



COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

Meeting Minutes

4200 Springdale Road - Cincinnati, Ohio 45251

Wednesday, February 24, 2016 – 6:30 p.m.

Meeting called to order: 6:30 p.m.

Pledge of Allegiance.

Roll Call. Present: Mr. Martin, Mr. Reininger, Mr. Bartolt, Mr. Roberto. Mr. Price and Ms. Pilson were absent. Mr. Price arrived at about 6:45 p.m.

Election of Officers:

Motion by Mr. Martin to elect Mr. Bartolt for Secretary, 2nd by Mr. Reininger. All were in favor by acclamation.

Motion by Mr. Reininger to elect Mr. Martin for Vice Chair, 2nd by Mr. Bartolt. All were in favor by acclamation.

Motion by Mr. to elect Mr. Roberto for Chairman, 2nd by Mr. Reininger. Roll Call. Mr. Martin – aye, Mr. Reininger – aye, Mr. Bartolt – aye, Mr. Roberto – aye.

Explanation of Procedures.

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

Hearing of Appeals:

A. Case No.: BZA2016-01 – Expansion of Non-conforming Use & Side Yard Setback
Variance – Article 9.2 & 11.8.1

Location: 7968 Wesselman Rd.

Applicant/Owner: Rusty Wayne

Staff: This is a single case but with two separate types of action; the expansion of a non-conforming use and a side yard setback variance. The finding of the expansion of a non-conforming is that it will have minimal adverse impact on adjacent properties and can be made compatible with adjacent properties and uses in surrounding neighborhoods upon compliance with the following specific conditions. a) Such extension is necessarily incident to the existing use, provided, however, that the floor area of such extension or extensions shall not exceed in all 50 percent of the total floor area of the original existing building. b) Setbacks of the zoning district are met where the use is otherwise permitted. c) This shall not be a variance but shall be a separate review of the individual non-conforming use. Secondly the criteria for the dimensional variance is that literal enforcement of the provisions of requirements of this Resolution would cause unnecessary hardship to this property owner and the Board may attach conditions to the action in order to preserve the character of the neighborhood.

This property is on Wesselman Road between I-275 and Harrison Avenue and is bordered by Taylor Creek. The property is located in the 100 year floodplain of the Great Miami River. On the comprehensive plan this is an area that is noted for mixed use employment center. The Riverfront District is more of a recreational type of zone and our Comprehensive Plan is not in agreement with how the property is zoned but we agree with the intent that we should not be encouraging intensive building development area that is prone to flooding. The map shows that the property is completely surrounding by the Riverfront District. There is an area across the street that is zoned R-3 Low Residential District and there is currently an application in the office to rezone that R-3 Low Residential District to a B-3 Commerce District. There is other businesses in the area that are B-3 Commerce District. This property is being used as a concrete contracting company and would normally be permitted in an industrial zone or a B-3 zone.

There are two existing buildings on the property and the proposal is to expand the southern building by 30 feet. This expansion is less than a fifty percent expansion of floor area. The existing building is 5-1/2" off the property line and to continue the extension would require a variance since there is a fifteen foot setback requirement. The extension is for extra storage and would keep the same profile as the existing building.

STAFF FINDINGS:

1. The non-conforming use expansion requested is substantial since the zoning resolution strongly discourages the construction of buildings in the flood zone of the Great Miami River and Taylor Creek.
2. The granting of the building expansion would not reduce the land area already used for recreational purposes in the "RF" Riverfront District zone.
3. The property in question would likely yield a reasonable return without the variance.
4. The addition is towards the rear of the property and primarily impacts the uninhabited sewer lift station to the south. The minor size of the addition would not be intrusive on the neighborhood.
5. Approval of the expansion would not affect the delivery of government services.
6. The approval of the dimensional side yard variance is not likely to have a negative impact on the Hamilton County sewer lift station on the adjacent property.
7. By taking into consideration the benefit to the applicant if the variance is granted, as weighed against the potential detriment to the health, safety and welfare of the neighborhood and broader community, staff finds that substantial justice would be done by granting the variances.

Staff Recommendation is approval of the expansion of the Non-Conforming Use and side yard setback as requested.

Oath of Office: Mr. Scott Sullivan administered the oath of office to Mr. Timothy A. Price.

Applicant: Craig Abercrombie, 3377 Compton Road, Cincinnati, Ohio is the civil engineer speaking on behalf of Rusty Wayne. Applicant is in agreement of staff's findings.

Public Input: None.

