

Jackson Township Board of Zoning Appeals

February 10, 2022

Members Present: Charles Rohr  
Jared Singer  
Patrick Snyder  
Edward McDonnell  
Debbie Busby  
Steven Gosney-Alternate  
Randy Alexander-Alternate  
Zoning Inspector: Joni Poindexter

**5:00 PM Appeal #2435** – Betty Torstenson, 1027 5th Ave. NW, Watertown, SD 57201 agent for Love's Travel Stop & Country Store, property owner, 10601 N. Pennsylvania, Oklahoma City, OK 73126 requests a variance for 2 entrance signs at 11.68 sq. ft./6 ft. in height each where 6 sq. ft./3 ft. in height is permitted per Art. V Sect. 502.4 of the zoning resolution. Property located at 4834 Shuffle, Sect. 1SW Zoned I-1.

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

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

Mr. Chad Bruner, 1601 N. Pennsylvania, Oklahoma City, OK stated the signs are for the two separate drives. One for cars and one for trucks. This is a safety issue with the truck traffic. This is a minimum size that they found are effective. Ms. Poindexter pointed out that the sign code is being revised and the sign will be in compliance when the change is made.

Mr. Snyder asked if the signs they currently have posted are temporary.

Mr. Bruner stated yes. They will be removed when the permanent signs are put up.

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

Mr. Snyder closed the appeal to public input.

Ms. Poindexter explained that text amendment take 3 months from the time they are initiated until they become effective.

Mr. Snyder stated there is no reason to deny the request since the rules are changing and he thinks the temporary signs that are there now are too small.

Mr. Rohr stated even without the change in the rules it is similar to the CAT project that they granted the variance for in the past. He has no issues.

The other board members agreed.

Mr. Singer made a motion to approve appeal #2435 as requested.

Mr. McDonnell seconded the motion.

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

**5:15 PM Appeal #2433** – George Winkleman, 996 Endicott Drive, Akron, OH 44313 agent for Donna Pappas ML Trustee of the George Pappas Family Trust, property owner, PO Box 13566, Fairlawn OH 44334 requests a variance for a 20 ft. front building setback where 50 ft. is required and a 0 ft. front setback for an open outdoor patio where 25 ft. is required per Art. IV Sect. 411.5 & 411.10 of the zoning resolution. Property located at 6976 Whipple NW, Sect. 12SE, Jackson Twp. Zoned I-1.

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

Tim Adkins, 6402 Dustie's Circle, New Franklin, Ohio 44319 stated with Covid they have been impacted and a lot of places have outdoor seating. The places with patio's have done much better. It will be a 3 season patio with garage door walls. There has been no improvements on the plaza for over 40 years. He has a purchase agreement for the property and he also purchased the property next door for parking. The road has been widened in the past which impacted his building setback. The entire front of the building will be improved and the patio area will improve the business.

Mr. Singer asked for a clarification as to if the proposed addition is the 3 season room and if the open patio will have a roof.

Mr. Adkins stated there will be no roof on the patio. Mr. Adkins presented exhibit A, which is a rendering of the proposed structure, and stated the addition would have the garage doors.

Mr. Adkins stated he would be willing to put up some barriers if needed.

Mr. Snyder asked how far the current building is from the right of way. It appears it is 50 ft. at one point and the addition would be about 27-1/2 out from the building and then the patio.

Mr. Adkins stated they would put a barrier along Whipple such as a planter or something with nice greenery.

Mr. Snyder asked if the grass area is 10 ft. between the actual road and patio addition.

Mr. Adkins stated yes.

Mr. Snyder asked why not put the addition somewhere else.

Mr. Adkins stated the back side is a different grade. If the 3 season structure is granted they could move the patio north if there is a concern about it being too close to the road.

Mr. Snyder asked if the old car wash property would be parking.

Mr. Adkins stated yes.

Ms. Busby asked if there is a rear entrance to the property.

Mr Adkins stated yes and showed where the entrance would be.

Ms. Busby stated she meant the entrance to the building.

Mr. Adkins stated there is an entrance in the back but no where to make a patio in the rear due to the grade.

Mr Singer asked if an engineer would design the barrier for the open patio.

Mr. Adkins stated yes.

Mr. McDonnell asked how wide the grass strip is.

Mr. Adkins stated it is 8-10 ft.

Mr. McDonnell asked where the right of way is located in relation to the pavement edge of Whipple Ave.

George Winklemann, 996 Endicott Dr. Akron, Ohio 44313 estimated it is about 10 ft. Mr. Winklemann stated when he filed he was asked if they were going to have a fence and the answer is no. There would be screening but no fence.

