

Jackson Township Board of Zoning Appeals

Meeting Minutes

October 27, 2016

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

Mr. Snyder made a motion for Mr. McDonnell to serve as Chairman in the absence of Mr. Vitale. Mr. Rohr seconded the motion.

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

5:30 PM Appeal #2324 – John Munger, property owner, 6054 Lake O’Springs NW, Canton, Ohio 44718 requests a variance for a 5 ft. south side yard setback where 10 ft. is required per Art. IV Sect. 401.6 of the zoning resolution. Property located at 6054 Lake O’Springs NW, Sect. 14SW Jackson Twp. Zoned R-1.

Mr. McDonnell read the file application and content of the file into the record.

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

Mr. Munger, 6054 Lake O’Springs NW stated he is proposing a three wall addition coming off his existing home to the south of a single bay garage. It would have windows in the back and a garage door in the back. It will be a bay garage for storage. He thought about putting it in the back yard but there is a sewer line that runs along the property line to the ditch and it would be interrupted. This is the best spot and it will sit more toward the rear of the home so it will not obstruct the view of the neighbors.

Mr. McDonnell asked if the structure drawn on the aerial view is correct.

Mr. Munger stated yes. The garage is currently 15 ft. from the line but as it ends it juts in 2 ft. so he will be working on the area that is 17 ft. from the line.

Mr. McDonnell marked the aerial view as exhibit #1.

Mr. Munger stated there is a deck and swimming pool at the rear of the house. He can’t put in the rear due to convenience and the property goes up hill. The back yard lays low and he gets a lot of water on the property because the neighbors to the rear sit higher than him so he needs the drain that he installed. The drain runs to a ditch along the south side of the house almost on the property line.

Mr. Snyder asked if he is going to store a car in the garage because he is wondering where the size came from.

Mr. Munger stated he is dealing with a width. If he had to make it 10 ft. he could but it would be hard. Twelve feet is pretty much a standard garage.

Mr. Singer asked if Mr. Munger intends to have a passage way from the house.

Mr. Munger stated no, but he may put in an access door to the back yard.

Mr. Munger stated he would make the garage the size that is requested.

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

Mr. McDonnell closed the appeal to public input.

Mr. Snyder stated putting the garage anywhere else would be difficult and putting it behind the pool would be prohibited. His concern is it is 12 ft. wide off the house making the variance 5 ft. but Mr. Munger proved to him it needs to be 12 ft.

Mr. McDonnell stated he would open the hearing back up to ask Mr. Munger if he could make it 10 ft.

Mr. Munger stated he is going to put an 8 ft. door so he would like 2 ft. on each side for a total of 12 ft.

Mr. McDonnell closed to public input again.

Mr. Rohr stated he agrees with Mr. Snyder that there is no other place to put it and he understands the 12 ft. in width and it will make a nice storage area, but not for a car. He doesn't see an issue with the variance.

Mr. McDonnell stated in looking at 803.5 he thinks the practical difficulty has been met.

Mr. Snyder made a motion to approve appeal #2324 as requested.

Mr. Lutz seconded the motion.

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

5:45 PM Appeal #2322 – Frank Nicodemo, property owner, 7421 Wales NW, North Canton, OH 44720 requests a conditional use permit for a mini storage facility to include the existing non-conforming mini-storage buildings on parcel #1600761 & 1603822, the existing and proposed mini storage buildings on parcel #1623330, also known as 7421 & 7475 Wales, where a conditional use permit is required per Art. IV, Sect. 411.3 of the zoning resolution, Sect. 9NE, Zoned B-3.

Mr. McDonnell read the file application and content of the file into the record.

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

Mr. Frank Nicodemo, 7421 Wales NW stated there are legal non-conforming mini storage units on the property and a conditional use permit for another building and he wants to build another building and bring it all under one conditional use permit.

Mr. McDonnell reviewed the site plan and asked if he is correct in stating what is already there is permitted because it was non-conforming or there was a conditional use permit issued so they are only concerned about the new building and rolling everything into one conditional use permit. If they grant a new conditional use permit he will lose the non-conforming use.

Mr. Nicodemo stated yes. The new building would be a 40 x 170 mini storage building as outlined on the site plan.

