

Jackson Township Board of Zoning Appeals

Meeting Minutes

June 23, 2016

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

5:30 PM Appeal #2318 – Robert Leach, Regal Construction, 7056 Mears Gate Dr. NW, N. Canton, OH 44720 agent for Charles Ostrout Jr., property owner, 5526 Lilly’s Lane NW, Canton, OH 44718 requests a variance for a 5 ft. west side yard setback where 10 ft. is required and a 15 ft. front yard setback where 25 ft. is required per Art. IV Sect. 401.6 & 401.7 of the zoning resolution. Property located at 5360 S. Island Dr. NW, Sect. 23 NW Jackson Twp. Zoned R-1.

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

Those in favor:

Mr. Robert Leach, 6529 Fulton NW, Canton, OH 44718 stated there are two lots on South Island Dr. which is 169 and 168. They have a permit and the house was designed to fit on the lot. The house is within the regulations. They had the house staked out when the adjoining property owner had an objection to the layout of the house and they wanted it further from the water. The revision is to build the same house but it was reversed so the garage is on the left instead of the right and the house was moved to the over because there is sidewalk. They ended up with 5 ft. on the west side with 15 ft. between structures and 15 ft. on the east side to stay away from the walkway and there is more than 15 ft. on the back side. At the closest point in the front it would be 15 ft. from the right of way. This is consistent with the other homes in the area. To the west the house is 17 ft. and the other is 23 ft. from the right of way. There is a house closer than that on the corner. They are trying to do this to address the conditions from the adjoining property owner. There was a house that was removed and he doesn’t know that it met all the restrictions.

Mr. Vitale asked Mr. Leach if he wanted the board to split the vote on the two variances.

Mr. Leach stated yes he would want them split the request into two variances.

Mr. Vitale asked about the lake restrictions.

Mr. Leach stated there is a restriction that says you have to be 75 ft. from the water line. They don’t know where the water line was in 1955 but the lot is only 115 ft. deep. The existing house was a standard size house. The concerns the adjoining property owner had was what would happen to their view of the water.

Mr. Vitale stated it appears from the GIS map that the property sits on a cove so he doesn’t understand how that will block the view.

Mr. Leach stated if you look at the house to the west your view is more of an angular view and if you stood at 5368 S. Island Dr. and looked at the water the house in the original plan would block the view. By pushing it more to the street it reduces the neighbor's objection.

It was moved about 10 ft. more toward the street. They did not change the design of the house but just reversed it.

Mr. Lutz asked about the side yard issue and if the sidewalk is used by his property.

Mr. Leach stated no. it is used by the adjoining property owner and there is an easement. They are trying to provide more distance between the two sidewalks.

Mr. McDonnell asked the width of the lot.

Mr. Leach stated that it is 80 ft. and the square footage of the house is 3,800 sq. ft. of finished area. There is no basement.

Mr. & Mrs. Stimmel, 5368 S. Island Dr. stated they are to the west and are the ones that would be impacted. Houses have been built close to the street. There are 15 houses near them that have been built closer to the street. The houses are setback from the street at 3 ft. 5 ft. 8 ft., and 2 that are 12 feet from the street. They would be impacted by the 5 ft. variance for the west side but they have no objection to either variance.

Mr. Vitale asked if the house could go closer to the lake.

Ms. Stimmel stated their house is 15 ft. from the street. They don't want the house to go any closer to the water.

Mr. Vitale stated they live on an arc so they typically don't look to the right or left and more so out into the water.

Ms. Stimmel stated the original house extended 25 ft. into the back of their home so by moving this house forward it helps them.

Mr. Vitale asked Mr. Leach asked how far the obstruction line is.

Mr. Leach stated it is about maybe 4 ft. or so behind their property. The other house was right up to the sanitary easement line.

Mr. Allen Jaslow 5350 S. Island Dr. stated his house is 2 lots over to the east. All the houses kind of line up and the street is very narrow. It is an unusual area. He has a small car and the bumper is right up to the road. The view on the bay the Stimmels house is on the elbow of the lake and they look to the left to see the lake. The houses line up on the lake side. They don't want to look at the side of someone's house.

