

## **COLERAIN TOWNSHIP BOARD OF ZONING APPEALS**

Regular Meeting Minutes

4200 Springdale Road - Cincinnati, Ohio 45251

**Wednesday, May 23, 2018 – 6:30 p.m.**

Meeting called to order: 6:31 p.m.

Pledge of Allegiance was led by Mr. Reininger.

The Explanation of Procedures were presented by Mr. Reininger.

Roll Call: Mr. Bartolt – aye, Ms. Wilson – absent, Mr. Price – aye, Mr. Roberto – aye, Mr. Reininger – aye.

Also present were staff members Marty Kohler and Jesse Urbancsik. Alternates Mr. Hill and Mr. Schupp were absent.

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

Hearing of Appeals:

**BZA2017-19** – Request for off-site signage variance from Section 15.5.4, Section 15.8.3(D), Section 15.8.3(H)(8), Section 15.9.1(B), Section 15.9.1(C), 15.9.1(D), and 15.9.2(B).

Location: 8195 Colerain Avenue

Applicant/Owner: Bob Carpenter, Carpenter Sign Service / Thornton's Inc.

Bob Carpenter of CSS Signs representing property owners Thornton's Inc. and Roller Fun LLC has requested variances from Section 15.5.4, Section 15.8.3(D), Section 15.8.3(H)(8), Section 15.9.1(B), Section 15.9.1(C), 15.9.1(D), and 15.9.2(B) to allow for an additional off-site freestanding sign for Roller Fun LLC on Thornton's Inc. property.

Mr. Kohler presented that case which is a continuation of an appeals case that was tabled on March 28, 2018 to give the applicant time to address concerns expressed by the Board of Zoning Appeals. The original proposal was for an off-site sign electronic sign for The Place on the adjacent Thornton's property. Variances were needed for additional signage for the Thornton's property, spacing of electronic signs, spacing of billboards, and sign landscaping.

Staff Findings:

1. The sign variances requested are substantial since the zoning resolution encourages the elimination of non-conforming signs and encourages restrictions on the number of signs, Electronically Activated Signs, and billboard signs.
2. The granting of the variances would result in an increase in the overall sign area allowed for the property.
3. The properties in question would likely yield a reasonable return without the variance.
4. The granting of the variance would probably not have a negative impact on neighboring property but would create a precedent to allow for the replacement of other non-conforming signs in a non-conforming manner if requested by similar properties.
5. The granting of the variance request would result in a larger amount of signage for the subject property than other surrounding properties.
6. Approval of the sign variances would not affect the delivery of government services.
7. There are no unusual topographic or site configuration issues related to the properties which would prevent the reasonable application of the sign regulations, however, the property is somewhat at a disadvantage in that it does not have substantial frontage on a major street which would enhance the visibility of the business.
8. 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 for the proposed off-premise sign.

Staff Recommendation is for approval of all sign variances per the revised request subject to the following conditions:

1. That the size of the proposed off-site sign be restricted to 10' 5" in height and 31.6 square feet in size.
2. That the proposed off-site sign and proposed driveway sign be allowed in substitution for a freestanding sign on the driveway owned by The Place on W. Galbraith Road. Only a driveway sign with variances per the revised proposal would be allowed at this location.

Mr. Bartolt clarified the inclusion of the directional sign which was additionally being called a driveway sign.

With no further questions for the staff, Mr. Reininger opened the public hearing. Brian Liette, having been sworn, said he wants to work with the Township and would also like as much signage as possible. Mr. Liette spoke of the previous conversation at the March Meeting.

With no further people to speak in favor or against the request, a Motion was made by Mr. Price and seconded by Mr. Roberto to close the public hearing.

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

Mr. Bartolt thanked the applicant for revising the plans.

Mr. Roberto asked Mr. Liette if the sign is going to be an impairment for passing cars. Mr. Liette responded by saying he will look into it and was thinking the same thing. He said he would want

to go out and make a model sign to test how it would look and work. Mr. Roberto additionally asked the applicant what will be displayed on the LED Sign. Mr. Liette responded that only a logo and text will be displayed. Mr. Roberto asked if the landscaping will be taken care of and Mr. Liette responded yes.

