

**City of Columbus
Public Hearing –
Sanctuary at Howard Lake Variance (PC18-125)
November 19th, 2018**

The November 19th, 2018 Public Hearing to consider a request at this time a public hearing was held to consider a request variances to chapter 7E of the Columbus City Code to reduce the setback from the OHWL of Howard Lake from 150 feet to an average of 75 feet and to reduce the Shore Impact Zone from 75 feet to 50 feet in some areas for development in the C/R Community Retail zoning district, was called to order at 7:14 p.m. by Chair Garth Sternberg at the City Hall. Present were Commission members: Chair Garth Sternberg, James Watson, Pam Wolowski, Jesse Preiner and Jody Krebs; City Administrator Elizabeth Mursko; and Public Communications Coordinator Jessica Hughes.

Also, in attendance were Jay Gustafson, Colleen Leeman, Andrew and Hannah Landstrom, Pam and Bob Reeves, Pat Bjorke and Dan LaCoursiere, Troy Munson, Barb Bobick, Marie and Roger Vannelli, Shelly and Arlen Logren, and Janet Heglund.

Sternberg: So, we are going to go to the public hearing on the variance. if you could please read those notices as published.

Mursko: And then also if you can turn to page 22 it appears our planner has outlined all your findings for you. So, we can talk about the findings through the variance request. You won't have to do the checklist, he's done the checklist for you. We can have Jay come back and he can kind of explain what he's done.

Notice was read at this time by the recording secretary.

Sternberg: Thank you, so I should open it to the public I would imagine?

Mursko: So Jay can come back to the table, he can kind of go over the second map in your packet materials, that both shows the shore impact zone and the setback from the ordinary high water mark. I will set this up a little bit for you. So, last year when this application came through, Howard Lake did not have an ordinary high water mark, there was an estimate, and Jays engineer and surveyor used their best estimate to figure out where the setback was. After some research, the DNR went out and did document where the ordinary high water mark was, so now it has been established. And then Jay's surveyor also then established a line which the DNR has now determined that is the line. With that, we met with them because they felt that the variance that was approved last year was outside the scope that they could support. So, we did sit down with them, through several settlement meetings or discussion meetings I should say, and I think we had 3,4,5 meetings with them and what you see before you are the outcome of those meetings. I'll let Jay then continue to tell you a little bit about his mapping, and what he came up with. I'll let you know he worked really hard on this. This is something that he spent extra time on. He had to re-do plans, so this was a pretty big deal for this applicant.

Gustafson: Yes, there were a number of challenges in designing this project, between the setback requirements from the OHWL and then the setback requirements from the wetlands. As you can see from the plans, there are numerous wetlands scattered throughout the property, that we had to work around. The plan that we've come up with is non-impacting now to the wetlands. At one point in time there was going to be a small wetland credit necessary, but we've since eliminated that, because of the additional setback requirements imposed by the DNR. Because of the additional setback when we went from a 50-foot to a 75-foot, that did require some redesign on the northern portion of the project. Some of the lots have been moved, the road has been moved, a little bit, and some substantial changed to the ponding. But we did make it work, as was mentioned in the engineer's report, the storm water ponding is probably less efficient than would be ideal, but that was necessitated because of the result of the 75-foot setback requirement from the DNR. But ultimately, we did make it work, while maintaining 26 individually platted lots.

Mursko: One of the things we discovered while we were working with the DNR is even though there's about 400-feet of wetland before you get to Howard Lake, the DNR looks at it as even though its wetland, it's part of the open water body. So, I think for us that was something we didn't realize. Because looking at this plat, you see a lot of wetland symbols, but you don't see open water. When we were sitting down with the hydrologist, he let us know that, even though its wetland prior to the lake, they do consider it part of the lake, so the ordinary high water mark setback was a lot closer to Jay's development than we had initially thought. So that was a little bit of a learning curve for all of us, while we were sitting around the table. Again, just want to let you know, it was unfortunate that we had to go through that long of a process, because it's now pout him back a year, but a good thing that we all sat down and could work it out. Because the DNR was appealing our decision.

Sternberg: Any questions for the applicant? Hearing none, I'm going to open the hearing to the public. Anyone from the public want to speak? Come on up. There's a process here, come up and have a seat. And if you could please just state your name and address for the record?

Munson: Troy Munson, 9143 lake DR. Has the DNR signed off on this? And this is all good?

Mursko: Yes.

Munson: To them? Their OK with all this?

Mursko: Yes.

Munson: So pretty much all they really did here is made the property smaller, but the houses are the same size.

Mursko: It's an average of 75-feet and the shoreline impact it 50-feet. So, they gain 25-feet for a setback to the wetland. They also looked at the lake and they did establish an ordinary high water mark, so we actually know what number is and also there is now a line that we can actually measure from, which was not established prior to this.

Munson: Is it very normal to change and what you guys put down as boundaries so easily? You ask for 150-feet, someone comes in with some big money, now it's 50-feet. So, what I am trying to say is that, I'm just a little guy, and I want to build something, I'm going to pretty much be said no to right?

Sternberg: No, that's not true. We recently in the past year granted a variance from wetlands on a residential property which would be a little guy, with I don't know what to say about money, I don't know if he has a lot or none, but we gave a variance, a fair shake like everybody else. Like what you're talking about, because you had some concerns about pole barns, and I understand those concerns, I can see myself in your shoes where I would want to build a pole barn. And you may have a wetland issue, where your pole barn is, there are things that you can do too, as far as paying for credits, or filling certain areas and creating other wet areas. There are processes, it's a lot of work.

