

COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

Regular Meeting Minutes

4200 Springdale Road - Cincinnati, Ohio 45251

Wednesday, March 28, 2018 – 6:30 p.m.

Meeting called to order: 6:30 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.

Alternate Mr. Hill was seated to fill in for Ms. Wilson.

Also present were staff members Jenna LeCount, Jesse Urbancsik, Scott Sollmann - Legal Counsel, and alternate member Mark Schupp.

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 19.9.1(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.

Ms. LeCount presented the case and reminded the Board that this case has been tabled three times in the past; December 20, 2017, January 24, 2018, and February 28, 2018 meetings.

The owner of The Place is proposing to install a freestanding sign on the adjacent Thornton's property. The proposed sign would be located on the west side of the westernmost driveway entrance from W. Galbraith Road. The purpose is to encourage the use of the Thornton's entrance from W. Galbraith Rd. as the primary means of entry to The Place property. While this

arrangement is anticipated to be acceptable to both Thornton's and The Place, the Colerain Zoning Resolution prohibits off site advertising in this manner. A letter of refusal was issued to Carpenter Signs on November 2, 2017, based on violations of code sections. Ms. LeCount emphasized that if the applicant would move the sign onto The Place's property, they would only need one variance for the electronic reader board.

The variance requests are as follows:

Billboard Definition: Section 16.2 provides the following definition "Sign, Off-Premises shall mean any sign, including billboards, that advertises or otherwise directs attention to an activity not on the same lot where the sign is located". The proposed sign contains a message advertising a business that is not located on the Thornton's property.

Landscaping: Section 15.5.4 requires landscaping surrounding the sign equal in size to the area of the proposed sign. The new sign is proposed to be located in the grass area to the west of the western driveway. No landscaping is proposed on the plan, however the justification letter attached to the BZA application notes an intent to provide the required landscaping equal in size to the size of one face of the sign.

Multiple Signs: Section 15.8.3(D) allows for only one ground mounted sign per parcel in the B-2 zoning district. The site currently contains one freestanding sign for the Thornton's fuel station and one additional non-conforming billboard sign.

Spacing of Electronically Activated Signs: Section 15.8.3(H)(8) requires a 1000-foot separation of electronically activated signs (EAS) on the same side of the street. The proposed sign is 270 feet from the current Thornton's sign that contains an EAS and 130 feet from the Lebanon Citizen's sign to the west that also contains an EAS.

Staff findings are as follows:

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, billboard signs and landscaping of 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.
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 not granting the variances for the proposed off-premise sign.

Staff Recommendation is for denial of all variance requests.

Mr. Price asked the definition of a directional sign and its allowance of substitution of the proposed sign. Ms. LeCount responded that they could be permitted a directional sign per the code and that sign would take place of the proposed sign.

With no further questions for the staff, Mr. Reininger opened the public hearing. Bob Carpenter, who is the owner of Bob Carpenter's Sign Service, having been sworn, said that the spacing of electronic signs is not consistent throughout the Township and states that one more sign would not be a major impact. Mr. Carpenter stated that this position of the proposed sign is the most logical and safest solution.

Brian Liette, having been sworn, started looking for properties to purchase four to five years ago to plan for an addition. He stated that they wanted the property for better access, better visibility, and the need for a sign and wanted to be closer to the corner of Colerain Avenue and Galbraith Road. Mr. Liette reiterated how dangerous it is to turn onto Colerain. Stated that customers come in and say that they did not know their business was back there. Previously was contacted by Frank Birkenhauer and Thornton's, and discussed what was wanted out of their property and was given a lifetime easement and discussion on where the building was going to be placed. He sold the property back to Thornton's and stated his intention was to make the corner nicer and more profitable for everyone.

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

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

Ms. LeCount clarified to Mr. Bartolt that the proposed sign is technically a billboard because of its location off of the site as Mr. Bartolt asked Mr. Liette if he would be willing to tear down the existing sign near the BMV and put a sign closer to Colerain Avenue and Galbraith Road. Mr. Liette said he is open to a driveway sign.

Mr. Hill questioned the intent of the main access to be right next to Thornton's and to eliminate all signs except the small driveway sign.

Mr. Roberto stated that the property does not belong to Mr. Liette and the dilemma of two billboards on the property. Ms. LeCount stated that The Place has their zoning certificate and has followed the regulations. Mr. Roberto said he is in favor of a directional sign and furthers the conversation about monument signage.

Mr. Price asked for future ideas for Lina Place and Mr. Liette responded that there are none.