Mr. Reininger reiterated the concern of the line of sight coming out of the driveway and appreciated the compliance of working with staff.

Mr. Roberto made a Motion to approve the variance based on staff's recommendations and to look at the issue surrounding the line of sight at the driveway access. The Motion was seconded by Mr. Price.

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

**BZA2018-003** – Request for a variance from Section 7.3.1 which requires a side yard setback of 18 feet combined with one side yard of at least 10 feet.

Location: 8438 Wuest Road

Applicant/Owner: Mark Veneman

Mr. Kohler presented the case on subject property which is located on the east side of Wuest Rd. between W. Galbraith Rd. and the Reagan Highway underpass. The house was constructed in 1954 and is similar to other houses on the street. The two-bedroom house has about 900 square feet of living area on a 0.48-acre lot. The lot measures 58.76 feet wide and the house is 36 feet wide and on a slight angle with respect to the side property lines. The house has a septic system in the rear yard. The topography of the property slopes upward to the street frontage. The grade change from the front to the back of the house is about 8 feet. A level and elevated parking pad was constructed on the south side of the house which the owner wished to utilize for the foundation of the new garage. An existing side door from the house to the driveway would serve as an access to the garage. A double lane driveway serves the house and there is no enclosed garage on the property.

Staff Findings:

1. The property in question would likely yield a reasonable return without the variance. The property can reasonably be used as a single family dwelling within the limits of the zoning regulations.
2. The setback variances requested are substantial since the proposed building extends into the minimum side yard setback by about 33%.
3. The granting of the variances would grant a consideration that is not available to other property owners in the neighborhood.
4. The granting of the variance would probably not have a negative impact on neighboring property but would create a precedent to allow for side additions if requested by neighboring properties or on site conditions.
5. Approval of the setback variances would not affect the delivery of government services.



6. There are some topographic issues related to this property which would constrain the reasonable application of the setback regulations without additional expenses.
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 variance for setback of the proposed attached garage.

Staff Recommendation is for approval of the variance.

With no questions for the staff, Mr. Reininger opened the public hearing. Mark Veneman, having been sworn, is the owner of the property. He said he only wants to build vertical on the existing concrete slab and that his neighbors are okay with him building it so close to their property.

Dale Kabbes, having been sworn, is a neighbor of the subject property. He said that this addition would greatly improve the condition of the house and will make the neighborhood look more put together.

With no further people to speak in favor or against the request, a Motion was made by Mr. Roberto to close the public hearing and was seconded by Mr. Bartolt.

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

Mr. Roberto asked if the addition is going to continue on as a ranch style home and if the style of house will continue onto the new addition. Mr. Veneman said yes and just wants it to be aesthetically pleasing.

Mr. Price asked how long the concrete slab has existed in its current place. Mr. Veneman said that a previous owner had it replaced. The applicant continued saying that the desire for this new garage is to be able to house a vehicle securely due to previous issues with pranking the cars parked outside.

Mr. Bartolt asked about the thickness and security of the slab. Mr. Veneman said that he has been parking on it for the past eight years and it is safe and secure. Mr. Bartolt advocated that the Board is not responsible for the security and strength of the slab and the Board is just approving the structure that is being built on top of it. Mr. Kohler added that the applicant will need to get a building permit through the Hamilton County Building Department who will conduct an inspection.

Mr. Reininger asked if the septic tank on the property is still active and how they pump it. Mr. Veneman responded that they pump in the driveway and pump in from the back with a hose.

Mr. Bartolt made a Motion to approve the variance and was seconded by Mr. Roberto.

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

**BZA2018-04** – The Cambodian Buddhist Temple has requested a conditional use of a new meditation hall addition located within residential district R-6.

Location: 10036 Menominee Drive

Applicant/Owner: Bayer Becker / Cambodian Buddhist Temple

The Cambodian Buddhist Community of Cincinnati has requested a Conditional Use Permit to construct a new facility for a religious place of worship on a 2.95-acre property located within a residential area. The request is to construct this building in addition to the existing buildings located on the property. Religious Places of Worship are permitted as a Conditional Use within the R-6 zone per Section 7.5 of the zoning resolution subject to conditions specified in Section 7.4.10.