Mr. McDonnell asked if there are any other places that have a 0 ft. variance, as suggested in their answers to Section 803.5 submitted with the application.

Mr. Winklemann stated that he is unaware of any other locations that have a 0 ft. variance.

Ms. Busby stated she received a variance for a 1 ft. setback for the Irish Exchange.

Mr. Adkins stated he is open for suggestions if they can't accept the zero setback.

Mr. Snyder asked where the size came from for the patio and addition.

Mr. Adkins stated this is the number for an outside bar for seating and tables.

Mr. Winkleman stated he changed the plan because it used to be square. They cut it off to follow the right of way line and got rid of some tables. It doesn't make sense to put it somewhere else because the kitchen is in the rear and the addition and patio will be next to the dining room.

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

Mr. Snyder closed the appeal to public input.

Mr. Snyder stated there are two requests and it seems like they should divide the two requests into two separate votes.

Mr. Snyder stated he understands the request and the patio will be nice, but with it being so close to Whipple it is very concerning. Sylvesters had a car drive into their restaurant right around the corner. They can't put the addition to the south due to space and the elevation of the property.

Mr. Rohr stated the Basement is located at the corner of Portage and Whipple and the speed limits are 35 and 40. It is a busy intersection. Because of the traffic and where it is, he thinks it is a safety issue for the public at a zero ft. setback. As far as the building addition he is not 100% into that but if someone has a reason that isn't a safety issue he could go along with it. But, he thinks the patio is a safety issue.

Mr. McDonnell asked if they are dividing the motion.

Mr. Snyder stated yes.

Mr. McDonnell stated he thinks the applicant's answer to the question in Section 803.5 B1 relates to general conditions impacting the entire township rather than special conditions and circumstance peculiar to the land or structure addressed in Section 803.5 B1. The variance is substantial and extreme. He thinks it will affect the character of the neighborhood but that is a judgement call. If Ms. Busby is correct there is only one other similar variance that he is aware of in the commercial areas. He thinks it is a safety issue for the patio and thinks it could be a liability for the township if someone gets hurt. He thinks the zero foot variance is a dangerous precedent.

Mr. Snyder stated as far as the addition they are locked into not adding it in the back. If they put it on the south side they would also have to ask for a setback. Both requests are significant and he is concerned about the zero foot setback.

Mr. Singer agreed with the other board members and is concerned about the patio and safety issue. He thinks the zero foot setback is very substantial.

Mr. McDonnell made a motion to approve appeal# 2433 for a 20 ft. front building setback where 50 ft. is required.

Mr. Singer seconded the motion.

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

Mr. Snyder made a motion to approve appeal #2433 for a zero (0) ft. front setback for an open outdoor patio where 25 ft. is required.

Mr. Singer seconded the motion.

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

**5:30 PM Appeal #2436** – Kevin Noble, 1540 Corporate Woods Parkway, Uniontown, Ohio 44685 agent for NEOI Plaza LLC, property owner, 7167 Sugarwood Rd., Canton, Ohio 44721 requests a variance for a 14 ft.

east side yard setback where 25 ft. is required for a 3,960 sq. ft. building addition and for 26 parking spaces where 42 are required per Art. IV Sect. 411.5 and Art. VI Sect. 601.2 of the zoning resolution. Property located at 6220 Promler NW, Parcel #1620480, Sect. 13NE Jackson Twp. Zoned I-1.

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

Mr. Snyder swore in Erin Todaro, 1717 11th NE, Massillon, Ohio 44646, Ashley Miller, 5565 Market Ave. N, Canton 44721, Patrick Kanmar, 5124 South Main St. Akron, Ohio 44319.

Ms. Miller stated she owns the furniture store along with her sister. They need the additional space to continue to grow. They are locked in a lease. They sell furniture and need the space to display their furniture. The parking spaces will not be an issue. There are usually no more than 4 or 5 cars at the store at a time and the employees park in the rear of the building.

Mr. Kanmar stated they are asking for a 14 ft. side yard setback instead of the 25 ft. that abuts a parking lot. The parking spaces would not be an issue with it being a furniture business.

Mr. Snyder asked the reason for the size of the addition.

Ms. Miller stated to give them adequate space for displaying their furniture. They want to offer more furniture and people like to see and sit on what they may be purchasing.

Ms. Todaro explained where the addition would be located and the parking for employees.

Mr Snyder asked if they will lose the parking spaces where the addition would go.

Ms. Todaro stated yes.

Mr. Rohr asked Ms. Poindexter if there are issues with the fire Department.

Ms. Poindexter stated the fire department needs access to three sides of the building if it is not sprinkled.

