

Jackson Township Board of Zoning Appeals

July 25, 2024

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

**5:00 PM Appeal 20240568** - Greg Seifert, Sgt. Clean Jackson Twp. Holdings LLC, property owner, 3673 Massillon Road, Uniontown Oh. 44685 requests a variance to extend permit # 2023868, issued 10/13/23, until 4/3/26 where permit is due to expire on 10/13/24 due to zoning certificates become null and void if construction has not begun within 12 months of issuance of permit per Art. VIII Sect. 801.5 of the zoning resolution. Property located at 5122 Fulton NW, Sect. 23SE Jackson Twp. Zoned B-3.

Mr. Snyder: We have one appeal this evening. Appeal 20240568. The property owner is Greg Seifert, Sgt. Clean Jackson Twp. Holding LLC, property owner, 3673 Massillon Road, Uniontown, Ohio 44685. The request is for a variance to extend permit # 2023868 issued 10/13/2023, until 4/3/26 where permit is due to expire on 10/13/24 due to zoning certificates become null and void if construction has not begun within 12 months of issuance of permit per Art. VIII Sect. 801.5 of the zoning resolution. Property located at 5122 Fulton NW, Sect. 23SE Jackson Twp. Zoned B-3.

In our packet is the appeal, a permit for the township, stark county regional planning letter. We have a site plan Sgt. Clean car wash. One, two, three, four, a four page letter from Greg Seifert, Architect. Another, let's see here. Another letter from the Stark County Regional Planning Commission and the Stark County Auditor's tax map. You guys have all of that.

Board Members: Yep

Mr. Singer: Mr. Chairman.

Mr. Singer: I'll need to recuse myself from this proceeding.

Mr. Snyder: All right. Thank you. Randy you all good.

Mr. Alexander: Yes.

Mr. Snyder: Who is here to speak in favor to the appeal? Name and address please.

Mr. Seifert: Yes, Greg Seifert, Sgt. Clean Carwash, 3673 Massillon Road, Uniontown, Ohio 44685.

Mr. Snyder: Do you promise to tell the truth nothing but the truth so help you god.

Mr. Seifert: I do.

Mr. Snyder: Okay do you want to go ahead and explain why you are here.

Mr. Seifert: Thank you very much. I appreciate your time and effort on our behalf this evening. This is a simple request I think but with a lot of complications that comes behind it, which is way we are here this evening. The site has been a bit more of a challenge then what we were expecting we first started their investigation into this property. There is an FAA Beacon here. There are power easements. There are gas easements. There is a very large billboard on the site.

Mr. Snyder: I'm sorry. Is the blue light turned on?

Mr. Seifert: Yes the blue light is on. Yes. Hopefully I am being recorded. So, as part of that investigation and part of the approval process that we been through, two things were a part of that that we knew from day one that were going to be part of this which was the ODOT renovation or expansion, I guess whatever you call it to Fulton Dr. That is still an ongoing matter. We are still in negotiations with ODOT in regards to how that take of our property will affect our property. Mr. Wayne Boyer is here. He is one of the attorneys that we work with who is evolved in that so if you have anything specific I can turn the microphone over to him. As an architect I can't grasp all those legal details. Likewise, when we went through the approval process through the Regional Planning Commission process we had requested a full access approval on Everhard Rd. Subsequent to that, their initial approval, they had come back and said no we aren't going to give you a left turn out of there. They want to restrict that based upon what will be happening on Fulton Dr. which will only be a right turn in and a right turn out, leaves us with a site that has difficult access if they are restricting the drive over on the Everhard Rd. side. That case was then appealed, if I get this correctly, and that case was won and then the Stark County Engineer has chosen to appeal that ruling. So that process is still on going. So, for that reason since we have unknowns here in conjunction with just timing of actually building the project we are here to request an extension. We asked for an extension from the Regional Planning Commission and we actually asked for that ahead of the last date that that could have been applied for which meant that our extension was for a lesser time period then what it could have been. That could have been granted to us as late as, I believe it was September of this year. It would be September, 2026 so we choose to actually extend that earlier so we would get more comfortable with that end date. So, for our appeal here, we came in and we met with staff. We talked about an extension or how we could keep our approval here with the township valid and resulting in us being here asking for an extension of our approval. So, what we came back with when we did our actual application was to ask for an approval that coincides with our Regional Planning Commission deadline which is, Joni help me in case I get this wrong, April 3 2026.

