

Jackson Township Board of Zoning Appeals  
September 24, 2020

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

**5:00 PM Appeal #2406** – Keith Calvert, agent for MSFM LTD, property owner, 818 E. Exchange St., Akron, Ohio 44306 requests a variance for 3'3" existing front parking setback and a 7' new front parking setback for additional parking spaces with no landscaping where 20 ft. is required with landscaping per Art. IV Sect. 411.8 & 411.9 of the zoning resolution. Property located at 6781 & 6825 Wales NW, Sect. 9SE Jackson Twp. Zoned B-3.

Mr. Rohr read the file application into the record and Ms. Poindexter stated the contents of the file.

Mr. Rohr swore in those in favor.

Keith Calvert, 3336 Waterside Dr., Akron, Ohio 44479 stated for several years his partner owned the property and they were able to acquire more property. The properties were impacted by the widening of Wales. The Belden Village store portion of the building is in disrepair. They took 37 ft. off the building and 43 ft. off the other building. They would like to add some parking. The 3'3" parking is existing and is non-conforming. They are asking for the 7' parking variance to improve the parking and accessway. They do not want to put landscaping in because there is so much salt put on the roads. The salt kills the landscaping. They would like to just plant grass along the road and make the property beautiful.

Mr. Rohr stated it looked like they will close off the existing drive closest to Portage.

Mr. Calvert stated that is correct.

Mr. Vitale asked if the 3'3" parking is where the existing approach currently is located.

Mr. Calvert stated yes.

Ms. Poindexter explained the reason for the 3'3" parking setback is to eliminate a non-conforming use.

Mr. McDonnell stated he sees 4 buildings and asked which one is the Stark Equipment building.

Mr. Calvert explained where the building is located.

Mr. McDonnell asked if the buildings were in existence prior to Wales being widened.

Mr. Calvert stated yes. All of the parking area in front of the Stark Equipment building was there and they actually removed part of the building to make more parking.

Mr. Calvert stated the new access drive will be further north of the existing drive.

Mr. Rohr asked about the parking lot across the street.

Ms. Poindexter explained the setbacks for the parking across the street.

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

Mr. Rohr asked if the board wanted to vote on the two items together or separate.

Mr. McDonnell stated they should vote on 3 issues.

Mr. Rohr closed the appeal to public input.

Mr. Singer stated he did not have an issue with the 3'3" setback.

Mr. McDonnell stated it is a non-conforming use that will be eliminated. He has no problem with the variance.

Mr. Rohr agreed with the other board members and stated he thought it is the right thing to do to make it conforming.

Mr. McDonnell made a motion to approve the variance for the 3'3" front parking setback and Mr. Singer second the motion.

The vote was: Mr. Rohr-yes, Mr. McDonnell-yes, Mr. Singer-yes, Mr. Vitale-Yes and Ms. Busby-yes.

Regarding the 7 ft. front parking setback Mr. Vitale stated he thinks 7 ft. is hard to say no to with a 3'3" setback there.

McDonnell agreed with Mr. Vitale and stated in looking at 803.5 the key point is "are not applicable to other properties in the area". They are similar. These buildings were existing when portage was widened and the State took away some of their frontage. For those reasons it is fair and he doesn't have a problem with it.

Mr. Rohr agreed with Mr. McDonnell and thinks special circumstance have been created with the property because others have the same issue. He supports the variance.

Mr. Vitale made a motion to approve the variance for the 7 ft. front parking setback and Mr. Rohr seconded the motion.

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

Regarding the variance to have no landscaping along the 7' front parking setback Mr. Vitale stated he thinks they need some landscaping. In all fairness there should be some type of landscaping besides grass.

Ms. Busby agreed with Mr. Vitale and stated she thought there needs to be something there.

Mr. McDonnell stated that he would like to see landscaping but is not sure it is practical. He knows the salt and snow gets dumped on properties and he doesn't recall any significant landscaping in front of the dollar general.

Mr. Singer stated the medical mart has 2 trees and there is minimal green space

Mr. Rohr agreed it is hard to require the applicant to have as much landscaping as required by zoning. But, he thinks there is room for a modification of landscaping.

Mr. Singer state he thinks the landscaping would need to be a minimum of 25% or 33%.

Mr. Rohr and Mr. Vitale agreed.

Mr. Vitale stated he thinks 25% should be the minimum which would be 1 tree & 4 or 5 shrubs.

Mr. McDonnell because the 3'3" is non-conforming are they are only talking about the 7' setback.

Ms. Poindexter stated yes.

Mr. Singer stated it is about 100 ft. of frontage where the 7' would apply.