Mr. Rohr asked where the trash receptacle would go.

Ms. Todaro stated they have a warehouse about 2 properties away. They don't really use the dumpster so they would take their trash to their other dumpster.

Mr. McDonnell asked why they need the variance.

Ms. Todaro explained why they need the variance and why the addition can't be moved any where else on the property. They want to keep the front windows for lighting.

Mr. McDonnell asked if he wanted a sofa, could he just drive up and buy one.

Ms. Todaro stated yes. They have clients from different places and they want to be able to feel and sit on the furniture. They customize furniture so people can make an appointment to look and pick out what they want.

Mr. McDonnell asked if it is more by appointments as to walk ins.

Ms. Busby stated she has been a customer and they make appointments and it does not generate many cars.

Mr. Singer stated the dimensions are not put on the site plan.

Ms. Todaro stated the dimensions are 110 x 36.

Ms. Busby stated she did the math and the 110 x 36 comes out to the dimension given.

Mr. Snyder stated they could specify the 110 ft. in the motion.

Mr. McDonnell asked how they get to 3,960.

Mr. Kanmar stated it is 110 x 36. The dimensions are on the site plan.

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

Mr. Snyder closed the appeal to public input.

Mr. Snyder stated he understands the reason for the request and it will be a nice addition. Fourteen feet off the east side is Jeff's auto cars and it doesn't bother him. The reduction in parking spaces is suggested not to be an issue and the employees have a place to park. The request does not bother him.

Mr. Singer agreed with Mr. Snyder. He thinks there is peculiarities with the land. He thinks it's the best use of the parcel and supports the request.

Mr. Rohr stated he supports the variance and doesn't see a problem with the parking at this time.

Ms. Busby had no issues.

Mr. McDonnell made a motion to approve appeal#2436 as requested for a 3,960 sq. ft. building addition (110 x 36) and for 26 parking spaces where 42 are required.

Mr. Snyder seconded the motion.

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

**5:45 PM Appeal #2437** – Kevin Noble, 1540 Corporate Woods Parkway, Uniontown, Ohio 44685 agent for Towpath Trail Properties LLC, property owner, 1407 Trails End, New Franklin, Ohio 44216 requests a variance for a 25 ft. front yard setback for a building addition where 40 ft. is required and a 0 ft. front setback for an open patio and fencing where 25 ft. is required for the open patio and 10 ft. is required for fencing per Art. IV Schedule 411.5 and 411.10 of the zoning resolution. Property located at 4464 Erie Ave., Sect. 30NW Jackson Twp. Zoned C-P.

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

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

Mr. Snyder swore in Mike Wolbert, 1407 Trail End Dr. New Franklin Ohio and Patrick Kanmar, 5124 South Main St., Akron, Ohio 44319.

Mr. Wolbert stated they are trying to put a patio and covered portion on the side of their building. They received a grant from the restaurant revitalization fund for the patio area. They are proposing a 20 ft. patio out from the building to the north. They will take the back patio behind the building and get rid of it. They consider this as a win win for everyone. The building was built in 1939 and they aren't going any further toward the right of way then what is there. They are just making it bigger. They may put garage doors on the covered patio to limit noise if needed. They will have a handicapped ramp also for accessibility.

Mr. Wolbert explained the patio and roof covering portion for the outside seating. The fence will go across the front of the patio. It will be in line with the existing building.

Mr. Snyder asked how far the pavement of Erie Ave. is from the right of way.

Mr. Wolbert stated they are about 25 ft. from the edge of the road. There is parking along the front of the building.

Mr. Singer asked if the existing building is about 25 ft. from the edge of Erie.

Mr. Wolbert stated yes.

Mr. McDonnell stated 25 ft. is a fair estimate from the edge of Erie because he walked it.

Mr. Wolbert stated the back patio would be removed.

Mr. McDonnell asked if the hashed area is the covered patio and the dimension are 20 x 60.

Mr. Wolbert stated that the entire patio. The covered part is 20 x 35 and the uncovered is 20 x 25.

McDonnell asked why not put the uncovered portion to the north of the covered patio.

Mr. Wolbert stated because of parking. The patio would be the same elevation as the porch due to ADA. It will be safer and more accessible.

No one else spoke in favor of the appeal.

Mr. Snyder asked if anyone wanted to speak in opposition to the appeal.

Mr. Snyder swore in Charles McCowan, 4489 High Mill NW, Massillon, Ohio.

Mr. McCowan, stated his house is behind the towpath. His bedroom is only 42 ft. from the back of the bar. He thanks God for the Jackson Township noise resolution. This is an old building and only has an occupancy load of 73. Mike mentioned putting in garage doors. If they put a wall up that will help with the noise but he understands the owner's can't always be there. The wall gives him some relief.

