

RESOLUTION
GRANTING
APPEAL NO. 2022-03

WHEREAS, Michael Meyer, Ray Meyer Sign Company, Inc., 8942 Glendale Milford Road, Loveland, OH 45140, appellant, filed Appeal No. 2022-03 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 314.10 and 321.5-2 of said Resolution as applied to the property located at Evans Landscape, 9743 East Kemper Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on February 7, 2022, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a monument sign with a variable message center; and

WHEREAS, said Zoning Inspector, on February 7, 2022, acting upon said application and the plats and plans submitted, refused to issue said Certificate, her reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was held on said appeal on March 7, 2022, notice of such hearing was given by first class mail to parties in interest and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to the date of said hearing in accordance with Section 303.15 of the Ohio Revised Code; and

WHEREAS, Section 41 et seq. of the Zoning Resolution and the Symmes Township District Maps designate said premises to be in the "H" Riverfront district; and

WHEREAS, Section 314.10 provides, in relevant part, that no sign shall be permitted which displays flashing, moving or intermittent lights and symbols or lights, letters and symbols of changing degrees of intensity. Flashing, intermittent or moving lights by themselves, with or without written messages or graphics, are prohibited when placed so as to be open to the outdoor public view; and

WHEREAS, Section 321.5-2 provides, in relevant part, that all variable message center signs shall conform to the following requirements: 1). No portion of any variable message center sign shall be closer than ten (10) feet to any right-of-way line; 2). No portion of any variable message center sign shall be closer than ten (10) feet to any adjacent property line; 3). Any variable message center sign shall conform to all of the height and area requirements applicable to the freestanding ground mounted sign or the freestanding pole signs of which they are a part; 4.) Maximum sign area permitted for use as a variable message center sign is limited to twenty-five percent (25%) of the total sign area permitted on the freestanding ground mounted sign or the freestanding pole sign up to a maximum thirty-five (35) square feet per side (maximum two sides); 5). Functional limits and parameters on time of day and temperature displays may be in five (5) second intervals. No other message, graphic or display shall be moving, flashing, scintillating, animating nor changing in color or light intensity or visible changing in any other manner; 6). the display change interval, which is defined as the time period between when one message, graphic or display becomes illegible and the next message graphic or display just reaches legibility shall be point three (.3) seconds or less; and

WHEREAS, according to testimony offered at the public hearing, the appellant is proposing to replace the existing monument sign that includes a manual changeable copy board with a new forty-seven-point fifteen (47.15) square-foot monument sign with an LED variable message center on the lower half which is twenty-six-point sixty-five (26.65) square feet in size or fifty-seven percent (57%) of the sign area which is larger than permitted; and

WHEREAS, according to further testimony offered at the public hearing, the proposed sign will sit atop a decorative masonry base with the highest point being one hundred ten (110) inches from grade; and

WHEREAS, according to further testimony offered at the public hearing, the existing sign is approximately ten (10) feet from the edge of pavement and in the right-of way. The proposed sign would be moved to comply with the required ten (10) foot setback from the right-of-way and would be setback approximately thirty-six (36) feet from the edge of the pavement. The new location will be in compliance with the Zoning Resolution and would also offset some of the potential distraction for drivers in the area; and

WHEREAS, according to further testimony offered at the public hearing, the subject site is located in an industrial area which will fit in with the character of the surrounding area; and

WHEREAS, according to further testimony offered at the public hearing, variances were granted by the Board of Trustees as part of the approval of the "EE" Planned Residence (with Retail) district to the west of this property for a canopy mounted variable message sign and a one hundred percent (100%) variable message freestanding sign at the intersection of East Kemper Road and Loveland Madeira Road; and

WHEREAS, Section 184.2, empowers this Board to permit a variation in the yard requirements of any District where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to irregular shape of the lot, topographic or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare; and

WHEREAS, Section 185 provides, in exercising the above-mentioned powers, the Board may reverse or affirm, wholly, or partly, or may modify the order requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the Officer from whom the appeal is taken; and

WHEREAS, it is the consensus of this Board, after careful consideration of all the facts, testimony, and evidence submitted, that the literal enforcement of the strict application of Sections 314.10 and 321.5-2 of the Zoning Resolution will result in practical difficulties to the owners of the property in question; and

WHEREAS, the variation, in accordance with the following conditions, will not seriously affect any adjoining property owners or the general welfare;

NOW, THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby grant a variance from the requirements of Sections 314.10 and 321.5-2 of the Zoning Resolution in accordance with the authority granted in Section 184.2. Furthermore, the decision of the Zoning Inspector to deny the issuance of a zoning certificate for the reason that the application failed to comply with Sections 314.10 and 321.5-2 of the Zoning Resolution is affirmed, but in accordance with the authority of Section 185, the Board of Zoning Appeals, having granted a variance as stated above, hereby determines that a zoning certificate may be issued to the applicant consistent with the terms set forth in the Resolution; and

SUBJECT TO THE FOLLOWING CONDITIONS:

1. That, the proposed 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; and
2. That, the display change interval on the proposed variable message center shall be set at a minimum of thirty (30) seconds; and
3. That, the proposed variable message center sign shall not exhibit animation in the display area; and

4. That, the proposed variable message center sign shall remain exactly as shown on the plats and plans submitted to this Board;
5. That, the proposed variable message center sign shall not be relocated or enlarged without the approval of this Board;
6. That, the proposed variable message center sign shall be maintained in a satisfactory condition at all times;
7. That, the proposed variable message center sign shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
8. That, the Zoning Certificate and Building Permit, if required, for the proposed variable message center sign shall be obtained within sixty (60) days and all work be completed within six (6) months from the date of adoption of this Resolution;

BE IT FURTHER RESOLVED that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 7th day of March 2022.

Mr. Deutch – ‘aye’, Mr. Fowler – ‘aye’, Mr. Jamison – ‘aye’, Mr. Trick - ‘aye’, and Mr. Wolfe – ‘aye’.

APPROVED: MARCH 7, 2022

Luanne Felter
Township Zoning Secretary

Ralph Wolfe, Chairperson