

COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

Regular Meeting

4200 Springdale Road - Cincinnati, Ohio 45251

Wednesday, November 19, 2014 - 7:00 p.m.

Meeting called to order: 7:00 p.m.

Pledge of Allegiance.

Explanation of Procedures.

Roll Call. Present: Mr. Bartolt, Mr. Price, Mr. Martin, Mr. Roberto, Mr. Reininger.

Swearing in: appellants, attorneys and all speakers in the cases.

Hearing of Appeals:

- A. Case No.: BZA2014-25 – Variance for carport in side yard – 10.2.1 (C), 10.2.3 (C).
Location: 7292 Swirlwood Ln., Cincinnati, Ohio
Applicant/Owner: Robert & Joann DeAngelis

Staff: The applicant proposes to construct a carport 2-3 ft. from the side property line where 5 ft. is required. Overview of the area was provided. The property is at the end of a cul-de-sac which creates very small side yards. The property is zoned R-6 Residential. Staff findings were as follows:

1. The variance requested is not substantial - 2 to 3 feet into the 5 foot required setback.
2. The property in question would likely yield a reasonable return without the variance because other homes in the R-6 district yield reasonable returns without carports.
3. The owners' predicament could feasibly be obviated by other means, namely, constructing a smaller carport. However, in this instance, given the unique circumstances of this case, to require the owner to do so would present practical difficulties to the owner.
4. The variance would not adversely affect the delivery of governmental services.
5. The essential character of the neighborhood would not be negatively impacted and to date this office has received no opposition from neighboring property owners.
6. The parcel's geometry is typical of cul-de-sac lots in the township.
7. Whether the owner knew about the zoning regulations when they purchased the property is unclear.
8. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by granting this variance.

Staff recommendation was approval.

Applicant: Robert D. and Joann Angelis, 7292 Swirlwood Ln., Cincinnati, Ohio. Mr. DeAngelis said they've lived there for over 43 years and are experiencing problems because his wife works at a bakery and since their car is uncovered, it's difficult to clean it off during bad weather now that they're older. The proposed carport would fit on an existing concrete pad. They have an odd shaped lot and if it were rectangular, there wouldn't be a problem.

Motion to close public input by Mr. Martin, 2nd by Mr. Price. Motion carried.

Board Deliberation: Questions were raised about the width of the carport, will it be attached to the house, the construction and color. Mr. DeAngelis said it is about 12 ft., it will not be attached to the house, the construction is 12 gauge steel and it will match the house. Question was raised if the carport is an accessory structure or detached garage. Mr. Milz said the structure is partially enclosed, so his interpretation is that it is a garage. Mr. DeAngelis said the manufacturer is selling it as a carport. Question was raised if it will sit 2 or 3 ft. from the property line. Mr. Milz said since the lot is pie shaped, the setback will be from 2 to 3 ft.

Board Action: Motion by Mr. Martin to approve variance under 10.2.1 (C) and 10.2.3 (C) allowing the accessory structure to be located as proposed, 2nd by Mr. Bartolt.

Roll call: Mr. Price – aye, Mr. Bartolt – aye, Mr. Martin – aye, Mr. Roberto – aye, Mr. Reininger – aye.

B. Case No.: BZA2014-26 – Variance to create parcel with less than one acre – 8.3.1.
Location: 9459/9455/9427 Colerain Ave. (Parcel 510-103-206), Cincinnati, Ohio
Applicant: Anne F. McBride
Owner: T. Northgate Pads Ohio, LLC

Staff: The site is located at the southeast corner of Northgate Mall directly across from Commons Drive. Overview of the site showing the parent parcel was provided. The applicant proposes to subdivide a portion of the site where Burger King is located and the new parcel line will follow the zoning line. The issue is that the child parcel is only .55 acres in a district that requires 1 acre. The intent of this requirement is twofold; to achieve a certain character and to allow for adequate space for parking, landscaping and utilities. In this case, the density and character will not be impacted because both parcels are fully developed and the site is built out, so granting a variance will not change anything. It will create a nonconforming parcel, but there will be no change.

Staff findings were as follows:

1. The variance requested would create a parcel that is 55% of the required 1.0 acre.
2. Due to the unique nature of the parcel it is unclear whether the property would yield a reasonable rate of return without the variance.
3. The variance would not adversely affect the delivery of governmental services.
4. The essential character of the neighborhood would not be negatively impacted as the lot split would not result in any perceivable changes to the character of the neighborhood or district.
5. The parcel is unique in that it is part of a regional mall and straddles two zoning districts.
6. Whether the owner knew about the zoning regulations when they purchased the property is unclear.
7. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by granting this variance.

