

MINUTES OF THE
FAIRFIELD BOARD OF ZONING APPEALS
March 3, 2021

Scott Lepsky called the Board of Zoning Appeals hearing to order at 6:00 p.m. at the Fairfield Municipal Building, 5350 Pleasant Avenue.

Roll Call

Maria Mullen, Secretary, called the roll of the Board of Zoning Appeals. Present members were Tony Rawe (TR) Joseph Koczeniak (JK), Mary Stier (MS), Scott Lepsky (SL), and Dale Paullus (DP). Leland Rosato, Building Official and Steve Wolterman (SW), Law Director were also present. SL made a motion to excuse Erin Simons, and was passed by the Board. Erin Simons arrived at 6:03 p.m.

Pledge of Allegiance

Minutes of the Previous Meeting

The minutes were approved from the Board of Zoning Appeals meeting held on January 6, 2021.

Joseph Koczeniak was recognized and thanked for his ten years of service with the Board. This evening was his last meeting.

New Business

Case No. BZA-21-4 – Outdoor Seating – 5841 Dixie Hwy

A variance request submitted by Piyush Patel, for the property located at 5841 Dixie Hwy in the C3-A zoning district.

Section 1165.04 (a) of the zoning code states “All businesses, services or processing shall be conducted wholly within a completely enclosed building...”

LR gave a summary of this case:

- Proposed Dairy Queen is requesting the variance outdoor seating.
- Outdoor seating violates ordinance that all businesses or services shall be conducted wholly within the building
- Area/Size Variance is requested.

Technical Staff Notes:

- Proposed area will be enclosed by fence/gate and landscaping for separation from traffic
Note: The outside seating area for Dairy Queen, has a similar location and same intent as Panera Bread which is located next door. The Board approved Panera’s outdoor seating area.
- Technical Staff contends that the variance sought does not seem to pose any significant hazard or nuisance to public or detachment from the intent of the zoning code, but would recommend the following pending approval:
 1. Gravel NOT permitted in landscaping beds
 2. Follow similar conditions of approval for Panera Bread variance
 - The Board recommended adding protective measures such as easily identifiable markings at building entrance or exit for public / pedestrians that cross the proposed drive-thru lane while exiting or entering the building.
 - If speakers with music are installed on the outside patio, the volume must be at a reasonable level for background music, and can only be played between the hours of 9 am to 10 pm.

Property Owner Comments and Discussion

Mike Chandler with Leesman Engineering and Associates, spoke on behalf of the applicant, Piyush Patel.

- LR's summary covered the variance request, but he had a few extra notes.
- The pedestrian exit has moved to the other corner of the fenced patio area.
- The new exit location is further from the building and more visible to the cars in the drive thru.
- That part of the parking lot is an exit only. Vehicle traffic will be only one way.
- The fence will meet the building to close off the patio near the drive-thru.
- Mr. Chandler is not sure if the owner will want to outdoor music or even speakers on the patio, but he can advise him any restrictions the Board would like to have for outdoor music on the patio.

Public Comments

No one came forth.

Board Action

Scott Lepsky made a motion to approve the variance request with the following conditions:

1. There will be no gravel in the landscaping. The applicant has noted that change to the proposed landscaping plan.
2. If speakers for music are installed on the outside patio, the volume must be at a reasonable level for background music, and can only be played between the hours of 9 am to 10 pm.
3. The applicant will work with Staff on additional protective measures for pedestrians, such as striping and/or anything else that might be appropriate for the walkways.

Erin Simons seconded the motion. The motion carried 7-0.

Case No. BZA-21-5 – Fence Exceeding 6 Feet Tall and Gravel Storage Area – 4325 Muhlhauser Rd

A variance request submitted by Joshua Lewis of iVCP Muhlhauser 2 LLC, for the property located at 4325 Muhlhauser Rd, Lot No. 13271, in the M-2 zoning district.

Section 1180.04 (b)(1) of the zoning code state, fences "shall not exceed six feet in height above the elevation of the ground where located."

Section 1183.05 (c) of the zoning code, as to the requirements for a storage area lot, states, "All off-street parking areas including driveways, entrances, exits, lanes and aisles shall be surfaced with an asphaltic or Portland cement binder pavement so as to provide a durable, dustless surface..."

The business owner is adding a storage yard for very large and heavy water, sewer, storm drain products and materials. Instead of using the pavement as required by our code, the owner is requesting to use eight inches of DGA (Dense Grade Aggregate) for the storage yard. As security for the storage yard, they are requesting a variance to install an 8-foot tall chain-link fence with mesh and barbed wire.

LR gave a summary of the variance request:

- Core and Main Company – Distributor of water, sewer, storm drain, and fire protection system products and components
- Currently located on Production Dr (with outdoor gravel storage lot) – 20+ jobs. The company is looking to grow to 30+ and consolidate on this site (a portion of their business is occupying the 4325 Muhlhauser building)
- Two (2) variances sought; outdoor gravel storage lot and an 8-foot tall fence with barbed wire.
(Violates ordinance for concrete or asphalt paving and maximum 6' height limit for fences)

- Size/Area Variances are requested.