Ms. Poindexter explains the landscaping needs to be within the 7 ft. setback.

Mr. Singer stated that 13 ft. is a far throw for salt and snow.

Mr. Singer stated he is not sure he sees a reason to not have the landscaping.

Mr. McDonnell stated there is an option as opposed to trying to figure out how much landscaping there should be. The applicant can always come back and ask to not do some of the landscaping.

Mr. McDonnell made a motion to approve the variance as requested.

Mr. Vitale seconded the motion.

The vote was: Mr. Singer-no, Mr. Vitale-no, Mr. McDonnell-no, Mr. Rohr-no, and Ms. Busby-no.

**5:15 PM Appeal #2407**- Chad Maag, 1020 Cosmos St. NW, Hartville, Ohio 44632 agent for Tyler Reed, property owner, 5544 Stuber NW, Canton, Ohio 44718 requests a variance for an outdoor fireplace to be located in the front yard area at 6' south side yard setback and 10'8" from the principal dwelling where outdoor fireplaces are permitted in the rear and side yard at a 10' side yard setback and 15' from the principal dwelling. Property located at 5544 Stuber NW, Sect. 14 SE Jackson Twp. Zoned R-1.

Mr. Rohr read the file application into the record and Ms. Poindexter stated the contents of the file.

Mr. Rohr swore in those in favor.

Mr. Maag stated this is a 4 piece outdoor fireplace and they did not know a permit was required. They didn't try to hide anything but did not know a permit was needed. It is on a concrete pad with landscaping.

Mr. Rohr stated it looked like the drive way was new and asked if there was any other location that the fireplace could be located.

Mr. Maag stated they purchased the house within the last year and they have not upgraded the home except for the fireplace and cement pad that was replaced because it was falling apart.

Mr. Rohr asked if there was anywhere in the back yard it could have been located.

Mr. Maag stated the reason this area was chosen is because there is a sunroom off the house and the deck was already established so it fit the location. This is the best central location.

Mr. McDonnell asked if Mr. Maag is a contractor and how many fireplaces he has put in.

Mr. Maag stated over 40 of them.

Mr. McDonnell asked how many other things don't require a permit that he ran into.

Mr. Maag stated it depends where he is working. He put a hot tub in Bath that didn't need a permit and in Copley he did need a permit. He never obtained a permit for an outdoor fireplace so he wasn't aware anyone required one.

Mr. Vitale asked how much work he has done in Jackson.

Mr. Maag stated this is the first project he has done in this area. There are some things he knows a permit would be needed, but no one has ever required a permit for a fireplace. His typical projects are landscaping projects.

Mr. Vitale asked if he would check to see if a permit is needed for a pool.

Mr. Maag stated yes.

Mr. Vitale stated it appears there are power cables above this structure and asked how much heat comes out of the top of the fireplace.

Mr. Maag stated it is angled because of the cable but it does not draft enough to have a lot of heat come out the top of it. He asked the cable company if there was any issues and the cable guy said no.

Mr. Tyler Reed, 5544 Stuber NW was sworn in.

Mr. Vitale asked Mr. Reed if it could have been located somewhere else.

Mr. Reed stated there is not easy access if it were placed in the back yard. Right now it is off the back porch and on a cement pad. It could go anywhere but it makes sense as to where it is now. The fireplace is on it's own cement pad.

Mr. Maag stated there are two tubes under the pad to hold the concrete pad it is sitting on. It is on a fresh new concrete pad.

Mr. McDonnell stated he noticed the house is turned sideways as opposed to the front door being on the west side.

Mr. Reed stated the front door is on the north side and fireplace is on the west side.

Mr. McDonnell stated the front and rear door is typically not on the side of the house and asked if there is a door on the east side of the house.

Mr. Reed stated there is a master bedroom on the east side of the house.

Mr. McDonnell stated it is in front yard, doesn't meet side yard and 10 ft. from house and asked if he is comfortable with that.

Mr. Reed stated yes, there has been no issues.

Mr. Maag stated there is no door off the east side of the house if placed in the back yard. The way the house is positioned and the entertaining area is near the fireplace.

Mr. McDonnell asked Ms. Poindexter if the front is the side facing the street regardless of where the front door is.

Ms. Poindexter stated yes.

Mr. McDonnell asked Mr. Reed how deep the yard is from the house to the property line.

Mr. Reed stated he did not know.

Mr. Vitale stated the affidavit states they are redirecting water to the neighbors.

Mr. Maag stated that the drainage is existing and they did not adding anything new. The neighbor's trees are ruining their downspouts and roof and that is why the downspouts needed replaced. No water runoff has changed.

