

## RESOLUTION

### GRANTING

#### APPEAL NO. 2017-17

WHEREAS, ABC Signs, Inc., 38 W. McMicken Avenue, Cincinnati, OH 45202, appellant, on September 13, 2017 filed Appeal No. 2017-17 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 8969 Fields Ertel Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on September 13, 2017, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the installation on an additional wall sign on the eastern façade of the building; and

WHEREAS, said Zoning Inspector, on September 13, 2017, acting upon said application and the plats and plans submitted, refused to issue said Certificate, her reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was held on said appeal on November 6, 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 (with subservient retail) District; 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 (façade) facing the public street on which the principal access is located. For other building frontages, signs may not exceed point seventy five (.75) square feet of sign surface area for each linear foot of building frontage facing the street; and

WHEREAS, according to testimony offered at the public hearing, the Board of Zoning Appeals approved several variances under BZA 2017-11 to allow the former McDonald's restaurant to be torn down and reconstructed. The redevelopment plans that were approved included variances to the parking setback and streetscape buffer width on Gregory Street and the dumpster screen height. Building signage was not part of the request at that time; and

WHEREAS, according to further testimony offered at the public hearing, the appellant is now requesting an additional variance to allow a building sign on the eastern façade of the building where signage is only permitted on the façade that faces a public street; and

WHEREAS, according to further testimony offered at the public hearing, the proposal includes a thirty two point eight (32.8) square foot McDonald's name and a fourteen (14) square foot arches logo on the western façade, a thirty two point eight (32.8) square foot McDonald's name on the northern façade and a fourteen (14) square foot arches logo on the eastern façade for a total of ninety three point six (93.6) square feet of proposed building signage which is less than the maximum amount permitted for the site. Only the fourteen (14) square foot arches logo proposed on the eastern façade would require a variance; and

WHEREAS, according to further testimony offered at the public hearing, the existing site contains two (2) freestanding pylon signs that existed prior to adoption of Symmes Township zoning. The exact sizes of these signs is unknown; however, it appears that even with the reduced building signage the site as a whole may contain more total signage area than permitted by the Zoning Resolution; and

WHEREAS, according to further testimony offered at the public hearing, given the location and size of the freestanding signage, the McDonald's restaurant use would likely be highly visible from traffic traveling on Fields Ertel Road even without the additional wall signage on the eastern façade; and

WHEREAS, according to further testimony offered at the public hearing, the purpose of the additional wall signage is for branding purposes and to provide uniformity to the matching signage on the western facade; and

WHEREAS, according to further testimony offered at the public hearing, the Board of Zoning Appeals approved a variance for an additional wall mounted sign on the eastern façade of the Slim Chickens restaurant in 2016; 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 determinations 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 signage on the eastern façade shall not exceed fourteen (14) square feet in size;
2. That, the proposed wall signage on the eastern façade shall be constructed and located exactly as shown on the plats and plans submitted to this Board;
3. That, the proposed wall signage on the eastern façade shall not be relocated or enlarged without the approval of this Board;
4. That, the proposed wall signage on the eastern façade shall be maintained in a satisfactory condition at all times;
5. That, the Zoning Certificate and Building Permit, if required, for the proposed wall signage on the eastern façade shall be obtained within ninety (90) days and all work be completed within one (1) year from the date of adoption of this Resolution;
6. That, the proposed wall signage on the eastern façade 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 6<sup>th</sup> day of November 2017.

Mr. Fowler – ‘aye’, Mr. Havill – ‘aye’, Mr. Misrach – ‘aye’, Mr. Ruehlmann – ‘aye’,  
Mr. Wolfe – ‘aye’

APPROVED: NOVEMBER 6, 2017

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Luanne C. Felter  
Zoning Secretary

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Don Misrach, Board Chairperson