
**MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING
APRIL 3, 2017**

The meeting was called to order at 7:05 p.m. Members of the Commission present were: Mr. Fowler, Ms. Harlow, Mr. Havill, Mr. Misrach, Mr. Ruehlmann and Mr. Wolfe.

Also present were: Kevin McDonough, Township Law Director, Bryan Snyder, Hamilton County Zoning Inspector and Luanne Felter, Zoning Secretary.

APPROVAL OF MINUTES/RESOLUTION

MS. HARLOW made a motion to approve the minutes of the October 3, 2016 meeting.

MR. MISRACH seconded the motion and the roll call vote was as follows:

Mr. Fowler – ‘aye’, Ms. Harlow – ‘aye’, Mr. Havill – ‘abstain’, Mr. Misrach – ‘aye’, Mr. Ruehlmann – ‘abstain’ and Mr. Wolfe – ‘abstain’.

MR. RUEHLMANN made a motion to approve the minutes of the February 6, 2017 meeting.

MS. HARLOW seconded the motion and the roll call vote was as follows:

Mr. Fowler – ‘aye’, Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Misrach – ‘abstain’, Mr. Ruehlmann – ‘aye’ and Mr. Wolfe – ‘aye’.

MR. RUEHLMANN made a motion to approve the minutes of the March 6, 2017 meeting.

MS. HARLOW seconded the motion and the roll call vote was as follows:

Mr. Fowler – ‘aye’, Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Misrach – ‘abstain’, Mr. Ruehlmann – ‘aye’ and Mr. Wolfe – ‘aye’.

MR. RUEHLMANN made a motion to approve the Resolution Disapproving Appeal No. 2017-01 for the telecommunication tower at 11251 Montgomery Road. MR. WOLFE seconded the motion and the roll call vote was as follows:

Mr. Fowler – ‘nay’, Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Misrach – ‘abstain’, Mr. Ruehlmann – ‘aye’ and Mr. Wolfe – ‘aye’.

All those that wished to provide testimony to the Board were sworn in by the Chairperson.

PUBLIC HEARING

MR. MISRACH convened the public hearing for BZA 2017-04 for the property at 10020 Bentcreek Drive.

MS. HARLOW offered to recuse herself from this case because she lives in the neighborhood.

MR. SNYDER told her she could stay if she can be impartial. She said she could and the Board did not have an issue.

MR. SNYDER stated that the applicant has constructed a 536 square foot unenclosed, partially covered wooden deck in the rear yard of the single family home without obtaining proper permits. The property is located on the north side of Bentcreek Drive, east of Lebanon Road.

The deck is approximately 22 feet by 24 feet and extends 10 feet into the required rear yard setback. The roof structure, which is fairly sloped, starts at a lower elevation from the existing roof structure and extends the entire depth and covers 14.25 feet of the width of the deck. The shingles match the existing roof.

The home is permitted to include a 12 foot deep covered deck. In addition, uncovered porches, decks and patios are permitted to extend up to 14 feet into the required rear yard. Given these requirements, the proposed deck could have been constructed with the roof extending along the house instead of out into the rear yard and the uncovered portion could have extended further from the roof into the required rear yard.

MR. MISRACH stated that he developed the subdivision and the lots on the north side of the street have a wider frontage but the back yard is not as deep. He believes that the applicant is at a disadvantage.

MR. HAVILL wanted to know if the applicant has obtained a Building Permit.

MR. SNYDER stated that the permits cannot be obtained until a variance has been granted.

MICHAEL PACHMEYER (10020 Bentcreek Drive, 45140) stated that he built the partially covered deck to provide shade. He believes it fits in with the character of the neighborhood and has seen other structures with setbacks of less than 35 feet.

MR. RUEHLMANN wanted to know why he did not install an awning.

MR. PACHMEYER stated that he needed to provide shade for a big area to accommodate a table and chairs.

EDWARD MESTANCIK (10035 Carrousel Court 45140) stated that he lives directly behind the applicant. Even though there are woods between the properties he can see the partially covered deck from his rear yard during the winter months and wants his privacy protected.

MS. HARLOW noted that the property owner next to the applicant has an enclosed three seasons room attached to the back of their house and wanted to know if the roof structure is less than 35 feet from their property line.

MR. SNYDER stated that according to CAGIS it is located more than 35 feet from the property line.

MR. HAVILL stated that this is a self created problem. He thinks the roof could be cut back to be in compliance.

MR. RUEHLMANN stated that he is not sure the partially covered deck is built according to the building code and believes an awning could have been sufficient.

MS. HARLOW understands Mr. Mestancik's concerns but the Board has approved other variances in the neighborhood in the past. She does not believe the partially covered deck substantially impacts the adjacent properties.

MR. MISRACH did not think cutting back the roof would provide much of a visual difference.

