

Board of Zoning Appeals Meeting

May 31, 2012

ZA-04-12, ZA-05-12

Members/Attendance: X Hank Grover
X Jim Burgham
X Al Franceschelli
X Bill Custer
X Holly Grant
N/A Michael Johnston

Also in attendance: X Bob Monus, Zoning Inspector
X Michele Richards, Recording Secretary

Hank Grover called the meeting to order at 7:00 p.m.

1st Order of Business:

Hank Grover stated that the first order of business is to approve the minutes from the meeting held on March 15, 2012. Jim Burgham made a motion to accept the minutes from the March 15, 2012 meeting. Holly Grant seconded the motion. All members were in favor. Minutes approved.

2nd Order of Business:

Case #ZA-04-12 – Is a variance requested by Poland Imaging Diagnostics, being represented by Joe Jenkins of the Jenkins Company. Poland Imaging is located in the Poland Medical Center building in the rear end of the building. The address is 6615 Clingan Road, Suite F, Poland, Ohio, Poland Township and the parcel number is 35-022-0-006.00-0, known as Lot 1 and located in a (TC) Town Center zoned district. The request is to obtain relief for a two by three (2 x 3) foot directional sign, but to locate it on the Clingan Road entrance side and to place it on the abutting parcel which is owned by Tony Ciccone of Clingan Court Plaza, located at 6545 Clingan Road, known as parcel number 35-022-0-005.00-0, Lot 1.

Items included in packet submitted:

1. Application for Variance
2. Zoning Permit Denial Form
3. Letter of Intent
4. Letter from Tony Ciccone
5. Letter from Poland Imaging
6. Warranty Deed
7. County Map
8. Property Description
9. Site Plan
10. Sign Photos/Diagrams

**Joe Jenkins
Jenkins Company
1400 Mahoning Avenue
Youngstown, Ohio**

Jenkins stated that he is the representative for Humility of Mary Health Partners (HMHP) and Poland Imaging regarding the signage request. Jenkins stated that patients cannot find the entrance off of

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Clingan Road. There is no visibility on Clingan Road. The proposed sign will be placed back seventeen feet six inches (17'6") from the back of the Arby's sign. It will not be encroaching on the right-of-way. The proposed sign will not block any of the other existing signs on the property (Poland Veterinary, Arby's). The proposed sign is according to code requirements, will not be illuminated, and will be the same height as the Arby's sign.

Hank Grover asked if anyone would like to speak in favor of this request.

Brian Dinger
St. E's
8401 Market Street
Boardman, Ohio

Dinger stated that the physical address of Poland Imaging in the yellow pages is 6615 Clingan Road, Poland, Ohio. Most people use MapQuest to locate this facility. When patients do not show for their appointments and they are called back to see why, the main reason is they cannot find the facility.

Hank Grover asked if anyone would like to speak against this request. No one responds.

Jim Burgham stated that this is a unique situation because the street does not have a name.

Hank Grover asked if the proposed sign should be a pedestal sign. Bob Monus stated that code requires a pedestal sign and the sign should be a pedestal sign to be consistent with the aesthetics of the Arby's sign.

Bill Custer asked Jenkins if the design can be changed to make the proposed sign a pedestal sign. Jenkins replied that they can make the sign a pedestal sign.

Hank Grover asked if there were any other questions or discussion. There being none, the following motion was made.

Motion

Jim Burgham made a motion in Case ZA-04-12 to grant the variance request to allow for placement of a directional sign on the property owned by Tony Ciccone, provided the sign meets the zoning requirements of a pedestal style sign. Location and size of the sign are as per the drawing submitted. Al Franceschelli seconded the motion.

Voting:

Yes Jim Burgham
Yes Al Franceschelli
Yes Holly Grant
Yes Bill Custer
Yes Hank Grover

Motion carried.