Staff recommendation was approval.

Applicant: Anne McBride, 5725 Dragon Way, Ste., 220, Cincinnati, Ohio 45227. The owners of Northgate Mall would like to subdivide the parcel for financing and title reasons. There are

two buildings on the site, which include Tuesday Morning and a restaurant in the larger building and a Burger King on the portion of the site which has frontage on Colerain Ave. It makes sense to break out a smaller parcel where Burger King is located as that site is contained. This lot split will allow them to create a parcel line that follows the zone line. There will be no physical change to the property. There are parking and access easements that allow customers to cross park and cross access both sites. It is a unique circumstance in that it is an odd shaped lot and the panhandle is required to stay for access.

Motion to close public input by Mr. Roberto, 2nd by Mr. Martin. Motion carried.

Board Deliberation: Question was raised if there will be additional splits in the future or if any buildings will be added. Ms. McBride said it would be difficult to split any further because of frontage issues and she's not aware of any additional buildings to be added, but if so approval from the Zoning Commission and Board of Trustees would be required. Question was raised if the lot is going to be sold and Ms. McBride said the reason for the split is for financing. She said there's an issue because of the 2 different zone districts and the zone map line doesn't line up with the parcel line. Concern was expressed about a negative impact and setting a precedent and Ms. McBride said it is an existing development. Mr. Milz said the purpose of the one acre minimum is to create a certain density and character and to make sure you can get parking, utilities and landscaping on a site, but in this case there is zero detriment because there will be no change in character. Concern was expressed if the lot were to be sold in the future. Ms. McBride said the lot will always be tied to Northgate Mall because they share parking as well as access and this will continue. Ms. McBride said the mall sits on a number of parcels and that Sears and the theatre both own their own parcels and added that no one knows why this little slice of the mall was zoned B-2 instead of PD-B. Question was raised if this portion should be rezoned to PD-B. Ms. McBride said their request for the lot split is a financing issue and the owners aren't going to do anything that would jeopardize anything and that asking for a variance doesn't set a precedent because it's part of the mall. Question was raised what is the hardship. Mrs. McBride said the hardship is they have 2 buildings located in two different zones. She said that zone boundaries should follow either a street right of way or property lines and she's asking for a variance to follow the zone line to determine the lot split. She said this situation was not created by the applicant; it was created by the Township, and reiterated that it is a unique situation.

Board Action: Motion to approve variance as recommended by staff by Mr. Price, 2nd by Mr. Bartolt.

Roll Call: Mr. Price – aye, Mr. Bartolt – aye, Mr. Martin – nay, Mr. Roberto – nay, Mr. Reininger – aye.

C. Case No.: BZA2014-27 – Variance for detached garage in front yard on corner lot –10.2.1 (C).
Location: 4911 W. Kemper Rd., Cincinnati, Ohio
Applicant: Norb Boh
Owner: Mike Young

Staff: The parcel is unique because it abuts the access ramp to US-27 and the west and north property boundaries are W. Kemper Rd. The applicant proposes to construct a detached garage in, because it is a corner lot, the front yard. There's a lot of existing vegetation. The property is zoned R-2 Residential. Staff findings were as follows:

1. The variance requested is not substantial.
2. The property in question would likely yield a reasonable return without the variance because other homes in the R-2 district yield reasonable returns without detached garages.
3. The variance would not adversely affect the delivery of governmental services.
4. The essential character of the neighborhood would not be negatively impacted as the garage would be obscured from view from US-27 by vegetative screening.
5. The parcel is unique in that W. Kemper forms the western and northern boundary of the property and because the property is separated from US-27 by an exit ramp.
6. Whether the owner knew about the zoning regulations when they purchased the property is unclear.
7. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by granting this variance.

Staff recommended approval with the following condition:

1. A vegetative screen shall be maintained between the subject property and US-27 such that the detached garage is, for all practical purposes, screened from view.

Applicant: Norb Boh, 6573 Daleview Rd., Cincinnati, Ohio. The property doesn't have a garage and needs one. It is a corner lot of by definition; but in practicality, it is not a corner lot. There's no line of sight issues and because of the topography, there is no other place to put the garage.

Jenny Young, 4911 W. Kemper Rd., Cincinnati, Ohio. They did not know the regulations before they purchased the house. It is her childhood dream home. They're trying to make the garage non-intrusive to their neighbors, they want it to flow with their 95 year old house and also they want to create a rear yard. Last December their house was broken into, so they want to be able to get in and out of their home and garage with their 2 small children safely, and creating a garage next to house will do this. She said that you can only enter US-27 from the access next to them.

