

Jackson Township Board of Zoning Appeals
May 7, 2020

Members Present: Charles Rohr
Patrick Snyder
Leon Vitale
Edward McDonnell
Jared Singer-
Deborah Busby-Alternate
Steven Gosney
Zoning Inspector: Joni Poindexter

5:00 PM Appeal #2394 – Stephen & Suzanne Csanyi, property owner, 1104 Taggart NW, Massillon, Ohio 44646 requests a variance for a 25 ft. front yard setback for principal dwelling where 40 ft. is required per Art. IV Sect. 401.6 of the zoning resolution. Property located at 1104 Taggart NW, Sect. 32SE Jackson Twp. Zoned R-1A.

Mr. Snyder read the application into the record.

Due to the meeting being via Zoom video conference Ms. Poindexter read the contents of the file into the record.

Mr. Snyder swore in those is favor of the appeal.

Mr. Snyder swore in Stephen and Suzanne Csanyi, 1104 Taggart NW, Massillon Ohio.

Ms. Csanyi stated they bought the house in 1998 and it was built in 1948. The front steps are out of whack and there was an aluminum covering for the steps that was removed when they had the house painted. This is the main access to the home and they would like have a portico to cover the front stoop. They want to do a new covering and porch. The porch would be little larger than what they have. They moved their mailbox so the mailman doesn't have to come on the porch. They are asking for a 25 ft. setback for the new porch and steps. The current home is at a 35 ft. setback. Most of the homes have a setback that are closer or the same as what they are proposing. The company that is going to build the portico is professional and it will be done very nice and add to the property and protect them from the weather.

Mr. Csanyi stated it will be a timber frame structure and match the house with a rustic style. It will make the house look really nice.

Mr. Snyder stated all the homes are the same depth from the street and asked how far the steps are from the house. He understands the portico but asked if is there a deck being built.

Ms. Csanyi stated the deck area will be within the portico.

Mr. Csanyi stated the deck will not extend past the portico and will be inside and underneath it.

Mr. Vitale asked how big the new porch will be.

Ms. Csanyi stated it would not stick out more than 6 ft. because there will be a couple steps that are covered also.

Mr. Vitale stated if the porch is 5 ft. and the steps are 3 ft. then that would be 8 ft.

Ms. Csanyi stated the portico would go beyond the steps.

Mr. Vitale asked if the timbers would extend beyond the steps.

Ms. Csanyi stated yes.

Mr. Csanyi stated the gable will match the roof line of the portico. Details are important.

Mr. Singer asked if this renovation affects the structure integrity of the house itself.

Mr. Csanyi stated no.

No one else spoke in favor of the appeal.

Mr. Snyder swore in those in opposition to the appeal.

Mr. Kenneth Bayda, 1021 Taggart NW, Massillon stated he believes if they come out that far from the house it is going to look stupid and the yard goes downhill. If they want to put up what they previously had he has no problem with it but he doesn't feel it will look good. He lives about 4 or 5 houses to the west on the other side of the street.

Mr. Bayda stated there is a lot of half information as to what they want and he doesn't think it will look right.

Mr. McDonnell asked what the setbacks of Mr. Bayda's house is.

Mr. Bayda stated he didn't know.

Mr. McDonnell stated the only thing the board can talk about is if they can build out further then they are. They cannot rule of what the structure will look like. They can only look at the setbacks.

Mr. Bayda asked what the criteria is to allow them to build it. There could be a gas line or water line, etc. The zoning is in place so things look the same.

Mr. McDonnell stated Mr. Bayda could look at section 803.5 of the zoning resolution that states the criteria for the variance. As far as the utilities this is the builder's responsibility.

Mr. Singer stated in looking at the auditor's site it appears 1049 Taggart has a 26 ft. setback on the south side of the street for their porch.

Mr. Vitale stated there is a house across the street from Mr. Bayda and looking down the street it seems to be the same as his neighbors. He thinks this would be similar.

Mr. Singer stated the house Mr. Vitale is talking about has about a 26 ft. setback.