The request also includes a variance to allow for the partial elimination of the required landscape buffering on the south and eastern property lines and to allow for existing natural vegetation on the property to be substituted for buffering. An additional variance is requested to provide for an expansion of the current non-conforming pavement at the southwest corner of the site into the required minimum setback.

**Staff Findings:**

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 Northbrook/Groesbeck area in the Colerain Township Comprehensive Plan and the Zoning Resolution;
3. The conditional use will not substantially and/or permanently injure the appropriate use of neighboring properties if approved with reasonable restrictions to mitigate the more intensive use of the property including noise, outdoor lighting and parking, otherwise the use will serve the public convenience and welfare;
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.

Staff Recommendation is approval subject to the following conditions and variances.

**Conditions:**

1. That the existing dense vegetation along the property lines bordering adjacent residential development be maintained in its dense condition and be used as a partial substitution for required buffering.
2. That a 6-foot-tall solid privacy fence be installed on the west and south property lines (in addition to the proposed landscaping) adjacent to lots #180 through #188 and lot #190 to further buffer these lots from traffic and circulation on the Cambodian Buddhist property.
3. Any future expansion of the buildings or parking areas shall require a Conditional Use application to the BZA.

**Variances:**

1. From Section 14.5.2 Lot Buffers, to forego the buffer landscape requirements on the south and east property lines so long as the proposed parking lot screening landscaping is constructed and maintained.
2. From the variance request from Section 7.4.10(C) to allow for the expansion of the pavement at the southwest corner of the parking lot be denied and that the parking be expanded on the east side of the parking lot to accommodate the additional width.

Mr. Price asked if the new building meets all the requirements including setbacks and height. Mr. Kohler responded yes.

Mr. Bartolt questioned the amount of parking and setbacks. Mr. Kohler stated that none of the pavement on the west side meets the 50 ft. of setback.

With no further questions for the staff, Mr. Reininger opened the public hearing. Ryan O'Malley, having been sworn, said that the Buddhist Community building is at capacity. Mr. O'Malley said that they worked with the Township to address their existing concerns and said it would be more convenient to have the parking stalls on the west side. Additionally, he said that the community is not looking to bring more bodies into the site and does not want to be a major nuisance.

Mike Dooley, having been sworn, works for Bayer Becker and thanked Staff for working with them through the process. Mr. Dooley addressed the parking situation and said the reasoning behind that was to keep the existing trees. He also stated that they will continue to work with staff and could increase the landscaping in the corner.

Darryl Eam, having been sworn, said that the Temple has been a great neighbor for the past 20 years and states that it is a safe haven for the Cambodian community.

Mike Beckman, having been sworn, is an adjacent property owner to the subject property. Mr. Beckman said that he does not oppose the project but wanted to see what could be addressed with the drainage issue due to the parking lot not having any drains. He stated that the owners are great for the community.

Tom Benderman, having been sworn, is additionally another adjacent property owner. Mr. Benderman stated that he had to put in a sump pump in his basement due to the drainage issues coming from the property. He stated that he does not see the need for a privacy fence because he loves seeing the cultural celebrations from his property.

With no further people to speak in favor or against the request, a Motion was made by Mr. Bartolt to close the public hearing and seconded by Mr. Price.

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

Mr. Price stated that the Board cannot address the drainage issues and that maybe something pervious could be constructed in its place. Mr. Dooley spoke that Bayer Becker can work with Hamilton County for the drainage and maybe a rain garden could help alleviate some of the drainage.

Mr. Bartolt spoke of how to proceed with the vote and that he is not totally opposed to the slab of concrete. Mr. Dooly stated that they will formalize the layout and try to make it work.

Mr. Roberto reiterated the drainage problem and recommended that the property owners try to divert the water runoff to try to please their neighbors. Mr. Roberto stated he does not have an issue with the parking lot and does not have to be a fence.

Mr. Reininger reflected on the water runoff and the idea of the rain garden and for the property owners to work with the neighbors for the fence issue.

A Motion was made by Mr. Roberto to approve the conditional use according to Staff Recommendation with the southwest corner of the parking lot to be allowed as presented contingent upon additional landscaping, the option of having a privacy fence, and to look into options of resolving the drainage issues. The motion was seconded by Mr. Bartolt.