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

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

Board Deliberation: The Board asked if the applicant needed to get a permit for a non-conforming use first. Staff answered that there is no legal requirement that would require the applicant to get a

non-conforming use permit. The Board asked the applicant if the building could be placed in a different area so that they would not need a variance. The applicant Rusty Wayne, 6077 Kepler Road, was sworn in and answered that the building could be moved into a different area but that they would like to keep the building in line with the other buildings since it will look better aesthetically. The Board asked if the extension would meet all FEMA and Hamilton County Requirements and be designed to receive and discharge flood waters. The applicant stated that the extension would be designed to receive and discharge flood waters and would meet all FEMA and Hamilton County Building requirements. The Board asked if there was any type of run off and asked if gas or oil would contaminate any of the surrounding areas. The applicant stated that the owner runs a clean operation and would not expect any type of contamination.

Board Action: Motion to approve the setback variance and the expansion of the non-conforming use by Mr. Martin, 2nd by Mr. Bartolt.

Board Discussion: None.

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

Mr. Roberto recused himself due to a conflict interest with Case No. BZA2016-02 and Mr. Martin will act as chairman.

B. Case No.: BZA2016-02 – Conditional Use for Recreational Facility – Article/Section 7.2.3
Location: 8650 Cheviot Rd.
Applicant/Owner: The Friendship Baptist Church

Staff: This is a Conditional Use that is being applied for as a private recreational use. The Conditional Use review criteria according to Article/Section 4.4.3:

- (1) The use is a conditional use, permitted with approval by the Board of Zoning Appeals, in the district where the subject lot is located;
- (2) The use is in accordance with the objectives of the Colerain Township Comprehensive Plan and Zoning Resolution;
- (3) The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare; and
- (4) 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.

This property contains two single family houses and is located north of Friendship Missionary Baptist Church. There are two single family houses separating this property from the church itself but they are owned by the same entity. The property is zoned R-5 Suburban Residential and does allow conditional uses for things such as churches. Public parks are a conditional use in an R-5 zone. For this conditional use we are classifying this proposed use as private recreation. The standards have cross references for churches. There are setback standards for buildings or recreational facilities associated with a church. With a private recreation, there are no performance standards cross referenced.

The properties have two driveways that come off cheviot road and both have detached garages that has some pavement in the rear for parking. If additional parking was needed they would use the churches parking lot. One concern we have with approving this as private recreational use is that once zoning is approved on a piece of property the approval stays with that property, so if the church was to sell this property in the future then the new owner would be able to use this as

private recreational purposes. We cannot say that it is accessory to the church since it is not adjacent to the church. The original submission listed a patio shelter and sand volleyball court but since the applicant didn't have plans for a shelter they decided to withdraw that portion and instead apply for two sand volleyball courts and basketball court that would be lighted with the possibility of adding a shelter in the future. The lighting package shows the lighting would be installed away from the neighboring properties.

One of our recommended conditions to the applicant would be to install a privacy fence since people who buy houses in this neighborhood have a reasonable expectation that the house next door is going to be used as a single family house since it is zoned for residential use. When we insert a more intensive use typically there is a need for some type of buffering in order to soften the impact. The owner of a single family house could install a sand volleyball or basketball court for their own recreational use but since it's owned and operated by a church and it becomes more institutional.

Staff Findings:

- The use is a private recreation facility which is a Conditional Use in the R-5 zone.
- The use is in accordance with the objectives of the Colerain Township Comprehensive Plan and Zoning Resolution
- The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties and will serve the public convenience and welfare
- 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.

Staff recommendation is APPROVAL with the following conditions:

1. That outdoor recreation activities be restricted to between 10:00 am to 9:00 pm. (one hour earlier than requested)
2. That a six foot high privacy fence be constructed at the north and south property lines even with the back of the houses to the rear of the recreation courts.
3. That all parking of vehicles be restricted to the existing paved area.
4. That a lighting plan meeting the requirements of section 19.2 be submitted for staff review if the outdoor courts are to be lighted.
5. That any future additional outdoor recreational facilities be submitted to the BZA as a modification of the Conditional Use Permit.

Applicant: Rick Blankenship is representing 8650 Cheviot Road, Friendship Baptist Church. This is for the youth of the church and are willing to abide by all recommendations.

Mr. Martin opened the public portion of the hearing.

Public Input: Trudy Enderle, 8682 Cheviot Road, adjacent neighbor to the north. She addressed concerns regarding property resale, parking, noise and drainage. She would like the Board to add the condition for the applicant to install and maintain a privacy fence to match the fence installed by the garden center on the north side of her property.