Mr. Snyder swore in Mr. Dean Herrick, 1105 Taggart NW, Massillon.

Mr. Herrick stated he lives directly across the street. They plan to have a wooden porch and the steps will be wood. The deeds say they have to be cement. He doesn't want to see wood. If they don't want snow on their steps they need to salt it. Mr. Herrick went on to say the other reasons he didn't want them to build it.

No one else spoke in favor of or in opposition to the appeal.

Mr. Snyder asked if Mr. and Mrs. Csanyi had any other comments.

Ms. Csanyi stated they just want their home to be safer and have a covering over the step with a hand rail. It will increase the value of the neighborhood.

Mr. Snyder closed the appeal to public input.

Mr. Snyder stated he looked at the home and agrees the front of the home is even with the other properties on the street. The home Mr. Singer brought up to the southwest has a porch portico on the front and he has seen other homes that have covered porches. There isn't a lot of them but 3 or 4. They have no say over materials or style. The only thing he is debating is if the request is too much. There are stairs that are 6 ft. now and they are asking for 4 more feet for the steps.

Mr. Vitale stated he agreed with Mr. Snyder. The current stoop might be small but 10 ft. off the house seems to be a lot. Could it be reduced? That would be the applicant's decision. Do all the steps need to be covered? He doesn't know. Everything facing south seems to dry. He thinks 10 ft. is a lot.

Mr. McDonnell reviewed the criteria to allow for the variance and stated that the lot is 7,500 sq. ft. That is less than the current requirement. The lots are non-conforming and do not measure up to the current regulations. He has a hard time thinking they can't have it because they face the south. He is looking at it as a safety factor and doesn't think the character of the neighborhood will be altered. He thinks the practical difficulty requirements have been met.

Mr. Rohr stated he agreed with all the comments. Even though they can't make a decision on the material or color most of the homes have similar stacks and it doesn't matter what type of porch they put on they will need a variance. He doesn't have a problem with the variance.

Mr. Vitale stated he wasn't saying the north should have it and not the south. He just thinks 10 ft. seems a little large.

Mr. Singer stated that almost all the lots are non-conforming and they are strictly voting on the setback. He looked at 3 different addresses on the same street that have a lesser setback at 25 or a 26 ft. but he also understands Mr. Vitale's concerns.

Mr. McDonnell made a motion to approve appeal #2394 as requested.

Mr. Snyder seconded the motion.

The vote was: Mr. Singer-No, Mr. Vitale-No, Mr. McDonnell-Yes, Mr. Rohr-Yes, and Mr. Snyder-Yes.

5:30 PM Appeal #2395 – John Pavlis, 4100 Harrison Ave. NW, Canton, Ohio 44709 agent for Charles & Deborah Lindsey, property owner, 5379 S. Island Dr. NW, Canton, Ohio 44718 request a variance for a 19 ft. front yard setback for existing principal dwelling and a 21 ft. front setback for addition to principal dwelling where the front setback is permitted to be modified so long it is not less than the average depth of existing front yards on the 2 lots immediately adjoining; however, shall not to be less than 25 ft. per Section 401.7 of the zoning resolution. Property located at 5379 S. Island Dr. NW, Sect. 23NW Jackson Twp. Zoned R-1.

Mr. Snyder read the application into the record.

Due to the meeting being via Zoom video conference Ms. Poindexter read the contents of the file into the record.

Mr. Snyder swore in those in favor of the appeal.

Mr. John Pavlis, 5300 Hills and Dales NW, stated the non-conforming use is for the existing home and they want to add a garage, master bedroom and bathroom. In order to get to their furnace they have to go into a crawl space. The existing bathroom will be removed and they will make a laundry room and entrance for the furnace. They are going to tear down the existing garage. They are asking for the minimum variance needed.

Mr. Snyder asked Ms. Poindexter to explain the variance.

Ms. Poindexter explained that the lots have been combined into one and the 19 ft. is for the existing home to become conforming per the variance as opposed to remaining a non-conforming structure.