Mr. Steven Pittman, 5352 S. Island Dr. stated he is to the east. He is in favor for all the reasons that have been expressed in keeping with the character of the neighborhood.

Mr. Dennis Nash, 5340 S. Island Dr. stated he is in favor. At one time there was a picture at street level that showed how the houses lined up and it is consistent as to how they line up.

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

Mr. Leach stated they have the support of the adjacent property owners and they aren't trying to overbuild the property.

Mr. Vitale asked how deep the garage is.

Mr. Leach stated it is about 22 ft. for the double car garage.

Mr. Vitale stated he could see a problem with blocking the view if the way it was original permitted. With the house now he is not sure it couldn't be slid back a little bit and asked Mr. Leach if there is any room for movement on this to allow for more room for the driveway.

Mr. Leach stated the answer would be with the adjacent property owners. He is not sure at what point that would be. There may be some wiggle room from his perspective but from the adjacent property owners there may not be. It is workable at 15 ft.

Mr. Vitale stated as he understands it they want to keep it at a 15 ft. setback.

Mr. Leach stated it would unless he hears from the adjacent property owners.

Mr. McDonnell stated if the 15 ft is not approved they can always come back with a different request. They can stay with the 15 ft. and always come back if it is turned down. They can also ask to amend it.

The board went off record for a few minutes to allow Mr. Leach to speak to the adjoining property owners.

The board went back on record.

Mr. Leach stated they are going to stay with the 15 ft. setback because it is comparable to what is on the street.

Mr. Vitale closed the hearing to public input.

The board discussed the variance for the 5 ft. west side yard setback.

Mr. Vitale stated lake cable is unusual and it is difficult to put a house there. There are a lot of homes that have a 5 ft. setback so he doesn't have a problem with it.

Mr. McDonnell stated he concurred with Mr. Vitale and it is not uncommon to grant a 5 ft. setback.

Mr. McDonnell made a motion to approve the variance for a 5 ft. west side yard setback and Mr. Rohr seconded the motion.

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

The board discussed the variance for the 15 ft. front setback.

Mr. Creighton stated he thinks the front goes along with the side. The lots are small and in his opinion based on the property owners that spoke in favor he thinks it should be approved.

Mr. Rohr stated he looked at the property and when he came to the meeting he was against the setback but after hearing the neighbors and realizing most of the houses are less than 25 ft. he shares their concerns. He changed his mind because of the neighbors.

Mr. McDonnell stated Section 803.5B practical difficulties one of the items is whether the neighborhood would be altered and he thinks the answer is no. and it won't be a detriment to the neighborhood. It is a narrow street and a lot of variances have been granted. The lot is no different than the other lots on South Island Dr. and to turn down the variance would be capricious and arbitrary. He is in favor.

Mr. Vitale stated on one hand he is not in favor of it because it is a very short driveway and it is not enough room but there are a lot of properties that have a lesser setback.

Mr. Creighton made a motion to approve the variance for a 15 ft. setback as requested and Mr. Lutz seconded the motion.

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

5:45 PM Appeal #2319 – Sean Sanford, 7912 Greenwich Blvd. NW, Massillon, Ohio 44646 agent for Midwest Ohio Realty, LLC, property owner, 6800 Freedom Ave. NW, N. Canton, Ohio 44720 requests a variance to create 2 lots off of Brooke Hollow with Lot #1 having a street frontage of 35 ft. and a minimum lot width of 61 ft. at the 100 ft. setback and Lot #2 having a street frontage of 36 ft. and a minimum lot width of 55 ft. at the 100 ft. setback where a 50 ft. minimum street frontage and a 100 ft. minimum lot width at the 100 ft. setback is required per Art. IV Sect. 401.5 of the zoning resolution. Property located at 4375 Wales NW, Sect. 28NW Jackson Twp. Zoned R-R.

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

Those in favor:

Mr. Sean Sanford, 7912 Greenwich Blvd. NW, Massillon stated the property is a 12.46 acre property with one home, barn and small out building. Mark Memmer actually plans to build three homes on the property. The existing structures would be raised to allow for the new homes. In 2000 or so Regional Planning approved a variance due to subdivision regulations because when Gloucester Village was developed they did not stub a road into the property and there should have been.

