

Board of Zoning Appeals Meeting
September 29, 2022
ZA-07-22
ZA-07-21 (Continuance)

Members/Attendance: X Michael Johnston
 X Ricky Morrison
 X Albert Sciulli
 X Robert Durick
 X John Grahovac
 N/A John Savarise

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

Mike Johnston called the meeting to order at 7:00 p.m.

1st Order of Business:

Mike Johnston stated that the first order of business is to approve the minutes from the meeting held on June 23, 2022. Bob Durick made a motion to approve the minutes from the June 23, 2022 meeting. Al Sciulli seconded the motion.

Voting:

Yes Bob Durick
Yes Al Sciulli
Yes John Grahovac
Yes Mike Johnston
Yes Ricky Morrison

Motion carried.

2nd Order of Business:

Case #ZA-07-21 – This case is a continuance from a prior hearing for Poland Touch Free Car Wash located at 3345 Center Road, Poland, Ohio, which was previously brought before the Board to modify an approved Conditional Use Permit for the following purpose: They have installed an external air drying system outside of the rear part of the building. These dryers were creating complaints of excessive noise from the residential properties to the rear of the car wash. Since this variance was approved as a Conditional Use, the Board of Zoning Appeals needs to approve or deny this modification of the dryers and/or come up with a solution to resolve the matter. This hearing is to review what the Board has decided about the improvement to the reduction of noise and to let the property owners that it affects come forth and give their input. The representative of the car wash is Dustin Bach DBA/East Ohio Properties, LLC, and East Ohio is the owner. The parcel is known as Lot 2, parcel #35-022-0-001.01-0, and is located in a Town Center (TC) zoning district.

Mike Johnston stated this is a continuance of the case. At the meeting held on July 22, 2021 Justin was going to install sound dampers on the drying mechanism of the car wash. There were neighbors in the Ridgley Park neighborhood concerned about the sound. Johnston stated he has listened to the sound at the car wash.

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Mike Johnston asked if anyone for Dustin Bach is present for this case. No one is present in the audience to represent the case.

Mike Johnston asked if anyone in the audience would like to speak in regard to this case.

Eric Medved
3308 Ridgley Park

Eric Medved stated since the last meeting he has noticed no difference in the sound at the car wash. Mike Johnston asked Medved if he resided there in 2021, heard the sound conditions prior to the dampers being installed, and hears them now, and states there is no difference. Medved stated that is correct.

Ricky Morrison stated that he remembers Medved being at the first meeting. Morrison stated that the muffers were installed at the carwash.

Al Sciulli asked Medved asked how much difference in sound there was when the dryers were moved from internal to external. Medved stated you could not hear the dryers when they were internal, and it has gotten louder when they were external. Ricky Morrison asked Medved if he knew that the external dryers were being installed. Medved stated no.

Mike Johnston stated he did go listen when the case first came before the Board and also recently and has not noticed a difference in the sound either. He also stated that Dustin had not communicated to the Board that he was moving the units outside. He talked about putting dampers, or muffers, but that was it.

Mike Johnston stated that due to Dustin not being in attendance, the Board cannot act on this case, except to continue it. In the meantime, Bob Monus called Dustin and he stated he was on his way, as he thought that the meeting began at 7:30 p.m. Mike Johnston stated the Board will move to the next case, and then hear Dustin's case.

3rd Order of Business:

Case #ZA-07-22 – This is a request from Justin Sargent to retain an outdoor wood burning furnace that he is currently installing. Wood burners require a Conditional Use permit, which are granted from the Board of Zoning Appeals. This burner will be located on a vacant lot next door to his home (which he also owns). The home and lot are both located in Poland Township, Poland, Ohio. His home is known as at 8827 Woodland Drive, parcel number is 35-072-0-009-00-0 (lot 21) and his vacant lot is parcel number 35-072-0-010.00-0 (lot 22). Both lots are located in a (R-1) Residential-1 zoning district.

Items included in packet submitted:

1. Zoning Permit Denial Form
2. Application for Variance
3. Letter of Intent
4. Iworq Office Information
5. Property Description (Auditor)
6. Zoning District Map
7. County Plate Map
8. Site plan showing property line

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- 9. Enlarged site plan
- 10. Warranty Deed

Justin Sargent
8827 Woodland Drive

Mike Johnston asks Justin Sargent if he has anything to add. He states no and that everything is stated in his letter.