Mr. McDonnell reviewed the criteria for the conditional use permit and Mr. Nicodemo responded.

Mr. Nicodemo stated there is an automatic gate for the buildings that operates in the day time hours.

Mr. Nicodemo stated he will have motion lights that face downward on the building. This is the same lighting as the other buildings and there is an alarm system on the buildings.

Mr. Nicodemo explained there will be drainage plans and he has conditional approval through Regional Planning.

Mr. Singer asked about the Administrative renewal.

Ms. Poindexter explained it is administratively issued.

Mr. McDonnell asked if Mr. Nicodemo wants to put the whole property into one conditional use permit

Mr. Nicodemo stated yes.

No one else spoke in favor of the appeal

Mr. McDonnell swore in those in opposition.

Mr. Don Stambaugh Jr, 7026 Hillway NW stated this is his residence but he owns two properties that are surrounded by Mr. Nicodemo. He has filled up the property lines on two sides four to five feet and now on the low side he is damming it up so he is being affected. The landscaping by his property. It seems like the retention pond holds no water but there is water on his property. He has two accidents that happen from water running off his property on the road. On Feb 9th there was a car that spun out of control and another one since the last time he was here. There is three entrances going in. He cut the down spouts off his house and filled them in. He is getting smashed in by the dirt and water and cars are going onto his property.

Mr. McDonnell marked the photos 2/9/15 as exhibit A one with the care off the road.

Mr. Stambaugh stated that shows the water coming off the driveway and onto the road.

2/29/15 is a car on his property by the tree and is the same accident. B and C and D

6/16/16- Shows the drainage because there is no water in the retention pond and the water is on Mr. Nicodemo's property. E

F-Mound on Mr. Nicodemo's property.

G- View from the street showing the mound and where the water runs.

Mr. McDonnell asked where the water is.

Mr. Stambaugh stated it is on Mr. Nicodemo's property and was wet forever.

H-I and J-3/12/15 car hit ice and spun out of control.

Mr. Lutz asked Mr. Stambaugh to explain what is part of Mr. Nicodemo's property.

Ms. Clara Hass, 7475 Wales NW, stated she sold the property but is still living in the house.

Ms. Haas stated the house was bought in 1979 and they had water problems then. It is not Mr. Nicodemo's fault because it has done that for years.

Mr. Lutz asked who caused the water problem.

Mr. Haas stated Mr. Witzel dug up something on Mr. Stambaugh's property that cause the water to flow where Ms. Haas lives. Not Mr. Nicodemo.

Mr. Nicodemo stated he can respond to what was said.

Mr. Wetzel filled in a pond on the property and built a building and that is what caused the water issues.

Mr. Nicodemo stated the accidents were on his property B and C. E the area is a buffer area as shown on the site plan for discharge of his pond. This was required by Stark Soil and Water.

Mr. Nicodemo gave the board a video marked as exhibit 2 and photos as exhibit 3 and CD of photos is exhibit 3.

Mr. Nicodemo played a video before he constructed any buildings that showed how water was an issued prior to him building any buildings. Mr. Nicodemo explained the video as it played.

Mr. Nicodemo stated the garage in the video is Mr. Stambaugh's previously owned by Mr. Wetzel. The video was made in the 1990's.

Mr. Nicodemo explained that Mr. Stambaugh's down spouts face Mr. Nicodemo's property. Mr. Stambaugh resolved his issues a Mr. Nicodemo's expense.

Mr Nicodemo stated at the last conditional use permit there was a condition his property be inspected by Stark Soil and Water. It was approved and inspected after is was installed. Ms. Poindexter came out with them to insure it passed.

Mr. Singer stated the plan for the new building, is that pond in the plan encompass all four buildings.

Mr. Nicodemo stated that pond is designed not only for his building but the property from the north and south and it drains to the his property from a four inch pipe into the buffer area of vegetation.

Mr. McDonnell asked if Ms. Poindexter met with Stark Soil and Water and if the drainage was approved.

Ms. Poindexter stated she met with Ms. Barberi from Stark Soil and Water and the drainage was approved.

