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JUN 16 2022

SYMMES TOWNSHIP ZONING

HAMILTON COUNTY, OHIO

OFFICE OF THE ZONING INSPECTOR

138 E Court Street • Room 801 • Cincinnati, OH 45202
513-946-4550

APPLICATION NO

S20220092

BZA CASE NO

ZVSM202205

NOTICE OF REFUSAL

TO MARK HICKS
APPLICANT CINCINNATI POOL & PATIO
10731 READING ROAD
CINCINNATI, OH 45241

TO TIM BRESSON & AMANDA FERRIER
OWNER 10721 WEATHERSTONE COURT
CINCINNATI, OH 45140

AUDITOR'S ID NUMBER

BOOK: 620

PAGE: 170

PARCEL: 399

Your application dated June 6, 2022 for a zoning certificate for the construction of a swimming pool to be located within the side yard at the premises designated as **10721 Weatherstone Court** is hereby refused on this 6th day of June 2022 under Sections 41, Section 281 and Section 352 of the zoning resolution in that:

Section 41 of the Zoning Resolution and the Symmes Township District Maps designate said premises to be in the "A" Residence District.

Section 281 It shall be unlawful to locate, erect, construct, reconstruct, enlarge, change, maintain or use any building or to use any land in violation of any regulation in or any provision of this Resolution or any amendment or supplement thereto.

Section 352 Private Swimming Pools, Tennis Courts, Basketball Courts. Swimming pools (measured from the edge of water), tennis courts and independent basketball courts and similar active recreation areas shall be permitted as an accessory use in all Residence Districts or any district with permitted residential uses provided they are located behind the rear line of the principal structure and at least ten (10) feet from all property lines. Fixed lighting for these uses shall be located, screened, or shielded so that any adjacent residential lots are not directly illuminated.

An appeal from this decision to the Symmes Township Board of Zoning Appeals is governed under **Sections 183, 184, 184.1, 184.2** and **184.6** of the Zoning Resolution.

Kim Lapensee, ZONING INSPECTOR

Tom Stahlheber, ZONING PLANS EXAMINER

NOTE: ANY APPEAL MUST BE FILED WITH THE BOARD OF ZONING APPEALS WITHIN TWENTY (20) DAYS AFTER THE DATE OF THIS REFUSAL IN ORDER TO BE SCHEDULED FOR A HEARING BEFORE THE SYMMES TOWNSHIP BOARD OF ZONING APPEALS. **FOR FURTHER INFORMATION,** CONTACT THE ZONING PLANS EXAMINER, OFFICE OF THE ZONING INSPECTOR AT THE HAMILTON COUNTY RURAL ZONING COMMISSION, 513-946-4550. **ALL BOARD OF ZONING APPEALS HEARINGS WILL BE SCHEDULED BY SYMMES TOWNSHIP. THE HEARINGS WILL TAKE PLACE AT THE SYMMES TOWNSHIP ADMINISTRATION BUILDING, 9323 UNION CEMETERY ROAD, LOVELAND, OHIO, 45140, 513-683-6644.**

* Township without receipt on this date for inclusion on July 2022 agenda

Appeal No. ZVSM 2022 05
Filed 6.7.2022



Board of Zoning Appeals
9323 Union Cemetery Road
Symmes Township, OH 45140-9386

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APPEAL UNDER THE ZONING RESOLUTION

The appellant must file herewith an explicit typewritten statement setting forth the following:

- a. The principal points on which the appeal is made. In any case, the principal points set forth in this appeal shall be the same as those under which the administrative officer acted, whether the granting or refusal of a zoning certificate or any other decision based upon the regulations of the Zoning Resolution.
- b. A clear and accurate description of the construction use.
- c. Specific reference to the Sections of the Zoning Resolution which, it is claimed, authorize the determination sought.
- d. Names and addresses of owners of all abutting lots and lands within two hundred (200) feet of the property in question. (This list is now provided by the Board on the applicant's behalf.)

NAMES AND ADDRESSES

Appellant Cincinnati Pool + Patio Address 10731 Reading Rd. Cincinnati 45241

Owner Tim Bresson + Amanda Ferrier Address 10721 Weatherstone Ct. Loveland, Oh 45140

Lessee _____ Address _____

The undersigned James Nabler hereby appeals under Sections
352 of the Zoning Resolution

In accordance with the plats, plans and other data hereto attached and made a part of this appeal.

