

BOARD OF TRUSTEES

Allen M. Freeman
Nicholas J. Kelly
Peter J. Kambelos, MD

Fiscal Officer

Debbie S. Schwey

Administrator

Loretta E. Rokey



950 Locust Corner Road
Cincinnati, Ohio 45245

(513) 752.6262

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www.piercetownship.org

Pierce Township Board of Zoning Appeals Hearing
950 Locust Corner Road
Wednesday August 4, 2021
5:00 pm.

Agenda

- I. Call to Order: Gregg Gentile, BZA Chair
- II. Roll Call: Mr. Sander _____ Mr. Holte _____ Mr. Lembke _____ Mrs. Holman _____ Mr. Gentile _____ Mr. Heyse _____ Mr. Buhr _____
- III. Pledge of Allegiance
- IV. Review and Approval of: Hearing Minutes from June 21, 2021
- V. **Oath taken by all attendees and staff wishing to speak during these hearings**
 - a. Staff presentation
 - b. Applicant presentation
 - c. Discussion by the Board
 - d. Open public comment
 - e. Motion to close public comment
 - f. Additional discussion by the Board
 - g. Motion to approve/deny/approve with modification(s)
- VI. New Business (Public Hearings):
 - 1) Case VC2021-002: An application for one (1) dimensional variance(s), from Pierce Township Zoning Resolution, 6.06-1 (Setbacks), to build an addition on the side lot line (15' required). The applicant is proposing to construct a 726 sq. ft (+/-) addition in the side yard to improve operational efficiency of the restaurant, submitted by John Trautman, for property located at 1097 SR 125 Road Pierce Township, Ohio 45245.
- VII. Other business:
- VIII. Adjournment

Next Meeting: August 10

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Board of Zoning Appeals
Meeting Minutes
Case #VC2021-001
June 21, 2021

The Board of Zoning Appeals of Pierce Township, Clermont County, Ohio met at 6:30pm, on Monday June 21, 2021, at the Pierce Township Administration Building, 950 Locust Corner Road.

CALL TO ORDER/ROLL CALL

Chairman Gregg Gentile called the meeting to order. Board members answering roll call Mr. Gregg Gentile, Mr. Ray Lembke, Mr. Fred Heyse, Mr. Bob Sander and Mr. John Buhr. Township personnel who were also present: Mr. Eddie McCarthy, Planning & Zoning Administrator.

PLEDGE OF ALLEGIANCE

Chairman Gregg Gentile led everyone in the Pledge of Allegiance.

APPROVAL OF MINUTES FROM OCTOBER 12, 2020 MEETING

Mr. Lembke made a motion, seconded by Mr. Heyse to approve the minutes of the October 12, 2020 hearing as amended, to remove “, and”. Roll call on motion: Mr. Sander, yea; Mr. Gentile, present; Mr. Heyse, yea; Mr. Lembke, yea; Mr. Buhr, present.

OATH TAKEN BY ATTENDEES

Chairman Gregg Gentile administered the oath to attendees.

CASE #VC2021-001 2998 Motts Road

Chairman Gregg Gentile opened the hearing on case #VC2021-001 2998 Motts Road.

STAFF REPORT FOR CASE #VC2021-001 2998 Motts Road

Mr. McCarthy presented his staff report for BZA case #VC2021-001. An application for one (1) dimensional variance(s), from Pierce Township Zoning Resolution, 4.05-1, which requires Detached Accessory Garages to be located in the Rear Yard. The applicant is proposing to place a 1,440 sq. ft accessory structure in the side yard.

PRESENTATION FROM APPLICANT

Mrs. Sheila Harris gave her testimony about why she is requesting the dimensional variance for a detached accessory garage in the side yard. Mrs. Shelia Harris talked about the topography, and use of the detached accessory structure.

PUBLIC COMMENT

Chairman Gregg Gentile administered the oath to Mrs. Paliobagis.

Mrs. Paliobagis of 2986 Motts Road stated she has no issues with the structure, understands the spirit of the law and feels what they are doing is tasteful and the structure is keeping within the house they built.

Mr. Heyse made a motion, seconded by Mr. Lembke to close the public comment.

DELIBERATION BY BOARD OF ZONING APPEALS

The board discussed their concerns about extending the slab and moving the detached accessory garage back to come into compliance, topography, neighbors barn location, building without a permit, and use for detached accessory structure.

MOTION

Roll call on motion: Mr. Sander, yea; Mr. Gentile, yea; Mr. Heyse, yea; and Mr. Lembke, yea; Mr. Buhr, yea. Motion passes.

Mr. Lembke made a motion, seconded by Mr. Buhr to approve the variance and substantially agree with the findings of staff and agree with staff’s conclusion with the following condition(s):

- 1) The applicant must comply with all federal, state and local regulations.

Roll call on motion: Mr. Sander, yea; Mr. Gentile, yea; Mr. Heyse, nay; and Mr. Lembke, yea; Mr. Buhr, yea. Motion passes.

