

RESOLUTION
GRANTING
APPEAL NO. 2023-05

WHEREAS, Beth and Kevin Brandner, 8848 Appleseed Drive, Cincinnati, OH 45249, appellant, on August 29, 2023, filed Appeal No. 2023-05 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 342.3 and 68-1.2 of said Resolution as applied to the property at 8848 Appleseed Drive, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on August 29, 2023, applied to the Symmes Township Zoning Inspector for a Zoning Certificate to allow the construction of an accessory structure within the front yard area of the home located on a double frontage lot; and

WHEREAS, said Zoning Inspector, on August 29, 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 held on said appeal on October 2, 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 "A" Residence District; and

WHEREAS, Section 342.3 provides, in relevant part, that no accessory structure shall be located in the front or side yard; and

WHEREAS, Section 68-1.2 provides, in relevant part, that rear yard requirements for buildings on double frontage lots may be waived if an open space is provided equivalent to the required front yard of the district. Such open space shall run parallel with the secondary right-of-way and shall contain no accessory structures; and

WHEREAS, according to testimony offered at the public hearing, the appellant is requesting variance approval for the construction of a one hundred forty-four (144) square foot detached accessory shed structure to be located seven (7) feet from the eastern property line; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on a double frontage lot where the house fronts on Appleseed Drive and the rear property line abuts the right-of-way for Terwilligers Hill Court. According to the zoning resolution, the first fifty (50) feet of property measured from Terwilligers Hill Court is considered the front yard and the remaining area is the rear yard. Since an accessory structure is not permitted within a fifty (50) feet front yard area, a variance is required. The proposed shed would otherwise comply with all other setback and height requirements; and

WHEREAS, according to further testimony offered at the public hearing, in reviewing the application staff noticed an existing privacy fence in the same general area as the shed. The fence appears to be setback twenty (20) feet from the right-of-way of Terwilligers Hill Court. This fence is located within the fifty (50) foot front yard setback where privacy fences are not permitted. Since staff could find no permit or variance history for this fence it is considered nonconforming. The applicant is proposing to remove a section of the fence and line the front of the shed with the privacy fence so that the body of the shed would be behind the fence and the front of the shed would be in line with the fence; and

WHEREAS, according to further testimony offered at the public hearing, the proposed accessory structure would be screened during the summer months with mature trees and low underbrush. However, additional plantings would be helpful in screening the shed from the residents on Terwilligers Hill Court year-round; and

WHEREAS, according to further testimony offered at the public hearing, there are no other structures or fences on Appleseed Drive that would be located this close to Terwilligers Hill Court. However, since accessory structures are allowed in rear yards it would not be out of character; and

WHEREAS, Section 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 Sections 342.3 and 68-1.2 of the Zoning Resolution will result in practical difficulties to the owner 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 Sections 342.3 and 68-1.2 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 Sections 342.3 and 68-1.2 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, evergreen trees or arborvitae large enough to meet the height of the privacy fence be planted behind the proposed accessory shed structure for additional screening;
2. That, the proposed accessory shed structure shall remain exactly as shown on the plats and plans submitted to this Board;
3. That, the proposed accessory shed structure shall not be relocated or enlarged without the approval of this Board;
4. That, the proposed accessory shed structure shall be maintained in a satisfactory condition at all times;
5. That, the proposed accessory shed structure shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
6. That, the Zoning Certificate and Building permit (if required) for the proposed accessory shed structure shall be obtained within six (6) months and all work be completed within one (1) year from the date of adoption of this Resolution;

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 2nd day of October 2023.

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

APPROVED: OCTOBER 2, 2023

Luanne Felter
Zoning Secretary

Ralph Wolfe, Board Chairperson