MR. RUEHLMANN made a motion to disapprove the construction of a partially covered deck with less rear yard setback than required on the property located at 10020 Bentcreek Drive as indicated in the plats and plans submitted to the Board.

MR. WOLFE seconded the motion and the roll call vote was as follows:

Mr. Havill – 'aye', Mr. Misrach – 'nay', Mr. Ruehlmann – 'aye', Mr. Wolfe – 'aye', and Ms. Harlow – 'nay'

MR. MISRACH convened the hearing for BZA 2017-05 for the property located at 12110 Mason Road.

MR. SNYDER stated that the the applicant is requesting permission to install an additional 32 square-foot wall sign on the eastern façade of the building. The Board approved a variance to demolish the former Pizza Tower restaurant building and construct a new 2,785 square foot Slim Chickens restaurant on the property under BZA 2016-06. The variances granted included a front yard building setback of 36 feet from Governor's Way where a 50 foot front yard setback was required, a rear yard setback for the dumpster of 25 feet where a 50 foot rear yard setback was required, and a zero foot freestanding sign setback from Governor's Way where a 10 foot sign setback was required and the installation of a three foot berm with a six foot privacy fence on top along the eastern property line for privacy. The applicant has obtain permits for a 42 square foot building sign on the north façade facing Governor's Way, two building signs totaling 28.7 square feet on the western façade facing Mason Road and a 50 square-foot freestanding sign along Governor's Way.

MARK SMITH (LBS Investments, 695 Canterbury Lane, Edgewood KY) stated that the purpose of the sign is to thank customers for patronizing their business as they exit the drive-thru window. The sign will be illuminated by two "gooseneck type" light fixtures directed downward towards the sign. The total square footage of sign space with this additional wall sign will total 102.7 square feet which is less than the total building signage permitted. The would also like to change the type of privacy fence along the eastern property line from cedar to TREX.

MR. WOLFE stated that you won't see the sign located on the eastern elevation with the berm and fence.

MR. HAVILL asked if they would consider not lighting the sign.

MR. SMITH stated that you will not be able to see the sign at night if it is not lit. The light fixtures will shine down on the sign and not spill over to the residents.

MS. HARLOW wanted to know if the sign could be installed somewhere else.

MR. SMITH stated that they want to thank the customers after ordering.

MR. WOLFE stated that he has no issue with the sign but would like to see the lights on only during business hours.

MR. HAVILL agreed.

MR. WOLFE made a motion to approve the installation of a wall sign on the eastern façade of the building for the proposed development with the "E" Residence (with Subservient Retail) district on the property located at 12110 Mason Road as indicated on the plats and plans submitted to the Board.

MR. HAVILL seconded the motion and the roll call vote was as follows:

Ms. Harlow – 'aye', Mr. Havill – 'aye', Mr. Misrach – 'aye', Mr. Ruehlmann – 'aye' and Mr. Wolfe – 'aye'.

MR. MISRACH convened the public hearing for BZA 2017-06 for the property located at 11166 Snider Road.

MR. WOLFE recused himself from this case due to a conflict of interest.

MR. SNYDER stated that the applicant is requesting a 22 foot variance to construct a new single-family home on the north side of the property. The subject property is located on the east side of Snider Road approximately 200 feet north of the Snider Road and Vicksburg Drive intersection. The property contains a drainage swale along the southern property line that could be affected if the home is built without obtaining a setback variance.

RALPH FRUECHTEMEYER (Zicka Homes, 7861 East Kemper Road, 45247) stated that the buyer wants to to build a two story home with deck and a three car garage with access from the private drive. The front yard setback variance is required because of the deepness of the floor plan desired and the limited depth of the lot. The setback variance will allow the home to be placed in line with the existing homes on the private drive.

JULIE ZICKA (11162 Snider Road 45249) stated that she lives next door to the subject property. She no issue with the proposed single family home and likes that all the houses will line up along the private drive.

MR. RUEHLMANN made a motion to approve the construction of a single-family home with less front yard setback than required on the property located at 11166 Snider Road as indicated in the plats and plans submitted to the Board.

MR. HAVILL seconded the motion and the roll call vote was as follows:

Ms. Harlow – 'aye', Mr. Havill – 'aye', Mr. Misrach – 'aye', Mr. Ruehlmann – 'aye' and Mr. Wolfe – 'recused'.

ADMINISTRATIVE MATTERS

MS. FELTER noted that the Board needs to schedule a date for a training class. The Board selected May 10, 2017.

MR. HAVILL made a motion to establish May 10, 2017 as the date for the training class.

MR. WOLFE seconded the motion and the roll call vote was as follows:

Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Misrach – ‘aye’, Mr. Ruehlmann – ‘aye’ and Mr. Wolfe – ‘aye’.

ADJOURNMENT

MR. MISRACH adjourned the meeting at 8:44 p.m.

Approved:

Luanne Felter, Secretary