

Board of Zoning Appeals Minutes
September 26, 2019 – 6:00 pm
233 South Main Street, Monroe, Ohio

The Board of Zoning Appeals of the City of Monroe met on September 26, 2019. The meeting was held at Monroe City Hall.

Call to Order

The meeting was called to order at 6:12 pm by Mr. Nerenberg. Members present were Mr. Adam, and Mr. Robbins.

Also present were: Kevin Chesar, Director of Development/Zoning Enforcement Officer; Kameryn Jones, Planner; Deana England, Deputy Clerk of Council.

Mr. Robbins moved to approve the minutes from the April 22, 2019 meeting; seconded by Mr. Adam. Voice vote. Motion carried.

Mr. Nerenberg opened the Public Hearing at 6:14pm.

Case No. 2019-2—Consideration of an application for variance regarding construction of a Kroger fulfillment center.

Ms. Jones stated that Mr. Mark Shefchik with Ryan Companies, on behalf of The Kroger Company, has requested variance regarding a Kroger fulfillment center located at 6266 Hamilton Lebanon Road. The project is for a 368,700 square-foot building, which is currently under construction. The facility will house dry and perishable food storage retrieved by an automated tote system, while the frozen foods will be a manual operation. All products are to be delivered to customers via small profile (sprinter) delivery vans. The property is zoned L-1 Light Industrial and is approximately 41.5 acres. This project was granted four variances in April of this year. As with the previous case, it is important to note that Kroger is the property owner of all involved parcels, and this variance request is related to the project's impact on Mr. Greco's residence.

Ms. Jones stated that in order to accommodate approval conditions rendered at the May Planning Commission, the site was reconfigured and resulted in the relocation of several accessory buildings and structures, access drives, and parking areas, as well as the removal of an access point along State Route 63. Though many elements of the site have shifted because of this redesign, the relocation of the van wash is the only change that now requires a new variance request. The applicant requests a variance to allow a reduction of the minimum front yard building setback requirement for an industrial site adjacent to a residential use (Greco residence) from 150 feet to 77 feet. Per the previous Board of Zoning Appeals approval, the closest setback encroachment permitted was for the CCR structure, which was to be located 101 feet from the Greco residence property line. With this request, the closest setback encroachment is for the vehicle wash building, proposed to be located 77 feet from the Greco residence property line.

An active residential use located in an industrial zone is a unique condition. The fact that the applicant (Kroger) now has ownership of that property but has allowed it be used for residential purposes in the short-term by the former owner of the property, Mr. Greco, who sold the land to Kroger, is also unusual. While there are a few other examples of residences located in industrial zoned areas, it is uncertain whether this specific arrangement is likely to occur again. The property may yield a reasonable return and be of beneficial use without the requested variance. This variance may be more than the minimum necessary to make use of the land. The zoning of the parcels has been industrial since at least 1997 and the Monroe Comprehensive Plan has called for this area to be industrial for a number of years. It is important to note that Code requirements are being met on the west side of the site adjacent to the Colonial Manor Square subdivision. The essential character of the neighborhood would not be substantially altered because of these variance, as it is located in an existing industrial park. While the former Greco property will be developed, which will alter what once was farmland, the variance is not the cause of that change. In relation to the single residential use that the variance pertains to, it is Staff's understanding that the current resident's desire (Mr. Greco) is to remain in the home for as long as is feasible. Mr. Greco has agreed to the proposed screening elements. The variance would not adversely affect the delivery of governmental services. The variance requested is specific to the user and its operations. The property owner/user is knowingly developing an industrial site with an active residential use on it, which requires a larger setback. The setback is a special circumstance as the immediate past owner of the property sold the overall property for the development and knowingly chooses to live on a single parcel in the middle of the industrial development. The predicament may be removed by eliminating the nonconforming residential use. Under the current agreement between Kroger and Mr. Greco, the use will be eliminated once Mr. Greco vacates the property. The code requirement regarding front yard building setbacks would be observed with the granting of a variance as one of the conditions of approval as rendered at the previous Board of Zoning Appeals meeting is to demolish the single-family home once the residence is vacated. The variance will not confer a special privilege on the applicant, as a condition of approval from the April Board of Zoning Appeals meeting is to demolish the single-family home once the residence is vacated.

Ms. Jones stated that Public Works, Police, Fire, nor the public have any comments at this time regarding this variance.

Ms. Jones stated that as a reminder, a variance from the requirements of this Code may be granted by the Board of Zoning Appeals when the Board determines that such a variance will not be contrary to the public interest and that, due to special conditions, practical difficulty or unnecessary hardship exist that prevent strict application of this Code. Staff's review and recommendation are based on Code interpretations as well as the potential for precedents that could affect overall enforcement of City standards and regulations. The BZA's approval, denial, or modification is not required to be based on all the above criteria being met. 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. The variance request is largely inapplicable to other industrial properties for several reasons: Staff is not aware of another situation in the city in which a property seller conditioned as part of a sales agreement that they be permitted to remain in a non-conforming residential structure that is essentially in the middle of an industrial development. The seller, Mr. Greco, has agreed to the new location along with a screening and landscaping plan understanding the proposed use and intensity that is to surround the property. Further, Kroger is in a sense requesting a variance from themselves as they are now the owner of the residential property/use. Based on the staff report presented and the items listed above, Staff recommends approval of the requested variance.

Mr. Adam moved to accept all documents as presented; Seconded by Mr. Robbins. Voice vote. Motion carried.

Mr. Adam moved to close the Public Hearing at 6:28pm; Seconded by Mr. Robbins. Voice vote. Motion carried.

Mr. Adam moved to approve Case No. 2019-2 Consideration of an application for variance regarding construction of a Kroger fulfillment center; Seconded by Mr. Robbins. Roll call vote. 3 ayes. Motion carried.

Mr. Robbins move to adjourn at 6:29pm.

Respectfully submitted by:

Deana England
Deputy Clerk of Council