Bob Durick asked Sargent if the lot he is placing the burner on is to the right of his property. Sargent states yes. Durick asks Sargent why the burner cannot be placed on the lot where his home is. Sargent stated they recently moved there because they wanted more land. He spoke to friends that already have furnaces and they suggested the furnace be placed on the vacant lot close to the fuel. There is an access way on the lot and he is in the process of cleaning up the lot from dead trees, etc. Durick asks Sargent how many linear feet from the furnace to the house. Sargent stated he thinks it is 28 feet.

Mike Johnston asks Sargent, for a matter of clarity, if he owns both lots. Sargent states yes.

Bob Durick asks Bob Monus what the township rules are for this variance. Monus stated it is a conditional use permit and the reason for regulating these wood furnaces is they don't always fit in every neighborhood. If you have a furnace in a close, dense neighborhood there is constantly a wood smell in the air. If it is a rural area, more open space, there is a little more flexibility in terms of that. The area and neighbors are taken into consideration; one area can be a little more sensitive than the other. The Township felt that they had to regulate this and the best way is through conditional use, coming before the Board.

Mike Johnston asked if anyone would like to speak in favor of this request. No one responds. Mike Johnston asks if anyone would like to speak against this request.

Stephanie Gennaro
8811 Woodland Drive

Gennaro stated she is not opposed to the appellant having the wood burner; she is opposed to the location of it. She showed a picture of her property that also shows the appellant's wood burner to the Board. She stated her air conditioning unit is on the side of the house where the burner is. She stated another neighbor Don has a burner, but it is located at the back of his property and the trees block it. She showed the Board a picture of his (Don's) burner. She stated that this burner is not as intrusive as the one that Justin is putting in. She is not against the burner, just against the location of it. She would like to open her windows.

Mike Johnston asked Gennaro, as a neighbor, what would be an acceptable solution. Gennaro stated she would like the burner moved to the back of the lot where it will dissipate in the trees and not be in your face. She does not have a problem with it; she would just like it at the back of the property. She stated that the other neighbor next door mentioned that she would also like it moved as she has kids with lung issues.

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Mike Johnston asked if anyone else would like to speak against the request. No one responds. Mike Johnston stated that since hearing none, he asks Sargent if he would like to address the concerns of his neighbor.

Justin Sargent stated as far as the smoke goes, he understands. He stated when he first moved there, the neighbor's smoke blew across and he was concerned. His furnace is about 35 feet further deep into the lot and his stack is low. Justin stated that he has extra stack that he can add to his furnace as well. He didn't think the furnace would be a problem since everyone burns wood in the area.

Mike Johnston asked Sargent if he is offering that as a remedy, to install extra stack. Sargent stated yes. He stated that he had started harvesting some wood and had some complaints about where he had placed the wood pile, but this is temporary and he plans to move it to where it will be blocked out by his house and the woods. Once he gets the furnace going, he will be able to burn some of it.

Mike Johnston asks Sargent if he can move the wood to the back of the lot, in line where the neighbor's is located. Sargent stated they had a lot of water when they moved in. His basement had four inches of water the day they got the keys. He started to look at the drainage system in his backyard and had a friend from a tree company look at his property to see where he could do some trenching through the woods and not kill the trees to where they would fall on the house. The friend suggested he get a wood burner, but with the land being wet he would be dealing with heat loss. That is another reason why he placed it where it is to get away from the water issues. Sargent stated if he moved the furnace further, with the inefficiency, it probably would not be worth it.

Mike Johnston asked how many feet of stack extension he has? Sargent stated he can get more; he can go up to 21 feet, which would be six more feet. Johnston asks Gennaro if this will be an equitable remedy. Gennaro stated no, she will still not be able to open her windows and the smoke will still be in the air all of the time. Sargent stated when he first burned the furnace, there was a lot of smoke, but the furnace was cold and there was a lot of wet wood. When you first start the furnace, it throws out a lot of smoke, but it will burn year around and it will be hot constantly so you will not see smoke like the first time. Gennaro stated that this has a tremendous effect on her property value.

Ricky Morrison stated this case is a little more difficult than he expected. There are solutions, and he understands it will cost more, it will dissipate heat, but at the same time there are neighbors with concerns, and there is another neighbor with an identical furnace. He went on to say that Mrs. Gennaro stated she is fine with wood burner, just not the location. Mrs. Gennaro stated that is correct. Justin Sargent stated he is willing to exercise any other options to appease that, but to dig it all up and move it will be pretty devastating.

Mike Johnston stated this is an unfortunate situation and in the beginning if the appellant had known a permit was required, he would not be in the position he is now. The meeting could have taken place before the installation was done. He does not see any practical reason why it cannot be located to the back of the property line. He understands it is a financial hardship, but it is not this Board's place to make a decision based on financial hardship.