Munson: I live in a home, that's built 50-60 years ago, and in between me and there, going to put \$300,000 homes, my property is in the ground. So, I want to put a pole barn up, this person that buys this \$300,000 home, does not want to look behind their house and see a big pole barn. Let's just consider the people that live there.

Sternberg: I don't know what to say.

Munson: That's what I'm trying to say! You know, that's the only point I'm trying to get at. You look at this map, and it looks really pretty and beautiful, yeah, but you come out there to my place and look at it personally, its not there. I don't see it, but. That's just my opinion, you know. It just doesn't seem right. You know, one part of its fine, but when you start getting closer to the lake like that. You can see the road, right where the road is it where it bends, that's behind my property and my neighbor's property over here. They can't build nothing there because it's just too shallow, but they can put road 3-feet from the back of your property line, 3-feet? I thought it had to be 30-feet?

Mursko: Roads abut everybody's property...

Munson: Okay, a road, but this is a private road this is not a public road. Is there a difference between a public road and a private road?

Mursko: Other than the ownership, no.

Munson: You mean you have to be 30-feet from the property line, either side, or wherever, to build on your property, a shed, or a pole barn. So, he has a shed back there right now, their building within 30-feet of his shed. He has a shed back there right now. That shed is on the map, you can see it. So, how does that work? How come it works, it's just a question, I don't know.

Mursko: I don't know that Jay has a shed on the vacant piece of property.

Munson: No but my neighbor does, Andrew, has a shed right there on the corner of where that road is, you can see the shed right there.

Mursko: I do, and it's a non-conforming shed, because it doesn't meet the 30-foot setback.

Munson: Excuse me? The shed is already there.

Mursko: And that's what I am telling you. Its considered a non-conforming shed, because it doesn't meet the set back from the property line, not from the road, but from the property line. So, a rear lot setback is 35-feet.

Munson: But the original owners of this property built that shed. And sold that property to him. I'll let him speak for himself, I'm just trying to say, that's what I'm getting at. That should have to be accounted in for.

Mursko: Generally, you don't have an adjoining property owner, having a setback from your neighbor's buildings, because your neighbor's property doesn't usually impact your setbacks. The setbacks are for your own buildings on your own property.

Munson: But now their selling it as commercial property.

Mursko: Its being sold for suburban residential development. It doesn't change the setbacks.

Munson: What is the setback?

Mursko: I'd have to look at the rear yard setback, but for Mr. Landstrom's building, regardless it's a non-conforming building, that won't meet any set back.

Munson: Why?

Mursko: It's too close to the property line. But it's not Jay's property line, it's his own property line.

Munson: So, there's no setback from a private road to a public road? There's no difference?

Mursko: Not that I'm aware of.

Munson: So, anybody can come and put a private road in, right on your property line, 1-foot away. So, I want to put in a driveway, 1-foot away from my neighbor's property line, it's not a problem?

Mursko: A driveway does not have a setback.

Munson: Okay, it's interesting to see. There's so many little loop holes here, I was just curious.

Sternberg: Well, if you have anything else?

Munson: No, Sir.

Sternberg: Okay, thank you, Sir. I appreciate it. Go ahead, come on up.

Mursko: Its 10-feet, a rare yard setback is 10-feet, from the land owner's property line.

Landstrom: Okay, back again, Andrew 9141 Lake Dr. NE. I think what Troy is trying to outline, with kind of a broad brush, is he's concerned that there's a double standard between buffer zones, the figure 30-feet, the figure 10-feet, the figure 3-feet has all been thrown out. What did you say it finally was? 10-feet?

Mursko: So, this zoning district is the commercial retail zoning districts. And different zoning districts will have different setbacks. This particular property was previous zoned rural residential, and those buildings, I'm not sure what year those were built, and quite frankly, the same property owner used to own both. So maybe that was why they allowed to build so close to the property line? I wasn't there at the time, so I don't know what the circumstances were when they granted the building permit. So, today if you were to come in and say "I want to build an accessory building on my property, I would tell you, you have to be 10-feet from the line.

Landstrom: Okay, the confusion comes from this, that shed, that's in violation of whatever the current regulation is on that, predates the property line that's currently in place, because as you are aware, this all used to all be one lot at one point before it was parceled up at some time in the late 80's, I want to say by the previous owners. That's what Troy is trying to stress his concern about, is that new construction versus pre-existing construction, new development versus town citizen, maybe there is no versus or contention there, but in many people's eyes there is. And second, you said there's some confusion with the DNR as to why that's listed as a lake, so far south

Mursko: I think there was some confusion on our part when we looked at it. Because when we saw the wetland symbols we were assuming it was wetland and the DNR says when its attached to a lake, they consider it part of the lake, and that starts the setback. When we were looking at the setback from a wetland is 17.5-feet versus 150-feet from a natural lake. So, there's 400-feet of wetland before you get to the lake here. But they consider it the same when its contiguous, they believe it's the waterbody and that was the discrepancy when we were looking at this particular development in big picture. We have since been all educated, and all up to speed on how this particular lake is to be addressed. And so, moving forward we will look at that and look at each parcel developed.

Landstrom: Okay, with permission from Mike and Sue Mulvihill the current property owners of this development, I've walked back there many, many times, and I think that the reason why they consider it part of the lake is that all those cattails are sitting on a floating peatbog, so if you step on them, it's got the waterbed effect. I don't know how much water is underneath it, I care not to

find out, for obvious reasons, but that's probably where that confusion, or not confusion but discrepancy came from. That's all I got.

Sternberg: Thank you, Sir. Anybody else from the public want to speak? Anyone else? Okay I'm going to close the hearing with the right to reopen.

At this time Chair Sternberg closed the Public Hearing. Hearing closed at 7:32 p.m.

Respectfully submitted:

Rochelle Busch, Recording Secretary