ADJOURNMENT

At 7:09 PM, Mr. Heyse made a motion to adjourn seconded by Mr. Buhr Roll call on Motion: Roll call on motion: All yeas.

ATTESTED;

The foregoing minutes were approved by the Pierce Township Board of Zoning Appeals on _____, _____.

Gregg Gentile, Chairman

Date

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PIERCE TOWNSHIP ZONING OFFICE

Appeal No. VC2021-002

Appeal from Decision of Zoning Inspector

Or

Request for Variance

Appeal and \$400.00 fee filed
With Zoning Inspector
On 7/7/2021

RECEIVED
JUN 07 2021
BY: SFM

NOTICE: This appeal must be typewritten or printed and must be filled within thirty (30) day of the date of the decision being appealed.

TO THE PIERCE TOWNSHIP BOARD OF ZONING APPEALS

1. John A. Trautmann
Name
901 Ohio Pike, Suite 200, Cincinnati, OH 45245
Address 513-518-1354
Phone Number

Hereby requests the Board of Zoning Appeals to authorize issuance of a Zoning Certificate for:

J & K Trautmann Chili LLC (Owner of record)

1097 Ohio Pike

Amelia, Ohio 45102

Or grant a variance on the property described herein.

Attached hereto is a copy of the decision rendered by the Zoning Inspector.

2. Applicant is Managing General Partner
Capacity in which you appear _____

Of the property which is the subject of this appeal. Such property is located on the South
North, South, East, West

Side of SR 125 & Merwin 10 Mile and is known as No. 1097 Ohio Pike
Street or Road

State name of plot and lot number therein or amount of acreage, Section, Town, and Range number thereof:

PIN # 282808A 138 .92 acres

3. State the section or sections of the Zoning Resolution under which it is claimed this application or appeal may be granted: Article 13: Nonconformities 13.03 sec D & 13.04 sec E-1

6.06 Side + Front Setbacks JCS 7/7/2021

4. State fully the facts on which this application or appeal is based. (Attach additional sheets if necessary.)
Seeking Variance due to removal of existing storage shed to the rear of building to be replaced by a more permanent, sanitary and secure structure that will serve to operate business more efficiently and better serve the residents of Pierce Township. East property line: Currently drive up window is being utilized by a permanent and exclusive ingress and egress easement granted by the adjacent property that parcel is not owned by the same entity as the subject. West property line: The set back requirement is 50' from the property line. The building currently is non-conforming (see attached). The new structure would be tangent with the current building and the set back would be exactly the same.

5. Give names and addresses of the owners of all abutting lots or property as well as those on the other side of the street, or streets, immediately opposite said property: _____

East: Shrewd Investments LLC 1099 Ohio Pike

South: Patricia Prall 3840 Merwin Ten Mile Road, Amelia, OH 45102

West: Across Merwin Ten Mile Road, Shrewd Investments LLC 1091 Ohio Pike

North: Convest V LLC 1114 SR 125, Amelia, OH 45102

6. Is there any case pending in court or summons involving the use of the premises or the ownership thereof? Yes _____ No X if yes, please explain: _____

7. Are there any restrictive covenants, any restrictions of record by deed or otherwise, which would prevent the proposed use of the premises? Yes _____ No X if yes, what are they?

8. Is there any petition pending to change the zoning regulations affecting these premises?

Yes _____ No X proposed change. _____

9. Has any previous application or appeal been filed in connection with these premises?

Yes _____ No X if yes, when? _____

10. Attach a plot layout, drawn to scale, showing the actual shape, and dimension of the lot, of the building and accessory building(s) existing and the lines within which the proposal building shall be erected or altered.

11. As owner(s) of the property located at _____, we hereby grant permission to Members of the Board of Zoning Appeals and Staff of Pierce Township to enter the property for visual inspection of the exterior premises. The purpose of said inspection is to review the existing conditions of the subject site as they are relate to the application filed with the Board of Zoning Appeals.

I hereby depose and say that all the above statements and the statements contained in all exhibits transmitted herewith are true.

Paul W. ...
Appellant

Subscribed and sworn to be me this 7th day of July

2021.

My commission expires September 30th, 2023.

Logan Ard
Notary Public



LOGAN ARD
Notary Public, State of Ohio
My Commission Expires
September 30, 2023

Article 13: Nonconformities

13.01: Purpose

Within the districts established by this resolution, some lots, uses of lands or structures, or combinations thereof may exist which were lawful prior to the effective date or amendment of this resolution, but that are prohibited, regulated, or restricted under the terms of this resolution. The legitimate interest of those who lawfully established these nonconformities are herein recognized by providing for the continuance of such uses, subject to regulations limiting their completion, restoration, reconstruction, extension, and/or substitution. Nevertheless, while it is the intent of this resolution that such nonconformities be allowed to continue until removed, they should not be encouraged to survive, unless otherwise allowed in this article or specifically addressed in this resolution.

