

Jackson Township Board of Zoning Appeals  
Meeting Minutes  
February 12, 2015

Members Present: Leon Vitale  
Daniel Creighton  
Patrick Snyder  
Charles Rohr  
Richard Lutz-Alternate

Absent member: Edward McDonnell

Appeal #2292- Brilliant Electric Signs Co. 4811 Van Epps Rd, Cleveland, Ohio 44131 agent for OMCO Building LLC, property owner, 3993 E. Royalton Rd., Broadview Heights, Ohio 44147 requests a variance for four directional signs at 24 sq. ft. 8 ft. in height where signs are permitted to be 6 sq. ft. 3 ft. in height per Art. V Sect. 502.4 of the zoning resolution. Property located at 4476 Applegrove NW, Sect. 12NW, zoned I-1.

Mr. Vitale stated that this appeal was continued from the January 22, 2015 meeting and at that time all items were read into the record.

Mr. Vitale reminded Major Harrison, 4811 Van Epps Rd., Cleveland, Ohio, Mark Ricchiuto, 1702 Joseph Loyd Pk, Willoughby, Ohio and Robert Ciekanski, 540 5<sup>th</sup> St. SW, Strasburgh, Ohio that they were still under oath.

Mr. Ricchiuto presented a drawing consisting of two pages which Mr. Vitale marked as exhibit A.

Mr. Ricchiuto stated he understands the board is not a rubber stamp and he respects anyone that does a public service. They considered what the board had to say at the last meeting and came back with what they feel is a compromise. The first photo in exhibit "A" shows a 3 ft. sign from a trucks view and the bottom photo shows a 6 ft. in height sign from a trucks view. It shows that the 3 ft. sign could be out of site if snow were piled up and due to the height of the trucks. Their concern is for the safety of the citizens. Mr. Ricchiuto stated that he would like to ask the zoning inspector a question as to the reason for the regulations of 3 ft.

Ms. Poindexter explained that the reason for 3 ft. height is mostly for car traffic so car's can see over the sign. This is a little different situation but a regulation is written for districts as opposed to a specific use.

Mr. Vitale stated he thinks the drawing that was presented in exhibit "A" is a good rendering and shows what they are looking at. Every suit doesn't fit every man and the drawing makes sense.

Mr. Ricchiuto stated they decreased the sign area.

Mr. Ciekanski stated the signage was reduced from 8 ft. to 6 ft. in height.

Mr. Ricchiuto stated the signage is now 10.5 sq. ft.

Mr. Snyder stated that Ms. Poindexter emailed the board a revised rendering showing the modification and asked if that was in the file.

Ms. Poindexter stated yes that has been added to the file since the last hearing.

No one else spoke in favor of or in opposition to the appeal and Mr. Vitale closed the appeal to public input.

Mr. Snyder stated he appreciated the efforts that were made and a truck is higher than a car so it is understandable that there is a need for a higher sign. The previous issue wasn't entirely the size but the lack of space. The smaller size is using more of the area. He does not have a problem with the appeal.

Mr. Vitale stated he agreed with Mr. Snyder. It still isn't within the guideless but it makes sense. He travels that road a lot and he sees people pulling in and out and there are a lot of people that are one time users that are not familiar with the area and streets. The higher signage will help and it is a safety issue. He doesn't have a problem with the variance.

Mr. Creighton made a motion to approve appeal #2292 as modified to a 10'6" sq. ft. sign 6 ft. in height and Mr. Snyder seconded the motion.

The vote was: Mr. Lutz-yes, Mr. Rohr-yes, Mr. Snyder-yes, Mr. Creighton-yes, and Mr. Vitale-yes.

Appeal #2293 – American Sand & Gravel, 9500 Forty Corners Rd. NW, Massillon, Ohio 44647 agent for Dale & Clara Rohr/Clar-A-Dale LLC, property owner, 12406 Strausser Rd. NW, Canal Fulton, Ohio 44614 requests a renewal of a previously approved conditional use permit #356, appeal #1961, with the same conditions as approved 2/10/05 for surface mining of 200.9 acres. Property located at 6300 Highmill NW, 200.9 acres located on the east and west side of Highmill, consisting of parcel, 1620937, 1601639 and 1627335, Sect. 18SE & 19NE Jackson Twp. Zoned R-R.

