

Board of Zoning Appeals Hearing Minutes

Greenfield Township, Fairfield County, Ohio

Greenfield Township Board of Zoning Appeals
Meeting Minutes 08/06/2024

Meeting called to order by Jeff Williamsen, Chair at 6:07PM

Pledge of Allegiance recited by the group.

Roll Call Present: Dave Bichard- yes, Jeff Williamsen – Yes, Leann Racki - Yes, Elizabeth McNeese- Yes

Also in attendance; Tom Erlenwein, members of counsel for Fairfield county, representatives from Fairfield County Prosecutor's office.

Jeff Williamsen noted the purpose of this meeting is to hear the variance request. He requests anyone who wishes to speak to be signed in. He stated this is an official proceeding. The meeting will be recorded and minutes will be published on the website. The recording will be available by official public records request.

Secretary Leann Racki read the purpose of the hearing:

This hearing is to hear the application for a variance on the following property:

Owner: Precision Pain Care
Address: 1533 Election House Road
Lancaster OH 43130

Tax Parcel ID # 0140099510

Current classification: B-1

Items under consideration within the B-1 section 340.05, item b of the zoning code:

Within this section, all parcels require the following:

Under section 340.05, item b of the Greenfield Township zoning code, all parcels require a minimum of 150 feet of road frontage. The developer requests a variance to this requirement under the parcel split application to Greenfield Township.

Jeff Williamsen swore in those in attendance who wished to give testimony in this hearing.

The Zoning Inspector, Tom Erlenwein gave the background on the request for the variance. Metro originally applied for a project within the township and made a decision to seek an Expedited Type II Annexation to the City of Lancaster. He thought that was either approved or in process. The only thing they needed to be able to consolidate all the parcels they would like to build on is a split of this parcel with Precision Pain Care. I assume they already have an agreement to use all of the other parcels. So this parcel requires a split to allow them to use it for their planned build on the other parcels. When they

required a parcel split, it was already approved by the Regional Planning Commission, subject to the final review and approval by Greenfield Township resolution requirements. He knew there was an issue with frontage when they dropped the application off. Another thing he questioned, and he is unsure if it is a fact or not, was that there may be an issue with runoff of the paved surface areas. He is unsure what that will be replaced with since there will be a lot of paved surfaces with this apartment complex. The only thing the Board of Zoning Appeals needs to consider is the issue of frontage.

Counsel clarifies the paperwork handed out to the Board members earlier is an application for the variance for conditional uses. It is a standard procedure used to go through the application process and get in front of the Board of Zoning Appeals. Counsel clarifies that everything Tom discussed previously is contained within the document handed out earlier. Tom stated the only thing he had to do follow up on, is an email from Precision Pain Clinic authorizing Metro to apply. Metro is in the process of buying the lot, but it needs to be split to be able to be consolidated with the rest of the parcels they intend to purchase. He also stated that is because it is an Expedited Type II, the tax base remains with the Township. So that includes not just the base taxes but any increased valuation of the property.

Jeff Willamsen asked about the affidavit from Precision Pain, but Tom clarifies that it is not within the application handed out, but he does have email confirmation that Precision Pain (current owner) allows Metro to Apply. His Counsel stated this is fairly standard in the process to allow the application.

Jeff Willamsen reads some excerpts from the Zoning Code that jumped out at him as he was reviewing this case. The first is in the Definitions Section, section 105.02. The definition of a Variance: - A modification from the strict terms of the relevant regulations where such modification will not be contrary to the public interest and where owing to conditions peculiar to the property and not the result of action by the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship.

Jeff also read Section 200.03, section D, 3. c. : Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance. He then read section 4: Variances shall not be granted on the grounds of convenience or profit, but only where strict application of the provisions of this code would result in an unnecessary hardship.

He stated he wanted to read those into the record as those are the thoughts in our minds as we hear the variance request.

Jeff Willamsen opened the offer to hear testimony from the applicant. Jill Tangeman spoke and identified herself as attorney for Vorys, Sater, Seymour and Pease, 52 E. Gay Street, Columbus, OH. She notes a couple of background matters: The property owners signed an application, so we typically do not provide an affidavit allowing her to be their representative, but she is able to provide one if needed. Jeff Willamsen declined the need to provide this documentation.

