

**Richfield Township Board of Zoning Appeals  
November 15, 2021**

The meeting was opened at 6:30 p.m. on November 15, 2021, with the following members in attendance:

Jeffrey Smola, Chair  
Natalie Grubb, Vice Chair  
Geoffrey Graham, Member  
Christi Gable, Alternate

**Also in attendance:**

Patricia Ryan, Zoning Inspector  
Marvin Evans, Summit County Assistant  
Prosecuting Attorney  
Attorney Mark Stockman for Mr. Hooke  
Randy Hooke, applicant  
Gary Cerasi, applicant  
Bridey Matheny, attorney for neighbors

Chris Kichurchak, 3175 W. Streetsboro Rd.  
David Sabol, architect for Mr. Cerasi  
John Allega, applicant  
Jim and Becky Vocaire, of 5144 Hecker Dr.  
Don Faulhaber of 5145 Hecker Dr.  
Stephen Donaldson, 3185 W. Streetsboro Rd.

The meeting was called to order by Mr. Smola at 6:30pm. At 6:34 Mr. Smola motioned to enter executive session. Motion was seconded by Ms. Grubb. All voted in favor.  
The Board returned and resumed the regular meeting at 6:57pm.

Mr. Smola announced case 651-21 for 3205 W. Streetsboro Rd. and administered the oath to Mr. Cerasi and Mr. Sabol. Mr. Cerasi explained the changes they have made per the Board's previous comments including turning and attached the garage to the existing garage and reducing the size from 3 cars to 2 cars. They also moved the barn further back, so it is out of the line of sight of the neighbor to the west. They have shown where the drains, well and septic are located on the property and believe they have proven there is no other place to locate the buildings.

Mr. Smola stated the Board and Township had no jurisdiction over the private animal barn or agricultural uses so they would not be addressing that application.

Ms. Ryan stated they still needed to follow the Summit County ordinances regarding animals.

Mr. Smola stated any nuisances would be addresses by the Summit County Health District or other agencies.

Mr. Smola then addressed the garage and the changes the applicant had made in response to the Board's concerns.

Mr. Graham stated the variance is for 18'-9" which is just over 31%.

The Board discussed the changes and the well.

With no other Board comments, Mr. Smola asked if there were any proponents or opponents in attendance. Mr. Stephen Donaldson of 3185 W. Streetsboro came forward and was administered the oath. He stated his property is to the north of the property being discussed. He wanted to know what the height of the new garage will be and that he is concerned about the shade cast on the area to the north of the new garage which is a wet area. Any additional shade may prevent the area from drying out. It was confirmed by Mr. Sabol the height would be the same as the existing garage. Mr. Donaldson reviewed the plans and was agreeable to this.

Attorney, Matheney came forward and asked if the Board would be taking any questions on the barn. Mr. Smola said the Board would not be addressing it, they have no jurisdiction on agricultural uses. Attorney Matheney stated she was representing several neighbors who had environmental concerns. Mr. Smola stated the County would handle these and any issues with animal waste would be addressed by the Summit County Health District.

With no other comments from the audience Mr. Smola closed the public portion of the hearing and read Resolution 651-21A for the garage.

Ms. Grubb made a motion to amend the Resolution to remove exhibits F and G since they related to the barn only and since the Board has no jurisdiction on agricultural uses these should be removed and noted that they were not taken into consideration for case 651-21. She also wanted it noted the plan dated 11-1-21 is the official plan. Mr. Smola seconded the motion. All voted in favor.

Mr. Smola made a motion to approve the application as modified. Ms. Grubb seconded. All voted in favor. Application 651-21A was approved unanimously 4-0-0.

Mr. Smola opened case 657-21 and attorney Mark Stockman and Randy Hooke were administered the oath. Mr. Hooke summarized the history of this proposed lot split and presented the changes made from the last application. In response to the Board's comments from the last application they are now proposing leaving the 60-foot frontage for Parcel 'A' whole and reducing the frontage for the remaining 4 lots within the 125-foot area to the north from 37 feet to 31.25 feet. This removed one lot from requiring a variance, the undesired split frontage for Parcel 'A' and 'B' and the need for several deed restrictions. The only deed restriction remaining would be for the maintenance of the common drive and to prohibit any relocation of the drive.

There was discussion about flag lots and the need for variances.

