

MINUTES OF THE  
FAIRFIELD BOARD OF ZONING APPEALS

July 6, 2016

Ron Siciliano called the Board of Zoning Appeals hearing to order at 6:00 p.m. at the Fairfield Municipal Building, 5350 Pleasant Ave.

Roll Call

Maria Mullen, Secretary, called the roll of the Board of Zoning Appeals. Present members were Jack Wesseler, Greg Porter, Joseph Koczeniak, Mike Stokes, Ron Siciliano, Scott Lepsky and Mike Snyder. Mike Stehlin, Plans Examiner, and John Clemmons, Law Director were also present.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes from the Board of Zoning Appeals meeting held on June 1, 2016 were approved. Motion carried 7-0.

New Business

**Case No. BZA-16-0012 – Over 35% of Allowable Concrete in Front Yard – 5458 Boehm Drive**

Shaun Miller, the property owner, requested a variance for additional driveway which is 6 feet wider than the 28 feet allowed.

Staff Technical Review would approve the additional driveway, but the owner needs to replace the existing sidewalk in the widened driveway area at 7 inches thick and verify the apron is also 7 inches thick.

Property Owner's Comments

Shawn Miller spoke on behalf of his variance request. He did not know about the 35% rule on pavement in the front yard setback. Mr. Miller did check our website, and driveways were not listed as needing a permit. He added onto the driveway to keep all his vehicles off the street, including a camper. Mr. Miller stated he also called OUPS to locate any underground issues, and a portion of the apron is not quite seven inches deep because of an electric line. Mr. Siciliano asked if we require a permit for a driveway. Mr. Stehlin explained the Public Works Department requires a curb/apron permit and we require a zoning certificate for driveway additions. Mr. Miller said on the website it does say no permit is required for the driveway, but may require a curb cut. He was not changing the curb so he did not think he needed a curb cut permit. Because part of the sidewalk is in the driveway where vehicles are driving over it, and it is in the Right-of-Way, the original sidewalk needs to be replaced at seven inches deep. The old sidewalk would only be four inches deep, which is not enough. Scott Lepsky clarified and confirmed with Mike Stehlin that there are only three squares of sidewalk that need to be replaced. Mike Stokes noticed the neighbors on either side of Mr. Miller property have wider driveways. Mike Stehlin said there is no record of either of those driveway additions going to Board of Zoning Appeals. Mr. Stehlin explained how he calculates the 35% allowable area. Mike Snyder noticed there are at least six houses in the vicinity of Mr. Miller's house that have wider driveways. Mr. Miller said he counted at least 12 houses with wider driveways in his neighborhood. Mr. Siciliano is usually not okay with the work being done before getting a variance, but he would be okay with it if Mr. Miller complies with the required 7-inch depth of sidewalk. There have been no complaints from the neighbors.

Public Comment

Chris Kuhns, 5468 Boehm Drive, lives to the right of Mr. Miller. Mr. Kuhns added to his driveway, making it 28 feet 6 inches wide, to keep his cars off the street. He added onto his driveway as more of his kids started to

drive so they could keep their cars off the street. There are too many accidents on Boehm with cars parked on the street. He isn't bothered at all by Mr. Miller's driveway coming all the way to his property line.

John Kiesewetter, 5459 Boehm Drive, lives across the street from Mr. Miller. Mr. Kiesewetter has three cars and the extra driveway capacity helps. He said the car dealership down the road is always taking test drives on Boehm, so there quite of bit of traffic.

John Koval, 5450 Boehm Drive, lives to the left of Mr. Miller. Mr. Koval said Boehm Drive is a parking lot. He thinks keeping cars off the street is a plus. He does not have a problem with Mr. Miller's driveway.

#### Board Action

Scott Lepsky moved to approve the variance for the driveway as submitted with the stipulation that the three (3) sidewalk blocks in the widened area are replaced at 7 inches thick and owner must verify the apron is also 7 inches thick. Motion was seconded by Mike Snyder. Motion carried 7-0.