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

[Signature]
Appellant

Sworn to and subscribed before me, this 7 day of June 2022

Coryne Colina
Notary Public





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To Whom it May Concern,

Our client Tim Bresson & Amanda Ferrier purchased the property at 10721 Weatherstone Ct. Loveland, Ohio 45140 in May of 2019 with the intention of adding a pool in the back yard. The yard, which is directly behind the garage and has an exterior walk door leading to the yard, already had an older hot tub, a play set and a trampoline in place when they moved in. After planning for the pool installation, we learned that the "back yard" is actually considered a side yard and not zoned for pool placement. Since they have no other back yard to speak of and this side yard has functioned as a back yard since the home was built, they would like to request a variance for the allowance of a pool. They have spoken to the surrounding neighbors about the addition of a pool and so far no one has any concerns as they were all also surprised by the zoning restriction based on the lot shape. We sincerely appreciate your consideration of this request.

Kind regards,

Amanda Ferrier & Tim Bresson

James Naber

Cincinnati Pool & Patio

10731 reading road cincinnati, ohio 45241

513.554.0000 f 513.554.0503 info@5540000.com

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Cincinnati Pool & Patio

10731 Reading Rd. Cincinnati, Ohio 45241 513-554-0000

Bresson/Ferrier Project

Neighboring residents

Andry, Steven & Cathy 10713 Weatherstone Ct.

Present, Deborah 10719 Weatherstone Ct.

Schibler, Kurt & Kathy 10723 Weatherstone Ct.

Maclean, Lance & Nancy 10725 Weatherstone Ct

NOTE: The professional surveyor has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, or other matters which may affect the accuracy and current title commitment, or results of abstract of title, nor title commitment, or results of a title search were furnished to the surveyor. All documents of record reviewed are noted hereon, and may affect the use or development of the property may affect this surveyed parcel.

NOTE: Subsurface and environmental conditions were not surveyed or examined or considered as part of this survey. The surveyor is not responsible for the existence of underground or overhead conditions, containers or facilities that may affect the use or development of the property.

NOTE: In providing this boundary survey no attempt has been made to obtain or show data concerning existence, size, depth, condition, capacity or location of any utility on the site, whether private, municipal or public owned.

OWNER:
TIMOTHY R. BRESSON & MARY AMANDA FERRIER
 AUDITOR PARCELS 620-170-399, 441, 490 & 491
 OFFICIAL RECORD 13928 PAGE 147
 1.6562 ACRES

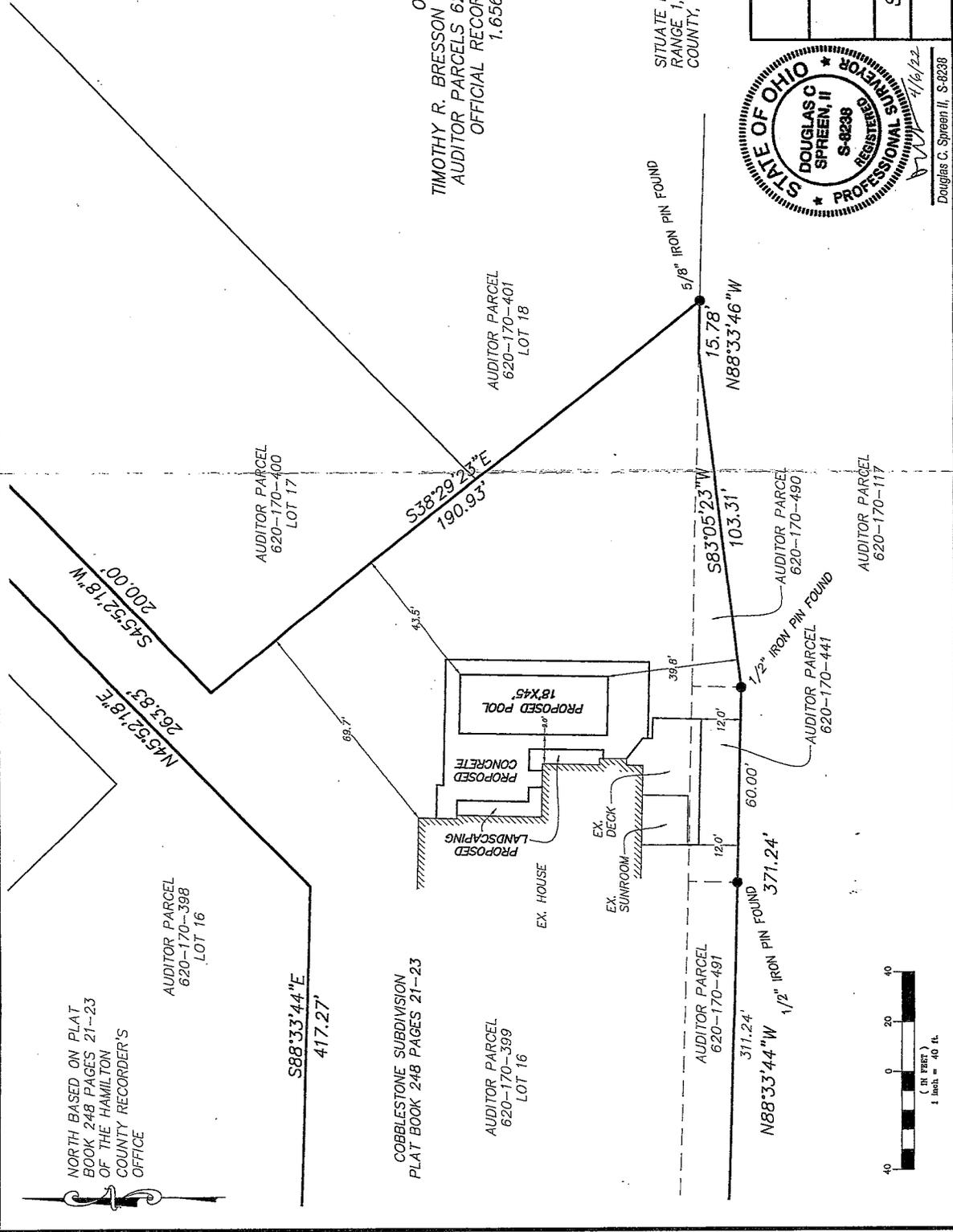
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SITUATE IN SECTION 29, TOWN 5, ENTIRE
 RANGE 1, SYMMES TOWNSHIP, HAMILTON
 COUNTY, STATE OF OHIO

