



COLERAIN TOWNSHIP BOARD OF ZONING APPEALS
STAFF SUMMARY
for consideration by the Board on February 28, 2007

CASE: BZA 2007-0004 11508 Colerain Avenue

- REQUEST:** To allow for expansion of an existing Non-Conforming Use.
- PROPOSAL:** Expansion of Non-Conforming Use – Parking lot expansion onto adjacent single family residential lot.
- Article/Section 11.6.1 states that “No such nonconforming uses shall be enlarged or increased, nor extended to occupy a greater area of land that was occupied at the effective date of adoption or amendment of this Zoning Resolution unless it complies with the provision of Section 11.8.”*
- Article/Section 11.8.1 states that “the usable area of a nonconforming use, subject to a previously issued nonconforming use permit, may be increased or improved where the owner of such use can demonstrate through application to the Board of Zoning Appeals that the manner in which the useable area of the nonconforming use will be increased or improved will have minimal adverse impact upon adjacent properties and other permitted land uses in the surrounding neighborhood or can be made compatible with the adjacent properties and the uses in the surrounding neighborhood upon compliance with specified conditions.”*
- LOCATION:** 11508 Colerain Avenue
Parcels 510-160-100, with expansion onto 510-160-101 proposed
- APPLICANT:** James Wurzelbacher
- OWNER:** James Wurzelbacher
- SITE DESCRIPTION:** Zoning: R-2 Estate Residential (see map below)
Tract Size: parcel 100 - approximately 1.25 acres and 101 - approximately 1.34 acres.
Frontage: parcel 100- 220.48 feet +/- and parcel 101 – 40.93 feet +/-.
Topography: level at frontage, steep slopes to north and east
- EXISTING DEVELOPMENT:** Highway House bar, Single family house
Bar building dates to 1939, house to 1928
Non-Conforming Use for residence and tavern at 11508 Colerain was originally issued to Melvin A. McCreadie on April 4, 1962 by Hamilton County Building Department.
- SURROUNDING CONDITIONS:** Single family residential on all sides, some vacant lots. Fire station about 300 feet to the south. Church about 650 feet to the north. Some agricultural uses in the area. There is also a small neighborhood business district (recently

made smaller by ZA2006-09 – see attached map) nearby to the south.

HISTORY:

There have been three previous BZA applications for this property, as follows:

BZA Case #48-87 – Deck Addition

BZA Case #2000-11 – Parking Lot Expansion; Granted July 26, 2000 with conditions.

BZA2002-20 – Restoration of an existing Non-Conforming Use damaged by fire on October 8, 2000

SITE PLAN AND ZONING ANALYSIS:

Site plan shows the expansion of the parking lot onto the bulk of the second parcel. The second parcel is newly acquired and its current single family use is in conformance with the current zoning. Such expansion of a nonconforming use onto an additional lot is prohibited under the zoning resolution, and by Ohio case law.

The proposed expansion of a nonconforming use should comply with other requirements of the Zoning Resolution. Such considerations follow.

Parking: Sec. 13.3.3 requires 15 parking spaces per 1,000 sq ft of tavern space. In this case, 33 spaces would be required for approximately 2,200 sq ft. (Fire Dept records show occupancy limit of 150.) A buffer of solid wall, 4-6 foot solid fence, or hardy evergreen shrubbery must be provided between the parking area and surrounding properties (Sec. 13.4.1 (E)). Landscaping islands are required at least at the end of each aisle and every 15 spaces (Sec. 14.6.2 (A) and (B)). Such parking must also meet design standards included in Sec. 13.4.3, including dimensions (Sec. 13.4.3 (A)) and surface (Sec. 13.4.3 (C)). All vehicles parked outdoors are also subject to the Colerain Township Junk Vehicles Resolution.

Parking design appears dangerous and difficult to maneuver. Proposed additional parking is in excess of zoning requirements by more than double. Such excess parking is required, according to Section 13.3.4 (A) to be mitigated by a minimum of 20 percent landscaping coverage within the parking area in compliance with the landscape island requirements of Article 14. Landscaping shown does not meet this requirement or the standard requirement noted above.

Setbacks: The proposed tavern use is first permitted in the B-1 Neighborhood Business District (see Sec. 8.2) with the added condition of 50 foot setbacks from all lot lines when abutting any residential district. Section 11.8.3 states that “The nonconforming use shall be required to meet the setbacks of the zoning district where the use is otherwise permitted.”

Site plan shows adequate setbacks.

Lot sizes: The minimum lot size in the R-2 district is 1 acre without sewer or 20,000 square feet with sewer.

Use of the rear portion of parcel 510-160-101 for business will leave less than either of these requirements for residential use. This portion cannot be split off, because it would create a nonconforming lot. The

lots cannot be consolidated, however, as only one use is permitted per residential lot under Section 7.3.4.

Buffer: A 25 foot buffer is required according to Sec. 14.5.2. Because a 50 foot setback is required under Sec. 8.4.3, however, this more restrictive standard applies. Plantings or a combination of plantings and fencing or berming may be used to form this buffer (see Sec. 14.5.2 (B)).

No buffer yard is indicated on the site plan.

Signage: Signage must meet the requirements of Article 15.

No new signage is proposed in the application.

Lighting: Any outdoor lighting must meet the standards in Section 12.9. Non-cutoff lights are to be no higher than 12 feet above grade, cutoff no higher than 24 feet. Maximum illumination at the property line is 0.10 footcandles.

Proposed lighting is indicated to be cutoff fixtures installed at 14 feet. Illumination at the property line is not indicated.

Waste Receptacles: Waste receptacles larger than 32 gallons must be located in side or rear yard (Sec. 12.5.2).

