
**MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING
AUGUST 3, 2015**

The meeting was called to order at 7:00 p.m. Members of the Commission present were: Ms. Harlow, Mr. Misrach, Mr. Ruehlmann and Mr. Wolfe.

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

PUBLIC HEARING

MR. MISRACH convened the public hearing for BZA 2015-04 for the property at 8675 East Kemper Road.

MR. SNYDER stated that the applicant is requesting approval for The Club at Harper's Point to construct new buildings and make site improvements with less parking and rear yard setback than required in an "E" Residence District. The property is located west of the intersection of East Kemper Road and Pemmican Drive.

The applicant was granted a variance for a similar proposal by the Board of Zoning Appeals in 2014. However, a zoning certificate was not obtained within the required timeframe and the variance expired. The plans have since been modified and a new variance is required.

The applicant has proposed to redevelop the courtyard area between the L-shaped main club building currently occupied by an outer row of six tennis courts and inner row of five tennis courts with a 1,730 square foot outdoor pool and building. The outer row of courts would consist of five relocated "hydro" tennis courts and an outdoor seating area with a pool building housing concessions, locker rooms and auxiliary rooms to also serve as a southern entrance between the courts and main building. A storage shed has been proposed at the western end of the outer row of courts along the walkway and court fencing. The inner row of courts would consist of three "hydro" courts and a 25 meter-wide swimming pool with six lap lanes, diving well, slide landing area and kids pool. To the east of the pool would be a baby pool and adult area with pool bar. Five clay tennis court will be relocated to the outer row and include a covered pergola, seating area, concessions, locker room, play area, and auxiliary rooms to serve the new pool which will be located between the courts and main building.

The site currently has 124 available parking spaces. With the proposed redevelopment of the site a total of 209 parking spaces would be required. However, a shared parking agreement has been obtained from the shopping center to the west for 56 additional spaces which would allow the site to provide 180 parking spaces. This should be adequate since the pool and outdoor tennis courts are not utilized during the winter months.

MR. MISRACH wanted to know how much time is granted in the resolution for construction. He does not want the same thing to happen again.

MR. SNYDER stated that the standard condition of the resolution requires a permit to be obtained within 60 days and all work be completed within 6 months from the adoption of the resolution. However, the Board may grant the applicant additional time.

DAVID CLARK (3700 Park 42 Drive, Suite 190B, Cincinnati) stated that the building was moved back from the original plans to provide more lawn space. A shared parking agreement has been notarized and is in the process of being recorded. The existing tennis court chain

link fencing and wind screen would be relocated with the courts. They are requesting additional time to complete the work.

MR. RUEHLMANN wanted to know if there would be a buffer between the facility and the apartment complex.

MR. CLARK stated that the south side of the existing club building is setback 17.4 feet from the southern property; however, there are drive aisles and parking areas that create separation between the club building and apartment buildings. There is also an existing row of canopy trees along the southern façade of the building that provides buffering and shade for the walkway and building between the apartments to the south.

MR. WOLFE had concerns about the parking situation especially during busy times.

MR. MISRACH stated that he believes the parking use is compatible especially since the Club schedules tennis lessons in the morning and swim meets in the evening.

MR. RUEHLMANN wanted to know how long of an extension they would need to comply with the Zoning Resolution.

MR. CLARK stated that they would need one year.

STEVE CONTARDI (8675 East Kemper Road, Cincinnati) suggested that they get a two year extension. He explained that they plan to start work in October but if something comes up and construction is delayed they will need to hold off work until October 2016 so not to disrupt the club during the peak season. This extension will prevent them from coming back to the Board.

MS. HARLOW did not have any issues with the proposal.

MR. RUEHLMANN stated that he thinks the Club is an asset to the community. As for the parking, he doesn't think the situation is any different than before. He agrees that they should have a two year extension to be sure they complete all the work.

MR. WOLFE stated that a one year extension is plenty of time. They can come back to the Board if they need more time.

MR. MISRACH stated that he likes the plan better than the previous plan. He didn't see a problem with a two-year extension.

MR. RUEHLMANN made a motion to consider the following:

RESOLUTION
GRANTING
APPEAL NO. 2015-04

WHEREAS, McGill Smith Punshon, 3700 Park 42 Drive, Suite 190B, Cincinnati, OH 45241, appellant, on July 6, 2015 filed Appeal No. 2015-04 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 105.1, 105.5, 328.1-3, 346.2 and 141 of said Resolution as applied to the property at 8675 East Kemper Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on July 6, 2015, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of new buildings and site improvements with less parking and rear yard setback than required; and

WHEREAS, said Zoning Inspector, on July 6, 2015, 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 August 3, 2015, 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 "E" Residence District (with Subservient Retail); and

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

WHEREAS, Section 105.5 provides, in relevant part, that buffer yards and streetscape plantings be required;

WHEREAS, Section 328.1-3 provides, in relevant part, a boundary buffer of twenty-five (25) feet shall be required along abutting residential districts or residential use property. Such buffer shall have a minimum of four and one-half (4.5) canopy trees and ten (10) shrubs per one hundred (100) linear feet of boundary buffer required;

WHEREAS, Section 346.2 provides, in relevant part, no fence or wall located in the rear yard shall be built to a height greater than six (6) feet above grade;