Ms. Poindexter: correct.

Mr. Seifert: And part of the reason we are asking for that as opposed to extending to a one year extension to October is the way the zoning ordinances are written here in the Township. It states that by that date you have to have the foundations in the ground at the very least. Well for the construction trades here in northeast Ohio we really don't want to put foundations in the ground in October and then build the rest of our facility through the winter. That is kind of the worse time of year to build. It becomes expensive. It takes more time and it's really not the time of year when we want to be building a carwash. It's the time of year we want to be washing cars. So we have said it is logical and makes sense for this extension to that April 3<sup>rd</sup> date of 2026. So it is approximately a year and a half. I'm sorry, about a year and eight months of an extension that we are asking for. And, since I'm an architect and I know I can talk a lot, I will stop. I can answer any questions you may have or Wayne Boyer can do the same.

Mr. Snyder: Just to recap. So the Stark County Regional Planning approval extends to April, which expires April 3, 2026.

Mr. Seifert: Correct.

Mr. Snyder: And you are still resolving the in and out with the Stark County Engineer on Everhard and then with ODOT on Fulton.

Mr. Seifert: Correct.

Mr. Snyder: And you haven't started any construction.

Mr. Seifert: We haven't started any construction. We have done some cleanup of the property. We have been working with Joni in that regard in cleaning up. There is a lot of left over landscaping debris and such along the front of the property. We are currently we are looking at, there is a material shed off to the side where the building is, and I was talking to Joni prior to the meeting about trying to get that taken down in the interim to help kind of clean up the property in the meantime. We have cleaned up all the way back things that you can see from the road where we just recently cleaned up some of the brush that was growing up along, there is fence along the Speedway property that we were cleaning up also. So we are trying to make the property as desilt and it could in the interim. And, we currently applied for a demolition grant for the building, to take the building down. That is also in process and not resolved at this time.

Mr. Snyder: The Jackson Township Building permit currently right now will expire October 13, 2024.

Mr. Seifert: Correct.

Mr. Snyder: And your request is to extend that.

Mr. Seifert: Until April. To extend that a year and then to April of the next year so it is like a year and a half. Just because that brings us to the building season as opposed to try to build into the winter time. And we feel, should there, and we don't anticipate it and I should say knock on wood if there is wood here, we are hoping that the Stark County Engineering process comes in our favor since that is what the previous court hearing had determined.

Mr. Snyder: So you just did April 3<sup>rd</sup>.

Mr. Seifert: We did April 3<sup>rd</sup>. Correct. We figured that way we didn't have to try and remember two extension dates.

Mr. Snyder: I'm reading the zoning resolution here so within twelve months they either needed to have the footers in for the structure or if no footers the slab constructed. So you don't think either of those will be done until the road in and outs are resolved.

Mr. Seifert: Correct. It wouldn't make any financial sense for us to start building the project if the site is going to be encumbered by not having a full access on the road, which we know certainly isn't going to be on Fulton because we already know that is a right in and right out. So without full access on Everhard it is really going to put the carwash project itself in jeopardy.

Mr. Snyder: So the one on Everhard is more important conflicted.

Mr. Seifert: Yes it is more important. Yes, it is more important to use definitely. I think that is very safe to say. I am under oath I'm going to say yes that is correct. That is how we feel.

Mr. Snyder: So Fulton is a right in and out and you are good with this access and all.

Mr. Seifert: Yes, I mean that limitation on that access, we understood that from day one. I think the first meeting we had Joni you had shown us, we knew that would be happening. And then quite frankly with the, I mean even with the traffic it is now to turn left out of there it is sketchy.

Mr. Snyder: Thank you I appreciate it.

