

RESOLUTION
GRANTING
APPEAL NO. 2020-08

WHEREAS, Erin & Eric Metz, 8988 Symmes Trace Court, Loveland, OH 45140, appellant, on July 6, 2020, filed Appeal No. 2020-08 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 342.5 of said Resolution as applied to the property at 8988 Symmes Trace Court, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on July 6, 2020, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a swing set to be located within the front yard and thirty (30) feet from the right-of-way of Symmescreek Drive; and

WHEREAS, said Zoning Inspector, on July 6, 2020, 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 August 3, 2020 with notice of such hearing 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 "A" Residence District; and

WHEREAS, Section 342.5 provides, in relevant part, that swing sets and other play devices shall be located in the rear yard and must maintain a minimum setback of five (5) feet from every property line; and

WHEREAS, according to testimony offered at the public hearing, the appellant erected a ten (10) foot wide swing set on the eastern portion of the front yard along Symmescreek Drive; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the northwest corner of the Symmes Trace Court and Symmescreek Drive intersection which is adjacent to the entrance of the Symmes Creek subdivision; and

WHEREAS, according to further testimony offered at the public hearing, the rear yard is heavily wooded with some vegetation in the side yard leaving the front yard the best option for a swing set; and

WHEREAS, according to further testimony offered at the public hearing, additional landscaping can be added to screen the swing set from view; 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 342.5 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 342.5 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 342.5 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 swing set shall not be located less than thirty (30) feet from Symmescreek Drive;
2. That, a minimum of three (3) trees or shrubs shall be planted near the swing set to provide appropriate screening;
3. That, the swing set shall be located exactly as shown on the plans submitted to Board at the meeting;
4. That, the swing set shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
5. That, the swing set shall not be relocated or enlarged without the approval of this Board;
6. That, the swing set 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 AUGUST 2020.

Mr. Fowler – ‘aye’, Ms. Harlow – ‘aye’, Mr. Horvath – ‘aye’, Mr. Havill – ‘aye’, and Mr. Wolfe – ‘aye’.

JOURNALIZED: AUGUST 3, 2020

Luanne C. Felter
Township Zoning Secretary

Jennifer Harlow, Board Chairperson