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Al Sciulli asked Sargent if he has a conventional fireplace in his house. He stated yes. Sciulli asked if he burns wood in it. Sargent stated he tried it last year, but it did not heat the house. Durick asked if he has a blower motor in it. Sargent stated no.

Ricky Morrison stated there is a solution here. The appellant can move the burner back to make the neighbor happy, but unfortunately that will be a hardship. If he had pulled a permit in the beginning, he would have known that it would have not worked.

Mike Johnston stated (speaking for himself) that he is leaning towards having the appellant move the burner to the back of the property line to appease the neighbor and have the burner in line with the other neighbor's burner. Ricky Morrison stated he agrees.

Al Sciulli asks Bob Monus if there is language in the current zoning code pertaining to wood burners. Monus stated there are no design standards; it just states you need a conditional use permit. Placement of the unit is decided at a meeting before the Board.

Mike Johnston stated that maybe this is not the right application for Sargent as far as the burner is concerned. He might just need a furnace. As far as the stack extension, we can allow installing the stack extension, continuing the case, allowing him to operate with stack extension, reconvene and hear the case again, but we are probably prolonging the inevitable. He feels it is too close to the road also. Moving it back would solve the concerns here.

Mike Johnston asked Bob Monus if this is an approve or deny situation. Monus stated whatever option the Board agrees to. The Board can provide a conditional use for 30, 60, or 90 days, or just deny the conditional use.

John Grahovac stated this is very unpredictable because a solution may be made by adding a higher stack to alleviate the neighbor's concern, but with moving it back and not knowing what the weather conditions will be and wind, there may still be an issue with the smoke affecting the neighbor's property. He feels that the Board can apply the conditional use for 30, 60, or 90 days, and put the stack extensions higher to see if it makes a difference. That would give the appellant time to save money in case the furnace would have to be moved to the back of the property.

Ricky Morrison stated that the neighbor, Gennaro, is concerned about smoke, her property values, and looking at the furnace.

The following motion was made:

Motion

Ricky Morrison made a motion in Case ZA-07-22 to deny the conditional use permit of the wood burner.

There was no second to this motion, more discussion follows.

Ricky Morrison stated if the Board gives the appellant 30 days and he adds the stack extension, the smoke is still going to go in the air and the neighbor, Gennaro, is still going to have to look at it. We are not solving the problem. Mike Johnston asked Morrison if he would amend the motion to deny in its current location, but approve it if it was relocated, say forty (40) feet back. Morrison stated yes.

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Ricky Morrison stated to the appellant that there are two solutions. He asked Sargent if he is willing to move it back fifty (50) feet and try it, or does he just not want to have the wood burner? Sargent stated he would appreciate the opportunity to try the extra stacks, but as far as moving it, he would have to calculate everything and see if there is a good spot as far as the water issue is concerned. Morrison stated to Sargent that the Board is meeting again next month. This case can be tabled until such time of that meeting. Sargent can figure out if it is viable to move it back forty (40) or fifty (50) feet or whatever. This will give between three and five weeks additional time.

Bob Durick questions if the neighbor, Gennaro, is concerned about the aesthetics of it. Gennaro stated if it is moved back in line with the other neighbor's, she can still sit out on her back deck. She has no problem with the wood burner; she just wants it moved back and away from her house.

Mike Johnston stated in summary that the Board will continue the case and notify the appellant of the next meeting date. At the next meeting, the Board expects to see a drawing indicating the new proposed location for the wood burner. If it is acceptable to all parties, a judgment or ruling will be made. Johnston suggested that the appellant and neighbor work together to determine a location or a solution.

Mike Johnston asked Monus if the appellant is permitted to use the furnace until the next meeting. Monus stated as long as the neighbor does not object, he has no issues. Gennaro stated she has no problem until that time. Johnston suggested to Sargent that if he installs the extra stacks during this time also. Sargent stated yes he will do that. Gennaro stated she is not concerned about aesthetics as she has a landscaper coming in to block everything. Ricky Morrison asked Gennaro for the record that she is not worried about aesthetics and more worried about the smoke. She stated that is correct, her main concern is the smoke. She has a landscaper coming to block everything.

The following motion was then made:

Motion

Ricky Morrison made a motion in Case ZA-07-22 to table this case until the next meeting, in which the date is to be determined. John Grahovac seconded the motion.

Voting:

Yes Ricky Morrison
Yes John Grahovac
Yes Al Sciulli
Yes Bob Durick
Yes Mike Johnston

Motion carried.