Mr. Vitale stated there is a lift station near the property and asked how the property ran.

Mr. Sanford stated the property runs through the center of the lift station with an easement.

Mr. Vitale asked why not stub a road into the property.

Mr. Sanford stated it is about a \$90 to \$100,000 cost. If they put a road in it would have to be development completely with a cul-de-sac and there would be about 10 or 12 lots.

Mr. Creighton asked how the property would be accessed.

Mr. Sanford stated there would be one driveway and then it would split off for the two homes.

Mr. Creighton asked if there would be any driveway off of Wales.

Mr. Sanford stated no. All properties would access off the shared drive.

Mr. McDonnell asked how wide a double wide driveway is.

Mr. Sanford stated it is about 20 ft. As it sits they can split it into 2 lots.

Mr. McDonnell asked if the plan is set in stone and is there a specific plan for the lots.

Mr. Sanford stated yes. There was a property on Perry drive in which the board approved a variance for someone that had 20 ft. of frontage for 8 acres and a variance was granted to two 10 ft. street frontages due to being a large lot.

Mr. Mark Memmer, 7266 Portage NW stated he looked at the property and based on the contours of the land they decided the property would be better served with 3 lots as

opposed to the alternative with more lots. The rule is put in place to avoid a flag shaped lot and in this case it is just like a minimal driveway.

Those in opposition:

Ms. Mindy Lawrence 8079 Brook Hollow NW stated her property is to the west and she has her house on the market so she is concerned about the value and marketability. It is a skinny lot and they want to create two lots. Her bedroom window is on the side of the house and the driveway will be right outside her window. She has a view to the golf course right now and by them building a house it may block the view. She would have no privacy and there will be added traffic.

Mr. Macioce 4388 Sparrow Ridge NW presented photo exhibits. The paper they got in the mail says two lots. There are deed restrictions for Gloucester Village. She asked what they are creating more lots.

Mr. Sanford stated there are two lots off the half cul-de-sac.

Mr. McDonnell asked they address the board.

Mr. Sanford stated the lot was removed from Gloucester Village several years ago and it is one parcel today with frontage off of Brook Hollow and Wales. There would be one driveway on the property off Brook Hollow. To have two building lots you have to have street frontage. There will be one driveway.

Mr. Creighton stated he thinks Mr. Sanford needs to come back to the board and show all driveway and homes.

Ms. Poindexter stated the board can only look at the variance that is requested and that has no bearing on the variance.

Mr. Vitale stated Mr. Sanford could put a road in with 12 lots.

Ms. Lawrence stated she still has a problem with it because of her bedroom window.

Mr. McDonnell stated deed restrictions are not a consideration and when and how the lot was taken out of Gloucester Village has nothing to do with it.

Mr. Vitale stated the photos exhibits were marked as 1 -8.

Ms. Lawrence asked who will own the lots and the driveway.

Mr. Vitale stated one will own one half and the other owner will own the other half.

Ms. Macioce stated one driveway is acceptable but she doesn't want to see two driveways.

Mr. Lutz asked Ms. Poindexter if a road could be put in with multiple lots.

Ms. Poindexter stated yes they could put in a road and subdivide the property into multiple lots under the subdivision regulations.

Mr. Greg Keefer, 4466 Red Fox Dr. asked Ms. Poindexter if Mr. Sanford could put more lots on the property because he owns the land.

Ms. Poindexter stated yes.

Mr. Nathan Grundy 4336 Sparrow Ridge stated he always comes prepared so the fact that there is nothing to show is concerning to him. The variance is just for lot size. A great deal of the property is hydro soil and wetlands so they need to do the proper paperwork.

Mr. Roslie Miller, 4440 Red Fox Dr. stated she is to the southwest of lot #1. She is concerned because she doesn't know what the plans will be. Most of the land in the back is brush and is wet. She doesn't know how close the neighbors would be. She understands he could put 12 houses as opposed to 3 but the area is beautiful and she would like to see it preserved. She doesn't think the variance is appropriate because she doesn't know how close the houses will be to hers.