13.02: General Provisions

- A) Any nonconforming building, structure, lot, or use existing at the time of the effective date of this resolution may be continued, even though such building, structure, lot, or use does not conform to the provisions of this resolution. Such nonconforming building, structure, lot, or use, shall be subject to the provisions of this article.
- B) The lot on which there is located a nonconforming use shall not be reduced in area or width to a lot area or lot width smaller than that required within the applicable zoning district, nor shall any existing yard be reduced so as to be smaller than the minimum yard requirements thereof.
- C) Passage of this resolution in no way legalizes any illegal uses or structures existing at the time of the adoption of this resolution.
- D) If the legally nonconforming use of any dwelling, building, structure, or of any land or premises is voluntarily discontinued for two years or more, any future use thereof shall be in conformity with the provisions of this resolution.

13.03: Nonconformities and Changes in Use or Variances

- A) Whenever a nonconforming use has been changed to a conforming use, such use shall no longer be defined as a nonconforming use.
- B) The granting of a variance for a use or structure that otherwise complies with this resolution, shall not create a nonconforming use or structure when the variance is granted.
- C) When a property owner or authorized agent is granted a variance for a nonconforming use or structure that addresses the nonconformity, the use or structure shall no longer be considered nonconforming.
- D) If a property owner or authorized agent is granted a variance for a nonconforming use or structure that addresses some nonconformities but additional nonconformities continue, the use or structure shall still be considered legally nonconforming.

13.04: Nonconforming Uses

If at the time of adoption of this resolution, lawful uses of land or structures exist that would not be permitted by the regulations of this resolution, the uses may be continued so long as they remain otherwise lawful and provided:

- A) No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this zoning resolution unless it complies with the provision of Section 13.04 (E) (Expansion of Nonconforming Uses).

- B) No such nonconforming use shall be moved, in whole or in part, to any portion of the lot or parcel other than that occupied by such uses at the effective date of adoption or amendment of this zoning resolution.
- C) If any such nonconforming use of land is discontinued, abandoned, or vacated for more than two years, any subsequent use of such land shall conform to the regulations specified by this zoning resolution for the applicable zoning district.
- D) No additional structures related to a nonconforming use shall be constructed unless such new structure complies with the requirements of this resolution and the applicable zoning district.
- E) **Expansion of a Nonconforming Use**
 - 1) Notwithstanding the foregoing provisions to the contrary, the usable area of a nonconforming use may be increased or improved where the owner of such use can demonstrate through application to the BZA that the manner in which the useable area of the nonconforming use will be increased or improved will have minimal adverse impact upon adjacent properties and other permitted land uses in the surrounding neighborhood or can be made compatible with the adjacent properties and the uses in the surrounding neighborhood upon compliance with specified conditions.
 - 2) Variances to expand a nonconforming uses into a required setback or to otherwise vary a regulation that applies to the subject site shall be prohibited.
- F) **Termination of Nonconforming Uses**
 - 1) **Termination of Use through Discontinuance**

When any nonconforming use is discontinued or abandoned for more than two years, any new use shall not thereafter be used except in conformity with the regulations of the district in which it is located, and the nonconforming use may not thereafter be resumed. The intent to continue a nonconforming use shall not be evidence of its continuance.
 - 2) **Termination of Use by Damage or Destruction**
 - (a) Nothing in this zoning resolution shall prevent the restoration of a nonconforming use, building, or structure destroyed or damaged, or to prevent the continuance of such nonconforming use, provided:
 - (i) That the extent of the damage or destruction is less than 60 percent of the reproduction value;
 - (ii) That such restoration or construction shall not cause any new nonconformity, nor shall it increase the degree of nonconformance or noncompliance prior to such damage or destruction.
 - (iii) That such restoration or construction is commenced within one year of the date that such notice is given to the Zoning Inspector; and
 - (iv) That the owners of the property in question shall file with the Zoning Inspector a notice of intention to continue the nonconforming use within six months of such destruction or damage.
 - (b) In the event that such notice is not filed, then the nonconforming use in question shall be deemed to be abandoned, subject to the two-year rule.
 - (c) The BZA may review and decide upon the restoration of a nonconforming use damaged by fire, explosion, act of God or the public enemy, to the extent of more than 60 percent of its reproduction value.

13.05: Nonconforming Structures

- A) Any nonconforming structure may be enlarged, maintained, repaired or altered provided, however, that no such enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.
- B) No nonconforming structure shall be relocated in whole or in part to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the applicable zoning district.
- C) Governmental acquisition of a portion of a lot for a public purpose that results in reduction in a required yard or building setback below that required in the applicable zoning district shall not render a structure nonconforming.