Mr. Vitale read the file application, reason for the appeal and contents of the file into the record. The file contained the appeal application signed by Dale Rohr, an aerial view of the proposed property Stark County GIS, a map dated 1/25/05 of the proposed property highlighted in yellow, a map dated 2/12/2015 for appeal #2293, a copy of the previously approved conditional use permit #356 dated 2/17/05, a copy of the conditions for the conditional use permit as presented in the original appeal, six consent forms from the Ohio Department of Natural Resources from adjacent property owner giving permission to surface mine within zero ft. of their property and one consent form giving permission to mine within 100 ft. of their property, a copy of the meeting minutes from the 2/10/05 BZA meeting, a memo from Joni Poindexter, Zoning Inspector stating that there have been no violations regarding the conditional use permit since originally issued and a copy of the annual report has been filed with the Ohio Department of Natural Resources Division of Mineral Resources Management. The file also contained a letter from Jeffrey Rohr, Graydon Head & Ritchey LLP, regarding Lauren Rohr and Judith Rohr's opposition to the conditional use permit which was included as part of the file but was not read into the record due to not being sworn testimony.

Mr. Vitale asked who would like to speak in favor of the appeal.

Mr. Vitale swore in Chris Scala, 9500 Forty Corners Rd., Massillon, Ohio 44647.

Mr. Scala stated this is a renewal of an existing permit. He believes the permit is over 15 years old. The operation was on the east and west side of the street. The east side is complete and when the weather thaws out Mr. Rohr plans to put in crops. American Sand and Gravel is working with the property owner to take down the hills. They save all the topsoil on the site and put it back down and then it can be farmed. On the west side, they were farming it but the hills went up and down. The property is tuff to farm due to the hills so the idea is to level the property for farming. They are also utilizing aggregate resources in the community. The company has been in business since 1978 at the corner of Wales and Shuffel where they have 165 acres. They have another operation on 40 Corners Road that they purchased in 1988.

Mr. Scala stated there have been no complaints or violations and they have met all the conditions for their operation.

Mr. Vitale asked if any of the conditions have changed since 2005.

Mr. Scala stated the conditions for the conditional use permit have not changed.

Mr. Vitale read the conditional use requirements per the previous permit issued and Mr. Scala answered per the conditional use permit requirements in the file.

Mr. Scala stated since the application was originally filed he believes there was case record that the hours can't be restricted and are no longer applicable to this.

Mr. Vitale stated that he believes there are signed statements from the adjacent property owners in the file. It looks like everyone signed for zero ft. setback except for Mr. Boger, which is 100 ft.

Mr. Scala stated that is correct.

Mr. Vitale stated all requirements for the criteria were read in to the record.

No one else spoke in favor of the appeal.

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

Mr. Vitale swore in Ms. Diana Rohr Gravo, 10015 Lafayette Dr. Canal Fulton, Ohio 44614.

Ms. Gravo stated she is attending on behalf of her parents. She read the letter into the record from her parent's attorney regarding their objection.

Ms. Gravo stated that she lives on the property and they are part of the agricultural community. She thinks when her parent's signed the paper work that it would have only been for 10 years or they would not have signed it. In this township property values are important.

Ms. Gravo showed the board the location of her parent's property on the GIS map.

Ms. Gravo stated they have 90 acres on the West and 235 on the other side of the street.

Mr. Vitale asked how far their house is from the lot line.

Ms. Gravo stated she thinks about 800 ft.

Mr. Scala stated it is about 1200 ft.

Ms. Gravo stated it is a 90 acre tract so she isn't sure.

Mr. Gravo stated this doesn't do anything for their property.

Mr. Vitale asked if the mining area is higher or lower than her father's property.

Ms. Gravo stated they both are hilly but it is lower.

Mr. Vitale asked if the property would be usable for crops once the mining operation is complete.

Mr. Scala stated yes.

Ms. Gravo stated it would be lower when reclaimed.

Mr. Scala stated the property is lower than Ms. Gravo's now.

Mr. Vitale stated it seem like they are 900 to 1200 ft. from the mining area.

Ms. Gravo stated yes.

Mr. Vitale asked if Ms. Gravo thought the property would or would not be beneficial once it is done.

