
MINUTES OF SYMMES TOWNSHIP ZONING COMMISSION
REGULAR MEETING
SEPTEMBER 16, 2020

The meeting was called to order at 7:00 p.m. Members of the Commission present were: Ms. Bucco, Mr. Etter, Mr. Flynn, Mr. Kessler, and Mr. Reichman.

Also present: Bryan Snyder - Hamilton County Rural Zoning, Kim Lapensee - Township Administrator and Jana Grant - Zoning Secretary.

MR. FLYNN made a motion to approve the Agenda. MS. BUCCO seconded the motion. Ms. Bucco - 'yes'; Mr. Etter - 'yes'; Mr. Flynn; Mr. Kessler - 'yes' and Mr. Reichman - 'yes'.

MR. REICHMAN made a motion to approve the July 15, 2020 minutes. MR. ETTER seconded the motion and the roll call vote was as follows: Ms. Bucco - 'yes'; Mr. Etter - 'yes'; Mr., Flynn – "abstain"; Mr. Kessler - 'abstain' and Mr. Reichman - 'yes'.

MODIFICATION TO THE ZONING RESOLUTION:

GREG KESSLER called to order the public hearing for **SYMMES 2020-01, TEXT AMENDMENTS** a continuance from the July meeting to amend **Sections 54.1, 51.5, 62.14-3, 66.14-3, 70.14-3, 74.14-3, 78.14-3, 82.14-3, 143.3, 143.4, 171.7, 191, 319, 342.5 and 346 of the Zoning Resolution.**

BRYAN SNYDER stated that he presented the staff report and the proposed amendments in July and in August they talked about the reasoning for all of the amendments and the proposed changes. The changes were posted on the website to allow the public an opportunity to review them. He does not have anything else to present unless someone has a question.

JEFFREY REICHMAN stated that he had one question. When they take a motion to approve the amendments, are they making that motion to approve all of them as they determine or will they take each section separately? Mr. Snyder stated that they will do it all at one time.

TODD ETTER asked just to understand, that their role is to provide a recommendation to the Trustees who then have the ultimate vote on the text amendment. Mr. Snyder stated that he is correct.

STEVEN WOLF, 11740 Symmes Valley Drive, Loveland, Ohio 45140 stated that he wants to go on the record again on his opposition to the text amendments, specifically the part having to do with RV's, campers and boats. He thinks that it is unfair that people have worked hard for those things that give them pleasure and then are constrained from their use at their homes.

Mr. Snyder stated to Mr. Wolf that he wanted to clarify that their regulations are currently in the Zoning Resolution and that is not something that is being added. Only the word RV is being added to the list to the things that are already prohibited.

CJ CARR, 10403 Willow Drive, Loveland, Ohio 45140 stated that he is more in favor of the staff report wording of the text amendments than the Resolution wording started by the Trustees.

Mr. Kessler stated that his recommendation is to incorporate staff's modifications as referenced in the staff report for the four specific sections; sidewalk, fence maintenance, driveways and fence utility right-of-way.

CYNTHIA BUCCO stated that she agrees with Mr. Kessler.

Mr. Reichman stated that he also agrees with Mr. Kessler

MR. GEORGE FLYNN moved to approve case Symmes 2020-01; Text Amendments, a request for approval of zoning text amendments to Sections 54.1, 51.5, 62.14-3, 66.14-3, 70.14-3, 74.14-3, 78.14-3, 82.14-3, 143.3, 143.4, 171.7, 191, 319, 342.5 and 346 of the Symmes Township Zoning Resolution. Sections 51.4, 51.5, 143.3 and 346 are to be modified per staff's recommendations.

MR. KESSLER seconded the motion and the roll call was as follows: Ms. Bucco - 'yes'; Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler - "yes" and Mr. Reichman - 'yes'.

GREG KESSLER called to order the public hearing for case **SYMMES 2014-02, SILVER SPRING HOUSE III** to consider approval of a modification to the Final Development Plan to allow the construction of a 3, 158 square-foot building addition and a walk-in cooler on the main building and installation of a 500 square-foot storage shed on the property. The subject property is located at 8322 E. Kemper Road.