#### **Case No. BZA-16-0013 – Sign in Setback – 5855 Union Centre Blvd**

Jay Smith, on behalf of the owner, Duke Realty Ohio, requested a variance for a ground sign at the south entrance of the property, approximately 30 feet from the property line. The required setback for this lot is 108 feet from the property line.

Staff Technical Review had no comment.

#### Property Owner's Comments

Jay Smith spoke on behalf of Duke Realty Ohio's variance request. Mr. Smith stated the driveway is a shared driveway between their property and property next to them, which is actually the west side of the property. If they did not have the driveway, the property line would actually be further from the proposed sign. The property has just over 1000 feet of frontage on Union Centre. The signs conform to the building code and city ordinance. The sign is important to identify the driveway for the tenant in the rear of the building, Compucom. The signs are not internally lit, but will have ground LED lights. Mr. Siciliano felt it was a reasonable request. Mr. Stokes thought it was a unique situation.

#### Public Comment

No comments.

#### Board Action

Mike Snyder moved to approve the variance as submitted. Motion was seconded by Scott Lepsky. Motion carried 7-0.

#### **Case No. BZA-16-0014 – Accessory structures over 35% of rear yard – 2492 Windage Drive**

Brady and Regina Southard, the property owners, requested a variance to build a 416 square foot garage. Their allowable accessory building square footage is 919 square feet. With their current accessory structures and the proposed garage, the total square footage of accessory structures would be 1,216 square feet, 297 square feet over the allowable amount.

Staff Technical Review had no comment.

#### Property Owner's Comments

Brady Southard and Regina Southard spoke regarding their variance request. Mr. Southard stated the garage meets the City's requirements; they are just over the allowable accessory structures in the rear yard. Mike Stehlin informed the Board the allowable amount is 919 square feet. The pool is 700 square feet, the shed is 100 square feet, and with the new garage at 416 square feet, the total square feet would be 1,216. Mr. Stehlin admitted he did not add in the square footage of the deck. Mr. Siciliano would be okay with it since it is under

the 500 square feet, and no one can really see it. Mr. Porter noticed some of their neighbors have oversized garages. The Board asked if Mr. Southard would be removing the small shed. Mr. Southard said he will need to keep the shed for storage. The garage will be for his motorcycle and truck. The garage is wood framed with vinyl siding and a shingled roof.

Public Comment

No comments.

Board Action

Scott Lepsky moved to approve the variance as submitted with the stipulation the siding and roof match the owners' residence. Motion was seconded by Greg Stokes. Motion carried 7-0.

**Case No. BZA-16-0015 – Accessory Building over 500 sf – 5480 Schiering Drive**

Jerry Walls, the property owner, requested a variance for a 114 square foot porch on an existing 480 square foot detached garage, which is 94 square feet over the maximum size allowed.

Staff Technical Review had no comment.

Property Owner's Comments

Jerry Walls spoke on behalf of his variance request. He would like to add a small covered porch to the side of his detached garage. He uses his garage as a workshop. Mr. Walls would like to have a table and some chairs on the porch to have a nice place to sit and relax. He already had a pad poured for the porch, just needs to add the cover. Scott Lepsky stated there is a farm in back of Mr. Walls' yard. Mr. Snyder said it looks like a good, solid structure. Mr. Stokes asked if they would be setting a precedent by allowing this porch structure on an accessory building. Mr. Lepsky said the covered porch is not the issue or the reason for a variance; it is because the structure would be over the 500 square foot limit. Mr. Siciliano commented the extra area is an open air structure, and it is less than 600 square feet which is normally his cut off.

Public Comment

No comments.

Board Action

Mike Snyder moved to approve the variance as submitted. Motion was seconded by Scott Lepsky. Motion carried 7-0.