Mr. Reininger stated solutions for the case which could be approved by the Board. Mr. Roberto spoke about the proximity of the two digital signs. Ms. LeCount responded that each billboard needs to be 500 feet apart and electronic activated signage needs to be 1000 feet apart. Mr. Hill questioned the spacing of the signs and whether it plays into signage clutter and if there is a wall sign currently on the property. Mr. Liette responded that there is one on the north side of the building. Mr. Hill additionally asked if the applicant would be willing to reduce the proposed sign height. Ms. LeCount stated that applicant would need to come back to be approved over the spacing of signs and the multiple signs. Mr. Bartolt asked the need of the electronic sign is a big part of what they are required to have and Mr. Liette responded that they would like to have one.

Mr. Roberto made a motion to table the case to the May 23, 2018 Meeting to allow applicant time to prepare new adjustments. Mr. Hill seconded the motion.

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

BZA2018-01 – Request for fence variance from Section 12.8.1.

Location: 3216 Springdale Road

Applicant/Owner: Nita Beckman

The applicant is proposing to construct a 6' privacy fence within the Springdale Road front and side yard along the west property line separating the owner's property from the residential neighbor's property to the west at 3220 Springdale Rd. The privacy fence would terminate 10 feet behind the sidewalk and continue to the back of the public sidewalk at 4 feet in height and 50 percent open. Four-foot-tall fences that are 50 percent open are permitted in the front yard.

The owner's justification for the fence is to buffer her from the neighbor to the west. She objects to the neighbor trespassing on the property and to lights which she claims are shining onto her property. Staff has verified that the lights are not in violation of zoning regulations. The adjacent property owner at 3220 Springdale Road has also applied for a privacy fence in the same location as the applicant. The adjacent owner's application for the fence was also refused based on the front and side yard location, however, the adjacent neighbor has not appealed this refusal.

Planning and police staff have spent considerable time trying to help resolve numerous disputes between the neighbors to no avail. Zoning variances are applied to properties on a permanent basis regardless of property ownership or adverse relations between property owners. The nature of the neighbor dispute is civil in nature and will probably not be resolved with the construction of a fence.

Staff findings are as follows:

1. The fence height variance requested is substantial since the zoning resolution prohibits privacy fences in the front and part side yard of principal buildings.
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.
4. The granting of the variance would probably not have a negative impact on neighboring property but would create a precedent to allow for privacy fences in front yards if requested by similar properties.
5. Approval of the fence variances 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 front yard regulations. The expressed nature of the hardship is based on an adverse relation between neighbors and not a physical attribute of the 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 not be done by granting the variance for a front yard and partial side yard privacy fence.

Staff Recommendation is for denial of the variance request.

Mr. Bartolt asked that if a new fence would be installed the complications of the spacing between the existing fence on the neighboring property.

With no further questions for the staff, Mr. Reininger opened the public hearing. Nita Beckman who resides at the subject property, having been sworn, stated that the reasoning for the fence is to be able to block the light shining into her house from her neighbor's property. Ms. Beckman stated that the Zoning Department says there is no violation on her neighbor's property because of the bright lights. A surveyor showed her where her property line is located. She additionally wants privacy from her neighbor and stated that two Trustees came onto her property at her request.

Jacquetta Lewis, having been sworn, is the applicants next door neighbor. Ms. Lewis explained the neighbor relationship started off friendly until recently. Ms. Lewis displayed all the police reports on incidents between her and her neighbor and stated that she has met with the Zoning Department multiple times. She said she has the lights only on her property and are displayed so that she can see walking up to her house. Ms. Lewis is in favor of the six-foot privacy fence on Ms. Beckman's property and requested that Ms. Beckman fence is vinyl.

Theresa Morehauser, having been sworn, is the applicant's daughter and is in favor of the six-foot privacy fence. Ms. Morehauser stated that Ms. Lewis bothers them often. She reiterated how bright Ms. Lewis's lights are and that they shine into the children's bedroom at night. A fence would help to block the light.

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

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

Mr. Bartolt asked if the lights are the only valid reason and asked Ms. LeCount if Ms. Lewis is in compliance of the Zoning Resolution. Ms. LeCount confirmed compliance and stated that the applicant was made aware of her right to appeal staff’s interpretation of the zoning code and Ms. Beckman refused. Staff has met with both neighbors multiple times and has been out to both properties with police officers. Staff believes that a six-foot privacy fence in front yard would not solve lighting dispute.

