from our house. Next slide is a little better angle on the tree line. The screened in porch will be on the other side of that patio area. It will be the same material like the stucco on our house and same color. Are there any questions.

Chairman Hrivnak: Thank you Dave. Have a seat and I will have staff go through their report and if something comes up we will call you back forward.

Mr. Petrozzi: Thank you very much.

Chairman Hrivnak: Elise can you run us through the staff report.

Ms. Schellin: Yes, this application is straightforward and the applicant is just asking to build a 20 X16' three-season room on the northwest portion of his lot at the back of his house. It will only protrude into the rear setback by 5 1/3'. It is not too much into the setback and it is staying completely away from this scenic easement in the back, which does provide a lot of protection from the neighbor views. They will not be able to see it very well especially in the summertime and as Dave mentioned this home in the aerial view is angled so they most likely will not have a view of the three-season room. We did not get any complaints from neighbors after our public notice went out. Staff recommends approval of this variance as submitted.

Chairman Hrivnak: Thank you Elise. Any questions for staff? Is there anyone else in the room that would like to speak on the matter at 240 Whitaker Avenue? We will open up for public comment. Seeing none, we will close public comment. Discussion from the board?

Board Member Robert Hiles: It is straightforward.

MOTION: Board Member Robert Hiles made a motion to approve the variance as submitted. Board Member Randy Duncan seconded the motion. By unanimous consent off all Board member present, the motion passed.

Vote: Y-4 N-0 (Absent: Short)

APPLICATION FOR VARIANCE

Applicant: Pete Johnston
Location: 229 Glenworth Court
Existing Zoning: (PR) Planned Residential District
Request: Approval of a variance to locate a pool 12' from the property line within the existing drainage easement.

Chairman Hrivnak: The next item on our Agenda is application for variance. The Applicant is Pete Johnston, 229 Glenworth Court, and existing zoning is (PR) Planned Residential. The request before us is approval of a variance to locate a pool 12' from the property line within the existing drainage easement. Pete would you like to introduce yourself and tell us about your application.

Pete Johnston: Do I need to swear in first?

Chairman Hrivnak: Yes, thank you. Please raise your right hand.

Mr. Johnston: I will promise to tell the truth in this hearing.

Mr. Johnston: My name is Pete Johnston from 229 Glenworth Court here in Powell 43065. We filed for a variance because we have a 12' setback from our rear property line and want to put in a small fiberglass pool. We live on a corner lot and the side yard has a 40' setback from the street so we are not able to build there. Over the past few weeks, I did have OUPS come out and mark the lines. The city came out and reviewed the utility lines and there is nothing in the easement. Thinking it might be a possibility to put the pool right behind the porch there as you can see. We are an active family and we like to be outside all the time. The kids are big swimmers and we will continue to go to the Powell pool if it opens next year. My wife grew up with a pool with lots of good times and family memories. I was a competitive swimmer growing up as well. As a family, we would love to have a pool. We love our house and our neighborhood so we do not want to move.

Chairman Hrivnak: Any questions for Mr. Johnston?

Board Member Hitzeman: I have a question so that I can understand the layout. The pool is proposed to be over the easement and the easement goes out to the road?

Mr. Johnson: The road is on the left hand side. The pool would be at the back of the house. Right now, we have a 10' easement and a 12' setback from that easement, so 22' all together. We would put the pool in the setback but not the easement.

Mr. Kambo: Elise can better describe it.

Ms. Schellin: They have a corner lot and here is where they would like to place the pool. Their rear property line is here. This area is where the pool is proposed.

Chairman Hrivnak: Elise, if I am correct, based on the setback they cannot put it in the big side yard because it would be too close to the road.

Ms. Schellin: Correct.

Mr. Johnston: And that is a great soccer field.

Mr. Kambo: Just to be clear there is a setback from the rear yard and then there is a setback on the side. It is going to be 12' from the rear yard, required by code; Elise can talk about it a little better than I can. Really, what we are doing is encroaching on the easement's setback.

Ms. Schellin: Pete had brought forth a proposal where he was talking to both the Engineering and Development Departments about building a pool in the backyard. The problem with that is he has a 10' utility easement in his backyard and right now it is unused. The kind of compromise we came up with is get a variance for the pool so there did not have to be the 12' setback from the easement. The code states that a pool has to be at least 12' from any easement or property line. Therefore, essentially placing the pool here satisfies the 12' requirement from the property line but not to the easement. The engineers did not want to vacate the easement because as you can see in this aerial view these other neighboring homes have utility easements that are being used. By keeping this variance, we retain access to the utility easements on the other properties. There is also a 10' utility easement on this property. If a truck has to get back through here there is the 10' easement on this property as well as the 12' to the pool on Pete's property so it will allow 22' of access to get back to the other properties easements.

Chairman Hrivnak: Is there anything else from the staff report?

