

RESOLUTION  
GRANTING  
APPEAL NO. 2017-05

WHEREAS, Mark Smith, LBS Investments LLC, 695 Canterbury Drive, Edgewood, KY 41017, appellant, filed Appeal No. 2017-05 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 321.4-1 of said Resolution as applied to the property located at 12110 Mason Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on March 3, 2017, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the installation of a wall sign on the east elevation of the Slim Chickens restaurant; and

WHEREAS, said Zoning Inspector, on March 7, 2017, 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 April 3, 2017, 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 321.4-1 provides, in relevant part, that any property or business shall be permitted one point five (1.5) square feet of building sign surface area for each linear foot of building frontage facing the public street on which the principal access is located; and

WHEREAS, according to testimony offered at the public hearing, the Board approved a variance to demolish the former Pizza Tower restaurant building and construct a new two thousand seven hundred eighty five (2,785) square foot Slim Chickens restaurant on the property under BZA 2016-06. The variances granted included a front yard building setback of thirty six (36) feet from Governor's Way where a fifty (50) foot front yard setback was required, a rear yard setback for the dumpster of twenty five (25) feet where a fifty (50) foot rear yard setback was required and a zero (0) foot freestanding sign setback from Governor's Way where a ten (10) foot sign setback was required. The applicant has obtain permits for a forty two (42) square foot building sign on the north façade facing Governor's Way, two (2) building signs totaling twenty eight point seven (28.7) square feet on the western façade facing Mason Road and a fifty (50) square-foot freestanding sign along Governor's Way; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is requesting permission to install an additional thirty two (32) square-foot wall sign on the eastern façade of the building. The sign is intended to thank customers for patronizing their business as they exit the drive-thru window; and

WHEREAS, according to further testimony offered at the public hearing, the proposed wall sign will be illuminated by two (2) "gooseneck type" light fixtures directed downward towards the sign; and

WHEREAS, according to further testimony offered at the public hearing, the total square footage of sign space with this additional wall sign will total one hundred two point seven (102.7) square feet which is less than the total building signage permitted; 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 321.4-1 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 321.4-1 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 321.4-1 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, the proposed wall sign on the eastern façade shall not exceed thirty two (32) square feet in size; and
2. That, the lights for the proposed wall sign on the eastern façade shall not be lit after 11:00p.m.; and
3. That, the Zoning Certificate and Building Permit, if required, for the proposed wall sign shall 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 wall sign shall remain exactly as shown on the plats and plans submitted to this Board;
5. That, the proposed wall sign shall not be relocated or enlarged without the approval of this Board;
6. That, the proposed wall sign shall be maintained in a satisfactory condition at all times;
7. That, the proposed wall sign shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;

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 3rd day of April 2017.

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

APPROVED: APRIL 3, 2017

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Luanne C. Felter  
Township Zoning Secretary

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Donald Misrach, Chairperson