Mr. McDonnell stated it is his opinion that the applicant will meet the criteria. The only question is service drainage. He finds as late as 2013 the drainage innulation was approved by Stark Soil and Water and the evidence shows there was previous water problems. The new building will not add to any water situation that is there and there is no conclusive evidence that the water is caused by the applicant. The water on the applicants property does not flow to other property per the evidence that was shown. He has will vote in favor of the conditional use permit.

Mr. McDonnell closed the hearing to public input.

Mr. Snyder made a motion to approve appeal #2322 as requested.

Mr. Lutz seconded the motion.

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

6:00 PM Appeal #2325 – Kimm Hannan, Hannan Cleaner Properties, LLC, property owner, 6525 Hills and Dales Rd. NW, Canton, Ohio 44708 requests approval of the BZA for a change of a non-conforming use in an R-R district from a dry cleaner plant to a doggie day care (kennel) where approval is required per Art. III Sect. 303.2(A) of the zoning resolution. Property located at 6525 Hills and Dales Rd. NW, Sect. 27SE Jackson Twp. Zoned R-R.

Mr. McDonnell read the file application and contents of the file.

Mr. McDonnell swore in those is favor of the appeal.

Mr. Kimm Hannan, 6525 Hills and Dales Rd. NW stated the last two times he was in front of a board he didn't do to well so Melissa is going to speak.

Ms. Melissa Yasiow, Kohrman 1375 East Ninth St. Cleveland Ohio stated he will present evidence on behalf of her client. They are seeking approval for a change in use. The current zoning is R-R. For 70 years this has been a Dry Cleaning Plant. They want to change to a Pampered Paws and it will produce less traffic and there will be improvements to the building and general area. They building will more appealable and there will not be any noise issues because there will not be any outside dog cages and the dogs will not go outside. It will be an upscale facility.

What currently occurs at the facility.

Mr. Hannan stated people drop of their cloths and they dry clean them but not to the extent that they use to. The reason is it is a tuff question is because they are still doing some cleaning there in addition to recievning and dispursing.

Mr. McDonnell asked if the new proposed use include any additions to the exiting buildings.

Mr. Hannan stated no.

Mr. McDonnell asked what will increase.

Mr. Hannan stated that there is some space that will be used for parking but the building will not expand.

Melissa stated an application has to be filled out for someone to bring their dog there.

Mr. Singer asked if the only animals will be kaynine.

Mr. Hannan stated yes.

Mr. Rohr asked what the hours would be.

Mr. Hannan stated 7 to 7 Mpn- Friday. Saturday 7 to 4 and closed Sunday.

Mr. McDonnell asked current hosur. 7 to 5 Mon –Frid 8-2 Sat. and closed Sunday

Mr. Hannan stated the dry cleane'rs has been there for 70 years and he has owned it to 2 years.

Mr. Steve Coon, 2550-2nd St. canton stated he looked at the facility and they talked about how to make some changes. It is a nice facility and it will improve the area and be a nice project.

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

Mr. McDonnell closed the appeal to public input.

Mr. McDonnell closed the appeal to public input.

Mr. Rohr stated this has been a place of business for as long as he can remember and he doesn't have a problem with the change. He doesn't see any more traffic going in or out and he doesn't have a problem with it.

Mr. Snyder stated he can change it provide the use is equal to or less in conflict and it seem like that are going to improve the property and thinks it will be better.

Mr. McDonnell stated the requirement is the proposed use equal to or less in conflict what he finds convincing is that it was a factory and that use is permitted in an I-1 district and the what they are requesting falls under a B-2. With the classification it is less conflicting then what is there. He thinks the requirement has been met.

Mr. Singer made a motion to approve appeal #2325

Mr. Snyder seconded the motion.

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

Ms. Poindexter state those who participated in the October 13, 2016 hearings were Mr. Singer, Mr. Rohr, Mr. Snyder and Mr. McDonnell.

Mr. Rohr made a motion to approve the meeting minutes from the October 13, 2016 meeting.

Mr. Singer seconded the motion.

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

Mr. McDonnell made a motion to adjourn the meeting.

Mr. Rohr seconded the motion.

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

Respectfully submitted,

Joni Poindexter
Zoning Inspector