13.06: Nonconforming Lots

13.07: New Construction on Single Nonconforming Lots of Record

- A) In any district in which single-family dwellings are permitted, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot of record at the effective date of this resolution or amendment thereto.
 - 1) The width of the side yard of any such lot need not exceed 10 percent of the width of the lot, provided, however, that the minimum side yard setback shall not be less than five feet.
 - 2) The rear yard setback of any such lot need not exceed 20 percent of the depth of the lot, provided, however, that the minimum rear yard setback shall not be less than 10 feet.
- B) Such lots shall be in separate ownership and not of continuous frontage with other lots in the same ownership.
- C) This provision shall apply even though the lot fails to meet the requirements for lot areas, lot depth, lot width, or any combination thereof that are generally applicable in the zoning district provided that yard and setback requirements other than those applying to lot area, lot width, or lot depth, shall conform to the district where the property is located. Any variance of yard or setback requirements shall be obtained through a variance approved by the BZA pursuant to Section 3.08 (Variances).

13.08: Repair and Maintenance

- A) On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, provided that the footprint and height of the structure as it existed, when it became nonconforming, shall not be increased.
- B) Nothing in this section shall be deemed to prevent the strengthening or restoring to safe condition of any building, or part thereof, declared to be unsafe by any official charged with protecting the public safety, upon order of such official. Where appropriate, a building permit for such activities shall be required.

13.09: Burden of Proof

An applicant for any development review procedure that deals with a nonconforming use shall bear the burden of proof in demonstrating that the use was a legal nonconforming use on the effective date of this resolution.

