

Jackson Township Board of Zoning Appeals

Meeting Minutes

October 22, 2015

Members present: Leon Vitale  
Edward McDonnell  
Patrick Snyder  
Charles Rohr  
Richard Lutz-Alternate  
Zoning Inspector: Joni Poindexter  
Members Absent Daniel Creighton

5:30 PM Appeal #2308 – Jay & Mandy Rohr, 6701 Corrine Dr. NW, Canton, OH 44718 property owner, requests a variance for a 5 ft. west and south setback for an in-ground swimming pool where a 10 ft. west and south setback is required per Art. IV Sect. 401.11 of the zoning resolution. Property located at 6701 Corrine Dr. NW, Sect. 15SW Jackson Twp. Zoned R-1. (Continued from 9/10/15)

Mr. Vitale read the file application, reason for the appeal and contents of the file.

Mr. Vitale swore in Mandy Rohr, 6701 Corrine Dr. NW.

Ms. Rohr stated she wants to split the variance. She no longer needs the variance on the west side because they redesigned the pool.

Ms. Rohr showed the board a site plan of the property and explained the pool location, as the difference between the 5 and 10 ft. setback. There is only one area that requires the variance due to the way the house sits on the lot. There will be concrete around the pool.

Mr. McDonnell asked where the fence would be located.

Ms. Rohr stated that it would be located around the property line and will enclose the pool.

Ms. Rohr asked if there will be concrete around the entire pool.

Ms. Rohr stated there will be 4 ft. of concrete around the pool.

Mr. McDonnell asked how much of the length of the pool requires the variance.

Ms Rohr stated around 15 ft.

Mr. Vitale swore in Dick Braley 5847 Garth Circle. Mr Braley he doesn't have a problem with it because they are talking about 5 ft. for a short distance.

Ms. Rohr stated the pool is 18 x 36 so there will be more room on Mr. Bradley side.

No one else spoke in favor of the appeal.

Mr. Vitale swore in those in opposition to the appeal.

Mr. Bill Noble, 6733 Corrine Dr. stated that he lives to the west. He isn't really opposed but he has a concern with drainage and everything will drain into his backyard. There is a about a 6 to 8 ft. height difference from his property to theirs.

Mr. McDonnell asked if the concern is if they drain the pool it will go into his yard.

Mr. Noble stated he has a concern about water.

Mr. McDonnell stated that there are procedures about draining the pool.

Mr. Vitale stated the pool has to be on a level area so he won't get any surface water.

Mr. Noble stated he isn't opposed to them having a pool but he is concerned about the water. He showed a copy of the topography to the board which was marked as exhibit #1.

Mr. McDonnell stated they can install a pool without a variance and asked how that impacts the water situation he is concerned about.

Mr. Noble stated he isn't against them having a pool but is concerned about the detriment to his property.

Mr. Noble presented an aerial photo which was marked as exhibit #2.

Mr. McDonnell stated they can put the pool in without any action by the board. They are only at the hearing because they want to go closer to the property line and asked how that impacts his water problem.

Mr. Noble stated because with the pool being back further it is higher.

Mr. Lutz asked why they needed an 18 x 36 ft. pool.

Ms Rohr stated they have twins and there are kids there all the time so they want to have a large safe pool

Mr. Vitale asked how the drainage would be addressed.

Mr. Rohr stated they are going to keep the neighbor bond that they have but she believes the pool contractor said no retaining wall is needed.

Mr. Vitale stated if approved they need to keep their water on their own property.

No one spoke in opposition to the appeal.

Mr. Vitale closed the appeal to public input.

Mr. Snyder stated he doesn't have a problem with 5 ft. but he doesn't know that there is a practical difficulty but he wouldn't want a pool right up against his house either.

Mr. Rohr stated he shares the concerns of Mr. Noble but doesn't believe the 5 ft. will make much of a difference with the runoff. He doesn't have a problem with it.

Mr. Vitale stated he sees a practical difficulty because of how the house sits on the lot. The concern with the water runoff is a mute point because the pool would not be moved to the west at all. He doesn't have a problem with the variance because he sees a practical difficulty of how the house sits on the lot.

Mr. McDonnell stated he would like to note that the applicant withdrew the variance for the west setback.

Mr. Snyder made a motion to approve appeal #2308 as modified.

Mr. Rohr seconded the motion,

The vote was: Mr. Lutz-no, Mr. Rohr-yes, Mr. Snyder-yes, Mr. McDonnell-no, and Mr. Vitale-yes.

5:45 PM Appeal #2310 - Mission BBQ Canton, OH LLC, 7750 Ritchie Highway, Glen Burnie, MD 21061 agent for DeVille Developments, LLC, property owner, 3951 convenience Circle NW, Canton, OH 44718 requests a variance for a 6'4" east side yard

setback for storage area and a 15.6 ft. east side yard setback for principal building where 16 ft. is required per Art. IV Sect. 411.12, 411.5 and to allow 52 parking spaces where 60 parking spaces are required per Art. VI Sect. 601.2 of the zoning resolution. Property located at 4490 Everhard NW, Sect. 24NE Jackson Twp. Zoned B-3.

Mr. Vitale read the file application, reason for the appeal and contents of the file.

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

Mr. Vitale swore in Carmen DiDiano, Warrendale, PA

Mr. DiDiano stated Mission BBQ has 21 existing restaurants in several states. This is the old Friendly's restaurant site. The building itself is proposed at 15.6 ft. and will be in the exact location as the current restaurant. Friendly's was built in the 1980 and it is at 15.6 ft. They will match the existing footprint. The outside storage would be 6'4" from the property line and will be fenced. The site is boarded by 2 public and 1 private streets. The third variance is from the parking code. This is due to the proposed patio area. The existing friendly's had about 120 seats and mission BBQ is proposing about 170 seats including the patio count. There are only 43 table tops proposed for the site. The existing parking when originally approved was 24 spaces. The gross sq. ft. is a little higher than other places but the amount of parking will satisfy the needs of the customers.

