

Jackson Township Board of Zoning Appeals

October 14, 2021

Members Present: Jared Singer
Charles Rohr
Leon Vitale
Steven Gosney-Alternate

Zoning Inspector: Joni Poindexter

Absent Members: Patrick Snyder
Edward McDonnell
Debbie Busby-Alternate

5:00 PM Appeal #2425 – Jennifer Hunter, 2841 Riviera Dr. Fairlawn, Ohio 44333 agent for Marketplace at Nobles Pond, property owner, 821 Main St., North Canton, Ohio 44720 requests a variance for a 40 ft. east side yard setback for cooler addition for principal building where 75 ft. is required per Art IV Sect. 411.5 of the zoning resolution. Property located at 7048 Fulton NW, parcel #10014103, Sect. 22NW Jackson Twp. Zoned B-2.

Mr. Singer read the file application and contents of the file into the record.

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

Jennifer Hunter, 2841 Riviera Dr., Fairlawn, Ohio 44333 stated the proposed restaurant is locally owned. Previously they received a 50 ft. setback variance on the east side for the building but they need to put the cooler on the east side also so they are asking for a 40 ft. setback to add the cooler. The front of the building is to the west and the side is to the north. They are opening up the building to outdoor dining and will have a walking tract so they didn't want the cooler on the east side of the building. She thanked the board for the 50 ft. variance they received but they need an additional 10 ft. for the cooler. From the property line to the adjacent building is about 90 ft. Traditionally there is a 75 ft. setback when next to residential. They will have approximately 127 ft. between the two buildings.

Mr. Singer asked if the cooler will produce noise.

Ms. Hunter stated the condenser will be on the roof of the cooler and will run 24/7. There is a natural buffer between the properties with overgrown brush along the creek. The cooler will be accessed from the outside and the inside of the building. Deliveries will come around 5:00 AM.

Mr. Vitale asked how much disruption there will be for the nursing home at that time.

Ms. Hunter stated that Cassie Elliott could answer that question.

Ms. Hunter stated they can't put it on the west or north side because they would lose parking and if put to the south they may have an issue with the drainage plans.

Mr. Singer asked if this is the only reasonably location for the cooler.

Ms. Hunter stated yes.

Ms. Cassie Elliott 4267 Riverside NW stated as the project is progressing they are doing the final details and are excited to bring a nice restaurant to the area. They are going to add a nice river rock area and walking path to the restaurant. The parking warrants the cooler area. The size of the cooler, based on the projected business and will meet the size they need. They will have smaller trucks for deliveries. The area already has trucks with deliveries for Jerzey Mikes in the morning.

Mr. Vitale asked how the noise would affect the nursing home because there are some rooms on the west side of the building.

Mr. Elliott explained she spoke to DeHoff regarding deliveries and they agreed to more landscaping between the properties if needed.

Mr. Rohr stated Ms. Hunter said deliveries would be at 5:00 am and there are some rooms facing the building from altercare. He doesn't think the residents will be up at 5:00 AM.

Ms. Elliott stated the goal is to deliver the goods and not to disrupt people during a delivery.

Ms. Poindexter clarified a nursing home is permitted in a commercial district therefore if the nursing home property were zoned commercial the cooler for the restaurant could be 16 ft. from the property line.

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

Mr. Singer closed the appeal to public input.

Mr. Vitale stated his questions were answered and they have to have deliveries. If the cooler were moved 10 ft. the sound will be the same and it makes sense where it is located.

Mr. Singer agreed with Mr. Vitale and stated it could be up to 16 ft. if the nursing home were zoned commercial. His concern was the acoustics from the cooler itself but the condenser will be on the roof so he supports the appeal.

Mr. Singer made a motion to approve appeal #2425 as requested.

Mr. Gosney seconded the motion.

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

5:15 PM Appeal #2426 – CSDI LLC, property owner, 6944 Wales NW, North Canton, Ohio 44720 requests a variance for a 10 ft. north, 35 ft. west and 8 ft. east setback for principal building addition where a 25 ft. north, 50 ft. west and 16 ft. east setback is required per Art. IV Sect. 411.5 of the zoning resolution. Property located at 6944 Wales, parcels #1628278 & 1628276, Sect. 10SW Jackson Twp. Zoned B-3.

Mr. Singer read the file application and contents of the file into the record.

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

Tim Schuller, 4648 Dusty Circle, New Franklin, Ohio stated he is the owner of the property and there is a gas easement that runs diagonally through the property. His business has doubled over the past two years and he needs somewhere to put his products. They had 5 outdoor thefts in the past 30 days so he has to do something to make the property more secure and protect his products. Mr. Schuller stated building #1 is a showroom addition. He doesn't see the road ever being widened due to the ditch being on the north side of building where he is requesting a 10 ft. setback. They want to come forward to 35 ft. from 241 for the portion of the building labeled #1 and #2. They want to cover the patio and line up the roof area. The vet across the street is about 30 ft. from the road right of way so he isn't asking for any thing that others don't have.

Mr. Schuller stated the building labeled #3 is for their trucks. He would like the board to vote on the variance separately.