EAST VARIANCE

EXCLUSIVE PERMANENT EASEMENT

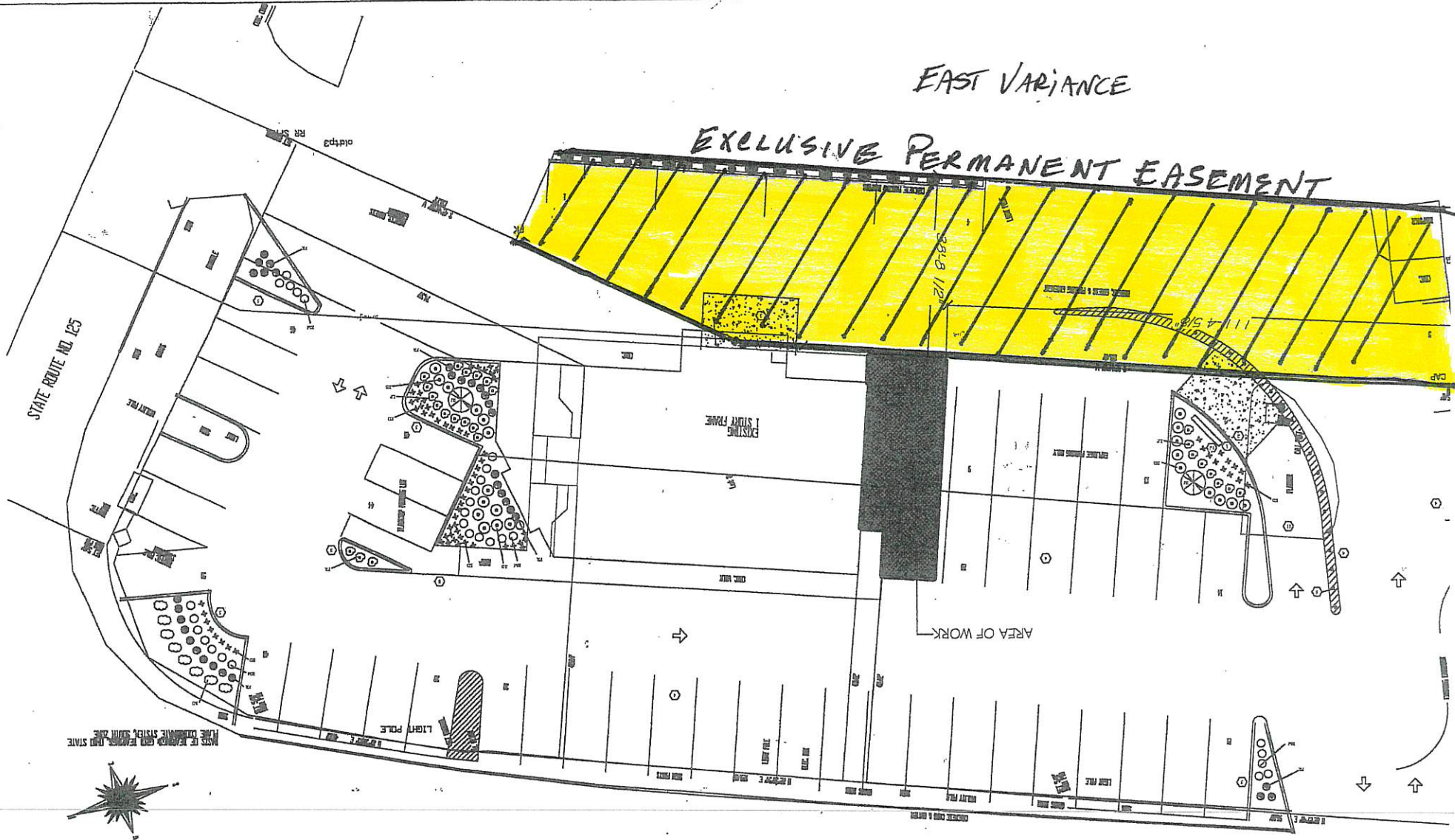
STATE ROUTE NO. 125

MEYDIN - TEN MILE ROAD

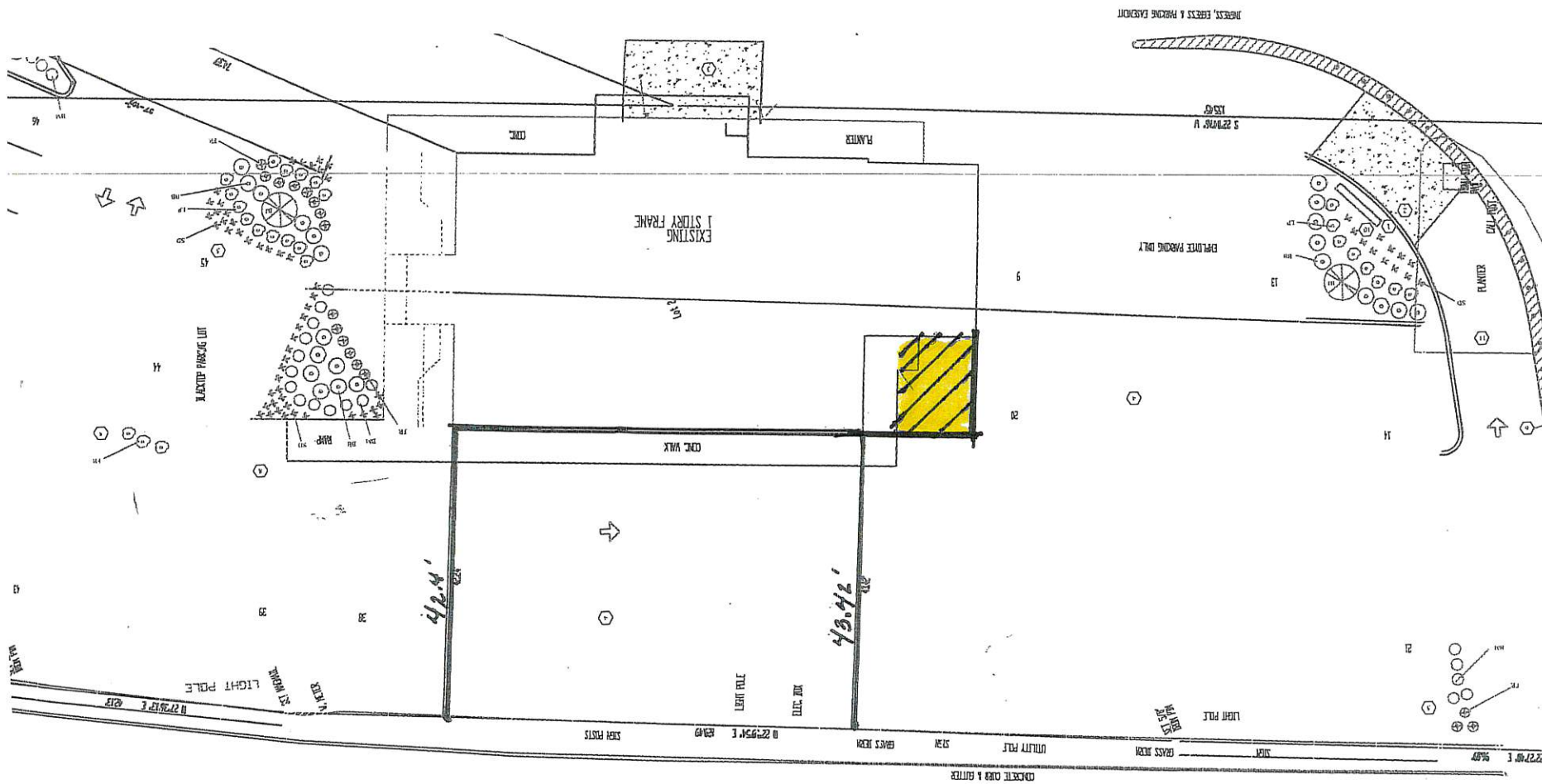


BASE TO REMAIN AND REMAIN THE STATE
LINE DETERMINE SYSTEM SOUTH SIDE

1. EXISTING TRAIL STRUCTURES
2. EXISTING TRAIL STRUCTURES TO BE REMOVED AND RECONSTRUCTED
3. EXISTING TRAIL STRUCTURES TO BE REMOVED AND RECONSTRUCTED
4. EXISTING TRAIL STRUCTURES TO BE REMOVED AND RECONSTRUCTED
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12. EXISTING TRAIL STRUCTURES TO BE REMOVED AND RECONSTRUCTED