**Case No. BZA-16-0016 – Metal Roof on Accessory Building – 6262 Shearwater Drive**

Joseph D. Berter, the property owner, requested a variance for a 360 square foot accessory building with a metal roof.

Staff Technical Review had no comment.

Property Owner's Comments

Joseph Berter spoke on behalf of his variance request. Mr. Berter immediately questioned why the City has an ordinance banning the metal roofs on sheds. Mr. Siciliano explained that the ordinance on accessory structures has evolved over the years. The metal roofs were not as nice as the metal roofs that are manufactured now. The quality of the metal roofs has improved. Mr. Berter had a picture of the shed with the metal roof, which appeared to be powder coated standing seam metal roof. The Board verified it was the standing seam metal roof, and they have approved this type of roof in the past. Mr. Siciliano expressed that he had no issues with this proposed shed if Mr. Berter removed the other accessory structures. Mr. Berter said he would be removing the three old existing sheds. He has close to an acre of land, and there are lots of trees.

Public Comment

No comments.

Board Action

Mike Stokes moved to approve the variance with the stipulation the owner remove the existing three accessory structures on the property Motion was seconded by Mike Snyder. Motion carried 7-0.

**Case No. BZA-16-0017 – Patio Cover in 30-Foot Front Yard Setback – 5712 Neptune Way**

Andrew Duff, on behalf of the property owner, Don Lunsford, requested a variance to build a covered front porch that will encroach approximately four feet into the 30-foot setback area.

Staff Technical Review had no comment.

Property Owner's Comments

Andrew Duff spoke on behalf of the owner, Don Lunsford. Mr. Duff explained the entrance pad to the front door is about 5 feet wide and 4 feet deep. The cover will be the same size, which means it will encroach into the 30 foot setback by 4 feet. The owners need this small cover to protect the entryway from the weather. The roof cover will be gabled with columns. The shingles will match the shingles on the house. Greg Porter noted this type of structure is very common among other houses in this neighborhood.

Public Comment

No comments.

Board Action

Scott Lepsky moved to approve the variance as submitted. Motion was seconded by Joseph Koczeniak. Motion carried 7-0. Mr. Lepsky made a motion to waive the 5-day waiting period. Mike Snyder seconded the motion. Motion carried 7-0.

**Case No. BZA-16-0018 – Indoor and Outdoor Assembly & Crushed Gravel Parking – 4614 Industry Drive**

Jeffrey Herring, on behalf of Swine City Brewing Co., requested a use variance to have indoor and outdoor assembly for their new business. They also requested a variance to use compacted crushed gravel for patron parking lot, and for a truck loading area.

Mr. Stokes recused himself from this case based on his business and the possibility of financial gain if this case is approved. Mr. Stokes waited outside the room as this case was being discussed.

Staff Technical Review had three comments:

1. A permanent paving waiver is not recommended. Staff recommends paving the lot.
2. Stormwater management is required once the lot is paved.
3. Use variance should include approval for the use of food trucks on the site.

Property Owner's Comments

Jeff Herring, an assistant brewer, Dan Ebben, one of owners and main brewer of Swine City Brewing Co., and Sylvius Von Saucken, an investor in the company, spoke on behalf of the use variance and variance. They want to be a part of the Fairfield community with a reputable business. They live by the motto of Fairfield, to “Live, work, and play.” They live in Fairfield amongst the community. They are working with Fairfield on this project, and also want to provide jobs. The “play” portion of that statement would be the outside game area for people to enjoy and sample the brews they have to offer. They would also like to bring in people from outside of

Fairfield. With the MASC Tournament and Jungle Jim's events, they could promote their business to those visiting Fairfield for those events.