The Board also discussed removal of the front house to reduce the need for 4 lots in the rear to 3 and therefore reduce the variance from 31.25 feet to 41.66 feet. Mr. Hooke stated that due to wetlands, Parcel 'A' would not ever be able to access the common drive. Mr. Hooke stated and showed the Board the Army corps of Engineers permit and wetland delineation information. He is permitted to impact less than 1/10<sup>th</sup> of a percent of the wetlands. If he exceeds that he needs to apply for a national permit. He did not submit the wetland information because he did not feel it was necessary since it did not impact the frontage, but the drawings do show the existing house is surrounded by wetlands on 3 sides which would prevent the use of the shared drive by Parcel 'A'.

Ms. Grubb requested the wetland information be added to the Exhibits.

Mr. Smola called for any proponents or opponents to come forward. There were none. Mr. Smola closed the public portion of the hearing and read Resolution 657-21 and requested the wetland information presented be added to the Exhibits as 657-21-D.

Roll Call: Ms. Gable, yes. Mr. Graham, yes. Ms. Grubb, no. Mr. Smola, yes. Application 657-21 was approved 3-1-0.

Mr. Smola introduced Case 658-21 for JJJ Properties located at 3020 Columbia Road. John Allega came forward and was administered the oath. Mr. Allega reviewed his statement pertaining to the burden of proof for the variance request.

Mr. Allega stated originally they thought they would need a 10 foot variance but due to CEI wanting a greater setback they are now coming for a 25 foot variance. The front of the building is facing east and not the street.

Mr. Graham noted the addition is labeled as future. Mr. Allega said it has been shown as future expansion on the plans from the very beginning.

Ms. Ryan said that just because something is on a plan as future does not mean it is considered. Many times applicants show pools, decks or whatever as future items on their plans but they would not be considered if not part of the permit requested. Future is future and those items may never be added.

Mr. Smola asked about the crushed concrete pile area. Mr. Allega said they are gone but the BZA approved the crushed concrete if he went back 500 feet.

Ms. Grubb stated there is a beneficial use without the variance. Mr. Allega agreed. Ms. Grubb continued stating the payroll taxes are immaterial. Mr. Allega disagreed saying the purpose of the JEDD is to bring income to the Township, this is a benefit.

Ms. Grubb said there is nothing that states you don't need to meet the standards because a property is in a JEDD. Mr. Allega said you are reducing the income to the Township. Ms. Grubb answered that that is not a problem for the applicant. This pertains to the use. Mr. Allega said if money doesn't count then no.

Ms. Grubb said when a property owner purchases a parcel they need to investigate to see if their use fits.

Mr. Smola asked if there is any other place the building could go. Mr. Allega said no due to the CEI easement narrowing going to the west.

Ms. Grubb noted this was a large property and asked why it couldn't be located on one of the other areas. Mr. Allega said the property is already split. When this was originally presented the split was not approved, split is done. The lot across the new Allega Way roadway is under contract to FedEx and there is another contract with (not clear) for the 11 acre parcel to the east. Ms. Grubb explained Mr. Allega showed the building on this large lot years ago. Mr. Allega agreed. Ms. Grubb stated that last year, knowing he had a building that needed a variance he went ahead and split the parcel into 3 parcels. Mr. Allega said that was not true, he is expanding the warehouse not the offices. He has plenty of office space for ACM but needed more space for their lab. They never wanted 25 feet variance, thought it would be 10 feet. They built the first building without variances and thought it would be done sooner but just received the building permit in September so they couldn't come before the BZA until after the building permit was issued.

Ms. Ryan explained that if they had applied for the variance prior to the zoning certificate it would have restarted the entire zoning review process and delay the zoning certificate.

Ms. Grubb asked how the variance is not substantial. You state issues regarding loss of real estate taxes and payroll losses as a reason.

There was a discussion regarding the 7 standards and if an applicant needs to meet all. Mr. Allega said Ms. Grubb is stating he needs to meet all of them.

