

RESOLUTION NO. 70-2010 (As Amended 9/14/10)  
INTRODUCED BY: O'Toole

A RESOLUTION CONFIRMING THE ACTION OF THE ZONING BOARD OF APPEALS WITH RESPECT TO VARIANCES OF SEPARATION AND SETBACK REQUIREMENTS AND APPROVING THE RECOMMENDATION OF THE PLANNING COMMISSION TO GRANT A CONDITIONAL USE PERMIT FOR A WIRELESS TELECOMMUNICATION TOWER AT RICHMOND TOWNE SQUARE MALL AT 691 RICHMOND ROAD.

WHEREAS, Richmond Towne Square Mall LLC, for property located at 691 Richmond Road in the City of Richmond Heights, filed an application with the Zoning Board of Appeals (Case No. 775) requesting two variances from Zoning Code Section 1172.03(f) and (g) to permit the construction of a wireless telecommunication tower that will not meet the setback requirement from a property line or the separation requirement between wireless telecommunication towers in the City; and

WHEREAS, pursuant to Section 1187.07 of the Zoning Code, the Zoning Board of Appeals recommended that the Council grant the variances to the setback and separation requirements as set forth in the minutes of the Board's public hearing for Case No. 775;

WHEREAS, the Planning Commission recommended approval of the grant of a conditional use permit for this tower at its July 14, 2010 regular meeting, conditioned upon the granting of the within variance requests; and

WHEREAS, the Planning and Zoning Committee of this Council recommended at its September 7, 2010 meeting that the variances be granted;

NOW, THEREFORE, Be It Resolved by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: The action of the Zoning Board of Appeals of the City in recommending the granting of the variances requested by the applicant, Richmond Towne Square Mall LLC, from Codified Ordinance Section 1172.03 (f) and (g) to permit construction of a wireless telecommunication tower upon the property at 691 Richmond Road which will vary from the 200-foot setback requirement from a mall property line and which will vary from the one quarter mile separation requirement between such towers in the City, as set forth in the materials submitted to the Zoning Board of Appeals and based upon the reasons set forth in the September 1, 2010 minutes of said Board be, and the same is hereby, confirmed. Council

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finds there exists a practical difficulty which outweighs the limitations set forth in the Zoning Code and the granting of the variances is not contrary to the public purpose and intent of the Zoning Code, particularly where the tower at issue is permitted in the zoning district in which the subject property is located--a large regional mall property, the setback variance area is from another major retail store in the mall complex, and the nearest tower creating the separation variance request is a nonconforming telecommunications tower.

Section 2: Council approves the Planning Commission's recommendation to grant a conditional use permit for the subject wireless telecommunication tower.

Section 3: The Clerk is instructed to mail a copy of this Resolution to the applicant.

Section 4: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 5: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

PASSED: \_\_\_\_\_

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Daniel J. Ursu, Mayor

APPROVED: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Betsy Traben  
Clerk of Council

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David H. Roche  
President of Council