
**MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING
JULY 11, 2016**

The meeting was called to order at 7:01 p.m. Members of the Commission present were: Ms. Harlow, Mr. Havill, Mr. Misrach, Mr. Ruehlmann and Mr. Wolfe.

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

MR. HAVILL convened the hearing for BZA 2016-05 for the property located at 8788 Glendale Milford Road.

MR. SNYDER stated that the applicant is requesting approval to convert a vacant service station into a coffee shop/restaurant. The subject property is located on the northwest corner of the intersection of Glendale Milford and Loveland Madeira Roads.

The proposed coffee shop would include a drive thru window at the rear of the existing building and walk up counter service in the former office. A dining area and additional restrooms are proposed in the former garage bays and an open outdoor seating area is proposed in front of the existing garage doors in the future.

The applicant is requesting a 20-foot setback variance to allow the parking spaces to remain on the existing pavement that extends up to the edge of the right-of-way line so there will be more room to maneuver around the building. Since this property is not technically being redeveloped a 10-foot streetscape buffer is not required along both street frontages on Glendale Milford and Loveland Madeira Roads. However, the Board should stipulate that a streetscape buffer be required to significantly enhance the aesthetics of the area and screen headlights from view of adjacent properties.

MR. HAVILL liked the idea of a streetscape buffer but wondered if bushes and trees would hinder the visibility.

MR. SNYDER stated that he doesn't foresee any issues due to the angle of the property.

MR. PAUL SCHIRMER (CDSG, 3164 Linwood Avenue #2, Cincinnati 45208) stated that the existing building would initially be converted into a coffee shop. If the business is successful, they will expand into a restaurant/deli . He believes a 10-foot streetscape buffer will not leave enough room for the future patio.

MR. HAVILL wanted to know how many parking spaces are proposed.

MR. SNYDER stated that 18 parking spaces are proposed for the entire plan.

MR. RUEHLMANN stated that he is glad there are plans to develop the property because it is currently an eyesore. He agrees that a buffer is necessary due to the busy intersection. However, he believes a five to six foot buffer will be sufficient. If the Board makes the parking lot too tight it may cause accidents.

MR. WOLFE agreed and suggested that the streetscape buffer include just bushes. He does not think trees are necessary.

MS. HARLOW stated that she wants to make the intersection nice and agreed that only a five to six foot buffer was necessary.

MR. HAVILL suggested the Board make it a six foot buffer.

MR. RUEHLMANN made a motion to consider the following:

RESOLUTION
GRANTING
APPEAL NO. 2016-05

WHEREAS, Commercial Development Services Group, LLC, 3164 Linwood Avenue #2, Cincinnati, OH, 45208, appellant, on June 6, 2016 filed Appeal No. 2016-05 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 104.1 and 144.3 of said Resolution as applied to the property located at 8788 Glendale Milford Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on June 6, 2016, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the commercial alteration of a property with less front yard setback for the parking area than required; and

WHEREAS, said Zoning Inspector, on June 6, 2016, acting upon said application and the plats and plans submitted, refused to issue said Certificate, his reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was held on said appeal on July 11, 2016, 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 "E" Residence (with subservient retail) District; and

WHEREAS, Section 104.1 provides, in relevant part, that there shall be a front yard having a depth of not less than fifty (50) feet and parking areas shall be set back at least twenty (20) feet from the front lot line; and

WHEREAS, Section 144.3 provides, in relevant part, that wheel stops or continuous curbs shall be provided, located and designed to protect required screening devices, landscaping and pedestrian ways from damage or encroachment of vehicles and to provide necessary traffic control in the parking area with a two point five (2.5) foot setback from the end of the parking space to the center of the wheel stop; and

WHEREAS, Section 328.2-6 provides, in relevant part, that a streetscape buffer of ten (10) feet shall be required with a minimum of one and one-half (1.5) canopy trees and twenty (20) shrubs per one hundred (100) linear feet of boundary buffer required; and

WHEREAS, according to testimony offered at the public hearing, the applicant is requesting approval to convert a vacant former gas station building into a coffee oriented restaurant use with a drive thru and outdoor seating area using new parking spaces with less setback than required; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the northwest corner of the intersection of Glendale Milford and Loveland Madeira Roads; and

WHEREAS, according to further testimony offered at the public hearing, the proposed coffee shop would include a drive thru window at the rear of the existing building and walk up counter service in the front. A dining area, additional restrooms and an open outdoor seating area in front of the existing garage doors is proposed for the future; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is requesting a twenty (20) foot setback variance to allow the parking spaces to remain on the existing pavement that extends up to the edge of the right-of-way line so there will be more room to maneuver around the building; and