Mike Stehlin told the Board that the brewery is allowed at this location in the M-2 zone, it is the retail and assembly that is not allowed. The indoor assembly and outdoor assembly which includes retail need a use variance. Mike Snyder asked about the assembly at the VFW which is now a church. Because it is a church, it had to go before the Planning Commission for a Conditional Use. Greg Porter noted that this is the building on the corner with the stairway covered by a damaged awning. He said it is a real eyesore. Mike Stehlin said their architect submitted some drawing noting the occupancy of 38 indoor and 42 outdoor, but that is just what he noted and it up to us to make the determination. When they have two toilets, it allows for up to 80 people. There was discussion about other zones where they could have a brewery and the retail, and if their request for assembly would be more of a conditional use. Mr. Clemmons said the M-2 does not designate this as a conditional use. Mike Stehlin said a C-3 zone, which is most of Dixie Hwy would allow for the brewery and retail. The State requires a license to brew on site, and another license to sell what they are brewing on site. Ron Siciliano commented the State would regulate that and it would not be a City issue.

Mr. Ebben pointed out on the map that there are 20 parking spaces on the Symmes Road side of the building, and the extra lot on Industry side would be for activities. They might need more parking spaces. Jeff Herring said there are 10 extra spaces in the gravel area, and would add another egress as an exit. Dan Ebben said the owner of the building told him they have parked heavy trucks on that gravel area for years. The gravel area is about 10 inches of gravel. They would have the entrance at the existing apron where the paved parking lot is situated, then have the traffic loop around the building and out on the other side the building. They will be resubmitting the parking plan with changes showing the traffic flow and spaces. The loading area is on the back of the building but would not be an issue with the customers since shipments will be delivered in the morning before they would open to the public. The patio will come out 20 feet from the building, and run 56 feet along the side of the building. The problem with dust gravel tracking out onto the street was discussed. Mr. Koczeniak said there should be a paved area onto the street, an apron. All the outdoor activities will take place on the extra parcel, empty lot.

Scott Lepsky asked the Board if they could discuss each issue separately. They went back to discussing the use variance. Mr. Stehlin said the building would have two use groups, F2 (low hazard) and A-2 (assembly). Most of the lots in that area are zoned M-2 including the duplexes. Both Mr. Lepsky and Mr. Siciliano felt conditions #1 and #7 were not met. Greg Porter thought the idea for a brewery and tap room is great, and would like it in Fairfield, but feels there is high standards to grant a use variance. The Board began discussing other avenues that the brewery could take rather than a use variance. Mr. Clemmons said it is really a retail use in the M-2 zone, which is an industrial zone. Beer production is allowed. Mr. Herring said they will be distributing. Mr. Ebben added its primary use is beer production. Mr. Stehlin reiterated the fact that it could have the brewery without having to come to this Board. It is assembly use that brings them in front of the Board today. Mr. Ebben stated the building has been empty for 5 years. Mr. Von Saucken explained they want to bring more people to Fairfield. The tap room is ancillary to the brewing. John Clemmons spoke to the fact that the Staff did not have a problem with granting the use variance, but more of a problem with the parking on the gravel. The Staff said not to permit gravel unless temporarily, like one year or less. Mr. Von Saucken said the bank is ready and the investor money is ready to start this project. They do not want to wait another 30 days for a decision by the Board. Mr. Clemmons addressed Mr. Lepsky's and Mr. Siciliano's concerns with the use variance. He said the building has outlived its use, and it has been vacant for many years. Mr. Clemmons spoke with the property/building owner when he was appealing the tax value on the property. The owner expressed his frustration of not being able to market the land and building for anything. There are other buildings available to potential new businesses that are more viable. Because of this, the land and the building are unique. The building was vacant so long that the owner actually had the taxes adjusted and even thought the building might have to be eventually torn down because there wasn't a tenant for it. The "use variance" is for this type of property that really doesn't work anymore in the zone it is in, so we will allow another use. The Staff had no problem with the use variance conditions. Board members felt more comfortable with the use variance based on

Mr. Clemmons explanation. Mr. Von Saucken pointed out that it is the right location, because of its close proximity to Jungle Jim's. Other breweries like Rhinegeist, and Madtree, don't have the extra lot for the activities that they will be offering. This is unique to this property. The train crosses the road just past the location, and this causes a backup of cars on the road, which gives the business some exposure to drive-by traffic. They plan on painting the building and removing the outside staircase. The eyesore of the awning will be removed.