Mr. Seifert: Absolutely. Like I said, it is a simple request but it's got a lot of background behind it and I don't want to make light of it saying it is a simple request. But obviously we have taken this very seriously. It is a very serious investment in purchasing the property. We do want to build a carwash here. We are just asking for some time to get everything to work out properly.

Mr. Snyder: I don't have any other questions but I'll check with my fellow board member. Randy, Ed.

Mr. Alexander: Mr. Chairman I do have a question. You made a couple comments about the Ohio Department of Transportation on Fulton. I mean is that going to, are they looking at a widening project.

Mr. Seifert: Yes.

Mr. Alexander: Is that going to affect the limitations of your carwash. Are you going to have to move the building or anything because of it?

Mr. Seifert: At this point in time it could affect carwash but I don't know if it is going to affect the site plan. I'm only saying that that way because I'm under oath and I can't say for a fact yes it will or it will not affect it.

Mr. Alexander: So you really don't have an answer 100%.

Mr. Seifert: It certainly affects the property and I think it affects the properties all along there. Wayne looks like his dying to stand up and say something.

Mr. Snyder: Sir if you want to you are welcome to come up and then I can swear you in.

Mr. Boyer: Yes sir.

Mr. Snyder: Give us your name and address.

Mr. Boyer: Wayne Boyer, 1131 Willoway Avenue SE, North Canton, Ohio 44720

Mr. Snyder: You said Boyer.

Mr. Boyer: Boyer B-o-y-e-r.

Ms. Poindexter: what the street again?

Mr. Boyer: Willoway. One word W-i-l-l-o-w-a-y Avenue SE.

Mr. Snyder: Do you promise to tell the truth, nothing but the truth so help you god.

Mr. Boyer: I do.

Mr. Snyder: You can either respond to that.

Mr. Seifert: We will jointly.

Mr. Boyer: I will respond to that and I appreciate all your time this evening board. So a few things that I wanted to clarify from what Greg said. I am counsel for Always stay unlimited and Sgt. Cleans car wash. I have been involved with this project from day one and the acquisition. To answer your question sir and concern whether or not this could potentially affect the footprint of the building. It could from a setback requirement prospective. So ODOT has presented various plans as far as the proposed take but in conversation with ODOT I think it appears as far as the final footage being taken is in question based on certain requirements on both sides of the road. And so until ODOT has finalized how much they are going to take we cannot set our site plan because we don't know how far off the road the current setbacks requirements are going to have to be. So it's not going to affect, I guess the overall design necessarily, but it would affect the exact placement of the property.

Mr. Alexander: I guess that is what my question was. I going to guess being in the business I have for a long, long time they are probably going to put a right turn lane in there.

Mr. Boyer: Yes sir. One more thing. I just wanted to give a little bit of background on the litigation as far as the township and the engineer and whatnot just to give you some ideas from a time line

perspective. Oral argument at the moment is expected on August 27<sup>th</sup> of this month it is currently scheduled. To give some background in there as Greg indicated we knew from the onset that with ODOT involved on Fulton there would be limited access. That it would be a right in right out. Historically what we found with these types of things is that you have the dominant road, which is Fulton in this case having a right in right out and then you have full access which you call the secondary road or access point from Everhard. And that was our understanding throughout our preliminary negotiations, throughout the discussions that we had with the township. We didn't see that being an issue. Especially considering the full access of Speedway which is much closer to the intersection than we are. After preliminary discussions with the engineer broke down and we got the ruling that we did from the engineer attempting to limit on Everhard that is when we ended up going and appealing that to the court. The court found in our favor on all accounts. We had six witnesses. The engineer had zero. So it was a relatively, I'm going to call it a perfunctory approval. We fully expect to be successful on appeal. But, with that said from a time line perspective the oral argument takes place as I said on August 27<sup>th</sup>. We expect the decision typically from those within 60 to 90 days or so give or take. However, then after that there is a 30 day period where they can appeal. We don't know if they will appeal up to the Supreme Court here. We think it is unlikely but not a zero percent chance. And, if they were to appeal than it could drag out into a good portion of 2025 which is part of the reason for the request to line up just to be, you know, safe.