WEST VARIANCE



ACCESS, EGRESS & PARKING EXHIBIT

S 27°16' W 135.6'

EMPLOYEE PARKING ONLY

EXISTING 1 STORY FRAME

BLANKET PARKING LOT

CONC. WALK

LIGHT POLE

LIGHT POLE

CONCRETE OVER 1 BATTERY

UTILITY FEET

GRASS AREA

GRASS AREA

CONCRETE OVER 1 BATTERY

CONCRETE OVER 1 BATTERY

LIGHT POLE

LIGHT POLE

**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**

Dimensional Variance: 1097 SR 125 (282808A138.)

Summary: An application for one (1) dimensional variance(s), from Pierce Township Zoning Resolution, 6.06-1 (Setbacks), to build an addition on the side lot line (15' required). The applicant is proposing to construct a 726 sq. ft (+/-) addition in the side yard to improve operational efficiency of the restaurant.

Owner: J & K Trautman Chili LLC

Applicant: John Trautman

Property Location: 1097 SR 125 Pierce Township, Ohio 45245, Parcel #282808A138.

Property Profile:

Acreage: .92 acres

Current Use: Commercial (Skyline Chili)

Zoning: General Business (GB)

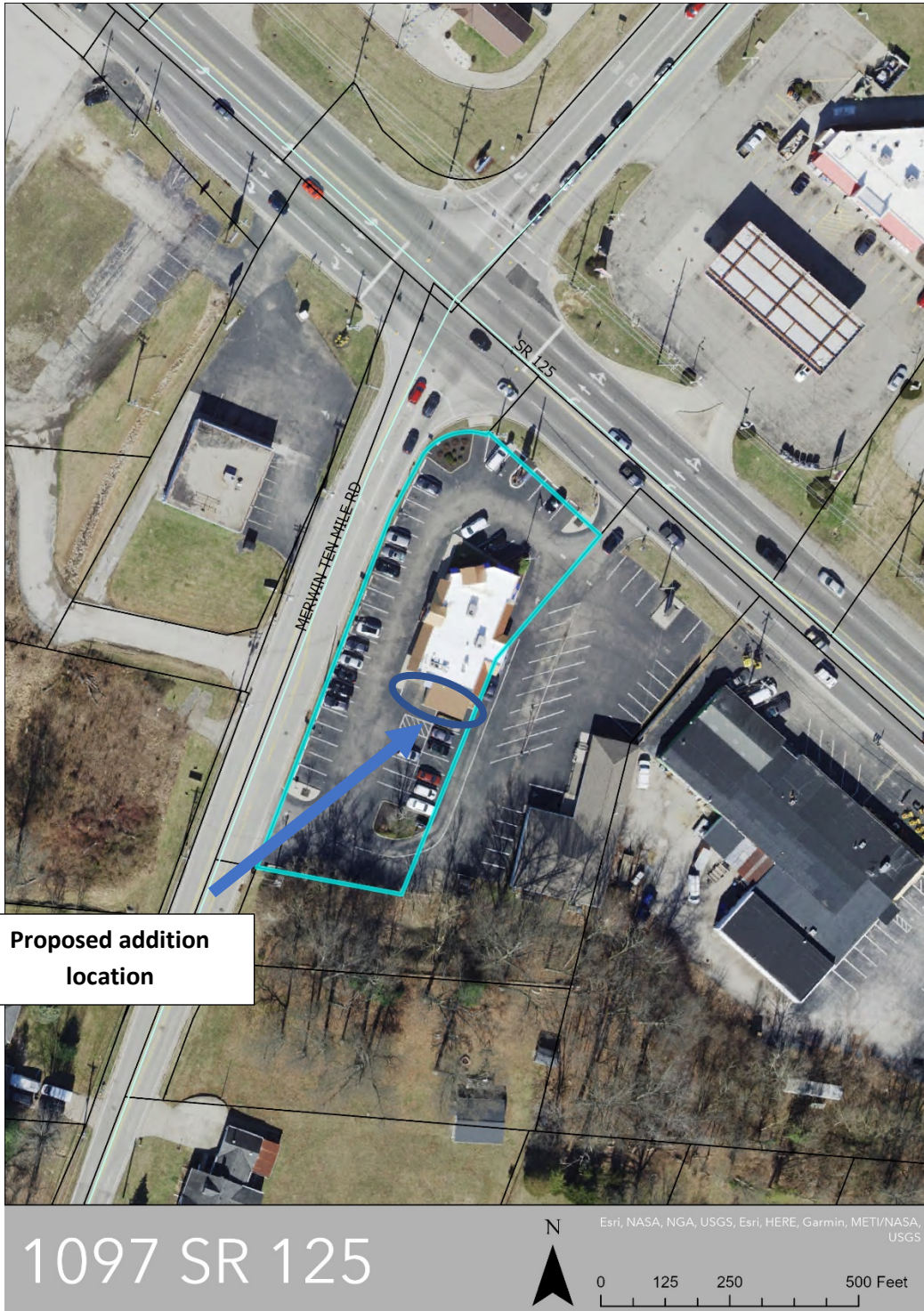
Land Use: Business Corridor

Proposed Structure Use: Commercial Accessory

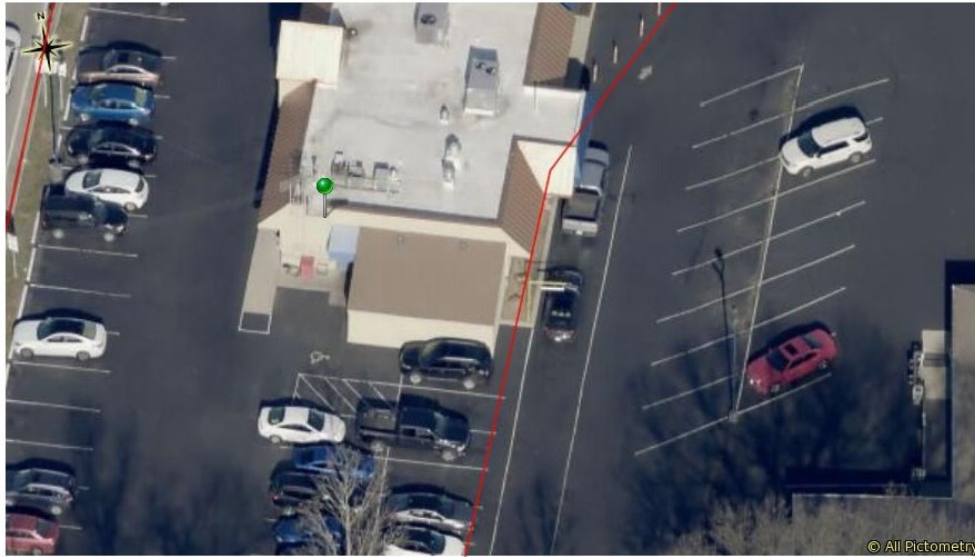
Prepared By: Eddie F. McCarthy, Planning and Zoning Administrator

Action Required: The BZA shall make a decision on the variance application in accordance with 3.08: Variances B) 2).

**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**



**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**



Staff Analysis and Recommendation:

History and Key Facts:

- 1) The present structure was constructed in 1984. (*Clermont County Auditor*) Based on a review of the Zoning Resolutions from 1980-1988, it appears that side yard setbacks were not required in Business Districts during this time. As such, this structure appears to be legal nonconforming.

13.05: Nonconforming Structures

- A) Any nonconforming structure may be enlarged, maintained, repaired or altered provided, however, that no such enlargement, maintenance, repair or alteration shall either create an additional nonconformity or increase the degree of the existing nonconformity of all or any part of such structure.