The discussion moved to the parking area, activities, and food truck. Mr. Koczeniak had suggested the new egress should be paved even if they are going to allow temporary parking on the gravel. Mr. Clemmons felt the Staff would support the idea of adding an apron. Mr. Stehlin recommended an apron 20 feet from the curb into the property, and to the concrete must be to the specifications or standards required by our code, possibly 9 inches deep with a gravel layer. The Brewery owners were okay with adding this apron before opening for business. The outdoor activities would be permitted under outdoor assembly, but the Board can add restrictions or conditions such as allowing the food trucks. Mr. Clemmons suggested a condition allowing only food trucks in good condition that have received permission to set up by the owners. It would eliminate just any food truck setting up on the property. Greg Porter said they need to add restrictions on loud music. Mr. Ebben would like live music outdoors. The music would be slightly amplified acoustic, and it would only be open until 11:00 p.m. Mr. Porter raised a concern with lights bothering the residential area. They already have bright lights and a fence with barbed wire. The brewers don't believe the lights will be a problem, but they will do whatever necessary to prevent a nuisance issue with the neighbors. They would like to create a really nice place for families. They would not be open to the public on Monday and Tuesday. Mr. Ebben said they are hoping to open the facility in October. They have their funding and the licensing is in process. They have spoken to Mike Stehlin about signage.

#### Public Comments

Stephen Helton, 5951 Janice Drive, has lived in Fairfield all his life which is 29 years. Mr. Helton has been following the company's progress. He said the building in its current condition looks bad. The company is putting in their time and money to make the property better, and bring commerce to the City. There are several breweries outside of Fairfield that take Fairfield residents out of the City to spend their money rather than spend their money in Fairfield. Hamilton just opened the Municipal Brew Works. His son went to the Child Development Center and there was never an issue with traffic in that area. The brewery's heavier traffic flow would be in the evening when they are open for retail.

Kamal Hires, 235 Ewing Dr., lives and works in Fairfield. He would like a place like this in Fairfield to meet with friends for an after work drink rather than commuting to meet up with friends outside of Fairfield. The tap room is complimentary to the brewery experience. The tap room profits keep the brewery in business. There are so many tap rooms elsewhere. Extra activities will be good not just for the beer drinkers, but also for people who don't drink.

#### Board Action

Scott Lepsky moved to approve use variance for assembly with the following conditions:

1. Food trucks will be permitted on the premises if operated in a neat and tidy manner at the discretion of the owners, Swine City Brewing Co.
2. Outdoor live music at a reasonable level is permitted until 10 pm. Piped music to outdoor area during open hours must be at a reasonable level to neighbors. Outdoor speakers must be directed away from residential area.
3. External lighting plan must be submitted for Staff approval.

Motion was seconded by Jack Wesseler.

Scott Lepsky made a motion to amend his motion to add a fourth condition to the three conditions:

4. The outdoor assembly restrictions will be reviewed by this Board in one year.

Motion was re-seconded by Jack Wessler. The motion carried 6-0.

Scott Lepsky moved to approve the variance to temporarily use crushed gravel for patron parking and truck loading area with the following conditions:

1. Proposed egress off of Industry Drive, 20 foot apron from curb into property, must be installed to code.
2. Existing crushed gravel area to be used as extra parking must be paved one year from date of business opening.
3. Owner must submit a stormwater management plan for approval by Staff.

Mike Snyder seconded the motion. The motion carried 6-0.

Adjournment:

Scott Lepsky, seconded by Jack Wessler, made a motion to adjourn. Motion carried 7-0.

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Ron Siciliano, Chairman

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Maria K. Mullen, Secretary