Mr. Snyder: I appreciate the explanation.

Mr. McDonnell: Mr. Seifert I'm trying to get my arms around this. Number one lets talk about Fulton Rd. On Fulton Rd. ODOT is going to have a project somewhere but from day one it was right in right out. Is that correct.

Mr. Seifert: Yes

Mr. McDonnell: Does this project impact right in right out.

Mr. Seifert: Does it impact right in right out.

Mr. McDonnell: Does it impact your right in and right out.

Mr. Seifert: No we find right in and right out on Fulton is acceptable.

Mr. McDonnell: Okay

Mr. Seifert: Given full access on Everhard.

Mr. McDonnell: And on Everhard you want right in, right out, left in, left out.

Mr. Seifert: Correct.

Mr. McDonnell: Okay, what are you appealing now?

Mr. Seifert: So when, and Wayne you can help me with the details on this. When the Stark County Engineer's reviewed the drawings they put a restriction on it that they did not allow for a left turn out.

Mr. McDonnell: But a left turn in was allowed.

Mr. Seifert: Left turn in is allowed. Correct.

Mr. McDonnell: And right in, right out is allowed.

Mr. Seifert: Yes, so we then appealed that and won that appeal and the engineer or engineering department or whoever makes that decision has decided to appeal that decision and that is what is currently in process.

Mr. McDonnell: So what you got now is right in and right out which is all you want. I know you would like left in and left out.

Mr. Seifert: Yes. The Fulton type of access is not under question. What is in question is how much is it they are going to take.

Mr. McDonnell: The only thing that is under question is right now left out.

Mr. Seifert: Correct.

Mr. McDonnell: The right in is not in question. Is that correct.

Mr. Seifert: Yes.

Mr. McDonnell: Right in, right out is granted on Fulton.

Mr. Seifert: Yes.

Mr. McDonnell: So in other words what you got out of 6 potentials, in-out, in-out, in-out. Out of 6 potentials you got five.

Mr. Seifert: Correct. And that is why we also feel comfortable that we will get that. In other words the engineers appeal will be denied because the other court has already voted in our favor, or ruled in our favor. I shouldn't say voted. Ruled in our favor for that left out.

Mr. McDonnell: When ODOT, if ODOT's project actually takes place somewhere light years away, because we all know how ODOT works. But when that takes place regardless of where you put the building, put the carwash, how is that going to impact where you put the carwash.

Mr. Seifert: Just from, if they are taking the right of way they are in effect moving our property line back, right. They are going to take some portion of the property. Well now our building setback is based upon where that property line is currently. If it moves back, and I think Joni help me out with this. I don't know if that then comes back to the township for let's say for example and I'm just going to kind of hypothetically speak here. Let's say they take 20 feet and our building was at the building setback prior and let's say it was 50 ft. Then now if they take 20 ft. now our building setback is going to be at 30 ft. I don't know if that violates the township zoning ordinances and then we would have to come back and get that approval for do we just become a.

Ms. Poindexter: Non-conforming use.

Mr. Seifert: Thank you. A non-conforming use.

Ms. Poindexter: I can answer that. Because your plan has been approved. Your permit has been issued. If they take that right of way you are still going to sit where it currently is because it would be considered legal non-conforming even if it is not built yet because you have all the approvals.

Mr. Seifert: Okay but where it could affect us though as it may. I mean in our case we have a unknown unique to the carwash business is that our customers are coming out of the building with our vehicles and there has to be sufficient room for them and in this case they are actually turning in and there needs to be sufficient room for vehicle turns and come into the building and get straight. So until that distance is set we don't know where that drive is going to fall in relation to where the road will be and if it impacts our operation then we will have to move the building.

Mr. McDonnell: Worse case scenario 20 ft., 25 ft. 18,000 ft.

Mr. Seifert: Well I would say that a turn lane is probably somewhere in the vicinity of 13-15 ft. Somewhere in there. So if it is adding 15 ft. it could be. They may choose or they may have to based on utilities that are in there they may want that distance to be greater because of utilities.

