
**MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS
REGULAR MEETING**

DECEMBER 1, 2014

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

Also present were: Bryan Snyder - Hamilton County Rural Zoning and Luanne Felter - Symmes Township.

All persons wishing to testify before the Board were sworn.

PUBLIC HEARINGS

Mr. Wolfe convened the public hearing for BZA 2014-15 for the property located at 12065 Montgomery Road.

MR. SNYDER stated that the request is for variance approval to install a new freestanding ground-mounted sign at the Nx Stage medical office building that is located in an "E" Residence district. The sign, which is 5.5 feet tall by six feet wide, does not meet the setback requirements as it would be placed four (4) feet from the right-of-way line of Montgomery Road directly adjacent to the driveway. The parking lot could be modified to accommodate the sign within the required setback and eliminate the need for a zoning variance. However, such modification would place the sign within the parking lot eliminating a parking space and would create a sight problem for patients trying to locate the facility. Moving the sign by the driveway entrance will increase visibility without having any impact on the aesthetics of the corridor or the adjacent commercial properties. Furthermore, there have been numerous sign and parking lot nonconformities in this area created by the widening of Montgomery Road.

MR. MISRACH wanted to know if there would be any sight distance problems for patients exiting.

MR. SNYDER stated that the proposed sign would be located outside of the vision clearance area for motorists leaving the property and would not cause a safety concern. He noted that if the right-of-way did not change due to the widening of Montgomery Road the sign would be in compliance with the Zoning Resolution.

TERI CANTOR (ABC Sign, 38 West McMicken, 45202) stated that the building sits back from Montgomery Road quite a ways causing difficulties for patients trying to locate them. Additionally, due to the setback requirements and contour of the property line the sign would have to be placed in the middle of the parking lot to meet the code. They have adjusted the location which will put the sign at the entrance where it can be seen more easily.

MR. HAVILL had concerns about motorists being forced out into the safety zone when exiting the parking lot and suggested that the sign be moved back.

MR. RUEHLMANN and MR. MISRACH disagreed.

MR. WOLFE stated that he checked out the site before the meeting and measured the area. He believes the sign would be a visual impairment for those exiting the parking lot and suggested they move the sign.

MR. MISRACH made a motion to consider the following:

RESOLUTION
GRANTING
APPEAL NO. 2014-15

WHEREAS, Teri Cantor, ABC Signs, 38 West McMicken Avenue, Cincinnati, OH 45202, appellant, filed Appeal No. 2014-15 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 321.1-3 of said Resolution as applied to the property located at 12065 Montgomery Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on October 31, 2014, applied to the Symmes Township Zoning Inspector for a Zoning Certificate to construct a freestanding monument sign with less front yard setback than required; and

WHEREAS, said Zoning Inspector, on October 31, 2014, 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 December 1, 2014, 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 district (with subservient retail uses); and

WHEREAS, Section 321.1-3 provides, in relevant part, that no freestanding ground-mounted sign shall be closer than ten (10) feet to any right of way line; and

WHEREAS, according to further testimony offered at the public hearing, the request is for variance approval to construct a new freestanding ground-mounted sign at the Nx Stage medical office building. The sign would be placed four (4) feet from the right-of-way line of Montgomery Road directly adjacent to the driveway; and

WHEREAS, according to further testimony offered at the public hearing, the proposed sign would be five point five (5.5) feet tall by six (6) feet wide and contain twenty two (22) square feet of sign face with internal lighting; and

WHEREAS, according to further testimony offered at the public hearing, the parking lot could be modified to accommodate the sign within the required setback and eliminate the need for a zoning variance; and

WHEREAS, according to further testimony offered at the public hearing, such modification would place the sign within the parking lot eliminating a parking space and create a sight problem for patients trying to locate the facility; and

WHEREAS, according to further testimony offered at the public hearing, moving the sign by the driveway entrance will increase visibility and would not have any impact on the aesthetics of the corridor or the adjacent commercial properties; and

WHEREAS, according to further testimony offered at the public hearing, the proposed sign would be located outside of the vision clearance area of motorists leaving the property and would not cause a safety concern; and

WHEREAS, according to further testimony offered at the public hearing, there have been numerous sign and parking lot nonconformities created by the widening of Montgomery Road; 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 Section 321.1-3 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 321.1-3 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 321.1-3 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 dimensions of the proposed sign not exceed five point five (5.5) feet tall by six (6) feet wide and not be located any closer than four (4) feet from the Montgomery Road right-of-way line; and
2. That, the proposed sign comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
3. That, the Zoning Certificate and Building Permit, if required, for the proposed sign be obtained within sixty (60) days and all work be completed within six (6) months from the date of adoption of this Resolution;
4. That, the proposed sign not be relocated or enlarged without the approval of this Board;
5. That, the proposed sign 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:

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

MR. WOLFE convened the public hearing for BZA 2014-16 for the property at 8670 East Kemper Road.

