

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.

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 11th day of July 2016.

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

APPROVED: JULY 11, 2016

Luanne C. Felter
Zoning Secretary

D’Arcy Havill, Board Chairperson