STATE OF OHIO
DOUGLAS C. SPREEN, II
 S-8238
 REGISTERED PROFESSIONAL SURVEYOR
 4/16/22

Douglas C. Spreen II, S-8238
 6754 Regal Run Rd. Cincinnati, Ohio 45238

| | |
|--|------------|
| SITE PLAN | |
| 10721 Weatherstone Court Loveland, Ohio 45140 | |
| Scale: 1"=40' | April 2022 |



**SYMMES TOWNSHIP
BOARD OF ZONING APPEALS**

STAFF REPORT

FOR CONSIDERATION BY THE SYMMES BOARD OF ZONING APPEALS JULY 11, 2022

BZA CASE: SBZA 2022-05 (VARIANCE REQUEST)
10721 WEATHERSTONE POOL

REQUEST: VARIANCE approval for a pool located in the front yard of the home located in an "A" Residence District

PURPOSE: To construct an 18-foot by 45-foot in-ground swimming pool within the front yard area on the east side of the home located on a flag lot

APPELLANT: Mark Hicks, Cincinnati Pool & Patio (appellant), Timothy Bresson & Mary Amanda Ferrier (owners)

LOCATION: 10721 Weatherstone Court, on the west side of Weatherstone Court (Book 620, Page 170, Parcels 399, 441, 490, & 491)

TRACT SIZE: Approximately 1.6 acres

ZONE: "A" Residence District

PROPOSED USE: The applicant is proposing to construct an in-ground pool with an associated concrete patio on the east side of the existing single-family home. The pool would be 18 feet in width by 45 feet in length. Fencing details have not been submitted but the applicant has stated that fencing would meet the 4 feet and 75% opacity requirements of the Zoning Resolution. The applicant is requesting a variance to allow a swimming pool in the front yard where swimming pools are only permitted in rear yard areas.

FINDINGS: The existing home is located on a flag lot which shares a driveway with one other home located to the north. The home is oriented diagonally in relation to and located approximately 270 feet southwest from Weatherstone Court. The proposed location of the pool would not be visible from Weatherstone Court due to woods and adjacent homes blocking the view. The pool would be located approximately 9 feet east of the existing home, 43.5 feet from the eastern property line, and 39.8 feet from the southern property line. Adjacent homes range from 160 feet to over 240 feet away from the proposed pool and would be buffered by existing mature trees located on

both the subject parcel and adjacent parcels. The proposed pool could be relocated west of the existing home to be in the rear yard as required by the Zoning Resolution. However, the entire rear yard contains a steep downward slope. Building a pool in this rear yard would require significant grading, potential costly retaining walls, and the associated removal of the mature vegetation in the graded area.