2nd Order of Business:

Case #ZA-07-21 – Continued from the beginning of this meeting for Poland Touch Free Car Wash, Dustin Bach, Appellant.

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Mike Johnston stated that Dustin Bach is present at the meeting. He stated to Dustin that the Board is discussing the sound remediation measures that have been installed at the carwash. Back in July of 2021 there were several residents that had concerns about the noise of the dryers from the car wash. At that time, Dustin had suggested sound remediation measures of mufflers to install on the dryers. He asked Dustin to approach the Board and explain what he has done.

Dustin Bach
Poland Touch Free Car Wash

Dustin Bach stated that they did install the silencers and covers, which took awhile to get due to supply issues. Mike Johnston asked Bach if he feels this did reduce the noise level. Bach stated the noise is reduced some. Johnston asked Bach about the dryers being moved from the inside to the outside of the tunnel. Bach stated this was done as an equipment upgrade. This equipment will allow the cars to move faster in the carwash and the new dryers have more horsepower. Johnston asked sound wise if the dryers come with some type of decibel rating. Bach replied that according to the web site of the manufacturer, they are 75 decibels at 60 feet on an outside mount. Johnston asked Bach what the rating was of the previous dryers. Bach stated he did not know.

Mike Johnston asked if the Board had any questions. No one replies.

Johnston went on to say that he listened to the old system as well as the new system, but to his ear he did not notice a difference. Ricky Morrison stated he listened also and he did not know what the sound was like prior to the new dryers, but it is still very loud. Morrison said to Bach that it was mentioned at the previous meeting about installing a sound barrier type wall. Bach stated no, since they do not own the property behind the car wash.

John Grahovac stated he understands the property issue and asked Bach if there has been any thought about where the outside dryers are located to put some type of enclosure in front of that. Bach said that after the last meeting they discussed looking into that option with the contractor. It is definitely doable; he is not sure what the cost will be and how much more it will drop the sound. Johnston stated he understands the cost factor and suggested to Bach that he consult with a sound engineer for some recommendations, as there are still concerns of sound in the neighborhood.

Bach stated they are in the process of updating some of the other car washes and one thing they are also thinking of doing at the Poland location is updating the vacuum system.

Johnston stated to Bach that it sounds like he is planning to take some further steps in the future and asked what the timeline will be. Bach stated since fall is here, it is late to start construction for the upgrades so it will be in the spring. He has reached out to Rich Yankle to come up with a set of drawings for the vacuum upgrade. Morrison asked if they will be fully enclosed like the old ones. Bach stated there will be walls and they will make it aesthetically pleasing.

Mike Johnston asked if anyone in the audience would like to speak.

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Eric Medved
3308 Ridgley Park

Medved stated that the problem started when the dryers were moved from inside the building to outside. When they were inside, they did not hear anything. He stated the noise is quite distracting. While he is sitting on his patio and the dryers are on, you cannot have a conversation outside. He can still hear the noise inside his house as well, when the dryers are running. He stated he has not noticed any difference.

Mike Johnston stated to Bach that Medved is just one resident voicing his concern and as a Board they take it seriously, as he should as well, and try to present a solution. The residents have been dealing with this since the dryers were moved outside and it seems like that will be their final resting place. He stated he understands that moving the dryers outside helped the throughput to push cars through there which helped increase revenue. He stated he would like to see some type of plan or remediation. He stated to Bach that once they have some drawings, if they can submit them to the Board, and then at that point the case can be continued. Bach stated he is agreement. He has a meeting scheduled with his contractor for the next day and will discuss this with him.

Mike Johnston asked Bach what a reasonable time will be that he can provide the drawing. Bach stated he should be able to provide it by the next meeting. He will have his contractor expedite it. Bach stated he is in agreement.

The following motion was then made:

Motion

Ricky Morrison made a motion in Case ZA-07-21 to table this case until the next meeting, in which the date is to be determined, in which the appellant will provide plans and drawings for his next steps. Al Sciulli seconded the motion.

Voting:

Yes Ricky Morrison
Yes Al Sciulli
Yes John Grahovac
Yes Bob Durick
Yes Mike Johnston

Motion carried.

The Board proceeded to discuss the dates for the next meeting.

Meeting adjourned at 8:35 p.m.

Submitted by:

Michele Richards/Recording Secretary

cc: Trustees (3)
 Board of Zoning Appeals (6)
 Zoning Commission (6)
 Paul. Canter, Fiscal Officer (1)
 File (1)