Ms. Gravo stated she doesn't think it would be beneficial. They had 10 years to do it and they started mining the west side of the property 3 years ago. If they are going to grant another 10 years, and then another 10 years. This could go on forever. When the property transfers into her name, her siblings and children some of it may be sold and she doesn't think they will get their value. They had 10 years to do it so why wait until 3 years ago to start it when it could have been done. Her father signed the agreement because he and Dale are family and fellow farmers.

Mr. Vitale swore in Lauren Rohr, 5255 Crystal Lake, Canal Fulton, Ohio.

Mr. Lauren Rohr stated his biggest worry is the slope. It could be as much as 40 feet of slope and when they originally did this he requested the slope not be real steep. It looks ugly. He knows it will be on Mr. Scala's side but it is not desirable.

Mr. Vitale asked if Mr. Lauren Rohr is saying the slope will be 40 ft. from the high point or low point because there is a knoll and then it drops.

Mr. Lauren Rohr showed the board where the edge of his property is located.

Mr. Gravo stated the slope is 40 ft. down from the lower edge of their property.

Mr. Vitale showed Mr. Lauren Rohr where the mining line stopped.

Mr. Scala showed where the tract of land is located on the map and what parcels were part of the original application. Mr. Scala stated the 177 acres is highlighted in yellow.

Mr. Lauren Rohr stated there would be a large distance to the edge of the slope.

Mr. Vitale swore in Duane Perkins, 9593 Crimson St. Mr. Perkins stated that there is a cul-de-sac and the ground rises up when looking out their kitchen window.

Mr. Vitale stated without having a topographic map it makes it hard to tell how the slope is located but Mr. Lauren Rohr's agreement says a 5 to 1 slope.

Mr. Lauren Rohr stated he wanted the 5 to 1 so it could be mowed.

Mr. Vitale stated in reading from the paperwork that was signed by the property owners it shows the slope would be 5 to 1 for Mr. Lauren Rohr's property.

Mr. Gravo stated she appreciates the board listening and will respect the board's decision.

Mr. Lauren Rohr stated that when he says drop off he doesn't mean there is going to be a cliff but it will be a straight slope that could be as much as 30 or 40 ft. so that is his worry.

Mr. Perkins stated he is concerned about the market value of his home and the noise level. He was concerned about the drop off if they are digging up and down. He doesn't want them mining right up to their kitchen window.

Mr. Vitale asked Mr. Perkins when he purchased his property.

Mr. Perkins stated that the house was built in 2012.

Mr. Vitale stated this was in the works when the house was built so he had to have been aware of the mining operation because they had the permit.

Mr. Perkins stated he had no idea they were mining until recently. He is not sure this is something that they want in the Township.

Mr. Vitale swore in Ms. Perkins, 9593 Crimson.

Ms. Perkins stated her major concern is children because of the slope. She is concerned about the children and there are a lot of pets and wildlife in the area. Mostly her concern is the families that live there. They live on top of a hill and she is concerned that is if they get too close that her house could slide into their area. She also isn't sure where the drives will be.

Mr. Vitale stated people that owned the property signed agreements as to how close they can go to the property line and he is sure there are plenty of regulations in place for public safety.

Mr. Scala stated the Perkins house was built in 2012 and the permit has been intact since 2001 and on the west side since 2005. Children are always a concern but children need to stay on their own property. It's not his property. It is Mr. Dale Rohr's property and his cows are out there and his tractors are running so this is something that the parent's themselves need to address. He knows kids go on

property they shouldn't and he is conscience of that at all times. They could put a 12 ft. fence up and dig a moat and put alligator's out there and the kids would still find a way to get over it, so they are conscience of that at all times. All the trucks will use Highmill, which is a county road. They wouldn't be in business if they had contamination going down stream. Mr. Dale Rohr is a dairy farmer and they produce liquid manure which is why they run a chisel pot to protect runoff. The State of Ohio has a mining reclamation law and they have to put up a bond and if they don't reclaim the land they lose that money. There is a 3 to 1 slope they have to follow that can be farmed and mowed. Mr. Lauren Rohr asked for a 5 to 1 slope so it is more then what is required so there is a flatter area. They agreed to that. They can't have a drop off or they lose their bond so there will be no drop off. The State requires 3 to 1 slope and they are doing 5 to 1 per Mr. Lauren Rohr's request. The slope is on Dale Rohr's property not this Lauren Rohr's property. He wishes he had the ability to control the economy but everyone knows what happened in 2007. He didn't know what he would sell and no one anticipated the downturn that they had. Ms. Gravo mentioned the value of their property. On the ODNR website you can look up abandoned mines and the whole area is filled with old mine shafts. He remembers houses falling in. Around 2000 when I-77 was being widened they had the same issue of finding shafts. Mr. Lauren Rohr's property is full of old coal shafts. People have walked away from his property because they can't build on it.