Mr. Blankenship answered that they are willing to install and maintain the privacy fence. The applicant would like the board to consider the 10 p.m. curfew since the football field across the street is maintained until 11 p.m. The applicant assured that the noise and language will not be a problem. In the past five years since they have owned the property they have not received one complaint and if a complaint was to arise it would be addressed immediately. The Board asked the applicant about

the drainage of water off of the courts. The applicant answered that there will be drain tiles in the court and they can run lines to drain the water in a direction that is suitable for everyone.

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

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

Board Deliberation: The Board asked if the activities will be supervised and if the activities will be seven days a week. The applicant stated that they will be coordinated activities through a youth leader and should take place about two to three nights a week and maybe on the weekends, but they do not have an agenda at this point. The Board asked about facilities and restrooms and the applicant replied that the house has a restroom and they may add restrooms to the existing garage in the future. The Board asked what the properties are currently being used for and the applicant responded that one of the houses is used for missionaries and the other house is being used for the groundskeeper. The Board asked if the property had a sewer or septic system. The applicant replied a public sewage system.

The Board wanted to know how many people would be on the property at one time. The applicant answered 30-45 people. The Board brought up concerns with parking and is hoping it doesn't become an issue. The Board asked if the groundskeeper would be the enforcer if there were people coming in that weren't apart of their church and the applicant agreed that the groundskeeper would be that enforcer. The Board asked about litter control and asked if there would be trash or recycle bins placed on the property. The applicant stated that they had not considered litter control but thought that was a great idea. The Board asked if the church plans to keep the recreational use private and the applicant said that their intention is to keep the facilities private.

The Board expressed more concerns regarding parking since the property is not attached to the church and the Colerain Township Zoning Resolution states that there should be 16 parking spaces per volleyball court. The Board would have to approve the conditional use and grant a variance for parking and they do not see the justification for the variance for parking. The Board raised the issue of restroom facilities and asked if they needed to be handicap accessible since it is for the church. The Board asked the applicant if they contacted the neighboring property owners about purchasing their lots and the applicant answered that they have contacted the owners about purchasing their properties but they are not interested in selling at this time.

The Board asked staff if the restrooms needed to be ADA compliant since the property is zoned residential and staff answered that even though it's a residential private facility they would still need to be ADA compliant but those are codes that would be addressed by the building department not the zoning department. The Board asked staff if there was a detailed lighting plan and staff replied that a detailed lighting plan was not provided but was suggested as one of the conditions made by staff.

Gary Jackson, 3964 Woodthrush, was sworn in. Mr. Jackson is the Pastor of the church and he appreciates all the help and direction that has been given. Mr. Jackson stated that he wants to be good neighbors with respect to the community and he currently has a great relationship with Colerain Township High School. The church allows the school to use the church's parking lot for football games, band competitions, and other activities and the school reciprocates and allows the church to use their parking lot when needed. The school is actually located farther away than where their additional property is located. The paved area that is currently on the property in question is about 60 feet and would provide some parking and the church's parking lot would also provide additional parking. He agrees with the concerns about restroom facilities and it is the church's intentions to present a plan for restroom facilities to be added to the property. The Board asked if the church uses portable restrooms when they have church outings on the property and Mr. Jackson replied that they have two golf carts to cart people back and forth from the church to the property.

Motion to close the Board discussion by Mr. Bartolt, 2nd by Mr. Price.

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

Board Action: Motion to approve the request with conditions set by staff and Board by Mr. Reininger, 2nd by Mr. Bartolt.

The Board asked staff if they had to grant a variance with respect to parking and staff answered that the board would be granting the variance to the parking standards if they were to vote and approved the request and they should add that to the motion. The Board asked about possibly tabling this issue until they all facts are received.

Mr. Reininger withdrew the motion.

Motion to table the case until March 23rd meeting by Mr. Bartolt, 2nd by Mr. Price.

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

Mr. Roberto re-joined the meeting to act as chair.

Resolutions for Adoption: None.

Unfinished Business: None.

Motion to approve January 27, 2016 meeting minutes with recommended changes by Mr. Martin, 2nd by Mr. Bartolt.

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

Unfinished Business: None.

Next Meeting: March 23, 2016 meeting.

Administrative Matters: Staff is in the process of updating Colerain Township's Comprehensive Plan and has asked the Board for two volunteers to be on the Comprehensive Plan steering committee. Mr. Martin and Mr. Roberto volunteered to be on the committee.

Mr. Roberto adjourned the meeting at 7:51 p.m.

Respectfully Submitted:

Christina Hamilton, Planning Administrative Specialist

Secretary:

Timothy A. Price, Secretary

Robert Bartolt

Accepted by:

Ronald J. Roberto, Chairman