Ms. Grubb replied certainly many times people do not meet all 7 standards. Mr. Allega is relying on his position statement to identify factors that would pertain to the variance requested. Regarding the fact that he knew and stated he would need a variance, and Mr. Allega agreed he knew, but the statement was hedged with saying he previously discussed this with the zoning inspector, which one? Mr. Allega responded he spoke with Laurie Pinney. Ms. Grubb asked where the evidence is of those conversation(s). Mr. Allega responded there are numerous emails and Ms. Ryan just stated that to not hold up the zoning certificate he held back on the variance to get the building up. Everything has been on site for 6 months. Mr. Allega didn't care what the Board decides, Ms. Grubb is wrong. He did not know what the others think but he does not need all 7 factors and who cares about the turnpike? They didn't care when they clear cut. This increased the sound by about 5decibels. The turnpike didn't care they encroached on his property with a fence so why would they care if he built on top of the turnpike – who is going to see it? They won't and people driving down the road won't either.

Ms. Grubb replied that would be an argument for if this would change the neighborhood. Other than that he has not addressed other points. Mr. Allega stated he had. Ms. Grubb claimed she disagreed stating in Mr. Allega's mind the additional real estate taxes and income tax are the sole consideration.

Mr. Allega asked then what is the purpose of the JEDD? Why did the township join with the 3 communities if not to develop and bring income to the township? The only income to the township outside of real estate is the JEDD. He claimed the Board (or Ms. Grubb) didn't care about the money.

Mr. Smola said in thinking about Mr. Allega's comments regarding the JEDD, would it affect the decision process of this Board? They do consider the intent of the zoning laws so why couldn't they consider the intent of the JEDD?

Ms. Grubb replied because the JEDD does not apply to the entire township. When you look at case law the variance standards are for the entire township, you don't change or modify the standards because there is a JEDD. These standards apply to the JEDD area.

Mr. Allega responded that was not true, the LI-O is regulated by the JEDD.

Ms. Grubb told Mr. Allega he was misunderstanding her. There are 7 standards he must meet/address.

Mr. Allega angrily replied that he does not need to and walked out of the hearing. Attorney Evan advised the Board that since Mr. Allega did not withdraw his application the Board could continue the hearing in progress and still vote or continue the hearing to the next meeting date.

Mr. Smola motioned to continue the case to December 20<sup>th</sup> meeting date. Ms. Grable seconded. Ms. Grubb said they still need to hear from the proponents and opponents.

Roll call: Mr. Graham, yes. Ms. Gable, yes. Ms. Grubb, no. Mr. Smola, no, stating he would like to hear from the people in attendance. The motion to continue failed with 2-2-0 vote and the hearing resumed.

Mr. Smola asked if anyone wanted to speak. Mr. Don Faulhaber came forward and was administered the oath. He said he was still having difficulty discerning the building location on the parcel, so he doesn't have enough information to be for or against the issue. Discussion ensued regarding the location of the building on the drawings and aerial views shown on the screen. Mr. Faulhaber asked if this location would require a buffer yard or wall. The response was no, it would not. Mr. Faulhaber felt the sound of the turnpike may bounce off the new building and add more noise for the residents.

Mr. Smola asked if possibly the orientation of the building would block noise. Mr. Faulhaber responded he did not know.

The Board discussed the uses in the building and the expansion area.

Ms. Ryan explained the building has 5 businesses and the expansion is a testing lab for one of those, ACM.

Mrs. Becky Vocaire came forward and was administered the oath. She is concerned about the lights on the building and the further impact to her property. The Board discussed the orientation of the building and the site design. The Board mentioned the bays are located on the west side of the building and they would be using Allega Way to access Brecksville Rd.

Mr. Jim Vocaire came forward and was administered the oath. He stated that Mr. Allega has a history of saying one thing and doing another. Mr. Allega will do whatever he wants regardless of what anyone says. He was also concerned about the lights.

With no other comments Mr. Graham motioned to continue the hearing to December 20 at 5:30pm. Ms. Gable seconded. All voted in favor. Application was continued 4-0-0.

Mr. Smola asked Ms. Ryan to ask Mr. Allega for information regarding the lot split, lighting and usage as well as any other items the neighbors brought up.

Mr. Graham made a motion to approve the minutes from the July 19, 2021 meeting. Mr. Smola seconded. All voted to approve except for Ms. Gable who abstained. The vote was 3-0-1.

Mr. Smola made a motion to approve the minutes from the August 16, 2021 meeting. Ms. Grubb seconded. All voted to approve except for Ms. Gable who abstained. The vote was 3-0-1.

With no other business before the Board Mr. Smola motioned to adjourn, Ms. Gable seconded. All voted in favor, 4-0-0.

Chairperson

Secretary

Date

1-17-22