MR. SNYDER stated the applicant has constructed a six foot tall wooden privacy fence in the rear and side yard areas of the home without obtaining a zoning permit. The property is located on a corner lot at the intersection of East Kemper Road and Pemmican Run Drive. Since the rear yard is technically considered to be in the side yard a variance for the fence is required. The fence at the northwest side of the home is technically considered to be in the rear yard and is permitted by the Zoning Resolution. He inspected the site and the privacy fence does not appear to be out of place when viewing the property from Pemmican Run Drive.

VICTORIA FICKE (7955 Mitchell Farm Lane 45242) stated that she uses the home as rental property. Out of concern for security and privacy for her tenants she replaced sections of an old fence that were falling down with similar panels. She would like to eventually sell the property.

JEFF GARDNER (8710 East Kemper 45249) stated that he has lived in the neighborhood for over 20 years. The area has grown since the home was built necessitating a need for privacy and security. In addition, the property lost frontage when East Kemper Road was widened.

MR. HAVILL suggested that evergreen trees be planted in front of the fence to provide screening.

MR. MISRACH made a motion to consider the following:

RESOLUTION
GRANTING
APPEAL NO. 2014-16

WHEREAS, Victoria Ficke, 7955, Mitchell Farm Lane, Cincinnati, OH 45242, appellant, on November 3, 2014, filed Appeal No. 2014-16 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 346.1 of said Resolution as applied to the property at 8670 East Kemper Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on November 3, 2014, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a six (6) foot tall privacy fence within the side yard that exceeds the height and openness requirements; and

WHEREAS, said Zoning Inspector, on November 3, 2014, 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 scheduled for said appeal on December 1, 2014, 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-2" Residence District; and

WHEREAS, Section 346.1 provides, in relevant part, that no fence or wall located in the front or side yard shall be built to a height greater than three (3) feet and shall have an open face area of no less than fifty (50%) percent 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 seventy-five (75%) percent; and

WHEREAS, according to testimony offered at the public hearing, the applicant has constructed a six (6) foot tall wooden privacy fence in the rear and side yard areas of the home without obtaining a zoning permit; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on a corner lot at the intersection of East Kemper Road and Pemmican Run Drive; and

WHEREAS, according to further testimony offered at the public hearing, due to the arrangement of the home on a corner lot the fence enclosing the rear yard is technically considered to be in the side yard and requires a Zoning variance; and

WHEREAS, according to further testimony offered at the public hearing, due to the arrangement of the home on a corner lot the fence enclosing the northwest side of the home is technically considered to be in the rear yard and is permitted by the Zoning Resolution; and

WHEREAS, according to further testimony offered at the public hearing, the applicant replaced sections of an old fence that were falling down with similar panels; and

WHEREAS, according to further testimony offered at the public hearing, the purpose of the fence is to provide security and privacy from the busy roadways; and

WHEREAS, according to further testimony offered at the public hearing, the privacy fence does not appear to be out of place when viewing the property from Pemmican Run Drive; 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 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 Section 346.1 of the Zoning Resolution will result in unnecessary hardship to the appellant 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 Section 346.1 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 346.1 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 this Resolution; and

SUBJECT TO THE FOLLOWING CONDITIONS:

1. That, the proposed privacy fence be constructed exactly as shown on the plats and plans submitted to this Board;
2. That, the proposed privacy fence not be relocated or enlarged without the approval of this Board;
3. That, the proposed privacy fence be maintained in a satisfactory condition at all times;
4. That, the proposed privacy fence 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 privacy fence be obtained within six months (6) months and all work be completed within one (1) year 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. WOLFE seconded the motion and the roll call vote was as follows:

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

APPROVAL OF MINUTES

MR. FLAGEL made a motion to approve the minutes of the October 6, 2014 meeting. MR. WOLFE seconded the motion and the roll call vote was as follows:

Mr. Fligel – ‘aye’; Ms. Harlow – ‘absent’; Mr. Havill – ‘abstain’; Mr. Misrach – ‘aye’; Mr. Ruehlmann – ‘aye’; Mr. Wolfe – ‘aye’.

ADJOURNMENT

The meeting adjourned at 7:50 p.m.

Approved: _____

Luanne Felter
Secretary