

RESOLUTION
GRANTING
APPEAL NO. 2022-05

WHEREAS, Mark Hicks, Cincinnati Pool & Patio, 10731 Reading Road, Cincinnati, OH 45241, appellant, on June 7, 2022, filed Appeal No. 2022-05 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 352 of said Resolution as applied to the property at 10721 Weatherstone Court, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on June 6, 2022, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a swimming pool within the side yard; and

WHEREAS, said Zoning Inspector, on June 6, 2022, acting upon said application and the plats and plans submitted, refused to issue said Certificate, the reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was scheduled for said appeal on July 11, 2022, notice of such hearing was 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 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 352 provides, in relevant part, that swimming pools shall be permitted as an accessory use in all Residential Districts or any district with permitted residential uses provided, they are located behind the rear line of the principal structure and at least ten (10) feet from all property lines and that fixed lighting for these uses shall be located, screened, or shielded so that any adjacent residential lots are not directly illuminated; and

WHEREAS, according to testimony offered at the public hearing, the applicant is proposing to construct an eighteen foot (18') by forty-five foot (45') in-ground pool with an associated concrete patio and fencing on the east side of the existing single-family home; and

WHEREAS, according to further testimony offered at the public hearing, the home is located on a flag lot and turned at an angle so it is situated approximately two hundred seventy (270) feet southwest from Weatherstone Court; and

WHEREAS, according to further testimony offered at the public hearing, the proposed pool would not be visible from the street or adjacent properties since there are existing mature trees; and

WHEREAS, according to further testimony offered at the public hearing, the proposed pool could be relocated west of the existing home but would require significant grading, the installation of costly retaining walls and the removal of mature vegetation due to a steep downward slope; and

WHEREAS, according to further testimony offered at the public hearing, two variances permitting pools to be located in the side yard were granted previously on nearby streets northeast of the subject property; and

WHEREAS, according to further testimony offered at the public hearing, the east side of this property has always been used for recreation and contained a playset, hot tub and trampoline; and

WHEREAS, 184.2 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 352 of the Zoning Resolution will result in practical difficulty 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 352 of the Zoning Resolution in accordance with the authority granted in Section 184.2. 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 352 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 in-ground swimming pool be constructed exactly as shown on the plats and plans submitted to this Board;
2. That, the proposed in-ground swimming pool not be relocated or enlarged without the approval of this Board;
3. That, the proposed in-ground swimming pool be maintained in a satisfactory condition at all times;
4. That, the proposed in-ground swimming pool comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
5. That, the Zoning Certificate and Building permit (if required) for the proposed in-ground swimming pool be obtained within six months (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 11th day of JULY 2022.

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

APPROVED: JULY 11, 2022

Luanne Felter
Zoning Secretary

Ralph Wolfe, Board Chairperson