There have been several variances granted to properties within this area. Two variances permitting pools to be located in the side yard were granted on nearby streets northeast of the subject property, and one variance permitting a detached garage in the front and side yards was granted on a nearby street north of the subject property.

STANDARDS:

Section 352 – Private Swimming Pools, Tennis Courts, Basketball Courts.

“Swimming pools (Measured from the edge of water), tennis courts and independent basketball courts and similar active recreation areas shall be permitted as an accessory use in all Residential Districts or any district with permitted residential uses provided they are located behind the rear line of the principal structure and at least ten (10) feet from all property lines. Fixed lighting for these uses shall be located, screened, or shielded so that any adjacent residential lots are not directly illuminated.”

Factors to be Considered: This case includes an “area variance” request based on “practical difficulties” and not a “use variance” based on “unnecessary hardship” or “undue hardship.” In addition to the findings above and testimony offered at the public hearing, the following factors should be considered by the Board to help determine if the “area variance” to allow a swimming pool in the front yard area on the property should be granted:

1. Can the property in question yield a “reasonable return” or be used in any beneficial way without the variance?
 2. Is the variance a substantial deviation from the zoning code?
 3. Will the essential character of the neighborhood be substantially altered or would adjoining properties suffer substantial detriment as a result of the variance?
 4. Will the variance adversely affect the delivery of governmental services, such as garbage removal, sewage disposal, or water lines?
 5. Did the property owner purchase the property with knowledge of the zoning restrictions?
 6. Can the property owner’s predicament be feasibly obviated through some method other than a variance? In other words, does the property owner have a remedy other than a variance, which would alleviate the problem?
 7. Will the spirit and intent behind the zoning requirement be observed and substantial justice done by granting the variance?
-

BOARD'S

ACTION:

The Board is to decide whether to grant the request for a variance to allow a swimming pool in the front yard area on the property located at 10721 Weatherstone Court.

NOTE: Findings in this staff report reflect the opinions of the staff of the Hamilton County Planning and Development Department, but may not necessarily reflect the recommendation of any Board or Commission. This staff report is a technical assessment on the level of compliance with adopted zoning regulations including any required modifications or variances. The final decision of any commission or board may result in findings and conclusions that differ from the staff report.

NDB/BDS

SITE PHOTOS



View looking south at proposed location of pool



View looking from Weatherstone Court towards pool location (circled in red)



View looking south from private drive towards pool location



View looking west towards rear yard and steep downward slope



VICINITY MAP

Case: SBZA 2022-05; 10721 Weatherstone Pool
 Request: Variance



DISCLAIMER:
 Neither the provider nor any of the parties of the Cincinnati area geographic information system (CAGIS) make any warranty or representation, either expressed or implied, with respect to this information, its quality, performance, merchantability, or fitness for a particular purpose. As a result this information is provided "as is" and you, the recipient, are assuming the entire risk as to its quality and performance. In no event, will the provider or any party of CAGIS be liable for direct, indirect, incidental, or consequential damages resulting from any defect in the information or any other part of the map product, even if advised of the possibility of such damages. In particular, neither the provider nor any party of CAGIS shall have any liability for any other information, programs or data used with or combined with the information received, including the cost of recovering such information, programs or data. Any floodway and flood fringe information provided on this map is for conceptual planning purposes only. For official determination of limits recipient must refer to the 1982 FEMA floodway fringe maps. Large differences can exist between actual flood prone area and official FEMA flood fringe areas.

**MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING
MARCH 7, 2022**

The meeting was called to order at 7:00 p.m. Members of the Commission present were: Mr. Deutch, Mr. Fowler, Mr. Jamison, Mr. Trick and Mr. Wolfe.

Also present were: Bryan Snyder, Hamilton County Zoning Inspector and Luanne Felter, Zoning Secretary.

PUBLIC HEARING

MR. FOWLER convened the public hearing for BZA 2022-02 for Conditional Use approval at Congregation Beth Adam, 10001 Loveland Madeira Road.