Mr. Vitale asked if he is asking for a 10 ft setback on the north side.

Mr. Schuller stated yes. The pavilion portion of the building is open air covered.

Mr. Vitale asked if the loading ramp, per building #3, would be a temporary structure and tied into the building.

Mr. Schuller stated it would be attached with just a roof and no sides.

Mr. Singer asked if the additions could be placed anywhere else that would not require a variance.

Mr. Schuller stated no due to the gas easement. The reason they are coming forward for the building is because they need the parking in the rear for the employees. If they get into the parking area they would have to move the parking somewhere else.

Mr. Singer stating building #3 is requested to be at an 8 ft. rear yard setback but it appears the existing structure is 9 ft.

Mr. Schuller stated it is flush with the building and is somewhere between 9-11 ft.

Mr. Rod Harold, 6985 Lee Ave. NW, Canton, Ohio 44708 stated he was in attendance because he wanted to see the plan that was proposed. He has no issue with what is being proposed.

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

Mr. Singer closed the appeal to public input.

Mr. Gosney stated the property is landlocked and he is not doing anything out of the ordinary. He has no problem with the appeal.

Mr. Vitale stated that he agreed with Mr. Gosney, especially with the gas easement. It is hard to do anything with the gas companies blessing. He has no problem with the variances.

Mr. Singer agreed with the other board members and thinks special conditions apply with the land due to the gas easement that runs diagonal on the property.

Mr. Rohr made a motion to approve the variance for the structure labeled #1 on the site plan for a 10 ft. north building setback where 25 ft. is required.

Mr. Gosney seconded the motion.

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

Mr. Rohr made a motion to approve the variance for the structures labeled #1 & #2 on the site plan for a 35 ft. west building setback where 50 ft. is required.

Mr. Gosney seconded the motion.

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

Mr. Rohr made a motion to approve the variance for the structure labeled #3 per the site plan for an 8 ft. east building setback where 16 ft. is required.

Mr. Gosney seconded the motion.

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

5:30 PM Appeal #2427 – D. R. Miller Design Build LLC, PO Box 838, Hartville, Ohio 44632 agent for Mark Waidman, property owner, 20 Cherry Dr. NW, N. Canton, Ohio 44720 requests a variance for a zero ft. east side yard setback where 10 ft. is required per Art. IV Sect. 401.6 of the zoning resolution. Property located at 20 Cherry Dr. NW, Sect. 4NE Jackson Twp. Zoned R-R.

Mr. Singer read the file application and contents of the file into the record.

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

Mr. David Sommers, 1659 Salem Church NE, Alliance, Ohio stated he is the contractor for the project. Currently there is a deck that is 13'10" and they want to come out to 16 ft. No one really knows where the line is but they all agreed in a meeting with Willowdale that this is acceptable to the adjacent owners.

Mr. Vitale asked how close the existing deck is to the imaginary line.

Mr. Sommer stated he doesn't have an exact line but they know the deck is on his property. If they come out to 16 ft. it will be right on the property line. There will be a 12" overhang.

Mr. Vitale asked if the addition could be moved to the east.

Mr. Sommer stated they want to line up the outside wall and if shifted over, the family room would be off center and not in line.

Mr. Vitale asked if they could reduce the size of the opening for the door.

Mr. Sommer stated yes, but the concern is they are using part of the existing structure and it would add to the cost.

Mr. Singer stated in looking at sheet #3 he was wondering if the wall could be moved in to relieve some of the setback, but he sees an HVAC closet and a 6 ft. wide opening.

Mr. Sommer explained the layout of the structure and how it would connect to the home.

Mr. Singer asked if the wall were moved would it affect the HVAC closet.

Mr. Sommer stated yes.

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

Mr. Singer closed the appeal to public input.

Mr. Singer asked Ms. Poindexter if there are other areas in Willowdale that are up to the property line.

Ms. Poindexter stated she is sure there is but does not know how many or what variances there may have been years ago.

Mr. Vitale stated he gets they want to use the existing framing. In Willowdale it isn't the end of the world. They have approved other variance where the roof lines cross others property. They are going to follow the fence line and if no one has a beef about it he can't say it's a bad idea.

Mr. Singer stated the neighbors were made aware of the hearing and there are no concerns. The area is unique. He supports the appeal.

Mr. Gosney stated he agreed with the other board members.

Mr. Singer made a motion to approve appeal #2427 as requested.

Mr. Gosney seconded the motion.

The vote was: Mr. Rohr-No, Mr. Singer-Yes, Mr. Gosney-Yes, Mr. Vitale-Yes.

5:45 PM Appeal #2423 – Jeff Certo, 26031-B Center Ridge Road, Westlake, Ohio 44145 agent for Linda & Joseph Codispoti, property owner, 5575 Astrojet NW, North Canton, Ohio 44720 requests a conditional use permit for a car wash where a conditional use permit is required per Art. IV Sect. 411.3 of the zoning resolution. Property located at 6600 Frank NW, North Canton, Ohio 44720, Sect. 13NW Jackson Twp. Zoned B-2.