Jill Tangeman confirmed that all members of the Board have the application in front of them. She stated Metro Development was originally intending to develop this property within the Township, but due to issues with utilities and roadways, it became clear that the only way to proceed with the proposed development was to annex to the City of Lancaster. The site was going to be developed so hopefully in response to the comments about the character of the neighborhood, it is zoned in your business district and it was going to be developed in the exact same way it will be developed in the City of Lancaster. So,

for the character comments, it is consistent with what the proposal was planned for the Township. The Precision Pain Care property, as you know, is a business that sits on Election House Road and they do not want to annex into Lancaster, and we appreciate that. So, they are asking to split the back half, the vacant part of their property. That split will remain for a moment in time because once that is split, we are going to annex all of the property we are in contract to purchase into the City of Lancaster. In your application, we included the annexation map. All of those properties will be joined for purposes of our annexation and then will be developed in Lancaster. So, this lack of road frontage will remain for just a moment. We have already had the lot split approved by Regional Planning and the map for annexation has also been approved by the County Engineer. So as soon as we are able to work this out with all of you, we will turn around and file our annexation petition. As explained earlier, it is an Expedited Type II, so all of the land owners in the annexation have agreed to sign the petition and you will retain the tax base as a part of this Expedited Type II process.

Tom Erlenwein clarified that once the split is approved, all of the lots will be combined into one parcel and magically, all the road frontage will appear. It will not be buildable until all the parcels are combined.

Jill Tangeman confirmed that Regional Planning put a condition on this that the back half of the Precision Pain lot is not a buildable lot. So, even if something happens tomorrow, and we do not file the annexation petition there are 2 things you should know: it will not be a buildable lot and the other condition from Regional Planning is that there will be an access easement between the 2 properties that will become of record. So, if you're thinking that it is fine if they combine and annex, but what if we walk out of here today and the annexation does not get filed? That is not our intent, but I can understand that concern but if that happens, the lot will never be buildable and they will continue on as is with the easement in place.

Jeff Williamsen asked if the future plan includes something being built on this property. Jill Tangeman confirms that they plan to build a residential hotel, which is the same plan intended in the Township.

Elizabeth McNeese asked to define a residential hotel. Jill Tangeman explained it is a hybrid unit that has a hotel structure that has long-term stays, typical for folks that are relocating, or for long term work assignment, so they are typically on the property for up to 6-12 months. We are required by our hotel license that they have a minimum of 30-day stay. There is no maximum, but there is a minimum. Elizabeth clarified that it is not an apartment, but an extended stay hotel? Jill clarified that it operates differently than a Homewood Suites where you can stay just one night and it is completely furnished. That is not the case with these, they operate differently. Sometimes they are called workforce housing. Folks who are often building homes, relocating to this area, on long-term work assignment, here for an extended period of time, longer than 30-days.

Jeff asked if they would be able to establish residency and have mail boxes. Jill confirmed they will be able to establish residency with mail boxes, business center, meeting rooms etc.

Jeff clarified that if something happens and for some reason we OK this and Metro does not follow through with their plans for some reason, we will have this floating piece of land out there. Jill stated that technically there is an approval for a separate parcel, I have seen sometimes there are conditions that if it does not get annexed, it needs to be re-combined with the original property. So if the annexation doesn't happen within a year or so, the property would need to be re-combined so there would not be this floating piece of property out there. That would be fine with us.

Jeff noted that the B-1 classification does not allow living areas in the B-1 classification. Jill stated that this was already discussed with Legal Counsel for the Township and she is not going to discuss this matter again. Tom Erlenwein states that this is a residential hotel, which is not classified as a legal residence. Jeff stated that they just discussed whether the people living here will be able to establish residence. Tom reiterated that this matter was discussed and cleared between counsels with legal precedent in a legal agreement that the developer entered into with the Township. Jeff asked if this information is included in the application. Tom explained it is not in the application, but rather was discussed that a residential hotel is an exception that would be allowed. Counsel for Fairfield County confirmed this process and the agreement, and stated that the issue is beyond the scope of a variance request, as the request focuses only on the lot frontage issue. Tom asked if it is reasonable for the Board to apply a condition to the approval that it revert back to the previous property as it is a non-buildable lot if the annexation does not happen. Jill Tangeman confirms the acceptance of such a condition, and states understanding of the concerns expressed. She stated that all of the paperwork is ready and will be filed immediately, so if it does not get approved in a year, that is a reasonable request.