Technical Staff Notes:

- To clarify: Variance for outdoor gravel storage lot includes area for future expansion (but not likely due to rough topography close to rear property line).
- For reference: City Planning Commission approved outdoor gravel storage lot for JTF Construction further west on Muhlhauser last year.
- Would not appear to have negative effect on adjoining properties, plus the location has minimal exposure from Muhlhauser Road. (photos shown)
- Technical Staff has no objection to the requested variances with consideration of the following recommended conditions:
 1. Conceptual approval is granted for both the "Proposed" and "Future" gravel storage yards, provided that civil engineering site plans are approved by City staff.
 2. Sufficient stormwater drainage and detention is provided for all gravel storage yard areas.
 3. Three strands of barbed wire is permitted atop the 8' tall fence, provided that the bracket arms face inward toward the storage yard.
 4. Any mesh or other screening installed on the fence will be maintained in good condition, repaired or replaced as needed.
 5. A row of arborvitae or other tall evergreen landscaping will be installed along the northwestern edge of the fence line as shown on the provided plan.

SL asked SW should they consider in the potential conditions of approval, referencing LR's recommended condition of staff approval of the engineering plans and utility easements. SW stated the Board could apply conditions for entire gravel storage area, which includes the future expansion of the gravel storage area. LR said technical staff (STR) would review plans, landscaping, utilities and such for their approval and before the project moves forward. SW told SL it would be wise to add plan and site approval to the conditions even though it is the normal process for Staff.

SL asked if the Board would approve the gravel storage area, could they specify the kind of material allowed to be stored. SW explained they could add a condition on the type of materials stored on the gravel storage area. He does not believe there is an intention of storing motor vehicles, trailers, those types of equipment. Placing a condition of approval identifying types of materials to be stored will prevent unapproved storage on the site.

ES asked LR if the detention area shown on the site plan will be enough to accommodate the run off from both the gravel storage areas. LR explained that the detention area proposed will accommodate the proposed gravel storage area. The future proposed gravel storage area would need review by Staff for the possibility of another detention area to accommodate it. Gravel in place of a paved surface can create dust and gravel out to the main road, and has been considered on other cases that have come before the Board. LR feels this will not be an issue with this particular gravel area since is set very far off the main road, and there is a service drive between the main road and the storage area.

Property Owner Comments and Discussion

Josh Lewis with iVCP Muhlhauser 2 LLC, spoke for this variance request.

- Stated he could not add much more to what LR presented to the Board. LR gave a good presentation of their request.
- They just purchased this property in February. The City's staff was a great help.
- Core & Main has been located in Fairfield for a long time, and they would like to keep them in Fairfield.
- He sees no problem with the conditions recommended by Staff. This includes Staff approval on the site and utilities, and the building drawings.

- He asked to modify the suggested condition for the “use.” He would say as long as the use is consistent with the zoning that is approved, they could continue to use the gravel area for storage.
- If they were to change the use to something the zoning does not allow, then they would come back to ask for permission.

SL suggested additional conditions that address the “future” gravel area and the storage of materials. SW said they could clarify the use, and restrict the gravel storage area for storage of a specific type of materials, such as “construction services materials.” SW stated they would not be restricting the property use as a whole; it would just restrict the use of the gravel storage area. Mr. Lewis does not want to limit a new tenant’s ability to use the gravel storage area. SW clarified the zoning code currently does not allow for any storage on gravel, only on a paved surface. If the owner changes the type of materials to be stored in the gravel storage area, then the owner would need to apply for a new variance request. If the owner paved the gravel area with concrete or asphalt, they would not need to BZA approval, but may need Planning Commission approval depending on what they plan to store in that area.

LR explained that Staff’s concern was future use of the gravel storage area. Over time or if there is a new tenant with a new use, and they want to use a portion of this lot for motor homes or it slowly becomes a reminiscent of a junk yard, there are zoning rules against those types of things. As long as we can say it is limited to this type of construction materials, then it should not be a problem. Should a new tenant take over the area wanting to store the same materials or other types of materials, it would be review by Staff, and they would determine if it is the same intent of the approved use or not. If not, then it would be a new variance request.

Public Comments and Discussion

No one came forth.

Board Action

Scott Lepsky made motion to approve the both variances with the following conditions:

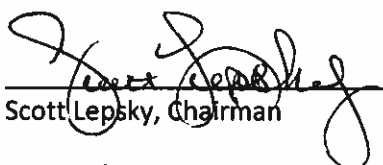
1. Conceptual approval is granted for both the “Proposed” and “Future” gravel storage yards, provided that civil engineering site plans are approved by City staff.
2. Sufficient stormwater drainage and detention is provided for all gravel storage yard areas.
3. Three strands of barbed wire is permitted atop the 8’ tall fence, provided that the bracket arms face inward toward the storage yard.
4. Any mesh or other screening installed on the fence will be maintained in good condition, repaired or replaced as needed.
5. A row of arborvitae or other tall evergreen landscaping will be installed along the northwestern edge of the fence line as shown on the provided plan.
6. The graveled area is for storage of construction services related material. **

Dale Paullus seconded the motion. The motion carried 7-0.

** Materials listed under this last condition originally stated as “large and heavy water, sewer, storm drain products and materials,” by SL. SL amended the type to “construction services related material”, and seconded by DP.

Adjournment

SL made a motion to adjourn, seconded by ES. The motion carried 7-0.


 Scott Lepsky, Chairman


 Maria K. Mullen, Secretary