Ms. Poindexter stated she received a letter from the applicant Mr. Certo on October 4, 2021 requesting a continuance for appeal #2423 until the October 28th meeting. There was a change in the layout of the plan therefore new notices had to be sent to the adjoining property owners because the request is for a conditional use permit. The hearing will be set for October 28, 2021 at 5:45 PM.

Mr. Singer made a motion to continue appeal #2423 until October 28, 2021 at 5:45 PM.

Mr. Gosney seconded the motion.

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

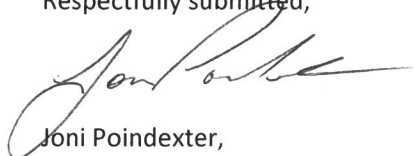
Mr. Rohr made a motion to approve the meeting minutes from the August 12, 2021 meeting.

Mr. Gosney seconded the motion.

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

Being no further business Mr. Singer adjourned the meeting.

Respectfully submitted,



Joni Poindexter,
Jackson Township Zoning Inspector

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2425**

Upon the hearing the Board determined that the variance would allow for a 40 ft. east side yard setback for cooler addition for principal building where 75 ft. is required per Art IV Sect. 411.5 of the zoning resolution. Property located at 7048 Fulton NW, parcel #10014103, Sect. 22NW Jackson Twp. Zoned B-2.

Whereas, upon the Board determined:

Although the property to the east is zoned residential it is used as commercial and the cooler addition will have no effect on the adjacent property.

Whereas, the Board further:

Denied _____

Approved X

The variance for a 40 ft. east side yard setback for cooler addition for principal building where 75 ft. is required

Mr. Singer made a motion to approve appeal #2425 as requested.

Mr. Gosney seconded the motion.

The vote was: Mr. Rohr- Yes

Mr. Vitale- Yes

Mr. Gosney- Yes

Mr. Singer- Yes



Chairman



Zoning Inspector, Joni Poindexter

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2426**

Upon the hearing the Board determined that the variance would allow for a 10 ft. north, 35 ft. west and 8 ft. east setback for principal building additions where a 25 ft. north, 50 ft. west and 16 ft. east setback is required per Art. IV Sect. 411.5 of the zoning resolution. Property located at 6944 Wales, parcels #1628278 & 1628276, Sect. 10SW Jackson Twp. Zoned B-3.

Whereas, upon the Board determined:

There was a practical difficulty with the gas line that runs diagonal through the property.

Whereas, the Board further:

Denied _____ Approved X

The variance for structure labeled #1 on the site plan for a 10 ft. north building setback where 25 ft. is required.

Mr. Rohr made a motion to approve the variance for building #1 & 2 as requested.

Mr. Gosney seconded the motion.

The vote was: Mr. Rohr- Yes Mr. Vitale- Yes Mr. Gosney- Yes Mr. Singer- Yes

Whereas, the Board further:

Denied _____ Approved X

The variance for structures labeled #1 & 2 on the site plan for a 35 ft. west building setback where 50 ft. is required.

Mr. Rohr made a motion to approve the variance for building #3 as requested.

Mr. Gosney seconded the motion.

The vote was: Mr. Rohr- Yes Mr. Vitale- Yes Mr. Gosney- Yes Mr. Singer- Yes

Whereas, the Board further:

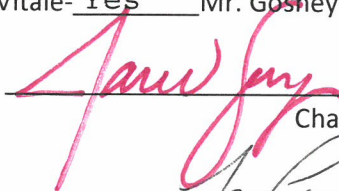
Denied _____ Approved X

The variance for structure labeled #3 per the site plan for an 8 ft. east building setback where 16 ft. is required.

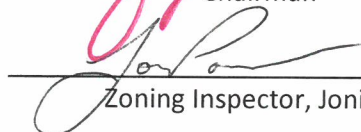
Mr. Rohr made a motion to approve the variance for building #3 as requested.

Mr. Gosney seconded the motion.

The vote was: Mr. Rohr- Yes Mr. Vitale- Yes Mr. Gosney- Yes Mr. Singer- Yes



Chairman



Zoning Inspector, Joni Poindexter

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS
CONCLUSIONS OF FACT
APPEAL #2427**

Upon the hearing the Board determined that the variance would allow for a zero ft. east side yard setback where 10 ft. is required per Art. IV Sect. 401.6 of the zoning resolution. Property located at 20 Cherry Dr. NW, Sect. 4NE Jackson Twp. Zoned R-R.

Whereas, upon the Board determined:

Willowdale is unique and does not have true property lines.
All neighbors agreed to the setback.

Whereas, the Board further:

Denied _____

Approved X

The variance for a zero ft. east side yard setback where 10 ft. is required per Art. IV Sect. 401.6 of the zoning resolution.

Mr. Singer made a motion to approve appeal #2427 as requested.

Mr. Gosney seconded the motion.

The vote was: Mr. Rohr- No

Mr. Vitale- Yes

Mr. Gosney- Yes

Mr. Singer- Yes



Chairman



Zoning Inspector, Joni Poindexter