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3rd Order of Business:

Case #ZA-05-12 – Is a request by Dustin Bach, DBA/East Ohio Properties, LLC, to obtain a required conditional use permit and a variance to build an automatic car wash. The property is owned by Larry Ornelas DBA as Ornelas Enterprises LLC, and is located at 3305 Center Road, known as parcel number 35-022-0-001.00-0, GL 26 and is two point seventy six (2.76) acres in size. It is the intent of the property owner to parcel off a thirty thousand (30,000) square foot portion of this parcel for the car wash to be built on contingent to the outcome of this hearing. Mr. Bach is requesting relief from access road requirements and also to permit the stacking of his vehicles to overflow onto the abutting lot known as Larry's Place. In addition, he requests the minimum front yard setback to be reduced from one hundred thirty (130) feet to one hundred (100) feet.

Items included in packet submitted:

1. Application for Variance and Conditional Use
2. Zoning Permit Denial Form
3. Letter of Intent
4. Warranty Deed
5. Letter from Larry Ornelas
6. County Map
7. Property Description
8. Site Plan

Dustin Bach
P.O. Box 126
Salineville, OH 43945

Bach stated that he is requesting a conditional use permit for the car wash as stated in his letter of intent. The variance request is to move the building up to a one hundred (100) foot setback.

Holly Grant asked Bach why he is requesting a variance from the parallel access road. Bach stated that with the reciprocal easement agreement, it allows for continuous flow and with the lot being three hundred (300) feet wide by four hundred (400) feet deep, it would still allow access down the road. Bach stated he will be getting another easement agreement for the other side of the road, contingent upon more retail or commercial on the road.

Bill Custer stated to Bach that zoning code requires a thirty (30) car back up, but once the access road is created and if there is additional retail, there will be approximately a six (6) car back up. Bach agreed and stated that is why they are requesting the relief. Custer stated if the one hundred thirty (130) foot setback is maintained, that would give thirty (30) feet out front, allowing the access road, and then you would still have the back up along the front of Larry's Drive Thru. Bach stated that Custer's statement is true; however, he is concerned about the retention.

Jim Burgham asked if there was an access road required for Larry's Drive Thru. Monus stated that Larry's Drive Thru was a pre-existing building and modifications were made just to the expansion of the building, therefore a parallel access road was not required.

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Holly Grant asked Bach if the intent is to replat the building and then the building will be owned by Bach's corporation. Bach replied yes.

Jim Burgham asked where the access road would go. Hank referred to Giant Eagle and stated that they did their access road exactly by the book. Giant Eagle has the 130 foot setback, there is a 20 foot green buffer after the right of way, and there is a 30 foot wide service road, another green buffer, and then the double parking on both sides of the road. Hank stated that the Knights of Columbus building sat approximately one hundred fifteen to one hundred sixteen (115-116) feet off of the right of way; there was a small portion of the original foundation with the same setback. There is a fifteen to sixteen (15-16) foot extension of the drive thru. Monus stated that is inconsistent with the original setback. There was an awning that was established as part of the physical building that was extended that distance. That awning has been removed and the setback has been maintained. Hank asked if there was foundation under the awning. Monus stated there was a slab under the awning. In terms of the structure, that was actually the front building setback. Providing they were not encroaching closer to the roadway, they were permitted to use the existing setback.

Hank Grover asked if anyone would like to speak in favor of this request.

Rich Yankel
8117 North Lima Road

Yankel is the architect in this case. He stated that in this particular case an access road would not work. The lot is in between two existing properties that are exempt from the access road requirement. A curb cut would have to be placed across from Olde Stone Crossing, and this will create more of a hazard than a benefit.

Lawrence Ornelas
4398 Olde Chartered Trail

Ornelas stated that aesthetically what has been done with the building so far has enhanced the property and to have another business that Poland residents can visit to clean their cars will benefit the community. He stated he is in favor of this request.

Hank Grover asked if anyone would like to speak against this request.

Jim Pupino
Niles Realty Associates
P.O. Box 9036
Youngstown, Ohio 44513

Pupino stated that Niles Realty is the owner of the Arby's in Poland. He welcomes the new business the last speaker has brought to Poland and the potential new business. He is concerned with the relief from the setback as far as the visibility to his business. There is no left turn and if people come upon it too quickly they will miss the building. He stated that he understands the building will not line up with the original property but slightly ahead of it. If his concern is unfounded, then he does not have any objection.

Hank Grover asked if anyone else would like to speak. No one responds. Hank stated that the Board will now discuss the case.