Mr. McDonnell: The question I got is if you are waiting for ODOT to make a decision on that, apparently you got room to move that building and you are not sure where you want to move that building until they make that decision but you got room to do it.

Mr. Seifert: We do.

Mr. McDonnell: Why don't you just build it as if they made a decision? Why don't you just build it regardless of what ODOT thinks?

Mr. Seifert: I would say that is a possibility.

Mr. Boyle: One aspect of it that you will see on the site plan is that there are other outlots in relation to this property that are potentially being under, being under negotiations for other uses so it is not just going to be the carwash on this property. It is going to be a carwash plus potential other outlots that are being sold rather it be a quick service restaurant, standalone building and things of that nature and the need for preservation of space for those outlots is at a premium and in the event that they would be forced to move the footprint back to the 20 ft. point, let's say hypothetically, it would also affect those other two potential outlots potentially to a point where one of those outlots could actually go out of existence in the event that the footprint was move substantially.

Mr. McDonnell: Are those outlots in front of the building.

Mr. Seifert: So if you have the site plan that is marked C102 in front of you the two potential location of the outlots, the first one would be, I'm going to tell you, let me orient this map correctly. To the northwest of the driveway on Fulton, basically that empty area where you see it labeled as the former Lake Cable Nursery property, and the second outlot would be to the south and the east of the building. Basically the rectangular area that is directly north of the driveway coming in off of Everhard.

Mr. McDonnell: I see. Okay and I'm not trying to be difficult but the one behind is not going to be impacted.

Mr. Seifert: Correct. I was just going to make that point.

Mr. McDonnell: I appreciate the information. And the one that is to the west of the carwash is not going to be impacted any more than you or any less than you or any more or less than all the buildings along Fulton Rd. and that's not going to change if you move the carwash to the back.

Mr. Boyle: I would push back slightly on that statement from the perspective that there is no existing permitted use on that outlot on the west side. So to the that that lot was affect by ODOT, without a building permit at the moment it could take some uses out of play if there is 20 ft. less of frontage let's say if there was 20 ft. further back if you have to build the building in that scenario because there is not a plan for those buildings like there is a plan for the building currently. If you take 20 ft. off of Fulton that is 20 fewer feet that you would have for building purposes. But I understand your point. I guess my statement at this point would be ODOT I think is the secondary concern at this point. I think that they operations on Fulton are cast at this point so Fulton is not the larger issue. The larger issue and the main impetus for the application, not saying that ODOT is not impetus, but it is a secondary one, is the pending case with the engineer as far as the full access because that is ultimately the issue at play here. It has to deal with, and I'm sure some of you are aware, of when the Meijer building and project came into play there was all sorts of objections into routing traffic through Strouble, thru Sibila and things of

that nature. One of the main reasons we are looking for that left out access is to prevent that very thing from happening because we are very familiar with the neighborhood. We are very familiar with the fact that the people that live off of Strouble and off of Sibila have zero desire to route traffic taking a right out of the car lot, a right through that neighborhood to hit the light and so that is why we are pushing the hard as we are for that left access.

Mr. McDonnell: Do you own the property along Sibila.

Mr. Boyle: No we do not.

Mr. McDonnell: So you don't own property along Sibila.

Mr. Boyle: No.

Mr. McDonnell: So the only access you have now is Fulton and Everhard.

Mr. Boyle: That is correct. Yes sir.

Mr. McDonnell: So with the property you own, the two streets you have access to are Everhard and Fulton. Is that correct.

Mr. Boyle: Yes.

Mr. McDonnell: So I don't understand why the threat to move traffic down Sibila or the neighborhood.

Mr. Boyle: I did not intend it to be a threat and if it came off that way I greatly apologize. My statement was merely that we are attuned to the concerns that the public that is on Strouble and on Sibila had prior to our project with the Meijer project. Our firm was involved with the Meijer project with the residents of those streets and their concern related to any traffic from Meijer being routed down there and so in relation to those concerns and relation to the efforts of Randy Gonzalez and John Pizzino and everybody related to the installation of the traffic lights there one of the items that we took into consideration when coming up with the site plan and specifically looking for left out access was to forgo any sort of likely hood or possibility that patrons exiting the carwash if they were unable to turn left coming out that they would turn right and attempt to basically go west on Fulton they would simply cut through the neighborhood, which was a concern. So it has nothing to do with our carwash potentially having access to those two roads. It's having everything to do from trying to prevent our clientele from cutting through the neighborhood to get back to Fulton if they have the inability come left out of the carwash.