Mr. Vitale stated he knows they talked about a 30 ft. difference between the mining area and Mr. Lauren Rohr's property and asked if there is a 30 ft. slope that will it go 150 ft. to get 5 to 1.

Mr. Scala stated that is correct.

Mr. Vitale stated he the wanted to make sure he was correct in what he was thinking.

Mr. Charles Rohr stated in listening to everyone talk it sounds like he will be right up to the property line and the regulations says they can't.

Mr. Scala stated that is why they signed a consent form that is filed with ODNR.

Mr. Vitale stated Mr. Boger is the only one that requested 100 ft. With the signed documents he can go up to the property per the agreements.

Mr. Charles Rohr stated if they don't sign the rule then it is 200 yards.

Mr. Vitale stated yes, but the adjacent owner's have all signed.

Mr. Charles Rohr asked if that is correct with Mr. & Mrs. Perkins.

Mr. Scala stated the developers of the property were Rosebud LLC and they signed the documents. At that time there were no houses. He hopes their reputation goes somewhere. He has done this his whole life. Mr. Perkins stated they don't want this is Jackson Township. He doesn't know what Mr. Perkins does for a living but someone might not want his business in the township. The average home, when built, took over 400 tons of sand and gravel to build their house. Some day the mining companies will be cities, counties and municipalities because it is a resource that the township uses every day. They will do everything they can to be good neighbors. They aren't contaminating anything. Where the Acorn storage units are located on Erie, they had to cut down the hill because it was unusable and they removed material and slopped the property so it could be used for a business.

No one else in the audience spoke in favor of or in opposition to the appeal and Mr. Vitale closed the appeal to public input.

Mr. Snyder stated there hasn't been any complaints in the past 10 years and they are following everything under the permit issued. He doesn't live too far from that area and he hasn't had an issue with noise or anything so he is comfortable with granting the permit.

Mr. Creighton stated the business has conducted well over the past 10 or 15 years. There have been no complaints on record and he likes that they agreed to a 5 to 1 slope and would go along with the renewal.

Mr. Charles Rohr's asked about the time period.

Ms. Poindexter explained that the board used to put time limits on conditional use permits; however several years ago, as she understands, the time limit provision was removed. At one of Mr. Scala's other mining operations in which he has a conditional use permit he came back to the board and asked that the time period be removed from the permit, which the board did. For some reason he did not come to the board and ask to have the time period removed from this permit but rather come in and asked to have it renewed without a time period.

Mr. Vitale stated in reading all the documents, it is hard to beat. He agrees with Mr. Scala and they are fortunate to have so much aggregate to use in the township. They don't know when the end will be. He could run into bad material and the operation would be done or he could only be there 5 years. Not everyone likes the operation until they want a driveway or farm land or street. The property will be good tillable property in the end and he thinks it is a good thing. Shame on a developer that didn't tell people wanting to build a house. He thinks in the long run everyone will be ahead if this continues. That is his opinion.

Mr. Snyder made a motion to approve appeal #2293 with same conditional use requirements per appeal #2293 and Mr. Creighton seconded the motion.

The vote was: Mr. Lutz-yes, Mr. Rohr-yes, Mr. Snyder-yes, Creighton-yes, and Mr. Vitale-yes.

Ms. Poindexter stated there were no minutes to be approved at this time.

Mr. Vitale made a motion to adjourn the meeting and Mr. Creighton seconded the motion.

The vote was: Mr. Lutz-yes, Mr. Rohr-yes, Mr. Snyder-yes, Mr. Creighton-yes, and Mr. Vitale-yes.

Respectfully submitted,

Joni Poindexter  
Zoning Inspector