Mr. DiDiano stated the original intent was to remodel the restaurant but what would be saved regarding the walls could be a safety issue for the workers so they will probably take it down to the foundation and build it up. It will not exceed the dimension of the current building.

Mr. Rohr asked how many spaces there are now.

Mr. DiDiano stated 52 but they will have to reconfiguring the parking space for ADA requirements.

Mr. McDonnell asked how the ADA impacts the parking.

Mr. DiDiano stated the sidewalks were wider as well as the parking spaces. When they added the patio they lost one space but they added it in another location. They have a stall reserved for the wounded warriors but it is not required.

The storage area is outside storage that will be fenced in with a 6 ft. in height fence. The grey area is just a concrete pad with a fence. There is no roof or structure.

Ms. Poindexter explained the requirement for outdoor storage.

Mr. DiDiano stated moving it somewhere else would not make sense.

Mr. Vitale stated he first thought the building was going to be remodeled but then they said they will probably take it down to the foundation and asked why not move the structure to the west which would take them away from a variance. There is a large drive lane.

Mr. DiDiano stated they still might use the existing building but they are not sure and he didn't want to mislead the board because something may come up and they can't save the building. If the only way they can get the variance is to reuse the building then they would have to consider that but he thinks it would be unsafe to try to use some of the structure and he wanted the board to have all the facts.

Mr. Vitale stated when a building is taken down the electric and plumbing don't work and he has a concern about voting on it not knowing what will happen.

Mr. DiDiano stated that the engineer stated the foundation is sound and the utilities have been inspected but the water line will be replaced out to Everhard. The electric and gas will remain. There is not going to be a removal of the slab.

Mr. McDonnell stated he shares the chairman's concerns and they need to deal with certainties. Maybe they should figure out exactly what they want to do and then come back to the board. They might want to continue it until they know exactly what they want to do.

Mr. DiDiano stated from a zoning standpoint the sq. ft. of the building and dimension will be exactly the same as the existing building. There is no question in the architects' mind that they plan to building on the existing foundation.

Mr. McDonnell stated that isn't what he heard. He prefers to know what they have and need.

Mr. DiDiano stated the only grey area is how much of the existing building will be retained and they don't know that that is until they start on it. The setbacks will remain the same.

Mr. Vitale swore in Mr. Patrick Sirpilla, 8111 Shadystone, Massillon, Ohio. Mr. Sirpilla stated that they are only looking at the parking. They own the ground and building of both parcels.

Mr. Sirpilla stated they would like to see Mission BBQ come to the property. Whether they rebuild or remodel they can go as close as they want provided they don't have safety issues with fire. It is more of a parking issue as opposed to a setback issue.

Mr. McDonnell stated he does not want to vote on this tonight because he wants to do some research on the resolution and the law. He thinks it should be continued.

Mr. DiDiano stated since there are three variances could the board treat each variance independently so they could continue on. He does not believe there is any confusion about the variance.

Mr. Vitale stated they can vote independently. He is confused and cannot vote on it and will not vote on it tonight. They need to know if the building is going to be remodeled or torn down and rebuilt. They can request a continuance.

Mr. DiDiano stated it doesn't matter if it is remodeled or removed because it isn't going to change the parking or setbacks if they request a continuance

Mr. Vitale swore in Steve Overholt, 1055 Old River Rd., Cleveland, Ohio. Mr. Overholt stated he choose to bring the site to Ohio. They don't want to do new construction. It is their intent to do a remodel but they are owners and operators and their goal is to renovate the old building. If they were looking to build a new building they wouldn't have picked this one. The storage area is mainly for firewood because they use wood burners. Their intent is a remodel.

Ms. Poindexter stated if they leave a portion of one wall it is a remodel.

Mr. Overholt stated they would do a remodel.

Mr. DiDiano stated one wall could be retained to classify it as a remodel.

Mr. Vitale asked if they want to continue the hearing or move forward.

Mr. Overholt stated they would like to continue the hearing.

Ms. Poindexter stated the next meeting would be November 12<sup>th</sup> at 5:30 PM.

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

Mr. McDonnell made a motion to continue appeal #2310 until November 12, 2015 at 5:30 PM.

Mr. Lutz seconded the motion.

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

6:00 PM Appeal #2311 – Sean Sanford, agent for property owner, B& L Real Estate Investment, LLC, 6800 Freedom Ave NW, North Canton, Ohio 44720 requests a conditional use permit for a mini storage facility where a conditional use permit is required per Art. IV Sect. 411.3 of the zoning resolution. Property located at parcel #1629629 Portage NW, Sect. 18NE Jackson Twp. Zoned B-3.

Mr. Vitale read the file application, reason for the appeal and contents of the file.

Mr. Vitale swore in Sean Sanford, 6800 Freedom NW, North Canton, Ohio 44720.

Mr. Sanford stated that he needed to request a continuance due to the amount of time the previous hearing took because he has children at home.

Mr. McDonnell made a motion to continue appeal #2311 until November 12, 2015 at 5:45 PM and Mr. Snyder seconded the motion.

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

Mr. Lutz made a motion to approve the meeting minutes from the August 13, 2015 meeting.

Mr. Vitale seconded the motion.

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

Mr. Snyder made a motion to adjourn the meeting and Mr. Lutz seconded the motion.

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

Respectfully submitted,

Joni Poindexter  
Zoning Inspector