ADMINISTRATIVE MATTERS

MR. SNYDER stated that this is a Conditional Use request for a synagogue use in a Residential District. The synagogue recently installed a six-foot-high solid wood privacy fence around the western perimeter of the property and around the main entrance to the building without obtaining a Zoning Certificate. The fence in the western portion of the property runs along Loveland Madeira Road and has a serpentine snaking orientation with spaces for six, two-foot-wide stained-glass inserts that have yet to be installed. There is an existing row of trees along the fence with large boulders installed between the trees for screening and safety purposes. At the southwestern corner of the property the privacy fence adjoins a six-foot-high chain link fence that extends north into the western side yard and ending in an existing wooded hillside to the north. On the east side of the building a separate six-foot-high solid wood fence has been erected in the side yard extending northeast to the existing parking lot. The privacy fence is then connected to a six-foot-high chain link fence which extends northwest into the existing wooded area. Additionally, there are three gates with eight-foot-high arbors included.

As indicated in the Staff Report, the existing fence does not comply with the spirit and intent of the Zoning Resolution because fences located in the front and side yards cannot be built to a height greater than four feet above grade and must have an open face area of no less than 62% to prevent a barricade type of appearance from the street. Therefore, in order to be in compliance, the solid wood fence and portions of the six (6) foot chain link fence should be replaced with a four-foot-high Kentucky board or split rail type of fence.

Lastly, there is an issue with intensity of use. The size and location of the fencing is not consistent with the size and configuration of the existing property as the privacy fence is located south of the building and appears to increase the intensity and size of the site.

GARY MEISNER (Meisner & Associates, 1118 Pendleton Street, Suite 301, Cincinnati, 45202) stated that due to security threats the synagogue hired his company to come up with a plan that would secure the perimeter of the property and provide a private open lawn space for events on the western side. They decided to go with a privacy fence with a serpentine design and boulders to prevent vehicle penetration. The six-foot-tall height provides privacy so no one can see what's going on. Since this project needed to happen quickly, it was done without permits. However, we didn't see an issue because a six-foot-tall privacy fence is in line with a residential neighborhood. They know that the fence is very noticeable right now because it is new pressure treated wood but it should blend in over time. It is also set back from the roadway. Thorn bushes will be planted as an extra layer of protection and low landscaping will be included to soften the appearance.

MR. FOWLER noted that he is disappointed that a land architect did not know to file an application first.

MARK DOWD (Jewish Federation of Cincinnati, 8499 Ridge Road, Cincinnati 45236) stated that he is the Director of Community Security for 45 Jewish organizations located in the Cincinnati area. In the last few years there has been an increase in threats to synagogues from a wide spectrum of people. The synagogue contacted him about security precautions and based upon his experience and expertise he

recommended that they go with a six-foot-tall solid privacy fence so they can enjoy the use of their yard without being seen. Since most attacks are premeditated, it is important that they be shielded.

ROBERT BARR (10001 Loveland Madeira Road, Loveland 45140) stated that he is the Rabbi for the Congregation Beth Adam synagogue. When they purchased the property over 20 years ago the area was overgrown with honeysuckle and poison ivy. They worked with the Township to create a low impact space that would benefit the community. They believe they have achieved that goal and the facility is something everyone can be proud of. One of the features they used frequently was the great lawn for events. However, over time they used the lawn less and less due to security threats. They are at the point now that they have armed guards on site. They need to create a safe environment for worship and play without feeling like they are in a prison. Being able to utilize the lawn space behind the privacy fence will help.

MR. TRICK wanted to know if the synagogue has received any complaints about the fence.

MR. BARR said that they have not.

MR. WOLFE stated that he has no issue with the fence as it is set back from the roadway. They also cannot ignore the security threats.

MR. JAMISON agreed and hoped that the synagogue would consider planting additional landscaping along the fence line to soften the appearance.

MR. WOLFE made a motion to approve the Conditional Use for the installation of the six-foot-high privacy and chain link fence with gates at Congregation Beth Adam at 10001 Loveland Madeira Road as submitted. Mr. Jamison seconded the motion and the roll call vote was as follows: Mr. Deutch – ‘aye’, Mr. Fowler – ‘aye’, Mr. Jamison – ‘aye’, Mr. Trick – ‘aye’ and Mr. Wolfe – ‘aye’.

MR. FOWLER convened the hearing for BZA 2022-03 for Evans Landscaping at 9743 East Kemper Road.