Ms. Busby asked how difficult it would be to move the fireplace.

Mr. Maag stated it would completely destroy it.

Mr. Vitale asked if this is a 4 piece structure and is prebuilt so the 4 pieces are put together.

Mr. Maag explained how the fireplace was constructed.

Mr. Maag addressed the affidavit.

Mr. McDonnell asked about the setback from the structure and if this is required by the fire department.

Ms. Poindexter stated no the fire department does not require a setback and permits were not required until 3 or 4 years ago.

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

Ms. Busby stated it's a nice accent to the home and she is having a hard time.

Mr. Singer stated he deals with temperatures and explained technical issues. He is concerned about the safety of the overhead conductors burning up like a fuse. He has a tuff time approving this.

Mr. Vitale stated he agrees with some of the stuff Mr. Singer stated although he didn't understand the technical issues. The home owner and builder both said there are places in the back it could be put although it may not be convenient. Safety is him number one concern.

Mr. Rohr agreed with the other board members and when he seen it the first thing he thought of was it was a fire hazard. He thinks the neighbor has some legitimate concerns.

Mr. McDonnell stated he thinks there is a practical difficulty with the way the house is situated on the property and there is no access to what they typically call the back yard. But the telling factor is the safety issue. He thinks with the trees it is a fire hazard.

Mr. McDonnell made a motion to approve the variance as requested.

Mr. Vitale seconded the motion.

The vote was: Mr. Singer-no, Mr. Vitale-no, Mr. McDonnell-no, Mr. Rohr-no and Ms. Busby-no.

Meeting minutes from the August 13, 2020 meeting

Mr. Vitale made a motion to approve the meeting minutes from the August 13, 2020 meeting and Mr. Rohr seconded the motion.

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

Respectfully submitted,



Joni Poindexter  
Jackson Township Zoning Inspector

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS  
CONCLUSIONS OF FACT  
APPEAL #2406**

Upon the hearing the Board determined that the variance would allow for requests a variance for 3'3" existing front parking setback and a 7' new front parking setback for additional parking spaces with no landscaping where 20 ft. is required with landscaping per Art. IV Sect. 411.8 & 411.9 of the zoning resolution. Property located at 6781 & 6825 Wales NW, Sect. 9SE Jackson Twp. Zoned B-3.

Whereas, upon the Board determined:

The 3'3" parking setback currently exists and the varaince will eliminate a non-conforming use. The 7' parking setback is greater than what is currently there. There should be some type of landscaping within the parking setback

Whereas, the Board further:

Denied \_\_\_\_\_

Approved   X  

The variance for 3'3" existing front parking setback and a 7' new front parking setback for additional parking spaces where 20 ft. is required per Art. IV Sect. 411.8 of the zoning resolution.

Mr. McDonnell made a motion to approve the 3'3" parking setback and Mr. Singer seconded the motion and Mr. Vitale made a motion to approve the 7' front parking setback and Mr. Rohr seconded the motion.

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

Whereas, the Board further:

Denied   X  

Approved \_\_\_\_\_

The varaince for no landscaping within the 7' front parking setback where landscaping is required per Art. IV Sect. 411.9 of the zoning resolution.. Property located at 6781 & 6825 Wales NW, Sect. 9SE Jackson Twp. Zoned B-3.

Mr. McDonnell made a motion to approve the varaince for no landscaping within the 7' front parking setback. Mr. Vitale seconded the motion.

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

  
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Chairman  
  
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Zoning Inspector, Joni Poindexter

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS  
CONCLUSIONS OF FACT  
APPEAL #2407**

Upon the hearing the Board determined that the variance would allow for an outdoor fireplace to be located in the front yard area at 6' south side yard setback and 10'8" from the principal dwelling where outdoor fireplaces are permitted in the rear and side yard at a 10' side yard setback and 15' from the principal dwelling. Property located at 5544 Stuber NW, Sect. 14 SE Jackson Twp. Zoned R-1.

Whereas, upon the Board determined:

The fireplace could be a fire hazard with the trees and wires above it.

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Whereas, the Board further:

Denied   X  

Approved       

The variance for an outdoor fireplace to be located in the front yard area at 6' south side yard setback and 10'8" from the principal dwelling where outdoor fireplaces are permitted in the rear and side yard at a 10' side yard setback and 15' from the principal dwelling.


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Mr. McDonnell made a motion to approve  
Mr. Vitale seconded the motion.

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

  
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Chairman

  
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Zoning Inspector, Joni Poindexter