

COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

Regular Meeting

4200 Springdale Road - Cincinnati, Ohio 45251

Wednesday, July 23, 2014 - 7:00 p.m.

Meeting called to order: 7:00 p.m. Alternate Donnie Kelley was seated.

Pledge of Allegiance.

Explanation of Procedures.

Roll Call. Present: Mr. Martin, Mr. Price, Mr. Reininger, Mr. Kelley.

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

Hearing of Appeals:

- A. Case No.: BZA2014-05 – Abandoned sign – Article/Section 15.6.11.
Location: 10140 Colerain Ave., Cincinnati, Ohio
Applicant/Owner: Louis Zettler, Jr.

Staff: The case was continued from the previous meetings. The following staff findings were provided and denial was recommended:

1. The zoning resolution §15.6.11 states that “abandoned signs shall be deemed to be a public nuisance by reason that the continued lack of use results in a lack of reasonable and adequate maintenance, thereby causing deterioration and a blighting influence on nearby properties.”
2. The zoning resolution defines “sign” in section in §16.2 (166) as “any medium, including its structure, words, letters, figures, numerals, phrases, sentences, emblems, devices, trade names, or trade marks by which anything is made know and which are used to advertise or promote an individual, firm, association, corporation, profession, business, commodity or product and which is visible from any public street or highway” (emphasis added).
3. The subject sign has suffered from a lack of reasonable and adequate maintenance as witnessed by the deteriorated condition of the sign shown in the attached photographs.
4. The subject sign has been abandoned since at least 2006 as evidenced by the attached CAGIS aerial image from 2006 and continues to be abandoned to this day.
5. Violations of the Zoning Resolution are considered a misdemeanor and, if convicted, violations are punished with a fine of not more than \$500 for each and every day the violation exists.
6. No zoning certificate has been issued for the building, building unit or use associated with the abandoned sign in the last 180 days.
7. The Colerain Township Zoning Resolution was adopted purposefully in the interest of the public health and safety and the public convenience, comfort, prosperity and/or general welfare as articulated in §1.1 of the resolution.
8. In light of the foregoing, this request for exemption or variance from the above referenced section of the zoning resolution would be contrary to the public interest; the literal interpretation of the resolution would not result in a practical difficulty or unnecessary hardship; and substantial justice would be done with a denial of the appeal and would be in keeping with the spirit and intent of the zoning resolution.

Applicant: C. Francis Barrett, attorney, Barrett & Weber, 500 Walnut Centre, Cincinnati, OH 45202, representing Louis Zettler, Jr. Asked for a continuance until September 24, 2014. They are planning on having the sign removed by the contractor who is doing the work for ODOT and the contract has not yet been awarded. Mr. Barrett said if they do not have a positive resolution by September 24, 2014, they will proceed with the appeal.

Board Action: Motion by Mr. Price to continue the hearing to the September 24, 2014 meeting, 2nd by Mr. Kelley.

Roll call: Mr. Price – aye, Mr. Martin – aye, Mr. Kelley – aye, Mr. Reininger – aye.

Mrs. Jackson was seated.

B Case No.: BZA2006-26 – Amendment to Condition 7 - limits size of vehicles.
 Location: 8510 Coghill, Cincinnati, Ohio
 Applicant: Eric Schmidt/Joann Leuhrman, TR
 Owner: Joann Leuhrman, TR

Staff: Since the last meeting, the neighbors opposed to the operation have retained counsel to represent them. Both attorneys have requested that the case be continued for one month to give the parties time to resolve the issues. Staff recommendation was to continue the case.

Board Action: Motion by Mr. Martin to defer to August 27, 2014 meeting, 2nd by Mr. Price.

Roll call: Mr. Price – aye, Mrs. Jackson – aye, Mr. Martin – aye, Mr. Kelley – aye, Mr. Reininger – aye.

C. Case No. BZA2014-18 – Conditional Use application for a telecommunications facility in a residential district – Article/Section 7.4.12.
 Location: 2841 W. Kemper Rd., Cincinnati, OH
 Applicant: SAC Wireless for AT&T
 Owner: City of Cincinnati

Staff: The request is for a Conditional Use approval for a new telecommunications facility in a residential district. Proposal is to install antennas and an accessory compound. The antennas will be attached to an existing water tower on land owned by the City of Cincinnati. View of the site. Property is zoned R-6 Residential. The adjacent uses are a cemetery, vacant land, and across the street is a Colerain Township Fire Dept. Staff findings were provided as follows:

1. In order for an application for a new telecommunications tower in a residential district to be approved it must meet the general requirements for a conditional use found in §4.4.3 as well as the special requirements for this particular use found in §7.4.12 (D).
2. Telecommunications towers are conditional uses in all residential districts.
3. The use is in accordance with the objectives of the Colerain Township Comprehensive Plan and Zoning Resolution, particularly due to the creative means of collocating the antennae on an existing structure and thereby eliminating the need for a new lattice type tower to be constructed.
4. The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare by providing what is increasingly considered “critical infrastructure.”

