

RESOLUTION

GRANTING

APPEAL NO. 2022-02

WHEREAS, Gary Meisner, Meisner & Associates, 1118 Pendleton Street, Suite 301, Cincinnati, OH 45202, Appellant, on February 1, 2022, filed Appeal No. 2022-02 under Section 383.1 of the Zoning Resolution, requesting that a Conditional Use be permitted for the installation of a six (6) foot high privacy fence in the front and rear yards at Congregation Beth Adam, 10001 Loveland Madeira Road, Township, Hamilton County, Ohio; 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 of 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 "A" Residence District; and

WHEREAS, Article XXXV provides, in part, that a synagogue be permitted as a Conditional Use provided that it is properly integrated in the overall neighborhood and that said use shall be evaluated by the Board of Zoning Appeals on an individual basis; and

WHEREAS, according to testimony offered at the public hearing, the synagogue recently installed a six (6) 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 is located along Loveland Madeira Road and is approximately two hundred ten (210) feet long with a serpentine snaking orientation and contains spaces for six (6) two (2) foot-wide stained-glass inserts. There is an existing row of trees along the fence with large boulders installed between the trees for screening and safety. At the southwestern corner of the property the privacy fence adjoins a six (6) foot-high chain link fence that extends north approximately one hundred thirty-five (135) feet 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 (6) foot-high solid wood fence has been erected in the side yard extending northeast for approximately fifty (50) feet to the existing parking lot located to the northeast. The privacy fence is connected to a six-foot-high chain link fence which extends northwest approximately seventy-five (75) feet into the existing wooded area. Additionally, there are three (3) gates with eight (8) foot high arbors included; and

WHEREAS, according to testimony offered at the public hearing, the Board of Zoning Appeals previously approved an arbor structure that was constructed over the walkway from the parking lot to the entrance of the building; and

WHEREAS, according to further testimony offered at the public hearing, the fencing, gates and boulders are necessary for security purposes due to threats of terrorism; and

WHEREAS, Section 385 and 386 provides for the General Considerations and Specific Criteria pertaining to Conditional Uses; and

WHEREAS, according to further testimony offered at the public hearing, the proposed use and development shall comply with the spirit and intention of the Zoning Resolution and with district purposes. The six-foot-high privacy fence constructed in the western front and side yards, the privacy fence located in the eastern side yard and the portions of the existing chain link fence located in the eastern and western side yards do not comply with the spirit and intent of the Zoning Resolution. Fences located in the front and side yards shall not be built to a height greater than three (3) feet and shall have an open face area of no less than fifty percent (50%) or when constructed to a height of not more than four (4) feet above grade, shall have an open face area of no less than sixty-two percent (62%). Therefore, in order to be in compliance, the solid wood fence and portions of the six (6) foot change link fence should be replaced with a Kentucky board or split rail type of fence to prevent a barricade appearance from the street; and

WHEREAS, according to further testimony offered at the public hearing; the proposed use and development shall not have an adverse effect upon adjacent property or the public health, safety, morals

and general welfare. The existing fences would not have an adverse effect on adjacent properties as woods surround the perimeter of the property providing a screen from the residential properties to the west and north and the commercial property located to the northeast. Lake Isabella of Hamilton County Great Parks is located on the opposite side of Loveland Madeira Road which is buffered by mature vegetation. However, given the location of the privacy fence on Loveland Madeira Road, the fence is very noticeable to a relatively high volume of traffic and may have a negative impact on this portion of the corridor and may set a precedent for future cases; and

WHEREAS, according to further testimony offered at the public hearing, the proposed use and development should respect, to the greatest extent practicable, the natural, scenic and historic features of significant public interest. However, there are no known features of significant public interest on the property; and

WHEREAS, according to further testimony offered at the public hearing, the proposed use and development shall, as applicable, be consistent with objectives, policies and plans related to land use adopted by the Township Trustees. The property is designated as Public, Semi-public, and institutional on the adopted Symmes Township Land Use Plan. Therefore, the existing use is consistent with this designation; and

WHEREAS, according to further testimony offered at the public hearing, the privacy fence complies with the specific conditional use criteria as per Section 386 as follows:

Section 386(e) provides that setbacks from any adjacent residential property line shall be a minimum of fifty (50) feet for all buildings and twenty-five (25) feet for all parking areas. No new building or parking area construction is proposed as part of the request.

Section 386(g) provides that the use shall have direct access to a collector or arterial street. The existing synagogue property has direct access to Loveland Madeira Road, which is classified as a minor arterial.

Section 386(h) provides that the vehicular use area shall be located and designated so as to minimize impact on the neighborhood. No change to the layout and design of the vehicular use area is proposed as part of this request.

Section 386(o) provides that landscaping shall be installed in accordance with one of the following buffers as described in detail in Article XXXII, Sections 326 through 331.2, inclusive. Landscaping has been approved and installed for this site as part of a previous case.

Section 386(p)(2) provides that signage shall be regulated as one sign permitted at a maximum of twelve (12) square feet non-internally illuminated. However, no new signage is proposed as part of this request.

Section 386(s) provides all exterior lighting shall be directed away from adjacent residential properties and not exceed zero-point five (0.5) foot candles at the property line when abutting a Residential Use or Residential District. Exterior lighting has been approved and installed for this site as part of previous cases. No new lighting has been proposed as part of this request.

Section 386(y) provides the intensity of the particular use shall be evaluated with regard to the location, size and configuration of the tract. 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.

WHEREAS, Section 381, empowers this Board to approve by resolution those uses listed as conditional uses; and

WHEREAS, Section 383.6 provides that the Board shall approve the conditional use, approve the conditional use subject to further specified approvals or modifications necessary to achieve full compliance with all standards, or disapprove the conditional use; and

WHEREAS, it is the consensus of this Board, after careful consideration of all the facts, testimony, and evidence submitted, the approval of the requested Conditional Use is appropriate at this particular location and in the particular manner proposed in that the proposed plan complies with the standards and conditions set forth in Article XXXV of the Zoning Resolution; and

NOW, THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby grant a Conditional Use for Congregation Beth Adam as per the plans submitted in accordance with the authority granted in Section 381 and does hereby determine that a conditional use and zoning certificate may be issued to the applicant consistent with the terms set forth in this Resolution; and

SUBJECT TO THE FOLLOWING CONDITIONS:

1. That, the privacy fence and portions of the chain-link fence be installed and located exactly as shown on the plats and plans submitted to this Board; and
2. That, the privacy fence and portions of the chain-link fence not be relocated or enlarged without the approval of this Board;
3. That, the privacy fence and portions of the chain-link fence be maintained in a satisfactory condition at all times;
4. That, the Zoning Certificate and Building permit for the privacy fence and portions of the chain-link fence be obtained within ninety (90) days and all work be completed within one year (1) from the date of adoption of this Resolution;
5. That, the privacy fence and portions of the chain-link fence comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;

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

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Luanne Felter, Zoning Secretary

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Ralph Wolfe, Board Chairperson