

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.

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 1st day of December 2014.

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

APPROVED: DECEMBER 1, 2014

Brian E. Elliff
Township Zoning Inspector

Ralph Wolfe, Chairperson