



COLERAIN TOWNSHIP BOARD OF ZONING APPEALS

Meeting Minutes

4200 Springdale Road - Cincinnati, Ohio 45251

Wednesday, December 21st, 2022 – 6:30 p.m.

Meeting Called to Order by: Mr. Roberto at 6:30 p.m.

Pledge of Allegiance: Led by: Mr. Roberto.

The Explanation of Procedures was presented by: Mr. Roberto.

Roll Call: Ms. Owens – aye; Mr. Bartolt – aye, – Mr. Schupp – aye, Mr. Wilson – aye,
Mr. Roberto – aye.

Present as Staff was: Mr. Stephen Springsteen.

Present as Legal Staff was: Ms. Sarah Schild

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

Hearing of Appeals:

BZA2022-17: The applicant, who is representing the property owner, is appealing the Zoning Administrator's decision for refusal to issue a Zoning Certificate for an accessory structure.

Location: 7539 Colerain Avenue

Applicant: SMJ International

Property Owner: Ganapathi LLC

Mr. Bartolt recused himself from the case, Mr. Sidow was seated in Mr. Bartolt's absence.

Mr. Roberto introduced the case.

Presentation was provided by Staff. Staff noted the current zoning, topography, and surrounding conditions. Staff displayed the site plan and described the reason the variances were being sought based upon the proposed site plan.

Staff described the relevant Colerain Township Zoning Resolution Articles, Sections, and definitions



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Staff outlined the criteria for zoning variances as stated in the Colerain Township Zoning Resolution.

Staff's Recommendation was for: **DENIAL**.
This Concluded Staff's Presentation.

Mr. Roberto asked if the cell tower was in violation or if the adjacent property was in violation. Mr. Alig responded that the adjacent property would be the property in violation. Mr. Roberto confirmed that the Board could make a decision regardless of staff's ability to make the decision. Mr. Alig confirmed that was accurate. Mr. Roberto asked if the Board had any additional questions for staff. Hearing none, Mr. Roberto asked if anyone else was present to speak in favor, or in opposition.

APPLICANT PRESENTATION:

The applicant was not present.

Mr. Wilson made a motion to close the public portion; Mr. Schupp seconded the motion.

Mr. Roberto asked if the Board Members had any items to discuss. Ms. Owens asked staff if the generators and accessory structures for the tower fall under Colerain Township's jurisdiction since the tower itself does not. Mr. Alig stated that he believes staff does have the authority. Mr. Schupp made the comment that without the replacement of the generator,

Mr. Roberto asked if the Board Members had any additional items to discuss. Hearing none he asked Staff for a Roll Call vote.

Roll Call: Ms. Owens – aye; Mr. Sidow – aye, Mr. Schupp – aye,
Mr. Wilson – aye, Mr. Roberto – aye

Motion to close the public portion passed unanimously.

Mr. Roberto shared he felt there was a hardship being done to the applicant given the circumstances at play. Mr. Alig stated that he feels that the Zoning Resolution prohibits him from issuing the Zoning Certificate. He continued that if it was any other property, there would likely be no other issue.

Ms. Owens asked if there could be any liability on the Township if the variance was approved and an emergency situation happened where that emergency access would be needed. Mr. Roberto stated that he felt the Township should not be liable. Mr. Alig stated the Board's conversation is exactly the position he was in. Mr. Roberto asked if moving the generator could help satisfy the needs of the fire department while also adequately serving the needs of the tower. Mr. Alig stated he believes that it could be possible.



Mr. Alig stated that he wants to be sure that if an emergency happens at the adjacent property, he wants to make sure the Township did all it could mitigate problems relating to health, safety, and welfare. Mr. Roberto confirmed that the only reason the structure could not be approved is because the Trustee Resolution relating to adjacent property owner is in violation. Mr. Alig confirmed that to be true.

Mr. Wilson made a motion to approve BZA2022-17; Mr. Sidow seconded.

Mr. Roberto asked if any Board members had any discussion on the matter.

Mr. Schupp stated he wondered if it would make sense to add a condition that the proposed structure couldn't exceed the size of the current structure. Upon discussion, it was decided that the condition was not necessary.

Hearing no further requests for discussion, Mr. Roberto asked for a Roll Call vote.

Roll Call: Ms. Owens – nay; Mr. Sidow – aye, Mr. Schupp – aye, Mr. Wilson – aye, Mr. Roberto – aye

BZA2022-15 – The appeal to the Zoning Administrator's decision for refusal to issue a Zoning Certificate for an accessory structure was APPROVED 4-1.

BZA2022-18 The applicant who is representing the property owner, is requesting; a variance to §15.8.3 (D) Freestanding Signs;

Location: 9024 Colerain Avenue
Applicant: Commercial Site Acquisitions, Inc. c/o Casto
Property Owner: McClusky Chevrolet, Inc

Mr. Roberto introduced the case.

Presentation was provided by Staff. Staff noted the current zoning, topography, and surrounding conditions. Staff displayed the site plan and described the reason the variances were being sought based upon the proposed site plan.