- 2) The lot in question is owned by J & K Trautman Chili LLC and the lot directly to the east is owned by Shrewd Investments, LLC (Mr. Trautman is a partner in both groups)
- 3) The existing 400 sq. ft “storage area” is being demoed and replaced with an approximately 726 sq. ft addition.

**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**

- 4) The applicant has stated that the lots can not be consolidated into one (1) due to the terms of the “loan”.
- 5) The applicant will lose 2 parking spaces, including an ADA space. It appears that approx. 54 parking spaces are required on site.
- 6) There is a 38’ shared easement with Shrewd Investments to the east, which includes multiple parking spaces.

Staff has reviewed the proposal (Dated July 7, 2021 in accordance with 3.08: Variances B) 2), specifically:

The following factors shall be considered and weighed by the BZA to determine practical difficulty:

- (a) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are: exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

Staff Comment: *The unique circumstance that exists is the fact that it is very likely that this structure was constructed in compliance with the regulations at the time. The present circumstance (setback) makes this structure a legal non-conformity.*

The applicant states that the reason the lots cannot be consolidated is due to financing.

- (b) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

Staff Comment: *The property may continue as a commercial property in the absence of an approval.*

**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**

- (c) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

Staff Comment: *The variance is substantial and does not appear to be the minimum necessary to best achieve the applicant's goals.*

Based upon the present extend of the rear nonconformity, it would be appropriate to maintain at least 5' from the property line and not extend further along the setback area, per 13.05.