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

**BZA2018-05** – Ralph Meierjohan has requested a variance from Section 10.2.3(B) which restricts the height of residential accessory buildings to 15 feet; and Section 12.2.1(B)(3) which specifies that the height of a building with a gable roof is measured at the mean height of the eaves and ridge of the roof.

Location: 6114 Blue Rock Road

Applicant/Owner: Ralph Meierjohan

Mr. Kohler stated this case is similar to a proposal reviewed by the BZA as case BZA2018-02 which was denied by the board in February 2018. The revised proposal reduces the proposed height by two feet but still exceeds the maximum height by 4.5 feet. The subject property is part of the former 34-acre Paradise Resort Campground on the north side of Blue Rock Rd. between Church Rd. and Sheits Rd. The former campground has been demolished and divided into five single-family lots averaging 6.7 acres in size. The lots are accessed by a shared private lane. The property is somewhat hilly and heavily wooded. The applicant's lot is the furthest from Blue Rock Rd. and borders the Orchard Hill residential development to the rear. The subject property and all surrounding property is zoned R-2 Estate Residential District.

**Staff Findings:**

1. The height variance requested is substantial since the proposed building exceeds the maximum height by about 30%.
2. The granting of the variance would grant a consideration that is not available to other property owners in the neighborhood.
3. The property in question would likely yield a reasonable return without the variance. The property can reasonably be used as a single family dwelling within the limits of the zoning regulations.



4. The granting of the variance would probably not have a negative impact on neighboring property but would create a precedent to allow for tall accessory buildings if requested by neighboring properties.
5. Approval of the height variance would not affect the delivery of government services.
6. There are no unusual topographic or site configuration issues related to this property which would prevent the reasonable application of the height regulations.
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 not granting the variance for additional height for an accessory garage building.

Staff Recommendation is denial of the variance request and staff appreciated the consideration of the height reduction.

With no questions for the staff, Mr. Reininger opened the public hearing. Ralph Meierjohan, having been sworn, is the property owner and is currently building a house on the property. Mr. Meierjohan stated that he lowered the height and did not alter the roof pitch because he wants to tie the design into his house. Restated that no surrounding properties will be able to see this building and says it will not negatively affect the residents of the Township.

A Motion was made by Mr. Roberto and seconded by Mr. Price to close the public hearing.

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

Mr. Bartolt asked Mr. Meierjohan if he thought about resolving the issue by building a breezeway. Mr. Meierjohan did not want to add a breezeway because it would close off his backyard. The distance between the house and proposed garage is 15 feet. Mr. Bartolt asked the applicant if he thought of building French doors in the breezeway and Mr. Meierjohan stated that they were expensive.

Mr. Price said that the variance goes with the land and if the applicant decides to sell the house, the garage could be visible if a new owner decides to tear down trees to be more visible to adjacent properties. Mr. Meierjohan approaches the Board to show property and sight lines.

Mr. Reininger stated the advantage that the site has by being rural and hillside topography and that the proposed garage meets all requirements other than the height.

A motion was made by Mr. Bartolt to approve the variance request for the height of the accessory structure. Seconded by Mr. Price.

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

**BZA2018-06** – Judy Ann Co. Properties LLC has requested a variance from Section 15.3, Section 15.8.3(C), Section 15.8.3(D)(1), Section 15.12.2(A) to allow for additional height and setbacks for relocating a freestanding sign.



Location: 7150 Colerain Avenue

Applicant/Owner: Judy Ann Co. Properties LLC / Skanska Megan

The subject property is located at the northeast corner of Banning Road and Colerain Avenue and contains a Shell fuel station. The fuel station was built on a 0.6-acre parcel in 1983 which was prior to Colerain's current zoning regulations. The pylon sign on the property is non-conforming with respect to height and setback. The zoning for the property is B-2 General Business and is a conforming use.

Two significant projects are underway in the proximity of the subject property being the construction of a new elderly housing project on Jonrose Avenue and the construction of a new and larger Struble Elementary School. During the review of both of these projects a determination was made by the Hamilton County Engineer that the intersection of Colerain Avenue and Banning Road needs to be widened to create an additional turn lane on Banning Road. Township staff and Colerain Trustees were heavily involved with the promotion of both of these projects in order to revitalize the Groesbeck neighborhood. Colerain Township is providing funding for the widening of Banning Road.