Mr. Pavlis stated the addition will still sit back further than some of the other homes in the area.

Ms. Debbie Lindsay, 5379 S. Island Dr. stated they will be back further than the other homes in the area and they can't move the home.

Mr. Charles Lindsay, 5379 S. Island Dr. stated they pushed the addition back as far as they could. The home was built in 1946.

No one else spoke in favor of or in opposition to the appeal.

Mr. McDonnell asked if the existing garage will be torn down.

Mr. Lindsay stated yes.

Mr. McDonnell asked if the house to the left is closer to the road.

Mr. Pavlis stated the house to the left is at a 15'4" setback from the road.

Mr. Snyder closed the appeal to public input.

Mr. Vitale stated he thinks it was explained well and everything is going farther away from the street. He has no problem with the variance.

Mr. Snyder stated he looked at the property and it was a challenge just to turn around. He thinks there are practical difficulties and has no issue with the request.

Mr. Vitale made a motion to approve appeal #2395 as requested.

Mr. Rohr seconded the motion.

The vote was: Mr. Snyder-yes, Mr. Rohr-yes, Mr. Vitale-yes, Mr. Singer-yes, and Mr. McDonnell-yes.

6:00 PM Appeal #2396 - Savanna Van de Kamp Peet, Circle K, 935 E. Tallmadge Ave, Akron, Ohio 44310 agent for property owners, Mac's Convenience Stores LLC, 935 E. Tallmadge Ave, Akron Ohio and CDCN, LLC, 5561 Fox Tail Cir. NW, Canton, Ohio requests a variance to allow 11 trees along the street frontage of Portage where 25 trees are required and 5 trees along the street frontage of Wales where 13 trees are required, per Section 411.9 of the zoning resolution. Property located at the SW corner of Portage and Wales Parcel #1628435 & 1628215, Sect. 16NE Jackson Twp. Zoned B-3.

Mr. Snyder read the application into the record.

Due to the meeting being via Zoom video conference Ms. Poindexter read the contents of the file into the record.

Mr. Snyder swore in Savanna Van de Kamp Peet, 935 E. Tallmadge, Akron, Ohio. Mr. Wellert and Mr. Scala.

Ms. Van de Kamp Peet stated her engineer is also available if needed. This is an existing Circle K that is non fuel. They plan to purchase it and built a 5,200 sq. ft. facility and have obtained approvals from RPC. Their hardship is the trees and shrubs along the primary road that effect their visibility. There is a significate drop in grading and it will have landscaping but it is easier to do shrubs then trees along the street frontage.

Mr. Snyder stated he is familiar with the area and asked how far the slope is off of wales.

Mr. Wellert stated there is a significate drop and the design and driveway is as far as practical from the intersection. The driveway off Portage will be an 11 to 12 ft. drop. Wales is about 15 ft. lower for the driveway. There will be a steep slope and whole site will be about 13 ft. lower than the intersection. They don't want to plant trees on a 13 ft. slope. They have a lot of land available and because of not putting them along the frontage they will still meet the code requirement for trees and shrubs in other areas. The shrubs would be 13 ft. below grade and won't even be seen. Again the landscaping meets the code requirements for the number of shrubs.

Ms. Snyder asked if he is saying the required number won't be along the frontage but they will be located elsewhere on the property.

Mr. Wellert stated yes. They just won't be along the street frontage.

Mr. Snyder asked if there is any planned development behind the building except the storm water basin.

Mr. Wellert stated no. They are dropping the existing site and the current building now is closer to the road. The existing stores elevation is 1148 and the proposed store is being dropped about 8 ft. but from the roadway it will be 1152 so it is 12 ft. lower than the intersection.

Ms. Peet stated they have a rendering.

Mr. McDonnell asked what the elevation of the landscaping would be.