BRYAN SNYDER stated that prior to 2002, the Silver Spring House existed on the site as a non-conforming use. In 2002, the site went through a zone change and has since gone through several Major Revisions to allow for a larger building on the site. The most recent Major Revision approval was in 2014, as part of case Symmes 2014-02. This request was made in order to modify a condition of approval from the original zone change (case Symmes 2002-01) which limited the total building area on site. The RPC recommended four (4) conditions that dealt with landscaping, lighting, sidewalks, freestanding signage, and access restrictions. Three (3) variances were also recommended related to the front building setback, loading space requirement, and streetscape and boundary buffers. Later in August 2014, the Symmes Township Zoning Commission held a public hearing and recommended approval of the request with similar conditions and variances as those recommended by RPC. Finally, in October of 2014 the Symmes Township Trustees approved the request with one (1) change to the Zoning Commission recommendation for condition #4 to permit the driveway onto E. Kemper, west of the building to be right-in and right-out with physical barriers and signage. In December of 2014, the applicant received Final Development Plan approval for the subject property where no significant changes to the original plans were proposed.

Mr. Snyder stated that the applicant is seeking approval to allow a three thousand one hundred eight-five (3,158) square-foot building addition to the north façade of the existing Silver Spring House building. The proposed building height would be sixteen (16) feet high which is three (3) feet shorter than the existing expansion area building height of nineteen (19) feet. An area of stamped concrete and broom-finished concrete is proposed west and adjacent to the proposed building addition along with a fence. The impervious surface ratio would not increase and would remain 75.6% as the building addition area is proposed where pavement and parking currently exist. A total of twelve (12) parking spaces would be removed to make way for the addition and shed. A minimum of one hundred twenty-six (126) parking spaces are required and the applicant is proposing a total of one hundred thirty-one (131) parking spaces. The applicant has also stated that a total of nineteen (19) additional parking spaces are reserved at the Kemper Road offices complex. These are likely part of a shared parking agreement. There are no proposed changes to the interior parking lot drive aisles or traffic flow and no other site improvements are being proposed at this time.

Mr. Snyder stated that in August of 2014 the Symmes Township Zoning Commission placed four (4) conditions on the zone amendment:

Condition 1. That detailed landscaping and lighting plans shall be submitted as part of the Final Development Plan.

Finding 1. A detailed landscape plan and lighting plan have been submitted as part of this request. A new lighting plan has been submitted which indicates that the majority of the lighting would stay the same as the existing light poles throughout the site would remain in their current locations. A total of two (2) light poles would be relocated from the landscape island that would be removed to make room for the addition. These two (2) poles would be moved to either side of the addition area very close to their current locations. The revised lighting plan indicates that light levels will be maintained at 0.0 foot-candles along the portion of the northern and eastern properties lines where there are adjacent single-family homes. Therefore,

the revised lighting should not increase the impact of light on these homes.

A landscape plan has also been submitted as part of this request. However, it appears to be the same landscape plan that was previously approved and it appears that no new landscaping is being proposed at this time. The addition area would remove one (1) landscape island adjacent to the nine (9) spaces that would be lost. A total of two (2) maple trees and nine (9) shrubs would be removed from this area. With the loss of twelve (12) total spaces, the required interior landscaping would also go down but there may be a need to plant additional landscaping to maintain compliance with the Zoning Resolution. Given the fact that no changes have been proposed to the streetscape or boundary buffer areas, no new landscaping would be required by the Zoning Resolution in these areas.

Condition 2. That a four (4) foot sidewalk shall be installed along East Kemper Road from the terminus of the existing sidewalk to the east restaurant building extending to the existing curb ramp on the northeast corner of the East Kemper/Snyder Road intersection.

Finding 2. This approved FDP indicates that this required sidewalk connection along East Kemper Road was completed and there are no plans to remove or alter this sidewalk as part of this request.

Condition 3. That the site be limited to a maximum of one (1) freestanding ground-mounted sign not to exceed fifty (50) square-feet in area and ten (10) feet in height.

Finding 3. The site has been approved for a 44.5 square-foot sign at 7.5 feet in height as part of the original Final Development Plan approval. No new signage is being proposed as part of this request and the existing signage is not proposed to be altered.

Condition 4. That the westernmost driveway on East Kemper Road shall remain right-in, right-out only with physical barriers and signage that meets the requirements of the Hamilton County Engineer and that the fire department requirements for roll curb be worked out during the construction permitting process.