Mr. Vitale stated they have to follow all the guidelines, building codes, wetlands, etc. They can't go onto other people's property or put water onto others properties. He doesn't believe Mr. Sanford will do anything to hurt the property values. There will be three lots on 12 acres so you probably won't even know the houses are back there.

Ms. Macioce stated she isn't against three houses there. Her concern is having two driveways onto Brook Hollow and she heard there will be one driveway so she is not opposed to that.

Mr. Vitale stated even two driveways is better than a 30 ft. road.

Mr. Ty Hauritz, 4514 Red Fox Dr. stated if you look at the lots he is asking for a variance to create two additional lots and if there was one additional lot a variance would not be necessary. They have to grant a variance due to an undue hardship. By making one additional lot he would not have an undue hardship. He is asking for two lots and that is being greedy and that is not an undue hardship. He is asking the board to follow the guideline just as the builder has to follow the guideline. He wants to put two lots for money. He does have access from Wales Rd to the property. He isn't getting any undue hardship by only getting one lot. He will still have the ability to create one lot back there without a variance. He is opposed to the variance because he has the ability to do one lot and they have no idea what he is going to put on the property.

Mr. McDonnell stated they do not establish the resolution. It is put together by the Trustees and they are granted the authority to grant variances per the Ohio Revised Code and the resolution. They follow section 803.5. Undue hardship, he is not going to sit here and say anyone is trying to make more money and they don't know what the house and driveway is going to look like and they can't make that a condition to the variance. All they can deal with is that Wales Rd. has access to the lot and he can also have access off of Brook Hollow.

Mr. Hauritz stated if he only did one extra lot he would be fine and he doesn't think the variance should be approved.

Mr. George Manor, 4480 Red Fox Dr. stated he is opposed to anyone building anything on the property and it will deteriorate the land values.

Mr. Sanford stated it was brought up about the hardship. It is under the subdivision guidelines and a road was supposed to be stubbed in to a larger parcel of land and that was not done so that is the hardship. It was discussed about building 3 homes or 12 homes. Three homes would be better. There is about 8 acres of useable land and you can get about 1.4 houses on an acre of usable ground. Mr. Memmer will have a large investment on the property and the entrance will be landscaped in order to build what they want to build,

Mr. Memmer stated there is a lift station so one of the plans is to plant landscaping to shield that from everyone. They are permitted to divide the lots and do a subdivision. They want to do three homes and tear down the existing structures that are in bad shape.

Mr. Creighton asked if there is a driveway off of Wales.

Mr. Sanford stated Wales is an ODOT road and they don't like to see driveways off of a busy street.

For informational purposes Ms. Poindexter talked about the access management plan regarding driveways.

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

Mr. Vitale closed the hearing to public input.

Mr. Lutz stated he struggles with this one. He doesn't really care for the three lots but at the same time he has a fear if this were denied they will put in a road and 12 lots which he thinks the neighbors would find would be worse.

Mr. Vitale stated he respects everything he heard and understands the concerns but in reality this is progress and is no different than when their allotment was built someone lost their view. It is a large parcel and is different. He was shocked there wasn't a road where the cul-de-sac is. Mr. Sanford answered the question. He asked Joni about this yesterday. Why not put a road in there. But you have to get a good return on your money. They could put a road in there but then they would have to have a lot more lots. He would rather see three upscale homes on the property and they will still have a view. It hard for him to say sorry you have a piece of property that you don't have the right to develop and should only have two lots and then them saying they will do 12. Like Joni said they don't like more driveways coming off of a busy road. He thinks it's a good plan and the properties would be enhanced. He doesn't have a problem with the appeal.

Mr. McDonnell made a motion to approve appeal #2319 as requested and Mr. Creighton seconded the motion.

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

Ms. Poindexter asked for approval of the May 26, 2016 meeting minutes. Mr. Creighton and Mr. Lutz were absent so they will not vote on the approval.

Mr. Rohr made a motion to approve the meeting minutes from the May 26, 2016 meeting and Mr. Vitale seconded the motion.

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

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

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

Respectfully submitted,

Joni Poindexter

Jackson Township Zoning Inspector