Mr. Wolbert stated it would probably a solid wall that goes up to the roof line.

Mr. McCowan stated the patio in the back doesn't meet the fire code so the building department will come up with an occupancy load. His main concern has always been the noise. The patio could be overcrowded with people and that could affect the noise coming to their house. He is asking the owners be more considerate and hope they adhere to the noise resolution and occupancy load. A wall will help with the noise. Noise is their concern.

Mr. Snyder swore in Ms. McCowan, 4489 High Mill, Massillon, Ohio.

Ms. McCowan stated she thinks it is responsible to have the doors and she appreciates it. This makes her feel better having garage doors.

Mr. Wolbert stated the plan is to have a solid wall in the back and the garage doors are up in the air right now. The existing patio will be no closer than the existing one and the wall will help. He would say the garage doors at a 75 % possibly to be put in.

Mr. McDonnell asked if the applicant had any issue if the board made a condition that there be a solid wall in the rear.

Mr. Wolbert stated that he had no problem with the condition.

Mr. Snyder closed the appeal to public input.



Mr. Snyder stated they aren't doing anything that is different than the existing building. Compared to the previous appeal the quantity of traffic is a lot lower. The patio will be in line with the existing building and it's nice they will put a solid wall along the back.

Ms. Busby stated the safety issue isn't any different than what is currently there and there will be cars parked along the front.

Mr. McDonnell agreed with Ms. Busby as to the difference between this appeal and the previous appeal regarding a 0 ft. setback is the reduced traffic, the actual distance of the right-of-way from the road, and the zoning district. He thinks the conditions should be the rear wall of the covered patio is solid and if granted this variance replaces any previous variance that may have been granted for any other decks or patios.

Mr. Snyder stated the fact this addition is on the side of the building makes a difference as opposed to the other request where they wanted in on the front of the building.

Ms. Busby agreed with the other board members.

Mr. McDonnell made a motion to approve appeal #2437 for a 25 ft. front yard setback for principal building addition where 40 ft. is required with the condition that a solid wall be constructed along the rear of the covered patio and a zero (0) ft. front setback for an open patio and fencing where 25 ft. is required. Mr. McDonnell stated that these variances replace any other variance/variances that may have been previously granted for any decks or patios.

Mr. Snyder seconded the motion.

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

Ms. Poindexter stated the minutes from the January 13, 2022 meeting needed approval.

Mr. Rohr made a motion to approve the meeting minutes from the January 13<sup>th</sup> meeting.

Mr. Snyder seconded the motion.

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

Being no further business the meeting was adjourned.

Respectfully submitted,



Joni Poindexter

Jackson Township Zoning Inspector

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS**  
**CONCLUSIONS OF FACT**  
**APPEAL #2435**

Upon the hearing, the Board determined that the variance would allow for 2 entrance signs at 11.68 sq. ft./6 ft. in height each where 6 sq. ft./3 ft. in height is permitted per Art. V Sect. 502.4 of the zoning resolution. Property located at 4834 Shuffle, Sect. 1SW Zoned I-1.

Whereas, upon the Board determined:

This is a safety issue and due to the regulations in the process  
of being changed when effective the sign will be in compliance.

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Whereas, the Board further:

Denied \_\_\_\_\_

Approved   X  

The variance for 2 entrance signs at 11.68 sq. ft./6 ft. in height where 6 sq. ft./3 ft. in height is permitted.

Mr. Singer made a motion to approve appeal #2435 as requested.

Mr. McDonnell seconded the motion.

The vote was: Ms. Busby- Yes

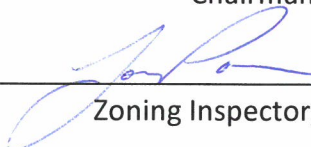
Mr. Rohr- Yes

Mr. Singer- Yes

Mr. McDonnell- Yes

Mr. Snyder- Yes

  
\_\_\_\_\_  
Chairman

  
\_\_\_\_\_  
Zoning Inspector, Joni Poindexter



**JACKSON TOWNSHIP BOARD OF ZONING APPEALS**  
**CONCLUSIONS OF FACT**  
**APPEAL #2433**

Upon the hearing, the Board determined that the variance would allow for a 20 ft. front building setback where 50 ft. is required and a 0 ft. front setback for an open outdoor patio where 25 ft. is required per Art. IV Sect. 411.5 & 411.10 of the zoning resolution. Property located at 6976 Whipple NW, Sect. 12SE, Jackson Twp. Zoned I-1.