Staff described the relevant Colerain Township Zoning Resolution Articles, Sections, and definitions

Staff outlined the criteria for zoning variances as stated in the Colerain Township Zoning Resolution.

Staff's Recommendation was for: **TABLING.**

This Concluded Staff's Presentation.



Mr. Roberto asked if the Board had any questions for staff. Hearing none, Mr. Roberto asked if the applicant was present.

APPLICANT PRESENTATION:

Brent Myers and Eric Leibowitz from Commercial Site Acquisitions, Inc. c/o Casto, 250 Civic Center Drive, Suite 500, Columbus, Ohio 43215, gave a presentation.

Mr. Roberto asked if anyone else was present to speak in favor, or in opposition. Ms. Owens made a motion to close the public portion, Mr. Wilson seconded.

Roll Call: Ms. Owens – aye; Mr. Sidow – aye, Mr. Schupp – aye,
Mr. Wilson – aye, Mr. Roberto – aye

Motion to close the public portion passed unanimously.

Mr. Schupp wanted to confirm that Target would be on the second panel, to which the applicant confirmed that to be accurate.

Ms. Owens asked if Target planned to remove the sign the currently have on Colerain Avenue. The applicant stated that the was no plans to remove any current signage, Target is simply looking to add an additional sign.

Mr. Roberto asked if they were to have Target on the sign, would people need to be able to access Target through that property. The applicant and Jarrod Alig shared that there is currently access running through the property. The applicant continued that the access exists, however, it is not recorded. Mr. Leibowitz shared that to obtain a recorded access easement through the Target development, Target wanted additional signage in return.

Mr. Alig shared points of clarification pertaining to what the Zoning Resolution allows. Mr. Leibowitz shared the thought process behind the application submitted by Casto.

Mr. Alig and the applicant shared context to the history of the property and the process Casto has undergone to date to satisfy the needs of the potential user of the property and the owner of the access easement, Target.

Mr. Roberto asked if they were granting access to Target without an easement. Mr. Leibowitz stated that there is currently access, however, it is not a formal easement, but they are working to get a formal easement. Mr. Roberto stated if there was a formal easement then Target could advertise their property. Staff stated that to their understanding, that is not accurate. Jarrod stated that from his research, cross access easements don't convey ownership.



Mr. Alig continued that what staff was hoping to get from this project was to find a better solution than what was presented. Mr. Leibowitz stated that Target would likely be more than willing to access other options if presented with some. Mr. Roberto asked if tabling the case for a month was sufficient for adequate dialogue to take place between staff and the applicant to come up with possible alternative solutions. The applicant and staff discussed potential angles to approach the challenge and agreed that a month should be suitable to engage in discussions.

Mr. Sidow made a motion to table case BZA2022-18. Mr. Schupp seconded.

Roll Call: Ms. Owens – aye; Mr. Sidow – aye, Mr. Schupp – aye,
Mr. Wilson – aye, Mr. Roberto – aye

BZA2022-18 –Request for a variance from §15.8.3 (D) was TABLED 5-0.

Approval of the Minutes:

November 30th, 2022, Minutes:

Mr. Roberto asked a motion to be made to approve the minutes from November 30th, 2022.

Mr. Schupp made a motion to approve, seconded by Mr. Wilson.

Mr. Roberto requested a Roll Call vote.

Roll Call: Ms. Owens – aye; Mr. Sidow – aye, Mr. Schupp – aye,
Mr. Wilson – aye, Mr. Roberto – aye

Administrative Matters:

Mr. Springsteen stated that the Board of Trustees approved the dates that were presented on the projector and appointed members. Mr. Springsteen continued that Mr. Wilson was departing the Board of Zoning Appeals.

Adjournment:

A motion was made by Mr. Wilson, and seconded by Ms. Owens, to adjourn the meeting at approximately 7:40 P.M.

Roll Call: Ms. Owens – aye; Mr. Sidow – aye, Mr. Schupp – aye,
Mr. Wilson – aye, Mr. Roberto – aye



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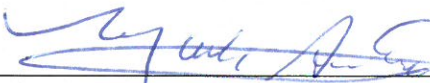
Meeting adjourned.

Respectfully Submitted:

A blue ink signature of Stephen Springsteen, written in a cursive style, positioned above a horizontal line.

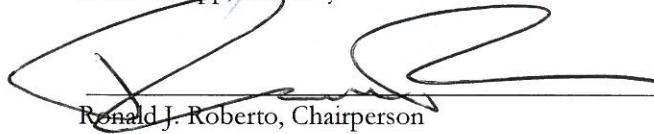
Stephen Springsteen, Development Officer

Secretary:

A blue ink signature of Mark Schupp, written in a cursive style, positioned above a horizontal line.

Mark Schupp, Secretary

Accepted by:

A black ink signature of Ronald J. Roberto, written in a cursive style, positioned above a horizontal line.

Ronald J. Roberto, Chairperson