MR. SNYDER stated that Evans Landscaping is requesting to replace the existing monument sign with a new 47.15 square-foot monument sign with an LED variable message center. The LED variable message center would be located on the lower half of the sign and be approximately 26.65 square feet in size. A variance is required because the site is located in the “H” Riverfront District, which does not have provisions for variable message centers. The Zoning Resolution only permits variable message centers on commercial signage in the “E” and “EE” districts. However, if variable message signs were permitted in the “H” Riverfront District the sign would still require a variance as the variable message center portion of the sign would be more than 25% of the total sign area permitted for freestanding signs in the “H” district. The existing sign is currently located within the right-of-way but would be moved back 36 feet from the edge of the roadway. The proposed sign should not affect the character of the neighborhood since the subject site is located in an industrial area. Finally, variances were granted by the Board of Trustees for Mike’s Car Wash which is located at the intersection of East Kemper Road and Loveland Madeira Road for a canopy mounted and freestanding variable message sign as part of the approval of the “EE” Planned Residence (with Retail) district.

MR. WOLFE wanted to know if there is a time period between messages.

MR. SNYDER stated that the Zoning Resolution defines the display change interval at .3 seconds or less. However, the Board can place conditions in the Resolution if they choose.

MIKE MEYER (Ray Meyer Sign Company, 8942 Glendale Milford Road, Loveland, OH) stated that they are here tonight to request the replacement of the existing sign at Evans Landscaping with a new sign that includes an internally lit identification panel and a digital reader board. Evans Landscaping plans to replace all of the signs at their three facilities with identical signs and brought a picture of one that has already been installed at the corporate location. It is important to note that the evolution of electronic reader boards has made the use of these methods of communication much more zoning friendly by using 5G communication and the ability to monitor and control flashing, scrolling and brightness. The manually changeable

message boards of the 1960's are now dinosaurs in the retail and institutional world. Since this location is located in a commercial area we believe it will fit in.

MR. FOWLER wanted to know if it is technically feasible to limit the hours the sign is lit, prevent animation and change the display change interval between messages.

MR. MEYER stated that they are all possible. Evans will not scroll or flash messages; it will be used mostly for informational purposes to promote their goods and services. As a matter of fact, you do not want messages to flash more than 30 seconds.

MR. DEUTCH wanted to know if the sign would include the stone foundation and who would control the sign.

MR. MEYER stated that it will have a smaller stone foundation than the one in the picture due to the terrain at the East Kemper location. A third party who works for Slats will program the sign by use of a Smart device.

JOHN MEAGHER (2202 Bretton Road, Cincinnati) stated that he is the manager of the Round Bottom Road and East Kemper Road facilities. They need to modernize the signs because the old letter board is labor intensive, costly and it can't put out a whole lot of information. In his opinion, the change is long overdue.

MR. FOWLER wanted to know if they plan to keep the sign lit all day.

MR. MEAGHER stated that they would like it lit 24/7.

MR. FOWLER made a motion to approve the variance request to allow a variable message center sign at Evans Landscaping at 9743 East Kemper Road with the following conditions:

1. The variable message center sign shall not be lit from the hours of 10:00 p.m. to 6:00 a.m. unless the company is open for business;
2. The display change interval on the proposed variable message center shall be set at a minimum of thirty (30) seconds;
3. The proposed variable message center sign shall not exhibit animation in the display area.

MR. WOLFE seconded the motion and the roll call vote was as follows: Mr. Deutch – 'aye', Mr. Fowler – 'aye', Mr. Jamison – 'aye', Mr. Trick - 'aye', and Mr. Wolfe – 'aye'.

ELECTION OF OFFICERS

MR. SNYDER noted that according to the bylaws a Chairperson must be selected the first meeting of the new year. Since it was not done last month the Board needs to select a Chairperson tonight.

MR. FOWLER made a motion to nominate Ralph Wolfe as Chairperson. MR. TRICK seconded the motion and the roll call vote was as follows: Mr. Deutch – 'aye', Mr. Fowler – 'aye', Mr. Jamison – 'aye', Mr. Trick - 'aye', and Mr. Wolfe – 'aye'.

MR. WOLFE suggested that the election of a Vice-Chairperson should be determined at their next meeting.

ADMINISTRATIVE MATTERS

MR. FOWLER made a motion to approve the minutes of the February 7, 2022 meeting. MR. TRICK seconded the motion and the roll call vote was as follows: Mr. Deutch – 'aye', Mr. Fowler

– ‘aye’, Mr. Jamison – ‘aye’, Mr. Trick - ‘aye’, and Mr. Wolfe – ‘abstain’. MS. FELTER noted that the minutes of the October 4, 2021 and November 1, 2021 meeting still need to be approved as soon as we get a quorum.

ADJOURNMENT

MR. WOLFE adjourned the meeting at 8:40pm.

Approved:

Ralph Wolfe, Chairperson

Luanne Felter, Zoning Secretary