Since the intersection improvements call for the replacement of the traffic signal mast arms, control box and utility poles, more right-of way was needed behind the existing sidewalk. The project necessitates the relocation of the pylon sign since it already slightly encroaches into the right-of-way of Colerain Avenue.

Staff Findings:

1. The sign variance requested is substantial since the zoning resolution encourages the elimination of non-conforming signs and encourages restrictions on the height and setback of signs.
2. The granting of the variances would result in an increase in the overall sign height allowed for the property.
3. The property in question would likely yield a reasonable return without the variance.
4. The granting of the variance would probably not have a negative impact on neighboring property but would create a precedent to allow for the replacement of other non-conforming signs if requested by similar properties.
5. The granting of the variance request would not result in a larger amount of signage for the subject property than other surrounding properties but would allow for additional height.
6. Approval of the sign variances would not affect the delivery of government services.
7. There are no unusual topographic or site configuration issues related to this property which would prevent the reasonable application of the sign regulations, however the enforcement of the 10-foot setback would place the sign within key vehicle maneuvering lanes and could affect the safe movement of traffic on the property.
8. 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 for relocation of the non-conforming sign.

Staff Recommendation is approval of the sign variance requests subject to the following conditions.

Conditions:

1. That the location of the sign be at least 13 feet behind the existing sidewalk on Colerain Avenue.
2. That the sign cannot be enlarged to more than the current size of 129 square feet.
3. That the curbing for the proposed sign be widened to accommodate 129 square feet of landscaping.

Mr. Price asked if anyone has thought of putting the utilities underground.

Mr. Kohler responded that it is an extremely expensive option and takes years to plan, but would love to see utility lines underground in the future.

With no more questions for the staff, Mr. Reininger opened the public hearing. Pete Becker, having been sworn, is a construction manager with Skanska Megen Construction and gave a brief explanation and history of the project. He stated that they had a meeting with Township staff and County employees regarding the project. They would like to move the project along as quickly as possible.

Chris McKee, having been sworn, is the business manager for the Northwest School District. Mr. McKee stressed the importance of the variance and that not having a turn lane would affect the 900 students being delivered to the school every day.

Dennis Ziccardi, having been sworn, is the ODOT project manager and was retained to help with the project. Mr. Ziccardi emphasized that it is a voluntary project and no eminent domain was involved. The alternative solution would be to move the sign straight back right on the existing right-a-way. The property owner wants to be a cooperating member of the Township. Mr. Ziccardi said that he normally does not get this type of cooperation from business owners from the beginning and says the property owner truly values her business.

With no further people to speak in favor or against the request, a Motion was made by Mr. Bartolt to close the public hearing and seconded by Mr. Price.

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

Mr. Roberto asked who is the one applying. Mr. Becker responded that he is representing the property owner.

Mr. Reininger stated that he has no issue with the setback adjustments. He requested if it is possible to have the sign as the same height as the Shell station up at Colerain Ave. and Springdale Road. Mr. Roberto stated that it could create a hardship by doing that request. Mr. Kohler responded saying that they would have to lose the lower panel to be able to lower the height.

A Motion was made by Mr. Roberto and seconded by Mr. Price to approve the sign variance subject to the three staff conditions.

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

Unfinished Business: None.

Approval of the March 28, 2018 Meeting Minutes:

Mr. Roberto made a Motion to approve the minutes and Mr. Bartolt seconded.

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

Administrative Matters: None.

Mr. Reininger adjourned the meeting at 8:36 p.m.

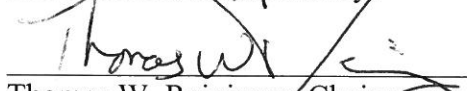
Respectfully Submitted:

  
\_\_\_\_\_  
Jesse Urbancsik, Planner

Secretary:

  
\_\_\_\_\_  
Robert A. Bartolt, Secretary

Accepted by:

  
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Thomas W. Reininger, Chairman