Mr. McDonnell: The last question I have, well maybe not. I noticed the exit from that Meijer's plaza, not the light but the exit that is directly across from their proposed exit on Everhard, they have no left in and no left out. Now why is yours different than this. What gives you, why are you different. Why are they not allows a left out but you expect to be a left out.

Mr. Boyle: I was not involved in that project so I can't say how much they pushed for a left in, left out, or whatever everything was related to the Maple Street Bisque company and everything there. What I will tell you is the potential difference if I had to guess, and again I'm under oath so I certainly don't want to guess but is the fact that prior to this project the former owner of this property had full access at both entrances and exits on the property so both of the driveway at issue here, both on Fulton and on Everhard the prior owner or prior business that was there had full left in and full left out, right in and right out at both exists. I don't believe that was the case on the other one. So the potential change in this plan to go from full access to both locations to limited access to both locations I think makes this property unique and different from that from that of the property across the street.

Mr. McDonnell: That's all I got at this moment Mr. Chairman.



Mr. Boyle: Thank you sir.

Mr. Snyder: So your original appeal as written up was to extend the permit that is due to expire October 13, 2024 to April 3, 2026. You want to amend that to extend to April 3, 2025. Just, so when we discuss and vote on this your request, is not April 3, 2026. You are reducing that to extend it.

Mr. Seifert: No we want to extend it to April 3, 2026 and we hope that it will be under construction prior to that. But, because of the unknowns and going into winter conditions we are asking for April 3, 2026.

Mr. Snyder: You hope to start construction by April, 2025.

M. Seifert: Yes, nothing more than to put all this behind us.

Mr. Snyder: Okay. I don't have any other questions. If you want to have a seat that is fine.

Mr. McDonnell: Mr. Chairman.

Mr. Snyder: Yes.

Mr. McDonnell: I have a question. If you started construction today, how soon could you have footers in?

Mr. Seifert: If all permitting was done, building permits were ready to go, contract were let, it is probably. So you have building demolition, it's probably a two month time frame. I would say 60 days plus or minus.

Mr. McDonnell: So it is possible to have those footers in within 60 days. Is that what you are saying?

Mr. Seifert: In the construction world, yes. I think that would be achievable.

Mr. McDonnell: Any how long have you owned this piece of property.

Mr. Seifert: I don't know when they purchased the property.

Mr. McDonnell: One year. Two years.

Mr Boyle: The deed to the property was recorded on April 26, 2023.

Mr. McDonnell: 2023.

Mr. Boyle-yes sir.

Mr McDonnell: So about a year and a half.

Mr. Snyder: There's something about April.

Mr. Seifert: Evidently April is the month.

Mr. McDonnell: April is my birthday.

Mr. Seifert: Okay what day because I have to ask because mine is the 9<sup>th</sup>.

Mr. McDonnell: Well you beat me because mine is the 25<sup>th</sup>. Close enough.

Mr. Seifert: We are April birthday people.

Mr. Snyder: Is there anybody else in attendance to speak in favor of this appeal. I take your silence as a no. Is there anyone in the audience that want to speak in opposition to this appeal. By your silence I take that as a no.

Mr. Snyder: Gentleman you are welcome to add anything if you want to. Or not you can be done.

Mr. Seifert: I don't think we have anything further to add unless there are other questions that we might need to answer.

Mr Snyder: Okay thank you. Board members any questions for Joni. Yes sir.

Mr. McDonnell: Ms. Poindexter. This is a permit, am I correct a zoning permit for a non-conforming use. Am I correct?