Motion to close public input by Mr. Martin, 2nd by Mr. Roberto. Motion carried.

Board Deliberation: Questions were raised if the garage could be relocated, what is the overall height, and is there a fence and existing vegetation. Mr. Boh said this is the best location, the garage will have a 9 ft. ceiling and they have removed dead trees from the property where the garage will be located and will plant hedges and bushes after completion. It was noted that ODOT cuts the brush.

Board Action: Motion to approve with condition recommended by staff by Mr. Martin, 2nd by Mr. Price.

Roll call: Mr. Price – aye, Mr. Bartolt – aye, Mr. Martin – aye, Mr. Roberto – aye, Mr. Reininger – aye.

D.	Case No.:	BZA2014-28 – Variance for signage –15.5.6, 15.8.3 (G) 1,2.
	Location:	Burger King, 9427 Colerain Ave., Cincinnati, Ohio
	Applicant:	Brian Arnold
	Owner:	GPS Hospitality

Staff: Burger King is investing in the property and they're installing new facades which includes a new signage package. The applicant proposes letters that sit on top of an awning and wall signage. Wall signs are permitted at a ratio of 1 sq. ft. per linear ft. of building frontage on the wall facing a public or private street. The issue is that where they want to install a wall sign is not a public or private street; it is an access drive that is located at a lighted intersection across the street from Commons Drive. The proposed signage is tasteful and the access drive fits the function of a private street. Staff findings were as follows:

1. The variance requested is not substantial. If a variance were to be granted the amount of wall signage would be in keeping with the 1SF per linear foot of building frontage. As it relates to the letter sign, the area of the sign would be permitted - it is only the location of the letters away from the building that is at question. It is my opinion that the types of signs which our resolution intends to restrict with §15.5.6 are chunky wall signs that are larger than 12" in width, not letters on an awning.
 2. The property in question would likely yield a reasonable return without the variance because other businesses in the B-2 district yield reasonable returns without signs on entrance drives. However, this entrance drive is rather unique in that it accesses a regional mall and terminates at a lighted intersection with a public road on the opposite side of the light.
 3. The owners' predicament could not feasibly be obviated by other means. Without the variances, the owner will not be able to install any signage on the south facade.
 4. The variance would not adversely affect the delivery of governmental services.
 5. The essential character of the neighborhood would not be negatively impacted.
 6. The parcel is unique in that it sits at lighted intersection on Colerain Ave and is adjacent to the entrance drive of a regional mall.
 7. Whether the owner knew about the zoning regulations when they purchased the property is unclear.
 8. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by granting this variance.
- Staff recommendation was approval.

Applicant: Ted Brennan, GPS Hospitality, Roswell, Georgia. Requesting signs on the side of building which is the main entrance to the restaurant, and a sign that is part of the awning. The new signage is part of their image.

Motion to close public input by Mr. Price, 2nd by Mr. Martin. Motion carried.

Board Deliberation: Question was raised if this should be addressed in the Code since it has come up before and does the Code define what an access road is. Mr. Milz said this case is different than the last case they heard because of the access drive, and access drive is not a definition in the Code. Mr. Brennan said they don't plan to leave this area.

Board Action: Motion to approve variance as recommended by staff by Mr. Roberto, 2nd by Mr. Martin.

Roll call: Mr. Price – aye, Mr. Bartolt – aye, Mr. Martin – aye, Mr. Roberto – aye, Mr. Reininger – aye.

Resolutions for Adoption:

A. Case No.: BZA2014-24 – Appealing denial of a zoning certificate for an alternative financial service provider – 3.3.2.
Location: 8619 Colerain Ave., Cincinnati, Ohio
Applicant: Drummond Financial Services, LLC
Owner: 8635 Colerain, LLC
Motion: Grant.

Roll Call: Mr. Bartolt – aye, Mr. Martin – aye, Mr. Price – aye, Mr. Reininger – nay, Mr. Roberto – aye.

Unfinished Business: None.

Approval of Minutes: Motion by Mr. Roberto to approve minutes of October 22, 2014 meeting, 2nd by Mr. Martin. Motion carried.

Administrative Matters: Mr. Milz advised the Board that there are no public hearings scheduled for the December 17, 2014 meeting, and the Board agreed to change the meeting time to 6:00 p.m.

Adjournment: Motion to adjourn by Mr. Martin at 8:10 p.m., 2nd by Mr. Bartolt. Motion carried.

Respectfully Submitted:



Rebecca J. Reno, Zoning Recording Secretary

Secretary:



Robert W. Martin, Jr., Secretary

Accepted by:



Thomas W. Reininger, Chairman