- (d) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

Staff Comment: *Character does not appear to be adversely affected. The area is generally commercial in nature and the impact(s) to neighbors appears minimal.*

- (e) Whether the variance would adversely affect the delivery of governmental services including, but not limited to water, sewer, police and fire protection, trash pickup;

Staff Comment: *No effect*

- (f) Whether special conditions or circumstances exist as a result of actions of the owner;

Staff Comment: *The original development was constructed prior to the implementation of the 15' side yard setback.*

- (g) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

Staff Comment: *The applicant is permitted to construct an addition that complies with the regulatory setbacks presently in place (15').*

**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**

- (h) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and

Staff Comment: *The applicant's request does appear to conflict with the spirit and intent of the Resolution. The existing 5' distance must be maintained; the applicant is proposing to build directly onto the line and potentially expand the surface coverage encroaching on the setback. If the scope is tailored down to reduce the surface area encroachment and maintain the 5' setback, the spirit and intent would be met.*

- (i) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

Staff Comment: *Granting a variance based upon the proposed "expansion of the nonconformity" would confer a special privilege. If this proposal is tailored in a way to not increase the nonconformity, then it appears acceptable.*

No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.

Staff Recommendation and Board of Zoning Appeals Decision:

Variance 1 (6.06-1 Setbacks) - Upon review of the foregoing, staff has determined that the literal enforcement of this resolution will result in practical difficulty in accordance with 3.08 of the Zoning Resolution.

Staff recommends that the Board of Zoning Appeals consider approval of the application in accordance with 3.08: Variances B) 2) contingent upon the following:

- 1) The 5' setback be maintained.

**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**

- 2) The surface area (approximately 16' in extent) may not further increase unless in compliance with the Resolution.
- 3) The applicant must comply with parking requirements.
- 4) The applicant must comply with all federal, state and local regulations.

Determination(s):

3.08: Variances

A) Review Procedure The review procedure for variances shall be as follows:

1) Step 1 – Application

(a) An application for variance may be made by the person having legal authority, including an authorized agent, or by a governmental officer, department, board or bureau. (b) The completed application shall include a copy of maps, data, and any other requirements specified in Section 3.04 (Common Review Requirements) and shall be submitted to the Zoning Inspector.

(c) Each application shall be signed by the owners, or the authorized agent for the owner, attesting to the truth and correctness of all facts and information presented with the applications.

(d) The Zoning Inspector shall transmit a copy of the application to the BZA.

2) Step 2 – Public Hearing with the Board of Zoning Appeals

(a) The BZA shall fix a reasonable time for the public hearing on the variance application, give at least 10 days of notice in writing to the owner and owners of adjoining properties, and give notice of such public hearing by one publication in one or more newspapers of general circulation in the County at least 10 days before the date of such hearing.

(b) At the hearing, the BZA may continue the hearing in order to obtain additional information or to cause further notice, as it deems proper to be substantially interested in said variance application. In the case of a continued hearing, persons previously notified and persons already heard need not be notified of the time of resumption of said hearing unless the BZA so decides.

3) Step 3 – Decision

(a) Within 30 days after the hearing concludes (Step 2), the BZA shall make a decision on the variance application.

(b) A certified copy of the BZA's decision shall be transmitted to all parties in interest. Such decision shall be binding upon the Zoning Inspector who shall incorporate the terms

**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**

and conditions of the decision in the permit to the applicant or appellant, whenever the BZA authorizes a zoning permit.

(c) Failure to comply with the conditions of a decision shall be deemed a violation of this zoning resolution.

(d) Any party adversely affected by a decision of the BZA may appeal the decision to the Clermont County Court of Common Pleas.

B) Review Criteria

1) The BZA shall have the power to authorize upon appeal in specific cases, filed as hereinbefore provided, such variances from the provisions or requirements of this resolution as will not be contrary to the public interest. Where an applicant seeks a variance, said applicant shall be required to supply evidence that demonstrates that the literal enforcement of this resolution will result in practical difficulty for an area/dimensional variance or unnecessary hardship for a use variance. The following factors shall be considered and weighed by the BZA.

2) Area/Dimensional Variance

The following factors shall be considered and weighed by the BZA to determine practical difficulty:

(a) Whether special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable generally to other lands or structures in the same zoning district; examples of such special conditions or circumstances are:

**Pierce Township
Board of Zoning Appeals
August 4, 2021
Case Number: VC2021-002**

exceptional irregularity, narrowness, shallowness or steepness of the lot, or adjacency to nonconforming and inharmonious uses, structures or conditions;

(b) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;

(c) Whether the variance is substantial and is the minimum necessary to make possible the reasonable use of the land or structures;

(d) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer substantial detriment as a result of the variance;

(e) Whether the variance would adversely affect the delivery of governmental services including, but not limited to water, sewer, police and fire protection, trash pickup;

(f) Whether special conditions or circumstances exist as a result of actions of the owner;

(g) Whether the property owner's predicament can feasibly be obviated through some method other than a variance;

(h) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting a variance; and

(i) Whether the granting of the variance requested will confer on the applicant any special privilege that is denied by this regulation to other lands, structures, or buildings in the same district.

No single factor listed above may control, and not all factors may be applicable in each case. Each case shall be determined on its own facts.