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Hank stated that his biggest concern is that Ridgely Park, which is now zoned Office (OF) District, will want a rezone to Town Center (TC) District because there may be a developer that will want to place a plaza or a large professional building that would only be allowed in a Town Center (TC) District. This is not necessarily an unreasonable request, it would be located on Route 224 and adjacent to the other properties that are Town Center (TC), however, now you will have another entrance without the additional flow along the access roads as the zoning board intended when the resolutions were created. He also feels a thirty (30) stack of cars is ridiculous. He reiterated that Ridgely Park will want their zoning changed to Town Center (TC) District because it is more desirable than Office (OF) District. Even without a zone change, you would still want access to the property without going out on Route 224.

Holly Grant stated that an access road is required in an Office (OF) and Town Center (TC) districts.

Jim Burgham asked if Arby's was required to have an access road. Monus stated they asked for relief from the access road because the parking lot runs into a big hill.

Dave Kosec
7428 Indian Trail

Kosec represents Ridgely Park. Kosec discussed the issue of curb cuts and how they are dictated by the Ohio Department of Transportation (ODOT).

A lengthy discussion followed regarding the placement of the access road.

Jim Burgham asked if the easement that is granted by the drive thru to the car wash would apply to everyone that would be trying to travel past the car wash and continue east, if at some point that property is developed and there is an access road, or would it have to stop at the edge of the property. Monus stated just because you have a parallel access road, it does not give everyone the authority to utilize it. He referred to the situation at Giant Eagle and Dairy Queen. Dairy Queen blocked the access road because they did not want everyone coming through their lot. They eventually unblocked it. There was a similar situation at Burger King. An easement was granted through Burger King to get through to the bank. There were some issues as far as who would maintain it. The bank had paid for the easement to have ingress and egress to come into the bank and exit out the back. With an established easement, you have legal passage rights but parallel access roads stop at the property line.

Monus also stated to the Board that with a conditional use permit you do have control over certain design standards that you would like to see, and future issues dealing with ingress/egress, and if the terms are violated the conditional use permit would be revoked.

Dave Kosec stated that the easement between the Arby's, Poland Medical, and the veterinary clinic, all share the private road. Bill Custer asked Jim Pupino if there is a formal agreement as far as the maintenance and snow plowing. Pupino stated there is no formal agreement.

Hank Grover suggested that the Board consider continuing this meeting to allow the appellant to provide additional information. Monus stated that the Board can give parameters as far as what information is requested and then make a motion to continue the meeting. Monus suggested that since Ornelas is giving an easement that will run to the property line, as long as the easement is maintained, that it would be considered the parallel access road and any future development on the west side of the property will have

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ingress and egress to that easement as well. There may be some stacking issues there, but maybe they could come back with some designs for that.

Grover stated he does not see the stacking issue occurring, other than maybe once a year. Bach stated that the top wash for the car wash takes five minutes. Ten cars in each lane would be waiting fifty (50) minutes. Most people will not want to wait that long for a car wash.

Holly Grant asked Bach how much space is between the building and the sanitary line that is an issue. Bach replied twenty (20) feet. Holly stated that the variance for the one hundred (100) foot setback may not be necessary.

After further discussion, Hank Grover stated he would like to see a revised drawing showing where the traffic flow would be through the area when the other two sides of the property are developed. Jim Burgham stated he also wants to see when the property to either side is developed, that there is a continuous flow from the property west of the drive thru to the east of the drive thru.

Hank Grover stated that he feels the Board will not grant the setback less than one hundred thirty (130) feet.

The following motion was then made:

Motion

Jim Burgham made a motion in Case ZA-05-12 to continue the request at a future date to allow the appellant to provide additional information and a revised drawing that will address the concerns of the Board. Bill Custer seconded the motion.

Voting:

Yes Jim Burgham
Yes Bill Custer
Yes Holly Grant
Yes Al Franceschelli
Yes Hank Grover

Motion carried.

Meeting adjourned at 8:42 p.m.

Submitted by:

Michele Richards/Recording Secretary

cc: Trustees (3)
Board of Zoning Appeals (6)
Zoning Commission (6)
J. Granitto (1)
File (1)