

RESOLUTION

DENYING

APPEAL NO. 2021-03

WHEREAS, David Darwiche, President, RIC Construction, Inc., 4221 Malsbary Road, Suite 104, Cincinnati, OH 45242, appellant, on July 6, 2021 filed Appeal No. 2021-03 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, 351.1-1 and 351.2-2 of said Resolution as applied to the property at 9436 Union Cemetery Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on July 6, 2021, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a detached garage with greater height and area, and occupying more area of the required rear yard than permitted on the property; and

WHEREAS, said Zoning Inspector, on July 6, 2021, 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, public hearings were held on said appeal on August 9, 2021 and September 13, 2021, notice of such hearings were given by first class mail to parties of 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 hearings 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 use or structure shall be located in the front or side yard and the total combined area of all accessory structures shall not occupy more than thirty (30) percent of the required area of the rear yard; and

WHEREAS, Section 351.1-1 provides, in relevant part, that on parcels of less than one (1) acre the detached garage structure may not exceed more than one thousand thirty-two (1,032) square feet in area and twelve and one-half (12.5) feet in height measured to the mean height level between eaves and ridge for gable, hip and gambrel roofs; and

WHEREAS, Section 351.2-2 provides, in relevant part, that on parcels more than one (1) acre no detached garage having more than one thousand thirty-two (1,032) square feet in floor area and being more than twelve and one-half (12.5) feet in height shall be closer than twenty-five (25) feet from any property line; and

WHEREAS, according to testimony offered at the public hearing, the appellant is proposing to construct a five thousand (5,000) square-foot, eighteen (18) foot two (2) inch tall detached accessory garage structure in the rear yard of the home to store a boat, an RV and multiple ATVs; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the north side of Union Cemetery Road, east of Commerce Boulevard; and

WHEREAS, according to further testimony offered at the public hearing, the proposed structure would occupy fifty-seven-point one (57.1) percent of the required rear yard area and

the height would exceed the maximum height allowed by five point six (5.6) feet, thereby, impacting the adjoining properties; and

WHEREAS, according to further testimony offered at the public hearing, other options are available for storage that meet the Zoning requirements; 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 Sections 342.3, 351.1-1 and 351.2-2 of the Zoning Resolution will not result in unnecessary hardship or practical difficulty to the appellant of the property in question; and

NOW, THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby deny the requested variance from the requirement of Sections 342.3, 351.1-1 and 351.2-2 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, 351.1-1 and 351.2-2 of the Zoning Resolution is affirmed; and

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 13th day September 2021.

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

DENIED: SEPTEMBER 13, 2021

Luanne C. Felter
Zoning Secretary

Byron Fowler, Chairperson