Finding 4. This driveway has been approved and constructed. There are no plans to change this driveway as part of this request.

Mr. Snyder advised that as stated previously, the applicant is proposing an area of stamped concrete and broom-finished concrete west and adjacent to the proposed building addition along with a fence. The applicant has not disclosed what type of fence or the height of the proposed fence. There is no mention of outside seating proposed in this area and it is unclear how this area would be used. If it is intended to provide outdoor seating with tables and food service, it must be included as restaurant area and incorporated into the parking analysis to indicate that there is enough parking for the additional seating area.

Mr. Snyder stated that applicant has proposed the addition of a five hundred (500) square-foot storage shed to the property between the existing dumpster enclosures on the property. The shed would be placed on the existing pavement where three (3) parking spaces currently exist. The submitted renderings indicate that the shed would be constructed with compatible materials to the main building and would be one (1) story in height. Due to the proposed location between two (2) existing dumpster enclosures and adjacent to the stormwater detention area, there would likely be no negative impact on the adjacent property owners to the north and east. Additionally, the doors would open towards the parking lot to the south and away from the adjacent residential properties. CYNTHIA BUCCO stated that she is looking for some clarification regarding the parking. The drawings show there are 294 existing seats, that new indoor seats would be 144 and new outdoor seats would be 47 which would be a total of 485 seats versus 294 existing seats. How do they meet the parking requirements?

Mr. Snyder stated that parking is based on square foot area. It is for one to one hundred square feet of restaurant area. One parking space per one hundred square feet of restaurant space is how the

parking is determined. They are required to have one hundred twenty-two (122) parking spaces and they are providing one hundred fifty (150) spaces.

Mr. Kessler asked Mr. Snyder if he could give some background on how the current tent came about and how long is it allowed to be there?

Mr. Snyder stated that it is not permitted to be there and it probably was not enforced strongly because of COVID. It is a zoning violation and at some point, that will be enforced.

GEORGE FLYNN stated that of the one hundred fifty (150) parking spaces they have, are any of them calculated using the easement with the office property next door?

Mr. Snyder stated that yes, nineteen (19) of those come from office next door.

JEFFREY REICHEMAN stated that in the documentation it talked about two (2) maple trees and nine (9) shrubs that are going to be removed from the landscaping, do they have any requirements relative to removal of trees and do they need to be replaced somewhere else?

Mr. Snyder stated that with the loss of twelve (12) spaces, the required interior landscaping would also go down but there may be a need to plant additional landscaping to maintain compliance with the Zoning Resolution.

Mr. Kessler stated that to the extent that there are cars parked illegally on the Snider Road berm, who enforces that or is it enforceable?

Mr. Snyder stated that if it is parked on the grass in the right-of-way, typically it is enforced by the Hamilton County Sheriff's Office. The Hamilton County Engineer can decide if they are allowed to park in the right-of-way and if they are violating that then it would be between the county engineer and the sheriff's office to enforce that.

BRIAN DOLL, Cincinnati United Contractors, 7143 East Kemper Road, Cincinnati, Ohio 45249, representing Silver Spring House stated that he would like to address some of the things that Board talked about. First, regarding the parking, they have one hundred fifty (150) total reserved parking spots for the Silver Spring House. Those one hundred fifty (150) are within the parking lot around the building and an additional nineteen (19) spaces that are exclusive to Silver Spring House. There are twenty-eight (28) additional spaces that they can have from 6 p.m. to 3 a.m. Mr. Doll stated that the tent was permitted by the tent company and stated that the tent company got zoning and building approval for it.

Mr. Snyder asked if they were building a basement under the addition and is that being calculated as part of the seating capacity?

Mr. Doll stated that the basement area is for storage of dry goods and beer coolers that will service the bar upstairs and lockers and restroom are for employee use only. They would only add one more parking space to include the basement, that would bring it up to one hundred twenty-three (123) spaces. They have additional parking over at the school also.

Mr. Flynn stated that at the meeting about two (2) years ago when Silver Spring House asked to close their outside area, he specifically asked them if this was the end and they stated that it is. It is difficult for this Board to consider more expansion when there is a parking lot concern.

JOE SMITH, 8322 E. Kemper Road, Cincinnati, OH 45249 stated that they will probably go back to valet service.