Ms. Poindexter: Yes it is a non-conforming use right now. It wasn't when it started. So if the process starts before the use becomes non-conforming, such as applying for the zoning permit, applying to RPC or anything they can go ahead through that process and get their permit. So that is why they received a permit after it became a non-conforming use.

Mr. McDonnell: So once they start the process then it will continue on.

Ms. Poindexter: Correct.

Mr. McDonnell: It will continue on but it is a permit for a non-conforming use.

Ms. Poindexter: Correct.

Mr. McDonnell: In fact the permit itself is kind of a non-conforming also.

Ms. Poindexter: Correct.

Mr. McDonnell: That is all I got. Thank you.

Mr. Snyder: Randy, anything for Joni. No. We are going to close it to public speaks. So that means we are done with input and we just discuss it among the three of us here. Ed and Randy I guess the question is, you know, everything comes down to practical difficulty with our decisions. And I read the section here 801.5 expiration of zoning certificates and that obviously doesn't help at all as far as granting an extension. It's just explaining what happens when the zoning certificate expires. Is there a practical difficulty here involved to support this appeal? What do you guys think?

Mr. McDonnell: I'm having some difficulty with it. And you know if we go through 803.5 whether special conditions or circumstance exists which are peculiar to the land or structure involved and are not applicable generally to other lands or structures in the same zoning district. Examples are such special conditions or circumstance are exceptional irregularity, narrowness, shallowness or steepness of the lot. None of those apply.

Mr. Snyder: Right. Is there anything different about this property or anything else around it?

Mr. McDonnell: That's it. There is not a whole lot different. And whether it will still, item two, whether the property or will it yield a reasonable return or whether there will be any benefit use of the property without a variance. I think yes. I'm assuming yes. You can still put a car wash there. And at this point that only thing they are missing is you are missing one turn. You have two on Fulton, four right in and right out, Everhard right in, right out. Left in and the only thing that is missing is the left out. So right know they got five of the six. So they go 83% and what they are looking for is 100%. I don't know if that creates a difficulty. Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the property. First of all I think it is substantial. We are talking about 18 months. I'm trying to think. I don't recall ever having anyone requesting an extension of a permit. If Joni wants to correct me I'm good with that. And in 30 years I don't ever remember that occurring.

Mr. Snyder: The existing permit is good for a year and we are extending this for even longer than the actual.

Mr. McDonnell: Pardon me.

Mr. Snyder: We would be extending this permit longer than what the existing permit is.

Mr. McDonnell: Eighteen months.

Mr. Snyder: Correct.

Mr. McDonnell: And I don't ever remember anyone needing or coming to us requesting an extension so with that respect it is substantial. At eighteen months it is a 150% increase over so I'm not, I think it is substantial.

Mr. Snyder: Joni wants to add something.

Ms. Poindexter: I just want to make sure the board understands that normally if in a normal circumstance where something is permitted if their permit expires they could just come in and get a new permit and pay for a new permit.

Mr. Snyder: This is non-conforming.

Ms. Poindexter: That is why they are coming before the board is because it is not a conforming use.

Mr. Seifert: If I may.

Mr. Snyder: No sorry.

Mr. Seifert: That's fine.

Mr. McDonnell: Okay the essential character of the neighborhood is not going to be altered if we do this. It will not impact, adversely impact the delivery of government services. Number six I'm having some difficulty with. Is it because of the actions? Whether special conditions or circumstances exist as a result of action of the owner. I don't know.

Mr. Snyder: Randy did you want to add something.

Mr. Alexander: I guess I'm looking at with trying to stick to what we are here for this evening and that is the extension. The building part has already been addressed.

Mr. Snyder: Correct.

Mr. Alexander: In my profession I been through many traffic studies in many counties over, dating back to the early 80's. I understand what the whole issues is here and in my mind it is traffic volume. You know at some point in time you don't have enough roadway to address all the vehicles. And, I understand where the county is coming from. They are saying listen, you are going to have traffic trying to cut out across three lanes. And that is very heavy through here and we all know that and that is why the department of transportation is only allowing what they are allowing on Fulton. When you start having a volume of cars, especially when the winter months come and everything that volume is going to be bigger. I understand what the County is saying. They are saying, you know, the volume of traffic, we are trying to reduce traffic crashes. Not increase them. And when you start putting more and more vehicles crossing multiple lanes that is certainly going to create a problem and it is certainly going to create crashes. That is a fact. So I understand where the problem is as far as on Everhard and that is really what we are here for to say you know we really don't know what that appeal is going to be.

