

RESOLUTION

GRANTING

APPEAL NO. 2014-11

WHEREAS, Platte Design, 1404 Race Street, Suite 300, Cincinnati, OH 45202, appellant, on August 4, 2014 filed Appeal No. 2014-11 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 98.5-1, 98.5.2, 98.5-3, 320.3-1, 312, 328.1-2, 328.2-1, 328.2-2 and 328.2-6 of said Resolution as applied to the property at 11726 Seven Gables Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on August 4, 2014, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a commercial office building that exceeds the height limit with less setback than required and includes various parking, landscape and wall sign adjustments; and

WHEREAS, said Zoning Inspector, on August 4, 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 September 8, 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 519.15 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 "O" Residence District (with Subservient Office and Business Uses); and

WHEREAS, Section 98.5-1 provides, in relevant part, the minimum setback for buildings in an "O" Residence District shall be forty (40) feet for front yards when constructed adjacent to or abutting any residence districts; and

WHEREAS, Section 98.5-2 provides, in relevant part, the minimum setback for parking areas in an "O" Residence District shall be twenty (20) feet for front yards when constructed adjacent to or abutting any residence districts; and

WHEREAS, Section 98.5-3 provides, in relevant part, that the maximum height of buildings in an "O" Residence District shall be two (2) stories or thirty (30) feet when constructed adjacent to or abutting any residence districts; and

WHEREAS, Section 320.3-1 provides, in relevant part, for each office building one point zero (1.0) square feet of sign surface area shall be permitted for each linear foot of building frontage; and

WHEREAS, Section 312 provides, in relevant part, that the total linear feet of building length of the façade must face the principal dedicated street upon which the main entrance to the building is situated; and

WHEREAS, Section 328.1-2 provides, in relevant part, that a boundary buffer of twenty (20) feet shall be required in an "O" Residence District abutting a residence district. Such buffer shall have a minimum of three and one-half (3.5) canopy and fifteen (15) shrubs per one hundred (100) linear feet of boundary buffer; and

WHEREAS, Section 328.2-1 provides, in relevant part, that adjoining rights-of-way shall require streetscape buffers; and

WHEREAS, Section 328.2-2 provides, in relevant part, that the streetscape buffer shall have a depth of ten (10) feet or greater and located adjacent to the right-of-way extending along

the entire road frontage unless such buffer interferes with vehicular sight distance at public street intersections; and

WHEREAS, Section 328.2-6 provides, in relevant part, that a streetscape buffer of ten (10) feet in an "O" Residence District shall be required. Such buffer shall be a minimum of two and one-half (2.5) 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 construct a new two-story office building that exceeds the height limit with various parking, landscape and wall sign adjustments; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the south side of Seven Gables Road at the northwest intersection of Mason Road and Montgomery Road; and

WHEREAS, according to testimony offered at the public hearing, the applicant is requesting approval to demolish a vacant building and construct a new twenty-five thousand (25,000) square foot commercial office building with an associated ninety-four (94) space parking lot with one new access drive onto Seven Gables Road; and

WHEREAS, according to further testimony offered at the public hearing, the proposed building would be fifty two (52) feet high at the highest point with an average height of forty (40) feet to allow for a pitched roof that will blend with the residential character of the area; and

WHEREAS, according to further testimony offered at the public hearing, due to irregular setbacks in this area, the applicant is requesting that the parking lot setback be reduced to ten (10) feet along Seven Gables Road so that the entire stretch of frontage contains a uniform parking lot setback; and

WHEREAS, according to further testimony offered at the public hearing, the proposed office building will be located ten (10) feet from the right-of-way line along Mason Road. This right-of-way line is not properly aligned with the centerline; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is proposing signage on the south side of the building façade facing Montgomery Road and the east side of the building façade facing Mason Road. Both wall mounted signs would be forty-nine point five (49.5) square feet. A ground mounted monument sign is proposed in the northeastern corner of the site; and

WHEREAS, according to further testimony offered at the public hearing, a streetscape buffer is proposed along Seven Gables Road. Plantings are proposed along the building in lieu of a streetscape buffer on Mason Road due to the irregular alignment; and

WHEREAS, according to further testimony offered at the public hearing, the boundary line is buffered with existing vegetation along the southern boundary line and provides adequate screening from a public park; and

WHEREAS, according to further testimony offered at the public hearing, access to the proposed building would be gained via one curb cut off of Seven Gables Road that would align with the existing Township Safety Service Center curb cut located to the north on Seven Gables Road; and

WHEREAS, according to further testimony offered at the public hearing, a paved pedestrian path is proposed connecting the proposed building with a future sidewalk along Mason Road; 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 98.5-1, 98.5.2, 98.5-3, 320.3-1, 312, 328.1-2, 328.2-1, 328.2-2 and 328.2-6 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 98.5-1, 98.5.2, 98.5-3, 320.3-1, 312, 328.1-2, 328.2-1, 328.2-2 and 328.2-6 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 98.5-1, 98.5.2, 98.5-3, 320.3-1, 312, 328.1-2, 328.2-1, 328.2-2 and 328.2-6, 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 commercial office building shall not exceed twenty five thousand (25,000) square feet and the roof height shall not exceed forty five (45) feet in height as measured in accordance with the Zoning Resolution;
2. That, the proposed commercial office building shall be constructed in accordance with the revised building elevations submitted at the hearing;
3. That, the proposed commercial office building shall not be located any closer than ten (10) feet from the right-of-way line along Mason Road;
4. That, the parking lot for the commercial office building shall be setback a minimum of ten (10) feet along Seven Gables Road;
5. That, the wall mounted signs for the commercial office building shall not exceed forty-nine point five (49.5) square feet;
6. That, the proposed commercial office building not be relocated or enlarged without the approval of this Board;
7. That, the proposed commercial office building remain exactly as shown on the plats and plans submitted to this Board;
8. That, the proposed commercial office building be maintained in a satisfactory condition at all times;
9. That, the proposed commercial office building comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;

10. That, the Zoning Certificate and Building permit (if required) for the proposed commercial office building be obtained within sixty (60) days and all work be completed within six (6) months 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.

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 8th day of September.

Mr. Flagel – “aye,” Ms. Harlow – “aye”, Mr. Havill – “absent”, Mr. Misrach – “aye”, Mr. Ruehlmann – “absent”, Mr. Wolfe – “aye”.

JOURNALIZED: SEPTEMBER 8, 2014

Brian E. Elliff
Township Zoning Inspector

Ralph Wolfe, Chairperson