Ms. Bucco asked if they can use all the parking spots east of the restaurant that belong to the office condos, or just eighteen (18) of them after hours.

Mr. Smith stated that they can use all the parking spots down E. Kemper Road in the office condos. TODD ETTER stated that Mr. Smith mentioned that he wanted to accommodate larger parties but as he is looking at the floor plan that he presented, he is not adding, in his opinion, a large party

space, he is adding a large bar which would indicate single users. He is not adding a private room that would then accommodate large parties. If there is a parking problem and everyone wants to be close to the building and not walk, he does not feel it should be the responsibility of the residents to reach out to the police to make sure that the cars are being parked correctly. With Mr. Smith being the owner and the operator, he needs to take that responsibility. Mr. Etter stated that he is with the rest of the Board with the thought process, parking has always been an issue and continues to be an issue.

Mr. Smith stated that they can do a better job on their parking and they can work on that on their end.

IVANKA JAUREGUI, 11446 Avant Lane, Cincinnati, OH 45249 stated that she lives on the other side of E. Kemper Road and can see Silver Spring House from her house. It is obviously in a very over crowded space. It does not have enough space now and it did not have space before COVID. The 50% increase in foot print is clearly concerning from the point of the parking situation. The customers park in CHCA and a lot of times the parking spaces are taken by students and parents, so it is not available. It is her understanding that the office condos are not supposed to have parking after 5 p.m. It would also cause additional traffic in that area and it is not very easy to see at night. Additional lighting, activity, noise and having activity later in the evening is also a concern. When they had the construction in the past it was happening through the night and she could hear it inside her house.

RICHARD GOLDBERG, 8354 Jeanette Lane, Cincinnati, OH 45249 stated that they have lived in Symmes Township for almost thirty (30) years. Silver Spring House has nineteen (19) spaces they can use from the office complex and they cannot use any more space per a court order settlement. The parking that they use at CHCA on Snider Road will be coming to an end because it is in contradiction to a court order. Cars are not allowed in that parking lot after 9 p.m. unless there is a school function. The addition being proposed is not consistent with the residential neighborhoods that are north and south of the restaurant. Lighting is going to increase and there will be a potential for more noise. The reason why he thinks this should be turned down is the size, the appearance, the parking, the safety issue and the incompatibility with the existing surroundings. The last time Silver Spring House came before this Board they said that this is last time they are coming before them for expansion; they are at their limits.

RICHARD STEINHARDT, 8387 Chesney Lane, Cincinnati, OH 45249 stated that many times coming out of the exit on Snider Road he has almost been hit because of all the cars parked on the berm of the road that blocks the site distance and he is also worried if they would be having live music with the new expansion.

Mr. Flynn stated that the applicant, in effect, in order to alleviate some of the Board's concern related to parking mention the two (2) agreements they have with CHCA and the office condo's as being relievers should there be any need for overflow parking beyond what the code requires. He is concerned that if those agreements are not in place then where does that leave Silver Spring House on the parking.

Mr. Snyder stated that he does not think that Silver Spring House has any legal authority to have any agreements with CHCA or the office condos. Legally they are only allowed the nineteen (19) spaces in the office condos and it sounds like none at the CHCA.

Mr. Reichman stated that the parking they have today is insufficient to handle their customers now.

Ms. Bucco stated that the parking meets the zoning code but in reality, it does not work and it is going to work even less if they add this.

Mr. Flynn stated that the reality of it is if they turn it down there is probably an easy appeal.

Mr. Snyder advised that the fact that this is a planned district and that the Final Development Plan is subject to review and approval by this Commission, it does meet zoning, so they cannot say they are denying it because they do not have enough parking to meet the zoning requirements. But then there is the character of the Planned District that was intended when it was approved by this

Commission for the previous expansion. As Mr. Flynn stated the idea was that this would be it and the parking was discussed then and the parking on the grass was an issue at that point in time. Yes, they could argue that it is meeting zoning and the Commission does not have the authority to deny it based on that. But at the same time the Commission does have the authority to grant the FDP, they can decide if this is consistent with the intent of the original approval or not.

Mr. Kessler stated that his concern is the intensity of the development and the additional parking that addition will require. The parking falls within the number that is permissible but just the size and increase of the number of customers, it seems too intense for the area.

