

Jackson Township Board of Zoning Appeals

Meeting Minutes

May 26, 2016

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

5:30 PM Appeal #2317 – Texas Roadhouse, 6040 Dutchman’s Lane, Louisville, KY 40205 agent for Fitzpatrick Enterprises, property owner, 4942 Higbee Ave. NW, Canton, Ohio 44718 requests a variance to allow a second freestanding sign where one freestanding sign is permitted per street frontage per Art. V Sect. 502.4 of the zoning resolution. Property located at 4721 Dressler Rd. NW, Sect. 24SW Jackson Twp.

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

Mr. Vitale swore in Marisa Kolman, 21 S. Evergreen, Suite 200, Arlington Heights, IL 60005.

Ms. Kolman stated she is with the engineering company for Bubba’s 33. The site is the former Macaroni Grill, who had an existing pole sign because they were leasing the property it was an considered an out lot. The Bubba’s lease is only for the building so it is no longer an out lot therefore the sign would be considered a second sign for the property. They could not use the existing pole sign and it was removed. The pole remains so they would only be installing a new cabinet for the sign. Page one of the exhibit in the file shows the sign location. They will expand the island and the pole will remain as is.

Mr. Vitale stated there are a lot of wall signs and asked why they needed the freestanding sign

Ms. Kolman stated that Bubba’s 33 don’t advertise and they rely on the signage for customers. The pole currently exists and the property owner is permitting them to use it if approved by the township.

Mr. Vitale asked why they didn’t lease the property to keep it an out lot.

Ms. Kolman stated it depends on how the real estate was worked. She was not involved in that. It could be rent or the site work, costs or taxes.

Mr. Snyder stated the sign is 35 ft. tall and it looks like the sign is 10 x. 20.

Ms. Kolman stated the maximum permitted height is 35 ft. but it could be less.

Mr. Snyder asked what the square footage of the old Macaroni Grill sign was.

Ms. Kolman stated she did not know.

Ms. Poindexter stated the Macaroni Grill sign was 162 sq. ft. and they were only permitted 165 sq. ft.

Ms. Poindexter explained that Macaroni Grill was permitted to have their own sign because they were an out lot and Bubba's 33 is not considered an out lot.

Mr. McDonnell stated they have to meet the criteria for the variance such as special circumstances and asked what the difference is between Bubba's 33 and any other location in Belden Village to justify the variance.

Ms. Kolman stated the way the lease lines are working create a unique out lot because it is just the building. It is no different than any other tenant who is permitted wall signage and the option to be on the multi-tenant sign that is to the north. They should be entitled to be able to have signage to attract customers.

Mr. McDonnell asked if Ms. Kolman is saying because it is a small area and they should be entitled to the sign because they are a small business.

Ms. Kolman stated yes.

Mr. Vitale stated it is just a leased tenant space. It was previously an out lot but they are only leasing the building just like any other tenant in the plaza.

Ms. Kolman stated in using the term out lot she means it is the same but it is just by definition. You could argue it is an out lot.

Mr. Vitale stated it is a tenant space. Macaroni Grill was an out lot because they leased the ground area around the building also.

Ms. Kolman stated they are constructing a new building so there is a foundation area.

Mr. Vitale stated at the end of the day it is still a building lease.

Ms. Kolman stated yes.

Mr. Singer asked if the revised lease space abuts directly to the road frontage.

Ms. Kolman stated it falls short of the road frontage.

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

Mr. Vitale closed the appeal to public input.

Mr. McDonnell stated that he doesn't think the applicant, Bubba's 33, has met the requirement. He sees no special circumstance other than what they created themselves. It was their decision to not lease the land. Item 6 in 803.5(B) refers to if the special circumstances are from the actions of the owner and he thinks they were and a practical difficulty has not been met to justify a second sign. If they granted the variance for Bubba's 33 and not others they would be capricious and arbitrary to others.

Mr. Snyder stated on one hand there is an existing sign there and nothing other than the legality of the lease is changing and it wouldn't be a significant difference in appearance but on the other hand Mr. McDonnell is right.

Mr. Rohr stated he agrees with Mr. McDonnell and Mr. Snyder but the problem he has is the sign requested would not be legal within section 502.4 because it is too large. He is opposed to the large sign but not necessarily any sign.

Mr. Singer stated he looked at page 20 for the definition of an out lot. Bubba's is truly, in his opinion, an out lot but according to the resolution 165 sq. ft. was the maximum permitted square footage and the sign requested is 200 square feet.. He thinks it is tuff to

state this is a good idea. It would be a difficult decision to approve based on the other tenants and not being able to justify it.

Mr. Vitale stated he struggles with multiple things. The sign is larger than the Macaroni Grill sign and they are not an out lot. The leased frontage on the road is not there and they are not different than any other tenant in the plaza. It is not an out lot and they have wall signage. The pole being there, to him, doesn't constitute that any of the other tenants could use it.

They have to follow the rules and keep everyone fair and equal.

Mr. McDonnell made a motion to approve appeal #2317.

Mr. Rohr seconded the motion.

The vote was: Mr. Singer - no, Mr. Rohr - no, Mr. Snyder - no, Mr. McDonnell - no, and Mr. Vitale – no.

Mr. Vitale stated if Bubba's 33 did not agree with the board's decision they have the right to appeal it to the Court of Common Pleas within 30 days.

Ms. Poindexter stated the meeting minutes from the April 14, 2016 needed approved. Those who participated in the hearing for the April 14, 2016 meeting were Mr. Singer, Mr. Rohr, Mr. Snyder and Mr. Vitale.

Mr. Vitale made a motion to approve the meeting minutes from the April 14, 2016 meeting.

Mr. Rohr seconded the motion.

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

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

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

Respectfully submitted,

Joni Poindexter  
Zoning Inspector