WHEREAS, according to further testimony offered at the public hearing, the parking lot will consist of eighteen (18) striped parking spaces along the frontage of the property within the existing paved area; and

WHEREAS, according to further testimony offered at the public hearing, two (2) landscape areas are proposed adjacent to each driveway apron to provide separation of the parking and driveway areas;

WHEREAS, according to further testimony offered at the public hearing, a ten (10) foot streetscape along both street frontages on Glendale Milford and Loveland Madeira Roads would significantly enhance the aesthetics of the area and screen headlights from view of adjacent properties; and

WHEREAS, according to further testimony offered at the public hearing, the proposed parking blocks can easily be moved to comply with the Zoning Resolution without the need for a variance; and

WHEREAS, Section 184.6, 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 104.1 and 144.3 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 Section 104.1 of the Zoning Resolution in accordance with the authority

granted in Section 184.6. 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 Section 104.1 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, a fourteen (14) foot variance to the required twenty (20) foot parking setback shall be granted for the proposed coffee shop parking lot;
2. That, the proposed coffee shop parking lot shall include a six (6) foot streetscape buffer along the frontage of Glendale Milford and Loveland Madeira Roads and contain forty eight (48) bushes and four (4) trees. If desired, the four (4) trees may be placed in each landscape area on both sides of each driveway;
3. That, the coffee shop shall be constructed and located exactly as shown on the plats and plans submitted to this Board;
4. That, the proposed coffee shop shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
5. That, the Zoning Certificate and Building Permit, if required, for the proposed coffee shop shall be obtained within sixty (90) days and all work be completed within one (1) year from the date of adoption of this Resolution;
6. That, the proposed coffee shop shall not be relocated or enlarged without the approval of this Board;
7. That, the proposed coffee shop shall be maintained in a satisfactory condition at all times;

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

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

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

MR. HAVILL convened the public hearing for BZA 2016-06 for the property located at 12110 Mason Road.

MR. SNYDER stated that the applicant is proposing to demolish the existing Pizza Tower restaurant building and construct a new 2,785 square foot Slim Chickens restaurant on the site. The property is located on the east side of Mason Road, south of Governor’s Way.

The building would include a 510 square-foot covered outdoor seating area along the Governor’s Way frontage and a drive thru on the east side of the building. The proposed building would be located 36 feet from the right-of-way line due to the placement of the covered patio. However, the porch like design of the outdoor seating area will separate the area from the main building and reduce the visual impact from the road.

A third access point from Governor's Way would be relocated from its current location to a point further west to provide increased setback from the property line to the east. The proposed dumpster would be located 25 feet from adjacent residents and placed within a stone enclosure and buffered by new landscaping and privacy fencing.

Lastly, a 20 foot high, 50 square-foot freestanding sign is proposed for the western driveway on the existing right-of-way. However, this location places the support pole in the vision clearance area. A viable alternative is to locate the sign further to the east in the streetscape buffer with the pole moved back to the edge of the parking aisle running parallel with Governor's Way.

MR. MARK STEFANECK (Group A Architects, 1100 Landmeier Road, Suite 202, Elk Grove Village, IL 60007) stated that all Slim Chickens restaurants require open porches. The dumpster will be relocated to a new spot due to the layout of the porch. They also want to keep the dumpster away from the front fence and will install a buffer for proper screening. He believes that the sign would not be useful to motorists if moved onto the landscaping island.

JEF BLUMENTAL (8944 Cypresspoint Lane, Cincinnati, OH 45249) stated that his property abuts up to the proposed restaurant. He has a concerns about the drive thru especially at night. He suggested that the applicant provide better screening and proposed they match the screening located behind Golden Coral. He has no issues with the location of the dumpster.

MR. MISRACH wanted to know what type of screening is located at Golden Corral.

MR. BLUMENTAL stated that there is a six foot privacy fence located on top of a three foot berm.

MR. STEFANECK reluctantly agreed to provide the bigger barrier. He requested that the Board allow the landscaping for the eastern property line be installed inside the privacy fence.