5. The use will not create excessive requirements, at public cost, for public facilities and services and will not be detrimental to the economic welfare of the community.
6. The applicant has selected the best possible location by collocating the antennae on an existing water tower. Staff finds that the applicant has demonstrated that the tower antennae cannot be located on any other communication tower or facility in the vicinity and that all reasonable means have been undertaken to avoid any undue negative impact caused by the clustering of towers in the area.
7. All technically suitable and feasible sites are not available in a non-residential district.
8. The proposed tower is the least aesthetically intrusive facility for the neighborhood and function and all buildings and structures are architecturally compatible with the architecture of the adjacent buildings and structures.
9. The structure on which the antennae will be placed is already constructed so the setback requirements of §7.4.12 (D) (6) for new structures do not apply.
10. Screening of the equipment shelter was not included in the Plan.

Staff recommended approval subject to the following condition:

1. Before issuance of a zoning certificate, a landscaping plan shall be submitted to the Zoning Administrator demonstrating compliance with Section 7.4.12 (D).

Applicant: Romel Saro. In checking out sites, this particular site turned out to be in AT&T's best interest.

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

Board deliberation: Question was raised if this will interfere with the Fire Dept. and will they operate on the same band. It was recommended that a condition be added that the Fire Dept. is contacted to confirm this. Questions were raised about access, appearance and height. Mr. Saro said they will use the existing road for access, description of what the unit looks like was provided and the height of the antennas is approximately 108 ft. Question was raised about existing towers within a 2 mile radius and Mr. Saro provided a map showing current coverage in the area. He said this tower will provide service to locations that existing towers do not reach.

Board action: Motion by Mr. Martin to approve subject to condition recommended by staff, and condition that the Colerain Township Fire Dept. be contacted to verify that there will be no interference on their band. The motion was 2nd by Mr. Kelley.

Roll call: Mr. Price – aye, Mrs. Jackson – aye, Mr. Martin – aye, Mr. Kelley – aye, Mr. Reininger – aye.

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| D | Case No. | BZA2014-21 – Variance for wall signage – Article/Section 15.8.3. |
| | Location: | 9184 Colerain Ave., Cincinnati, Ohio |
| | Applicant: | Walter Barineau |
| | Owner: | Midwest Waffles |

Staff: Waffle House is currently being constructed and has received zoning certificates for the building and one wall sign facing Colerain Ave. They are requesting one additional wall sign on the north face of the building. The proposed wall signage is 18 inches in height and 30 sq. ft. The parcel showing where the restaurant is being constructed was provided. The property is

zoned B-2 Business and is bordered by PD-B, B-2 and PD-R to the rear. The following staff findings were provided:

1. The building's placement on the site is limited by the size of the lot and the driveways that must be used to access the property. Currently the building is approved to be situated on the property such that it has only 23 linear feet of building frontage.
2. A 20.6 SF wall sign has been approved for the building frontage.
3. The addition of wall signage on the building facade that faces the parking lot, when taken together with the already approved wall sign, would be not contrary to the purpose of Article 15 of the zoning resolution as listed in §15.1 due to its modest size.
4. The proposed sign is modest in size and the requested variance is not substantial.
5. The applicant's predicament could not feasibly be obviated by any means other than a variance.
6. The variance would not adversely affect the delivery of governmental services.
7. The essential character of the neighborhood would not be negatively impacted due to its modest size.
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 approving this variance.

Staff recommendation was approval.

Applicant: Walter Barineau, Waffle House. Staff described the situation. He added that the proposed sign will be over the doorway to the restaurant. He said there is a shared driveway with Geraci Jewelers and Underground Detectives. The accumulative sq. ft. of their signage is under what is permitted and will not be detrimental to the neighborhood. Both neighbors have multiple wall signs and although those signs may have been issued under different conditions, it acknowledges that there is no detriment to the public. Asking for modest addition and hopes the Board will grant the variance.

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

Board deliberation: Questions were raised if the lot meets the regulations and if the sign is lit. Mr. Milz said a variance was granted for the lot size. Mr. Barineau said the sign will have a low profile light that shines towards the building with no light spillage and the only difference between this sign and the other wall sign is the size.

Board action: Motion to approve by Mr. Martin, 2nd by Mr. Price.

Roll call: Mr. Price – aye, Mrs. Jackson – aye, Mr. Martin – aye, Mr. Kelley – aye, Mr. Reininger – aye.

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| E. | Case No. | BZA2014-22 – Variance for wall signage – Article/Section 15.8.3. |
| | Location: | Hobby Lobby, 9930 Colerain Ave., Cincinnati, Ohio |
| | Applicant: | ABC Signs |
| | Owner: | Colreg |

Staff: Recently hhgregg relocated to Northgate Mall and Hobby Lobby is taking their previous location. They are making façade improvements to the building. They applied for a zoning certificate for wall signage, however, because it exceeded the sq. ft. permitted, the permit was denied. A permit was issued for a face change on the existing non-conforming pylon sign. An

overview of the parcel was provided. It has no frontage on Colerain Avenue, but there is an access easement. The property is zoned B-2 Business. The following staff findings were provided:

1. The building on the property is setback approximately 400 feet from Colerain Avenue.
2. The proposed signage package, when taken in total, would be contrary to the purpose of Article 15 of the zoning resolution as listed in §15.1.
3. All of the proposed signs are “channel-letter” type signs.
4. The owners predicament could feasibly be obviated by unstacking the channel letters and/or decreasing the number and size of the proposed wall signs.
5. The requested variance is substantially in excess of the zoning requirements (248% more SF than is permitted).
6. The variance would not adversely affect the delivery of governmental Services.
7. The essential character of the neighborhood would be negatively impacted by allowing the amount (as measured by square footage) of signage in the Colerain Ave. corridor.
8. The applicant was aware of the zoning regulations before they executed a lease of the property. Staff shared the zoning requirements for the property with representatives of Hobby Lobby in person on March 19, 2013 and via email on September 5, 2013.
9. 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 denying this variance.

The initial recommendation was denial, however, after the application was submitted, Teri Cantor, ABC Signs made a suggestion that Hobby Lobby would mitigate any negative impact caused by the wall signage by bringing down the pylon sign. In his opinion, the pylon sign is much more of a detriment to the community and because of that, his recommendation is to approve the request with the condition that the existing pylon sign be replaced with a sign no more than 15 ft. in height.

Applicant: Teri Cantor, ABC Signs. Michael Warden, Hobby Lobby. Updated signs and current signage was provided for the record. The building sits 400 ft. back from Colerain Avenue. At their current location, Hobby Lobby has 5 ft. letters with 2 ft. letters of all of their departments. They would like to enlarge the permitted 4 ft. height to 5 ft. and have channel letters of their departments. The store front is 240 ft. in length and the Code only allows them to have 150 sq. ft. of signage, which is not very much for the size of the building. Most businesses have lot frontage, but since Hobby Lobby will have none, this is a unique situation. With the renovations they’re making to the building, Hobby Lobby will be an asset to the community. Pictures of other wall signs in the area were provided. The existing pylon sign that is grandfathered in was shown. By granting the variance, it will allow Hobby Lobby to maintain their corporate image and they will in return remove and replace the pylon sign with a sign that falls within the Code.

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

Board deliberation: Question was raised if the signs at their current location are in violation and Mr. Milz said that the building is located in a planned district. Mr. Warden said their current store has all of the signs that are proposed. He said at their current location, they’re doing about 1.4 million annually in sales, which is low as the average is approximately 6 million, and they believe that by moving to the new location, their sales will increase. Mr. Warden said they want to stay in Colerain. He said they’re friends of the community and don’t want to do anything detrimental, but unfortunately the building they found to relocate to has no frontage. Concern

was expressed by the Board if this would be setting a precedent and Mr. Milz said that the existing pylon is a detriment to the community and he recommends accepting the proposal. Question was raised if the wall signage should be changed in the Code and Mr. Milz said that they did look at wall signage, and determined that it was best to tighten up the regulations and have the BZA review each situation on a case by case basis because in some instances variances are appropriate. Mr. Milz said that Pizza Hut is moving and there is redevelopment of the site. Concern with placement of the existing pylon sign was expressed and question was asked can it be moved. Mr. Milz said with the current issues with ODOT and all of the property owners at the site, it wouldn't be feasible to relocate the pylon sign. Question was raised if the sign will be lit. Mrs. Cantor said the blue signs do not light at all; they are empty channel letters and the monument sign will be internally lit. Mr. Reininger asked what is the size of the signs on their current building and Mrs. Cantor said 5 ft.; the same as what is being proposed. Question was raised about landscaping around the new pylon sign and Mr. Milz said he doesn't think it would be wide enough to landscape and that nothing can be located in the right of way. Mrs. Cantor said the hole where the existing sign will be removed will be capped with steel.

Board action: Motion to approve by Mr. Martin subject to the condition that the existing pylon sign be removed and that the replacement sign have a wrapped base and that the edge of the curb where it is located be painted. The motion was 2nd by Mr. Kelley.

Roll call: Mr. Price – aye, Mrs. Jackson – aye, Mr. Martin – aye, Mr. Kelley – aye, Mr. Reininger – aye.

Resolutions for Adoption:

- A. Case No.: BZA2014-16
There was discussion about the section of the Code to be cited in the resolution and legal counsel was asked to make the determination. Motion by Mrs. Jackson to table journalization of the resolution until the August 27, 2014, 2nd by Mr. Kelley. Motion carried.
- B. Case No.: BZA2014-17
Motion: Grant.
Roll call: Mr. Price, Mr. Reininger, Mr. Martin – aye, Ms. Jackson – abstained, Mr. Kelley – aye.


Unfinished Business: None.


Approval of Minutes: June 25, 2014 meeting: Approval of the minutes was tabled until the August 27, 2014 meeting.

Administrative Matters: None.

Adjournment. Motion to adjourn by Mr. Martin at 8:25 p.m., 2nd by Mr. Price. Motion carried.

Respectfully Submitted: 
Rebecca J. Reno, Zoning Recording Secretary

Secretary: 
Robert W. Martin, Jr., Secretary

Accepted by: 
Thomas W. Reininger, Chairman