

RESOLUTION

GRANTING

APPEAL NO. 2019-01

WHEREAS, Ray Meyer Sign Company, 8942 Glendale Milford Road, Loveland, OH 45140, appellant, on February 4, 2019 filed Appeal No. 2019-01 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 11340 Montgomery Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on February 4, 2019, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a new freestanding sign exceeding the size and height permitted; and

WHEREAS, said Zoning Inspector, on February 4, 2019, 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, public hearings were held on said appeal on April 1, 2019 and May 6, 2019, notice of such hearings were 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 dates of said hearings 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 321.1-3 provides, in relevant part, no freestanding ground mounted sign shall be closer than ten (10) feet to any right of way line and any adjacent property line, shall exceed ten (10) feet in height from the finished grade level and contain more than fifty (50) square feet of sign area per side (maximum two sides); and

WHEREAS, according to testimony offered at the public hearing, the appellant wants to replace the existing shopping center sign at Harpers Point with a new updated cabinet sign with increased square footage and remove the existing electronic message center;

WHEREAS, according to further testimony offered at the public hearing, the shopping center is located on the southeast corner of the intersection of Montgomery Road and East Kemper Road; and

WHEREAS, according to further testimony offered at the public hearing, the construction would reuse the existing poles with a new cabinet added around the base to imitate a ground mounted sign. However, after concerns were raised about sightline issues the appellant requested a continuance. The appellant came back with a new site plan requesting to modify the existing sign by replacing new logo panels at the top, painting the poles and mounting a multi-tenant cabinet underneath the logo for a total of one hundred three (103) square feet of sign face;

WHEREAS, according to further testimony offered at the public hearing, the shopping center has more than one thousand (1,000) feet of frontage on both Montgomery and East Kemper Road so it is permitted to have two ground mounted signs per frontage plus one shopping center sign for a total of five (5) separate freestanding signs with a total square foot area of two hundred fifty (250) square feet. The existing shopping center currently has two identification signs, the nonconforming pole sign and a ground mounted wall sign at the southernmost entrance to the shopping center. A third pole sign is also located on the property for deSha's restaurant; and

WHEREAS, according to further testimony offered at the public hearing, the new proposed sign would not impede visibility and would be similar in size to the one that is currently in place; 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 321.1-3 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 proposed freestanding sign shall not exceed one hundred three (103) square feet in size to include a maximum of sixty-four (64) square feet in area for the shopping center logo cabinet and thirty-nine (39) square feet in area for the multi-tenant cabinet;
2. That, no additional signage shall be installed on the property;
3. That, the proposed freestanding sign shall be constructed and located exactly as shown on the plats and plans submitted to this Board;
4. That, the proposed freestanding sign shall not be relocated or enlarged without the approval of this Board;
5. That, the proposed freestanding sign shall be maintained in a satisfactory condition at all times;
6. That, the Zoning Certificate and Building Permit, if required, for the proposed freestanding sign shall be obtained within ninety (90) days and all work be completed within one (1) year from the date of adoption of this Resolution;
7. That, the proposed freestanding 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 6th day of May 2019.

Mr. Fowler – ‘aye’, Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Horvath – ‘aye’, Mr. Wolfe – ‘aye’.

APPROVED: May 6, 2019

Luanne C. Felter
Zoning Secretary

Ralph Wolfe, Board Chairperson