Mr. Snyder: Does that disagreement between the property owner, the county and the engineering office, does that warrant extending the permit.

Mr. Alexander: We don't know what the outcome is going to be.

Mr. Snyder: Does that disagreement cause a practical difficulty.

Mr. Alexander: We don't know what the outcome is going to be yet and there's no guarantee.

Mr. Snyder: Right. Our thoughts don't matter as far as what the resolution is for access to the property. It has nothing to do with this or our decision. It is strictly do we extend the permit in the township to April 3, 2026.

Mr. McDonnell: What I am having difficulty with first of all is the reasons for the extension request. One is ODOT. Excuse me Fulton Rd. They are facing the same problems that everyone on Fulton Rd. is going to face. Regardless what ODOT decides, everybody is going to face some problems. They actually have the advantage to being able to make some changes or whatever to try to adapt to what it is today as opposed to the Speedway. The Speedway is locked in. Whatever happens, happens. They have to make all the changes after the fact. And as far as the access goes I have difficulty believing or thinking that what they are asking for or what they are appealing is a large enough reason to delay construction.

Mr. Snyder: Right. Regardless of the access thing if granted or not left out of the property, if the property owner wants to build that carwash he or she should be building it now before this permit expires. I can't imagine hanging my hat on opening a business and you said there are six, it comes down to six and then there is one.

Mr. Alexander: ODOT did do something. It was already mentioned that that won't change anything on Fulton. It will still be right in and right out and that won't change at all.

Mr. Snyder: Anything else. I will make a motion to approve appeal 20240568 as requested.

Mr. Alexander: Second

Ms. Poindexter: Mr. Snyder-no, Mr. McDonnell-no, Mr. Alexander-no.

Mr. Snyder: Gentleman thank you. I appreciate it. That was denied. You have thirty days to appeal to the.

Mr. McDonnell: The Court of Common Pleas.

Mr. Snyder: The Court of Common Pleas. Thank you Ed.

Mr. Seifert: Thank you.

Ms. Poindexter: The only other item I have is the meeting minutes from the June 27<sup>th</sup> meeting but we can't vote on them because we don't have a quorum of people that was in attendance for that meeting.

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 #20240568

Upon the hearing, the Board determined that the variance would allow for the extension of permit # 2023868, issued 10/13/23, until 4/3/26 where permit is due to expire on 10/13/24 due to zoning certificates become null and void if construction has not begun within 12 months of issuance of permit per Art. VIII Sect. 801.5 of the zoning resolution. Property located at 5122 Fulton NW, Sect. 23SE Jackson Twp. Zoned B-3.

Whereas, upon the Board determined:

There is no practical difficulty to allow the extension of the permit as the disagreement between the Engineers and the property owner and ODOT does not constitute a practical difficulty to extend the permit.

Whereas, the Board further:

Denied  X

Approved

The variance allowing for the extension of permit # 2023868, issued 10/13/23, until 4/3/26 where permit is due to expire on 10/13/24 due to zoning certificates become null and void if construction has not begun within 12 months of issuance of permit per Art. VIII Sect. 801.5 of the zoning resolution.

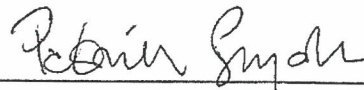
Mr. Snyder made a motion to approve the variance as requested.

Mr. Alexander seconded the motion.

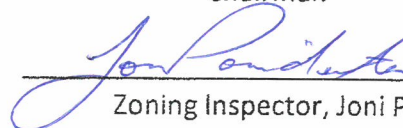
The vote was: Mr. Snyder-No

Mr. Alexander-No

Mr. McDonnell-No



Chairman



Zoning Inspector, Joni Poindexter