Mr. Wellert stated if going north on Wales and turning left into the location the driveway would be the same elevation as the road but as you are driving into the site it drops down. Everywhere from Wales slopes. Wales goes up to 13 ft. because the road continues to rise going north. If looking north of the Wales driveway there are underground storage tanks and the trees can't be planted near the tanks. There are two crabapple trees along the street frontage. None of the other corners have trees.

Mr. Vitale asked if the landscaping will follow the curb line and if the trees are offset.

Mr. Wellert stated yes. They will be 2 to 3 ft. behind the curb.

Mr. Vitale asked if Mr. Wellert is saying from a car view it would block the store.

Mr. Wellert stated yes. If he plants the trees and they grow 20 ft. tall it is blocking the canopy for fueling.

Ms. Peet stated the reason for dropping the site some is for safety.

Mr. Wellert stated there is are visibility issue as well as the health of the trees being on a steep slope.

Mr. Snyder asked if the current drive is moving to the west.

Mr. Wellert stated yes.

Mr. Singer asked about the utilities and trees.

Mr. Wellert stated they will have to set things back from utilities.

Mr. Singer stated it would make sense to have trees lower not to interfere with utilities.

Mr. Wellert stated yes.

Mr. McDonnell asked what the trees were.

Mr. Wellert stated Cherry Trees that get about 10 ft. A red point red maple will have to be set back because the mature size can get to 45 ft. tall.

Ms. Peet stated there are several species of red point maple trees.

The height of the canopy and building was discussed.

Mr. Chris Scala stated the two new driveways will be at the location required by ODOT. They aren't changing the road way on Wales. Both of the roads rise at the intersection.

Mr. Wellert explained the topography of the land.

Mr. Scala stated a 3:1 slope is a standard slope.

Mr. Snyder agreed the other businesses on the corners have no trees planted.

Mr. Rohr stated they granted a variance for the Circle K at Fulton and Frank and asked Ms. Poindexter if they are in compliance.

Ms. Poindexter stated that she thinks they may be missing a tree along Fulton.

Mr. McDonnell stated he thinks the shrubs should have grown more than they are at Fulton and Frank and he doesn't think they lived up to the first variance that they had.

No one else spoke in favor of or in opposition to the appeal.

Ms. Peet stated Fulton and Frank was not her project but the ones she has done have all been in compliance.

Mr. Scala stated the board is supposed to consider a variance as a unique situation and the elevation has caused the unique situation. He thinks the hardship is the elevation and slope and the trees.

Mr. Vitale stated he agrees this is a hardship and a difficult site and the amount of fill would be ridiculous.

Mr. McDonnell asked if the commitment can be made by Ms. Peet that the landscaping plan will be followed and the maturity size will be met in the plan labeled V1.0.

Ms. Peet stated yes they will follow the landscaping plan that is submitted.

Mr. Wellert stated the tree and shrub sizes are taken from general information and the height and size is determined by the soils, etc. If they don't reach a full height they can't do anything about it.

Mr. Snyder closed the appeal to public input.

Mr. Snyder stated there is a practical difficulty based on the intersection verses the property. The building to the north looks like it's going to collapse. This property will be improved and will be the nicest property along the intersection. He understands reducing the trees by the fuel tanks and takes their word putting them on the slope is not a good idea.

Mr. Rohr stated he agreed with Mr. Snyder and believes there is a hardship. There is no doubt in his mind that the elevations are correct. He agrees it is not a good idea to plant trees on a slope.

Mr. Vitale agree with the other members.

Mr. Singer stated he agreed also and there is a drastic drop in grade.

Mr. McDonnell stated he apologizes for giving them a hard time. He yields to the experts and respects their opinion. He suggests if this passes it is with the condition that all landscaping shall be allowed to grow to the mature size in the exhibit with the understanding they cannot control the growth of the trees. He agrees there is a practical difficulty that exists.

Mr. McDonnell made a motion to approve Appeal 2396 as requested with the condition that all the landscaping presented to the board, including but not limited to trees, bushes, shrubs, etc., shall be allowed to grow to at least the mature size presented to the board by the applicant in exhibit V1.0 dated 03/20/2020 and be properly maintained and trimmed.