WHEREAS, Section 141 provides, in relevant part, that recreation facilities open to the public for a fee shall have one parking space for each fifty (50) square feet of pool area, eight (8) spaces for each indoor tennis court and five (5) spaces for each outdoor tennis court;

WHEREAS, according to testimony offered at the public hearing, the applicant was granted a variance by the Board of Zoning Appeals in 2014 to construct new buildings and make site improvements with less parking and rear yard setback than required. However, a zoning certificate was not obtained within the required timeframe and no work was done so the variance expired. The plans have since been modified and a new variance is required; and

WHEREAS, according to further testimony offered at the public hearing, the property is located west of the intersection of East Kemper Road and Pemmican Drive; and

WHEREAS, according to testimony offered at the public hearing, the applicant has proposed to redevelop the courtyard area between the L-shaped main club building currently occupied by an outer row of six (6) tennis courts and inner row of five (5) tennis courts with a one thousand seven hundred thirty (1,730) square foot outdoor pool and building; and

WHEREAS, according to further testimony offered at the public hearing, the outer row of courts would consist of five (5) relocated "hydro" tennis courts and an outdoor seating area with a pool building housing concessions, locker rooms and auxiliary rooms to also serve as a southern entrance between the courts and main building. A storage shed has been

proposed at the western end of the outer row of courts along the walkway and court fencing; and

WHEREAS, according to further testimony offered at the public hearing, the inner row of courts would consist of three (3) “hydro” courts and a twenty-five (25) meter-wide swimming pool with six (6) lap lanes, diving well, slide landing area and kids pool. To the east of the pool would be a baby pool and adult area with pool bar; and

WHEREAS, according to further testimony offered at the public hearing, five (5) clay tennis court will be relocated to the outer row and include a covered pergola, seating area, concessions, locker room, play area, and auxiliary rooms to serve the new pool which will be located between the courts and main building; and

WHEREAS, according to further testimony offered at the public hearing, gated access would be provided through the site from the adjacent off-site parking area to the west as well as from the covered sidewalk along the south side of the existing club building; and

WHEREAS, according to further testimony offered at the public hearing, a streetscape buffer has been proposed along the East Kemper frontage; and

WHEREAS, according to further testimony offered at the public hearing, no improvements have been proposed to the main club building; and

WHEREAS, according to further testimony offered at the public hearing, the setback requirements for the existing club building do not comply with the Zoning regulations. The building is setback seventeen point four (17.4) feet from the southern property line. None of the improvements will encroach into this area; and

WHEREAS, according to further testimony offered at the public hearing, the existing building and southern parking lot do not comply with the Zoning requirements due to a walkway along the south side of the building setting the parking lot back only fifteen (15) feet. There is an existing row of canopy trees along the southern façade of the building that provides buffering and shade for the walkway and building between the apartments to the south; and

WHEREAS, according to further testimony offered at the public hearing, the existing tennis court chain link fencing and wind screen would be relocated around the five (5) relocated clay tennis courts along the southern boundary. With the relocation of the outer row of clay tennis courts this fencing would be moved from fifteen (15) feet off the southern property line up to five (5) feet from the southern property line. The existing fencing appears tall when viewed from the property line and moving the fencing closer to the property line may increase its intensity. It is suggested that the fencing be screened with buffer yard plantings to mitigate the height of the fences; and

WHEREAS, according to further testimony offered at the public hearing, the site currently has one hundred twenty four (124) available parking spaces. With the proposed redevelopment of the site a total of two hundred nine (209) would be required. A shared parking agreement has been obtained from the shopping center to the west for fifty six (56) additional spaces which would allow the site to provide one hundred eighty (180) parking spaces. Since the pool and outdoor tennis courts are not utilized during the winter months, parking should be adequate; and

WHEREAS, 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 an irregular shape of the lot, topographic or other conditions, provided such variations 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 105.1, 105.5, 328.1-3, 346.2 and 141 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; and

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 requirement of Sections 105.1, 105.5, 328.1-3, 346.2 and 141 of the Zoning Resolution in accordance with the authority granted in 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 105.1, 105.5, 328.1-3, 346.2 and 141, 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 this Resolution; and

SUBJECT TO THE FOLLOWING CONDITIONS:

1. That, the proposed improvements shall not be relocated or enlarged without the approval of this Board;
2. That, the proposed improvements remain exactly as shown on the plats and plans submitted to this Board;
3. That, the proposed improvements be maintained in a satisfactory condition at all times;
4. That, the proposed improvements 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 improvements be obtained and all work be completed within two (2) years 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.

MR. MISRACH seconded the motion and the roll call vote was as follows: Ms. Harlow – “aye”, Mr. Misrach – “aye”, Mr. Ruehlmann – “aye”, Mr. Wolfe – “nay”.

ADMINISTRATIVE MATTERS

MR. RUEHLMANN moved to approve the minutes of the June 1, 2015 meeting.

MR. WOLFE seconded the motion and the roll call vote was as follows: Ms. Harlow – “aye”, Mr. Misrach – “aye”, Mr. Ruehlmann – “aye”, Mr. Wolfe – “aye”.

ADJOURNMENT

MR. MISRACH adjourned the meeting at 7:45 p.m.

Approved: _____
Luanne Felter, Secretary