Ms. Schellin: Yes. We would recommend approval but we do have two conditions. One is from engineering that covenants and restrictions need placed on the property stating if the easement needs to be used and the proposed fence and pool decking need to be removed, that the applicant is responsible for replacing. This is something we do anytime a fence or patio is placed within an easement. Second, if the safety fence around the pool needs to be removed, an additional fence needs put up so no one falls into the pool and that satisfies the building code for safety reasons.

Mr. Johnston: I have a question on that part. Is that a temporary fence? Like an orange fence, you would see at festivals.

Ms. Schellin: Yes, I would think something like that if you get to that point, some type of temporary fencing that would block people from getting into the pool.

Mr. Kambo: There was one other item you might want to add and that is the type of fence around the pool, which is a rod iron like fence.

Mr. Johnston: We did get signatures from all residents within 250' of our property stating they had no objection.

Chairman Hrivnak: I do see that in your submittal. Thank you. Is that it for the staff report?

Ms. Schellin: Yes.

Chairman Hrivnak: Any questions of staff and their report?

Board Member Duncan: I have a question for staff. Do engineering and the fire department have a problem with the 22' access?

Ms. Schellin: Engineering was good with it.

Mr. Kambo: We did not reach out to the fire department. I am guessing that because they can access it from the street, I am sure it would be sufficient, but that is a great question. For engineering specifically, in order to get in there they were happy with it as Elise can tell you.

Ms. Schellin: Yes, we went out and walked the property with Pete.

Chairman Hrivnak: Any other questions or clarity from staff?

Board Member Hitzeman: I had one question and I think it might be something that was inadvertently put in the email from the Homeowners Association, which talks about Pete obtaining the necessary yard variance attached from the city. Was that some other type of variance that was granted or was that a misunderstanding?

Ms. Schellin: I think that was just a misunderstanding.

Mr. Johnston: I had sent them the application just so they could see it.

Chairman Hrivnak: If no other questions from staff, I will open this subject up to public comment. Is there any public comment regarding 229 Glenworth Court? Seeing none, we will close the public comment and I will open the discussion with the board. Any discussion from the Board? I will tell you I went out and visited the site. The easement is a utility easement that is not used behind the house now. I think staff is correct that it could encroach upon the setback, provided the applicant is willing to take that risk. If there were a need to access the utility easement and they are asked to take down the fence, they would do that. I think the chances of that are very slim because there is 10' on his property and 10' on the other. It would be difficult not to be able to get a truck down through a 20' easement so I do not foresee a problem there. The lot does have special circumstances being on a corner and irregularly shaped, there is not much room to put in a pool. I want to commend staff for working with the applicant and coming up with a plan that allows both parties to be satisfied. Thank you staff. That is the only thing I had. Does anybody else have anything? Janice do you have anything?

Board Member Hitzeman: I do have some concerns with the basis and special conditions with the layout of the building. I think staff did a great job. I think the basis is because it is a corner lot and the yard is small based on the area. I do not know if those bases alone are sufficient for me to vote in favor of this but I am open to discussion. I do not have questions; I think I understand the report and the application.

Chairman Hrivnak: At the end of our questions, we will have staff run through the categories that have to be satisfied.

Board Member Hitzeman: I guess I do have one question. The idea of putting additional conditions on to require the homeowner to take steps should that easement be necessary to utilize. Is it through a deed or written agreement? What is the process for that?

Mr. Kambo: Yes, that is correct, there is a legal instrument that is drawn up either by our attorney or the applicant's (in audible) that specifically states those requirements that if anything needs to be done, it is at the applicant's expense and at your own risk (in audible).

Chairman Hrivnak: We will have to come up with the language and then we will approve the variance with those conditions. Sounds like there might be three. The fence is to be constructed according to the Homeowner's Association requirements. If indeed the easement needs to be accessed and the fence and/or decking is in the way, the applicant will replace it at their own costs and if the fence were removed, a temporary fence would be installed to satisfy the safety requirements. Those would be the three conditions. Bob do you have any questions or comments?

Board Member Hiles: Rocky I believe that is all transferable if the house sells.

Mr. Kambo: Yes, absolutely.

Chairman Hrivnak: Rocky can you put up the Codified Ordinance 1127.06(e), to help answer Janice's question regarding what needs to be satisfied for us to approve a variance. Sorry to put you on the spot, we will give you a second, though I think there is a hotlink in the staff report.

Ms. Schellin: It is loading at this point.

Mr. Kambo: Under section narrative statements, supporting documentation establishing, and substantiating that the variance conforms to each of the following standards and there are seven standards. I will go through all seven. I might read them first and then go through them.

1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property;

As it stands, I think it is clear there is existing beneficial use of the property.

2) Whether the variance is substantial;

In staffs opinion it is not substantial, again we are going within the setback of an unused easement. We have to look at hardship. In this case, we have an existing easement that was put on a plat for potential future use, which again we talked about potential future use. Probability of use I am not sure, but again we are encroaching on the setback we are not impacting the easement.