Mr. Singer seconded the motion.

The vote was: Mr. Snyder-yes, Mr. Rohr-yes, Mr. Vitale-yes, Mr. Singer-yes, and Mr. McDonnell-yes.

Being no further business Mr. Snyder adjourned the meeting.

Respectfully submitted,

Joni Poindexter
Jackson Township Zoning

JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2394

Upon the hearing the Board determined that the variance would allow for a 25 ft. front yard setback for principal dwelling where 40 ft. is required per Art. IV Sect. 401.6 of the zoning resolution. Property located at 1104 Taggart NW, Sect. 32SE Jackson Twp. Zoned R-1A.

Whereas, upon the Board determined:

- The variance would not be a deterrent to the property.
 - The existing dwelling is currently at a non-conforming setback on a substandard lot.
 - Practical difficulty has been demonstrated.
-

Whereas, the Board further:

Denied _____
Approved X

The variance would allow for a 25 ft. front yard setback for principal dwelling where 40 ft. is required.

Mr. McDonnell made a motion to approve appeal #2394 as requested.

Mr. Snyder seconded the motion.

The vote was: Mr. Singer - No
 Mr. Vitale - No
 Ms. McDonnell - Yes
 Mr. Rohr - Yes
 Mr. Snyder - Yes

Chairman

Zoning Inspector, Joni Poindexter

JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2395

Upon the hearing the Board determined a variance would allow for a 19 ft. front yard setback for existing principal dwelling and a 21 ft. front setback for addition to principal dwelling where the front setback is permitted to be modified so long it is not less than the average depth of existing front yards on the 2 lots immediately adjoining; however, shall not to be less than 25 ft. per Section 401.7 of the zoning resolution. Property located at 5379 S. Island Dr. NW, Sect. 23NW Jackson Twp. Zoned R-1.

Whereas, upon the Board determined:

Practical difficulties existing on the property.

The variance will eliminate a non-conforming setback.

The dwelling will sit back further than some of the other homes in the area.

Whereas, the Board further:

Denied _____

Approved X

A variance for a 19 ft. front yard setback for existing principal dwelling and a 21 ft. front setback for addition to principal dwelling where the front setback is permitted to be modified so long it is not less than the average depth of existing front yards on the 2 lots immediately adjoining; however, shall not to be less than 25 ft.

Mr. Vitale made a motion

Mr. Rohr seconded the motion.

The vote was: Mr. Singer - Yes

Mr. Vitale - Yes

Ms. Busby - Yes

Mr. Rohr - Yes

Mr. Snyder - Yes

Chairman

Zoning Inspector, Joni Poindexter

JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2396

Upon the hearing the Board determined that the variance would allow for 11 trees along the street frontage of Portage where 25 trees are required and 5 trees along the street frontage of Wales where 13 trees are required, per Section 411.9 of the zoning resolution. Property located at the SW corner of Portage and Wales Parcel #1628435 & 1628215, Sect. 16NE Jackson Twp. Zoned B-3.

Whereas, upon the Board determined:

There is a practical difficulty with the land and the grade of the road.
Trees and shrubs will be located elsewhere on the property.

Whereas, the Board further:

Denied _____
Approved X

The variance for 11 trees along the street frontage of Portage where 25 trees are required and 5 trees along the street frontage of Wales where 13 trees are required, per Section 411.9 of the zoning resolution.

Mr. McDonnell made a motion to approve Appeal 2396 as requested with the condition that all the landscaping presented to the board, including but not limited to trees, bushes, shrubs, etc., shall be allowed to grow to at least the mature size presented to the board by the applicant in exhibit V1.0 dated 03/20/2020 and be properly maintained and trimmed.

Mr. Singer seconded the motion.

The vote was: Mr. Singer - Yes
 Mr. Vitale - Yes
 Ms. Busby - Yes
 Mr. Rohr - Yes
 Mr. Snyder - Yes

Chairman

Zoning Inspector, Joni Poindexter