Mr. Doll stated that there is not a court order that denies them from using the nineteen (19) spaces that are mostly on the Silver Spring House side and partially on the Lucke side. Those nine (19) spaces are exclusively the Spring House and he has documentation for that.

Mr. Snyder stated that when the Lucke Office went in, it was approved through court by a settlement agreement. It was initially denied by the Township Trustees and approved by a settlement agreement through the court system. As part of that settlement agreement, that is where those nineteen (19) parking spaces are limited. That settlement for the Lucke property prevents the use of any additional spaces above and beyond the nineteen (19) spaces.

Mr. Doll stated that he has documents that stated they have the rights to an additional twenty-eight (28) spaces from the hours of 6 p.m. to 3 a.m. on the Robert Lucke development along E. Kemper Road.

Mr. Snyder stated that he does not have those documents. Mr. Doll stated that it is an easement agreement for than egress and ingress park and maintenance. Mr. Etter stated that they have not been submitted and he does not know what those documents are.

Mr. Snyder stated that he did not review the settlement agreement for the Lucke Offices as part of this because they met the zoning requirements on the property. They are only talking about the Silver Spring House property, not the Lucke property. They cannot enforce that on the adjacent property. They might have an agreement but he is not required to be a party to that agreement. And that agreement can change at any time with the agreement of the property owners. Mr. Doll stated that they still meet the zoning code with the agreement.

Mr. Reichman stated that the Board has reflected significant concern about the parking, whether or not it meets the zoning law, it is still a concern.

Mr. Etter asked if they have the authority to approve it based on its intended uses within the guide line of the zoning code? Mr. Snyder stated yes, it is required to meet the Zoning Resolution. They have the authority to vary or enforce the guide lines of the zoning code. They do have the authority to determine if the FDP is consistent with the intent of the original approval because this is a modification of what was originally approved. Since they are modifying it, it is part of the Board's review to determine if the modification is appropriate based on the original approval. The Board does have the authority to deny an FDP even if it meets all the basic standards of the zoning resolution, otherwise there would be no need for a FDP review, they would just check to see if it met the zoning code and then approved by staff if it did.

Mr. Kessler stated that in light of their discussion, whether it is safety, noise or parking, it is his belief that it does not meet the original intent of the review based on the intensity of the proposed development.

Mr. Flynn stated that he agrees with Mr. Kessler and he would like to see the applicant take a step back and really understand what is going on here. He brought it up earlier that he was told the last time they were here to increase covered space, that this would be it, they are done, they are not going to come back again, they are at their limit and now here they are again. He does not see a huge modification to a parking field. There are ways of relief that would satisfy the Board. They are all struggling with the parking and they are not fighting something new. This is a product of success so it is tough to say no to that. We love it in our community, they don't want them to leave or forced to be moved to another location but they have to be concerned about some of these things.

Mr. Reichman stated that he would love to see a parking study where they could actually show that they have sufficient space. If they could prove to the Board that they have an engineer certified plan, he would be inclined to except that but otherwise it is all speculation at this point.

Mr. Etter asked Mr. Snyder if what they can do tonight is either approve, deny or table the modification presented, is that correct?

Mr. Snyder advised yes, they can approve, approve with conditions or deny it. Those are the three (3) actions they can make but they do have the authority to continue it to a future date.

MR. GEORGE FLYNN made a motion to continue the Final Development Modification for case Symmes 2014-02; Silver Spring House III, to give the Board more time to understand the parking scenario, applicant to provide documentation related to the parking easement with Lucke Office and to provide documentation related to the parking agreement with CHCA.

MR. ETTER seconded the motion and the roll call was as follows: Ms. Bucco - 'yes'; Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler - "yes" and Mr. Reichman - 'yes'.

OLD BUSINESS

None

NEW BUSINESS

Meeting next month on October 21, 2020 at 7 p.m. via Zoom.

ADMINISTRATIVE MATTERS

None

ADJOURNMENT

MR. FLYNN made motion to adjourn at 8:22 p.m. MR. ETTER seconded the motion and the roll call vote was as follows: Ms. Bucco - "yes": Mr. Etter - 'yes'; Mr. Flynn - 'yes'; Mr. Kessler – 'yes' and Mr. Reichman - 'yes'.

Approved:

Chairperson

Zoning Secretary