Mr. Hill asked applicant if she has thought about landscaping to help buffer the lighting from the neighbor’s property. Ms. Beckman responded saying she has thought about it but is concerned about the water line below.

With no further questions, Mr. Price made a motion to deny the request for a variance and Mr. Bartolt seconded the motion.

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

BZA 2018-02 – Request for accessory structure height variance from Section 10.2.3(B) and 12.2.1(B)(3).

Location: 6114 Blue Rock Road

Applicant/Owner: Ralph Meierjohan

The applicant is proposing to construct a new house and detached garage on six acres. A Zoning Certificate was issued for the house, however, the application for the detached garage was refused due to the proposed height exceeding the maximum allowance of 15 feet measured at the mean height of the roof. The proposed height is 21.5 feet. The proposed 3,600 square foot garage is about 1200 feet from Blue Rock Rd. and 85 feet to the closest neighboring property. The applicant’s justification for the variance is that the property is wooded and hidden from neighboring properties. It is the applicant’s intention to store large recreational vehicles in the garage. Ms. LeCount states staff researched previous accessory structures cases to be consistent in decisions.

Staff findings are as follows:

1. The height variance requested is substantial since the proposed building exceeds the maximum height by about 43%.
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 for denial of the variance request.

Ralph Meierjohan, having been sworn, the applicant building a new home on the subject property, stated the main reasoning for the accessory structure is to be able to store his mobile home. He stated that neighbors have no problem with this structure and there are currently no oppositions. He said if the roof height would be shortened, the building would not look as nice.

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

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

Mr. Price asked Mr. Meierjohan if a neighbor were to build a similar accessory structure on their property, if he would be okay with it. Mr. Meierjohan said he would have no opposition to that. The main reasoning for the height is solely for his motor home. Ms. LeCount pointed out that the applicant could connect the accessory structure to the home with a fully enclosed breezeway in order to achieve his desired height.

Mr. Bartolt asked the need for the two feet in between the gutter line and garage doors. Mr. Meierjohan stated the reasoning behind this is to match the architecture and style of his home.

Mr. Hill questioned if Mr. Meierjohan was made aware of the height regulations. The applicant responded that he was not aware of the regulations.

Mr. Roberto asked if the house had any garages and what is stopping the applicant from bringing the structure closer to the house. Mr. Meierjohan stated that it would be easier for guests to obtain access to his backyard without building a breezeway. Mr. Roberto said there are creative solutions to fix the problem.

Mr. Bartolt asked what is dictating the roof pitch and emphasizes the size of the building and the applicant stated one vehicle will be stored in the structure.

Mr. Reininger complimented Mr. Meierjohan on the structure and stated that the applicant has resources not often available to other Board applicants to be able to get closer to the code.

Mr. Bartolt asked staff if the Zoning Commission is still reviewing accessory buildings that are situated more in the rural areas. Ms. LeCount stated that they are not actively addressing this and would be included in an overall zoning code update.

With no further questions, a motion was made to table the case until the May 23, 2018 meeting so that the applicant can come back with revised drawings by Mr. Bartolt. Mr. Price seconded the motion.

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

The motion to table was denied.

A motion was made to approve the request for a variance by Mr. Price and was seconded by Mr. Bartolt.

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

The motion to approve the request for a variance was denied.

Unfinished Business: None

Approval of the February 28, 2018 Meeting Minutes:

A motion was made by Mr. Roberto and seconded by Mr. Bartolt to approve the February 28, 2018 minutes as presented.

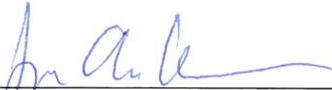
Roll Call: Mr. Hill – aye, Mr. Bartolt – aye, Mr. Price – aye, Mr. Roberto – aye, Mr. Reininger – aye.

Administrative Matters:

Mr. Reininger thanked both alternates on their attendance and commitment to the Board. He proposed rotating the alternate's required attendance every other meeting.

With no further business, a motion to adjourn the meeting was made by Mr. Price and then seconded by Mr. Bartolt at 8:18 p.m.

Respectfully Submitted:



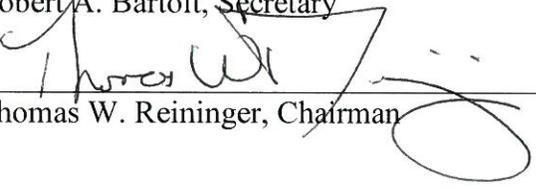
Jesse Urbancsik, Planner

Secretary:



Robert A. Bartolt, Secretary

Accepted by:



Thomas W. Reininger, Chairman