

RESOLUTION
GRANTING
APPEAL NO. 2023-03

WHEREAS, John Koutros, T and J Construction, 6240 Hunt Road, Fayetteville, OH 45118, appellant, on June 2, 2023, filed Appeal No. 2023-03 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 104.1 of said Resolution as applied to the property at 8856 Remington Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on June 2, 2023, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a new single-family home with less front yard setback than required; and

WHEREAS, said Zoning Inspector, on June 2, 2023, acting upon said application and the plats and plans submitted, refused to issue said Certificate, her reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was scheduled for said appeal on July 3, 2023, notice of such hearing was given by first class mail to parties in interest and also by publication in a newspaper of general circulation in the Township at least ten (10) days prior to the date of said hearing in accordance with Section 303.15 of the Ohio Revised Code; and

WHEREAS, Section 41 et seq. of the Zoning Resolution and the Symmes Township District Maps designate said premises to be in the "E" Residence District; and

WHEREAS, Section 104.1 provides, in relevant part, that there shall be a front yard having a depth of not less than fifty (50) feet; and

WHEREAS, according to testimony offered at the public hearing, the appellant is proposing to demolish the existing non-conforming home and construct a new home with a rear covered porch in approximately the same location as the existing home. The new home would be extended slightly north and east so it could be connected with the existing detached two-car garage; and

WHEREAS, according to further testimony offered at the public hearing, the new home would be located approximately seven point five (7.5) feet from the western property line, which is also the right-of-way line for an unconstructed paper street, and approximately ten point seventy-five (10.75) feet from the southern property line which is the right-of-way line for Remington Road. Since both property lines abut public street right-of-way lines, the property is considered a corner lot and front yard setbacks are required from both right-of-way lines. However, since the existing home located to the east at 8864 Remington Road is located on the same side of the road and is within 100 feet of the lot and within the average alignment of homes per Section 171.14 of the Zoning Resolution, a variance is not required; and

WHEREAS, according to further testimony offered at the public hearing, the home construction will not likely have any negative impact on the surrounding properties since it will have the same footprint of the previous home and there is mature vegetation through the subject site and adjacent properties providing a sufficient buffer. Also, the right-of-way to the west is considered a paper street and is unlikely to return to use as a public street; and

WHEREAS, 184.6 empowers this Board to permit a variation in the yard requirements of any District where there are practical difficulties or unnecessary hardships in the carrying out of these provisions due to irregular shape of the lot, topographic or other conditions, provided such variation will not seriously affect any adjoining property or the general welfare; and

WHEREAS Section 185 provides, in exercising the above-mentioned powers, the Board may reverse or affirm, wholly, or partly, or may modify the order requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the Officer from whom the appeal is taken; and

WHEREAS, it is the consensus of this Board, after careful consideration of all the facts, testimony, and evidence submitted, that the literal enforcement of the strict application of Section 104.1 of the Zoning Resolution will result in practical difficulties to the appellant of the property in question; and

WHEREAS, the variation, in accordance with the following conditions, will not seriously affect any adjoining property owners or the general welfare; and

NOW, THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby grant a variance from the requirement of Section 104.1 of the Zoning Resolution in accordance with the authority granted in Section 184.6. Furthermore, the decision of the Zoning Inspector to deny the issuance of a zoning certificate for the reason that the application failed to comply with Section 104.1 of the Zoning Resolution is affirmed, but in accordance with the authority of Section 185, the Board of Zoning Appeals, having granted a variance as stated above, hereby determines that a zoning certificate may be issued to the applicant consistent with the terms set forth in this Resolution; and

SUBJECT TO THE FOLLOWING CONDITIONS:

1. That, the proposed new single-family home shall be located not less than seven point five (7.5) feet from the western property line;
2. That, the proposed new single-family home shall be located exactly as shown on the plans submitted to Board;
3. That, the proposed new single-family home shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
4. That, the Zoning Certificate and Building permit (if required) for the proposed new single-family home shall be obtained within six months (6) months and all work be completed within one (1) year from the date of adoption of this Resolution;
5. That, the proposed new single-family home shall not be relocated or enlarged without the approval of this Board;
6. That, the proposed new single-family home shall be maintained in a satisfactory condition at all times;

BE IT FURTHER RESOLVED, that all plats, plans, applications and other data submitted be and are hereby made a part of this Resolution.

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 3rd day of JULY 2023.

Ms. Bucco – ‘aye’, Mr. Horvath – ‘aye’, Mr. Jamison – ‘aye’, Mr. Trick – ‘aye’ and Mr. Wolfe – ‘aye’.

JOURNALIZED: JULY 3, 2023

Luanne Felter
Township Zoning Secretary

Ralph Wolfe, Board Chairperson