Other: Health Department requirements do not permit building over septic system components. Also, sufficient lot space must remain available for a replacement system.

Neither reduction of the lot nor building the parking lot will be permitted by the Hamilton County General Health District if the existing house is to remain.

CONCLUSION: Staff believes that this expansion would be more appropriately brought forward as a zone change, particularly as any approval results in additional nonconformities, a condition expressly prohibited by the Zoning Resolution.

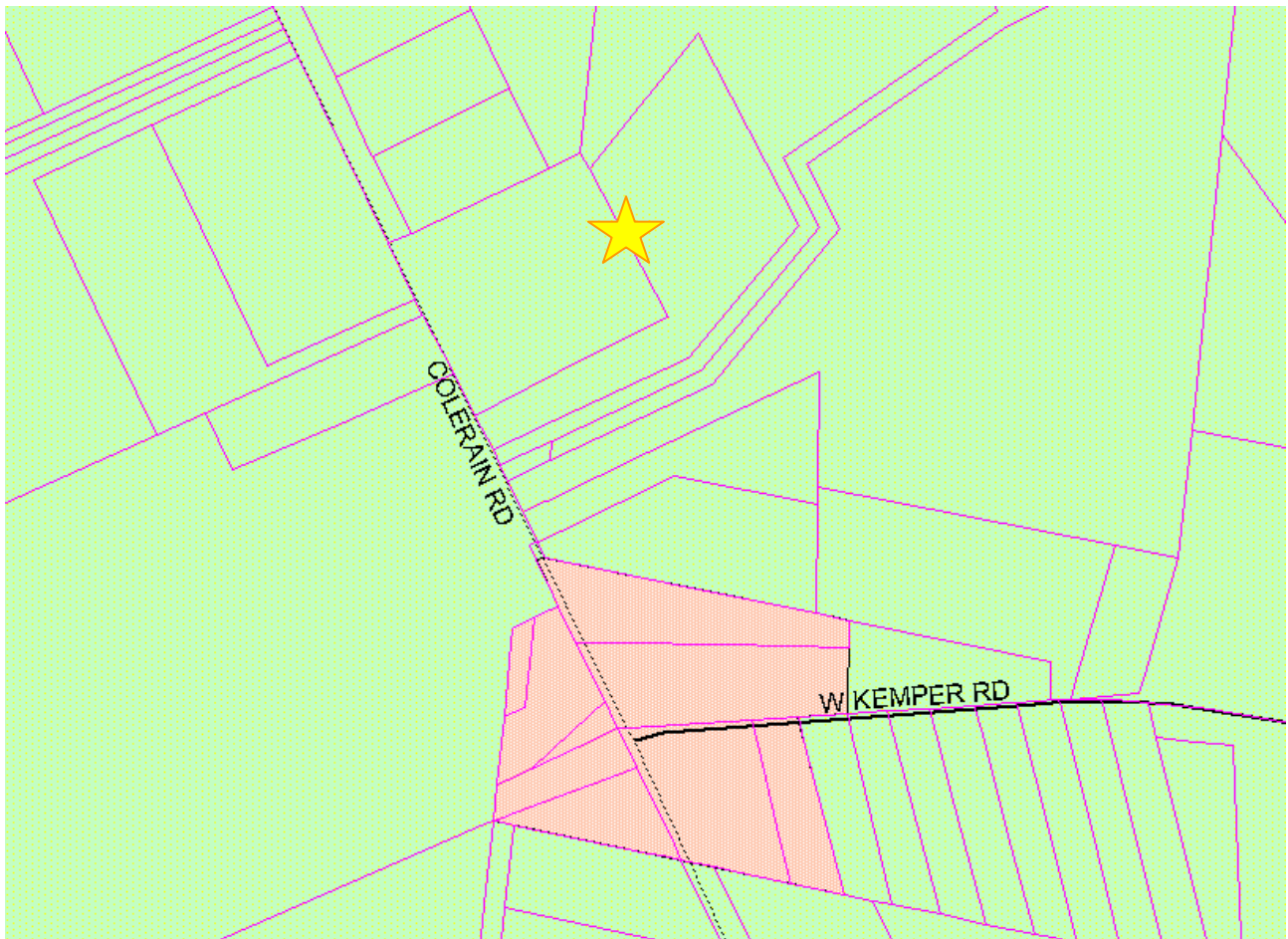
Staff provides the following conditions for consideration by the Board if the Board is inclined to approve the application. These and any additional restrictive covenants to be included with approval of this application are at the discretion of the Board.

1. Lighting and landscaping plans must be revised and resubmitted prior to journalization of any approval;
2. All required landscaping must be installed prior to use of the expanded parking area;
3. Lots 510-160-100 and 510-160-101 shall be consolidated and the existing house at 11504 Colerain Avenue removed within 12 months after journalization of BZA approval;
4. Any requests for additional signage must be approved by the Board of Zoning Appeals;
5. Outdoor use of premises, except for customers entering and exiting the parking area, is not permitted between 11 p.m. and 7 a.m.;
6. All conditions of prior approvals in appeals cases 48-87, 2000-11, 2002-20, and 2003-05 remain in effect;

7. The proposed work must comply in all other respects with all applicable codes and the Colerain Township Zoning Resolution;
8. All proposed work must be completed within 12 months after journalization of BZA approval;
9. The proposed work must be completed as approved with this appeal and no changes or modifications shall be made without consent of the Board.

Respectfully submitted for the Board's consideration,

Susan H. Roschke, Ph.D.
Planning & Zoning Administrator



Recent Rezoning of R-2 and B-1 District Areas at W Kemper, Colerain, and Yeatman