MR. WOLFE made a motion to consider the following:

RESOLUTION
GRANTING
APPEAL NO. 2016-06

WHEREAS, Group A Architecture, Inc., 1100 Landmeier Road, Suite 202, Elk Grove Village, IL 60007, appellant, on June 6, 2016 filed Appeal No. 2016-06 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 104.1, 344.1, 105.1, 314.8 and 321.2-2(1) of said Resolution as applied to the property located at 12110 Mason Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on June 6, 2016, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a new Slim Chickens restaurant with less building, dumpster and sign setback than required; and

WHEREAS, said Zoning Inspector, on June 6, 2016, acting upon said application and the plats and plans submitted, refused to issue said Certificate, his reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was held on said appeal on July 11, 2016, 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 "E" Residence (with subservient retail) District; and

WHEREAS, Section 104.1 provides, in relevant part, that there shall be a front yard having a depth of not less than fifty (50) feet and parking areas shall be set back at least twenty (20) feet from the front lot line; and

WHEREAS, Section 344.1 provides, in relevant part, that dumpsters, trash handling areas and related screening, shall be located in compliance with the same minimum setbacks as a main building as determined by the zone district in which such structure is constructed; and

WHEREAS, Section 105.1 provides, in relevant part, that the minimum setback for buildings shall be fifty (50) feet for front yards, thirty (30) feet for side yards and fifty (50) feet for rear yards; and

WHEREAS, Section 314.8 provides, in relevant part, that no sign, except those authorized by a government agency, shall be located or shall be permitted in the traveled way or within a vision clearance area unless the combined total width is twelve (12) inches or less and the combined total depth is twelve (12) inches or less; and

WHEREAS, Section 321.2-2(1) provides, in relevant part, that no freestanding pole sign shall be closer than ten (10) feet to any right-of-way line; and

WHEREAS, according to testimony offered at the public hearing, the applicant is proposing to demolish the existing Pizza Tower restaurant building and construct a new two thousand seven hundred eighty five (2,785) square foot Slim Chickens restaurant on the site; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the east side of Mason Road, south of Governor's Way; and

WHEREAS, according to further testimony offered at the public hearing, the building would include a five hundred ten (510) square-foot covered outdoor seating area along the Governor's Way frontage and a drive thru on the east side of the building; and

WHEREAS, according to further testimony offered at the public hearing, a third access point from Governor's Way would be relocated from its current location to a point further west to provide increased setback from the property line to the east; and

WHEREAS, according to further testimony offered at the public hearing, the proposed building would be located thirty six (36) feet from the right-of-way line due to the placement of the covered patio. However, the porch like design of the outdoor seating area will separate the area from the main building and reduce the visual impact from the road; and

WHEREAS, according to further testimony offered at the public hearing, the proposed dumpster would be located twenty-five (25) feet from adjacent residents and placed within a stone enclosure and buffered by new landscaping and privacy fencing; and

WHEREAS, according to further testimony offered at the public hearing, a twenty (20) foot high, fifty (50) square-foot freestanding sign is proposed for the western driveway on the existing right-of-way. This location places the support pole in the vision clearance area. A viable alternative is to locate the sign further to the east in the streetscape buffer with the pole moved back to the edge of the parking aisle running parallel with Governor's Way; and

WHEREAS, according to further testimony offered at the public hearing, in order to provide privacy from the drive thru area for adjacent property owners a berm and privacy fence along the eastern property line is necessary. This would match the existing structure located behind the Golden Coral restaurant; and

WHEREAS, according to further testimony offered at the public hearing, there are other buildings surrounding the site that have been granted various setbacks that are not consistent; and

WHEREAS, Section 184.6, 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 determinations 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 104.1, 344.1, 105.1, and 321.2-2(1) 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 104.1, 344.1, 105.1 and 321.2-2(1) of the Zoning Resolution in accordance with the authority granted in Section 184.6. 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 104.1, 344.1, 105.1 and 321.2-2(1) 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 restaurant building shall not be located any closer than thirty six (36) feet from the right-of-way line.

2. That, the freestanding sign for the proposed restaurant shall be permitted to have a zero (0) foot setback from the right-of-way of Governor's Way provided that the sign shall not be located within the required vision clearance area;
3. That, the dumpster for the proposed restaurant shall not be located any closer than twenty five (25) feet from the eastern property line;
4. That, a three (3) foot berm with a six (6) foot privacy fence on top of the berm shall be constructed along the eastern property line to provide privacy from adjacent residents and that the required landscaping shall be planted on the restaurant side of the fence;
5. That, the proposed restaurant shall be constructed and located exactly as shown on the plats and plans submitted to this Board;
6. That, the proposed restaurant shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
7. That, the Zoning Certificate and Building Permit, if required, for the proposed restaurant shall be obtained within sixty (90) days and all work be completed within one (1) year from the date of adoption of this Resolution;
8. That, the proposed restaurant shall not be relocated or enlarged without the approval of this Board;
9. That, the proposed restaurant shall be maintained in a satisfactory condition at all times;

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

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

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

MS. HARLOW made a motion to approve the minutes of the May 2, 2016 meeting.

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

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

MR. RUEHLMANN made a motion to approve the minutes of the May 16, 2016 meeting.

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

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

MR. HAVILL adjourned the meeting at 8:35 p.m.

Approved: _____
Luanne Felter, Secretary