Whereas, upon the Board determined:

The addition and patio would sit close to a 5 lane road and  
could be a danger. The variance is extreme for this area.

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Whereas, the Board further:

Denied   X  

Approved       

The variance to allow for a 20 ft. front building setback where 50 ft. is required.

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Mr. McDonnell made a motion to approve appeal #2433 as requested for a 20 ft. front building setback where 50 ft. is required.

Mr. Singer seconded the motion.

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

Whereas, the Board further:

Denied   X  

Approved       

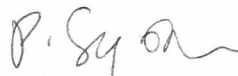
The variance to allow for a zero (0) ft. front setback for an open outdoor patio where 25 ft. is required.

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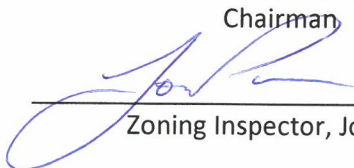
Mr. Snyder made a motion to approve appeal #2433 as requested for a zero (0) ft. front setback for an open outdoor patio where 25 ft. is required.

Mr. Singer seconded the motion.

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



Chairman



Zoning Inspector, Joni Poindexter

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS**  
**CONCLUSIONS OF FACT**  
**APPEAL #2436**

Upon the hearing, the Board determined that the variance would allow for a 14 ft. east side yard setback where 25 ft. is required for a 3,960 sq. ft. building addition and for 26 parking spaces where 42 are required per Art. IV Sect. 411.5 and Art. VI Sect. 601.2 of the zoning resolution. Property located at 6220 Promler NW, Parcel #1620480, Sect. 13NE Jackson Twp. Zoned I-1.

Whereas, upon the Board determined:

There are practical difficulties with the land and due to  
the nature of the business the parking will not be an issue.

Whereas, the Board further:

Denied \_\_\_\_\_

Approved   x  

The variance for a 14 ft. east side yard setback where 25 ft. is required for a 3,960 sq. ft. building addition and for 26 parking spaces where 42 are required.

Mr. McDonnell made a motion to approve appeal #2436 as requested. for a  
3,960 sq. ft. (110 x36) and 26 parking spaces.  
Mr. Snyder seconded the motion.

The vote was: Mr. Snyder- Yes

Mr. McDonnell- Yes

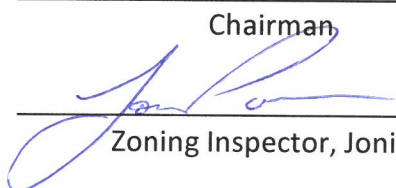
Mr. Singer- Yes

Ms. Busby-yes

Mr. Rohr-Yes



Chairman

  
Zoning Inspector, Joni Poindexter

**JACKSON TOWNSHIP BOARD OF ZONING APPEALS**  
**CONCLUSIONS OF FACT**  
**APPEAL #2437**

Upon the hearing, the Board determined that the variance would allow for a 25 ft. front yard setback for a building addition where 40 ft. is required and a 0 ft. front setback for an open patio and fencing where 25 ft. is required for the open patio and 10 ft. is required for fencing per Art. IV Schedule 411.5 and 411.10 of the zoning resolution. Property located at 4464 Erie Ave., Sect. 30NW Jackson Twp. Zoned C-P.

Whereas, upon the Board determined:

The property was built in 1939 and the open patio is no closer to the right of way than the existing bldg. The actual pavement is approx. 25 ft. from the structure.

Whereas, the Board further:

Denied \_\_\_\_\_

Approved   x  

The variance to allow for a 25 ft. front yard setback for a building addition where 40 ft. is required.

Mr. McDonnell made a motion to approve appeal #2437 as requested for a 25 ft. front yard setback for a building addition where 40 ft. is required. with the condition there will be a solid wall at the east (rear) portion of the structure.  
Snyder seconded the motion.

The vote was: Mr. McDonnell- Yes

Ms. Busby- Yes

Mr. Snyder- Yes

Ms. Rohr- Yes

Mr. Singer- Yes

Whereas, the Board further:

Denied \_\_\_\_\_

Approved   X  

The variance to allow for a zero (0) ft. front setback for an open patio and fencing where 25 ft. is required for the open patio and 10 ft. is required for fencing.

Mr. McDonnell made a motion to approve appeal #2437 as requested for a zero (0) ft. front setback for an open patio and fencing where 25 ft. is required for the open patio and 10 ft. is required for fencing.

Mr. Snyder seconded the motion.

The vote was: Mr. McDonnell- Yes

Ms. Busby- Yes

Mr. Snyder- Yes

Ms. Rohr- Yes

Mr. Singer- Yes



Chairman



Zoning Inspector, Joni Poindexter