3) Whether the character of the neighborhood would be adversely affected or whether adjoining properties would suffer an adverse impact as a result of the variance;

Again, staff is of the opinion that none of the neighbors would be adversely impacted. If anything, a pool is going to improve the property value.

4) Whether the variance would adversely affect the delivery of governmental services (e.g., water, sewer, garbage);

Again, we are not vacating the easement we are just allowing them into the setback of the easement. By still having that space and providing the requirements on the deed, we are not limiting our ability to service that area.

5) Whether the property owner purchased the property with knowledge of the zoning restriction;

I am sure that when the property owner purchased this the title search etc. showed that this easement exists.

6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and

If we were to vacate the easement in its entirety that would have been the other option here. Our engineering department was not comfortable vacating that easement.

7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Again, fortunately in their case by moving into that easement setback, they are still 12' from the rear yard setback but they still meet that code requirement. I hope that answered your questions.

Chairman Hrivnak: Is there any other discussions? Janice did that answer your questions.

Board Member Hitzeman: One more question. When I am looking at the drawing, I see the outline of the proposed pool. Would any of the decking be encroaching over into the easement itself?

Ms. Schellin: I believe maybe a foot or two.

Chairman Hrivnak: It is going to encroach on the setback not on the easement. On that drawing, the deck encroaches into the 12' setback. The line below the 12' setback is the 10' easement.

Mr. Kambo: Just to be clear on building code, the pool itself has to be 12' from the setback. The decking that goes around the pool can be within the setback (in audible).

Board Member Hitzeman: But neither are proposed to be within the easement itself?

Mr. Kambo: Right. It is only encroaching on the easement setback.

Chairman Hrivnak: Elise there is another drawing on the staff report that may help us. It is a plat from some time ago or a plot plan. Can you show us on where the street is?

Ms. Schellin: Here is the 10' easement on the property and the pool would be right around here. The decking would probably go up to about the easement line but not into the easement itself.

Chairman Hrivnak: The decking would be about 10' this way, is that what we are saying.

Ms. Schellin: It would stay out of the easement.

Chairman Hrivnak: The width of the pool Mr. Johnston?

Mr. Johnston: It will be 12 feet.

Chairman Hrivnak: You plan to put it how far from the back patio/screened in porch.

Mr. Johnston: 4'.

Chairman Hrivnak: That puts it at 16' from there and its 30' to the property line and that is 20', so nothing is going to be on the easement.

Mr. Kambo: You can make that a specific addition of your approval if you want it to be clear. You can make it a condition that no decking for the pool, etc. be a load on the easement.

Chairman Hrivnak: Any other questions or discussions. If not I will entertain a motion. Our motion would be with conditions if it were to be approved. Do I hear a motion?

Board Member Robert Hiles made a motion to approve. Board Member Randy Duncan Seconded the motion.

Chairman Hrivnak: We do have a motion and a second but I would like to clarify the motion before we vote. Mr. Hiles can you tell us what the conditions are?

Board member Hiles: The ones that the staff has recommended that transfer and (in audible)

Mr. Kambo: The two on the staff report plus the rod iron like fence, so three.

Board Member Hiles: Yes.

Board Member Duncan: I would like to consider adding another condition in the unlikely event the fence would have to come down temporary fence should be substantial enough to secure the pool to keep out the neighbor kids. There are many ways to accomplish that though a plastic fence would probably not be one of them.

Chairman Hrivnak: Can we leave that to the building department to establish what a substantial fence would be?

Mr. Kambo: Absolutely.

Chairman Hrivnak: So that does bring the total to three. The motion with conditions is as follows:

MOTION: Board Member Robert Hiles made a motion to approve the variance at 229 Glenworth Court subject to the following condition(s):

1. If access to the easement is required, the proposed fence and pool decking will need to be removed, the applicant/homeowner is responsible for replacing it;
2. A temporary fence would be required around the pool to satisfy the safety requirement of the building code, if the proposed fence would need to be removed to access the easement. The fence would be subject to approval of the building department;
3. Construct the permanent fence according to the Homeowners Association regulations.

Board Member Randy Duncan seconded the motion. By unanimous consent of all Board member present, the motion passed. Vote: Y-4 N-0 (Absent: Short)

OTHER COMMISSION BUSINESS

Board Member Hiles: I have been on the Board for 18 years and I think it is time to get someone else to step in. Tonight will be my last official meeting. Thank you everybody.

Chairman Hrivnak: Mr. Hiles you have been here quite some time. I am sure the City appreciates it. In fact, you were on it before I even moved to town.

Board Member Hiles: Everybody has been great.

Chairman Hrivnak: We will have to check the charter to see what it is going to take. You may have to submit that in writing. We will try to let you go without a technicality.

ADJOURNMENT

MOTION: Board Member Robert Hiles moved to adjourn the meeting at 6:40 p.m. Board Member Randy Duncan seconded the motion. By unanimous consent of the remaining Board Members, the meeting was adjourned.

DATE MINUTES APPROVED:

Jim Hrivnak
Chairman

Date

Pam Friend
Planning & Zoning Clerk

Date