Jeff stated that under B-1 zoning anything over 1 acre is a buildable lot and this is over 1 acre. Jill Tangeman states that the Regional Planning Commission is the one who put the condition on this property that it would not be buildable until it is combined. Joe Thomas from Metro states that they had to put a deed restriction on the lot stating this.

Tom asked about the plans handed out by Joe Thomas from Metro, looking at the drawing at this lot site, identified as "PID OR PG" asked if that is a building shown on the lot. Joe Thomas indicates yes, it is a building, but it cannot be built until combined with the other properties. Jill Tangeman confirms this is not a buildable lot until we combine it with the other properties. The condition from Regional Planning is that it is not buildable as a stand-alone lot.

Joe Thomas from Metro Development asked to speak. He stated that they have looked at this from many different ways. As a point of continuity from the City of Lancaster, we had to reach out to New Life Christian Church and work with their group as a part of this process. They have agreed to annex about 10 acres of their property to the City of Lancaster as a part of this process as well. So your question about the neighbors being aware of this process, I want to make it clear that we have worked with the surrounding property owners, particularly the Waffle House, New Life Church to let them know about this process and they have allowed us to annex some of their property as well. This all comes down to timing. We could, of course, close on the property, join the lot and the lot split with the MRJJ LLC property you see on this page, but it is a risk to us that we would not have a final plan approval as far as the engineering, the building permits and roadway plan to complete the project. Jill Tangeman stated it is hard for us to secure a construction loan to start the project until all of these things are in place. Joe stated that we are asking for your help to insert this property into a moment of time, hold its place, nothing can be built on it, and an access easement will be put in place. Then the deed restriction and access easement will be removed once it is combined with the MRJJ parcel. As far as the storm water, as Tom mentioned the basin on there currently for the Pain Clinic, which we'll be removing and all the storm water for existing parking lot for the pain clinic and the all the new development will go into our stormwater management, which will include easements from Precision Pain for their access into the storm water management ponds. Everything will drain to our storm water basin and slowly release under Columbus Lancaster Road. That's where the storm water basin comes into play.

Jeff Willamsen stated there is an easement for access through the parking lot. Jill Tangeman confirmed this and states this will only exist until they combine with the other parcels and annex to Lancaster. This was a condition from Regional Planning, so even for this moment in time, there needed to be access. I know you recently granted a variance with another property with an access easement with Meijer with a split that didn't have road frontage. Tom noted that it was for Ohio Credit Union. Jeff indicates that was due to lack of access to main roads, which is different than this, since there will not really be any road access at all if we grant this variance.

Elizabeth McNeese asked them to help her understand more about what would happen if the variance was not granted. Joe Thomas states they could have Precision Pain care annex to Lancaster, out of Greenfield Township, and out of Fairfield County, which is one option. Or we can have MRJJ ownership buy that parcel and join it to their property as part of that development process. So, this is simply the easiest, simplest and least amount of time to grant this split and when our annexation and development plans get approved, we would combine all of those parcels with the exception of the New Life Christian Church. The David Jones Trustee parcels, the MRJJ parcels and the balance of the acreage of the Precision Pain. So this is just the simpler and less time consuming way of getting there than the other options. Dave Bichard asked if the other options change the Expedited Type II annexation, if the township will still retain the property taxes. Both Jill and Joe explain that the Expedited Type II will still be in effect and the Township will still retain the property taxes. Elizabeth McNeese asked if that is indefinite and Jill Tangeman confirmed it is, under the high-rise code. Jill noted that the hardship here is really related to the lack of utilities if we tried to develop in the Township. And it is really hard for us to close on all these properties without them being annexed and having assurances for development purposes. A construction lender is not really going to approve that. It is like a chicken and egg, where, as Joe said, in theory we can close on all these, and not have to deal with this issue on the split, but we won't be able to get a lender to do that. So it really is tied to the financing to the development and the utilities to the property.

Elizabeth McNeese clarified that the annexation is mostly due to the codes and the Township would not allow it to be built there, and the utilities. So, if we are retaining the tax revenue, who will be maintaining the emergency services? The City of Lancaster will handle the emergency services, as Jill stated they have already worked with the City of Lancaster on this. Joe stated their efforts have been aimed at Fairfield County and Regional Planning to come up with solutions with the lack of frontage because the parcel is so narrow. It would have been perfect if the Pain Clinic would have had more frontage and it could have been a flag lot, but it doesn't exist. So for the purposes of this lot, we have worked out the solutions with Fairfield County, Regional Planning, the County Engineer, County Health Department, County Planning Staff. And the one last condition we needed was the lot split from Greenfield Township as a part of this process.

Jeff Willamsen asked if in effect, that this will happen anyway? Joe Thomas stated that yes, ultimately we will figure out a way to do it, but it will impact the timing. Jeff stated he knows we should not consider that. Joe stated he is asking for the Board's consideration for the purposes of the timing of the project. From the standpoint of the Pain Clinic having to annex to the City of Lancaster, or for the other owners purchasing the property from Dr. Ron Lenihan, who is the owner of the Pain clinic ahead of time. And then closing with them at a later time. There are a couple of options to get that done without the frontage, but the frontage will come along Election House Road when it gets connected to the other property. Dave Bichard confirmed that this is just the quicker way.

Jeff Willamsen asked what will happen to the softball field behind the church. Joe Thomas indicated

nothing will change with what the church is planning to do. They were looking for more housing in Greenfield Township or Lancaster, and this is a quicker way to obtain more affordable housing as a church. We are not paying the church to annex into the City of Lancaster, so there is no money transaction, but they are looking for a way for their congregation to grow, or to have more affordable housing for their congregation. And we are also developing some other housing. We will provide the church with additional drainage as well, which will also probably help the soccer field in the long run.

Leann Racki asked about the Township's obligation to this property if we maintain the tax base, but the City of Lancaster is providing utilities and emergency services. Jill Tangeman states that the beauty of the Ohio Revised Code Annexation process is that Lancaster takes over all of the expenses, but you keep the tax base. Counsel indicated they cannot conform the boundaries down the road, under the Ohio Revised Code, it will always be Greenfield Township. Dave Bichard stated we need that to be kept in Greenfield Township.

Jeff Williamsen stated there have been meetings about utilities, and the Land Use Plan. The County Engineer states he has the capacity to extend, and I'm not sure who supplies utilities for Meijer and other properties. Joe Thomas indicates that they have discussed this with the County as well, and due to the timing of this project, Lancaster will supply utilities. Surrounding parcels will be served by Fairfield County otherwise. Also, there are some other stormwater guidelines, water oversight that are different between County and City standards and this particular piece of property will conform better to the City of Lancaster than the County at this time. There is some cost sharing to Fairfield county for capacity fees, which gives the County capacity to build further lines or whatever they need.

Jeff asked if anyone else has questions, of which there are none. Counsel requests that exhibits be numbered. The legal notice to property owners and application will be Exhibit 1 and the site map will be Exhibit 2.

Jeff opened the floor to opponents of the variance, of which there are none. He stated this concludes the hearing portion and the Board will enter Executive session at 6:45 PM.

At 6:59 PM, the Board returned from Executive session.

Chair Jeff Williamsen requested a motion.

Dave Bichard made a motion to approve the variance request on the condition that the Type II Annexation with the City of Lancaster occurs within 1 year of the application date. Leann Racki seconded the motion.

Dave Bichard- yes, Jeff Williamsen – Yes, Leann Racki - Yes, Elizabeth McNeese- Yes

Dave Bichard made a motion to adjourn. Leann Racki seconded.

Dave Bichard- yes, Jeff Williamsen – Yes, Leann Racki - Yes, Elizabeth McNeese- Yes

Meeting adjourned at 7:00 PM