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**MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS  
REGULAR MEETING**

**APRIL 7, 2014**

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The meeting was called to order at 7:00 p.m. Members of the Commission present were: Mr. Flagel, Ms. Harlow, Mr. Havill and Mr. Ruehlmann.

Also present were: Bryan Snyder - Hamilton County Rural Zoning and Luanne Felter - Symmes Township.

All persons wishing to testify before the Board were sworn.

PUBLIC HEARINGS

MR. FLAGEL convened the public hearing for BZA 2014-02 for the property located at 9207 Gourmet Lane.

MR. SNYDER stated that the request is for variance approval to allow a detached accessory shed in the side yard. The case was continued from the February 3, 2014 meeting so the applicant could provide a landscape plan to screen the shed from view of the front yard. To date, the applicant has not submitted a plan but is here tonight to provide the Board with an update.

MR. FLAGEL stated that he was not at the meeting so would abstain from voting.

DAVID BLUMBERG (9207 Gourmet Lane, Loveland) stated that he went over his options and decided to split some Florida grasses up from his garden and plant them around the shed. He will put two plants in the front of the shed and one plant on the side.

MR. RUEHLMANN thought the plan was reasonable as the grasses can grow pretty big.

MR. RUEHLMANN made a motion to consider the following:

**RESOLUTION**

**GRANTING**

**APPEAL NO. 2014-02**

WHEREAS, David Blumberg, 9207 Gourmet Lane, Loveland, OH 45140, appellant, on December 13, 2014, filed Appeal No. 2014-02 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 342.3 of said Resolution as applied to the property at 9207 Gourmet Lane, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on November 25, 2013, applied to the Symmes Township Zoning Inspector for a Zoning Certificate to allow the location of a detached accessory shed in the side yard area of the home located at 9207 Gourmet Lane; and

WHEREAS, said Zoning Inspector, on December 13, 2013, acting upon said application and the plats and plans submitted, refused to issue said Certificate, his reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, public hearings were held on said appeal on February 3, 2014 and April 7, 2014, notices of such hearings were 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-2" 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 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, according to testimony offered at the public hearing, the request is for a variance to allow a detached accessory shed in the side yard area of the home located in an "A-2" Residence District; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the northwest end of the cul-de-sac of Gourmet Lane, north of Souffle Circle; and

WHEREAS, according to further testimony offered at the public hearing, the applicant has placed a prefabricated plastic shed on the south side of the home within the side yard area without obtaining a zoning permit. The shed is approximately 30 square feet and is located behind a split rail fence with shrubs and trees planted in front to screen the shed from view; and

WHEREAS, according to further testimony offered at the public hearing, the shed is located on a concrete pad and is accessed by a concrete sidewalk leading to the rear yard pool and deck area; and

WHEREAS, according to further testimony offered at the public hearing, the shed is utilized to store pool accessories and equipment. If the shed is relocated the applicant will lose the connection and function ability of the pool area; and

WHEREAS, according to further testimony offered at the public hearing, the cost for relocation of the shed would provide financial hardship; and

WHEREAS, according to further testimony offered at the public hearing, the location of the shed is partially screened from the street due to the pie-shape of the lots around the cul-de-sac and the angle of the homes situated around the end of the road; and

WHEREAS, according to further testimony offered at the public hearing, additional landscaping around the shed would be beneficial; 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 Section 342.3 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 Section 342.3 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 342.3 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 shed remain exactly as shown on the plats and plans submitted to this Board and three (3) Florida grasses be planted around the shed to screen it from view;
2. That, the shed not be relocated or enlarged without the approval of this Board;
3. That, the shed be maintained in a satisfactory condition at all times;
4. That, the shed 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 shed be obtained within sixty (60) days and all work be completed within six (6) months 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.

MS. HARLOW seconded the motion and the roll call vote was as follows:

Mr. Flagel – ‘abtain’; Ms. Harlow – ‘aye’; Mr. Havill – ‘aye’; Mr. Misrach – ‘absent’; Mr. Ruehlmann – ‘aye’; Mr. Wolfe – ‘absent’.

MR. FLAGEL convened the public hearing for BZA 2014-05 for the property located at 9300 Arnold Lane.

MR. SNYDER stated that the applicant is requesting approval to construct a 576 square-foot, 12-foot high detached pole building garage within the required 35 foot rear yard area

which is located on the east side of the property. The property is located on the northeast corner of the Arnold Lane and McKinney Road intersection, south of Enyart Road. The proposed garage structure is one story in height and would include two garage doors facing Arnold Lane with vinyl siding and asphalt shingles to match the existing home. He explained that the garage cannot be placed further outside the required rear yard area due to an existing pool in the rear yard. However, the remainder of the rear yard area includes more than enough open space area to offset the proposed reduction within the required rear yard.

MR. HAVILL wanted to know if the pool could be moved.

MR. SNYDER stated that the pool cannot be moved due to a swale in the yard.

Mr. Snyder noted that when he was out taking photos of the site he realized that a shed was installed on the property without a zoning permit. The shed is located in the required front yard of McKinney Road but is adequately screened from view by mature landscaping from both streets. It is also setback quite a distance from Arnold Lane. The Board will need to decide what to do.

DONALD BILLS (9300 Arnold Lane, Loveland 45140) provided the Board with a picture of his yard because he thought the panoramic photos in the Staff Report were deceiving. He stated that the yard is not that big so the pool cannot be moved. The garage structure would be utilized to store classic cars and pool equipment. He didn't think he needed a zoning permit for the shed because it is under 200 square feet. He forgot that he has two front yards. He would like approval to retain the shed in the current location to store yard equipment.

MR. RUEHLMANN wanted to know if the neighbors have any issues with the shed.

MR. BILLS said that no one has complained.

MR. HAVILL had concerns about the shed as it is not in compliance.

MR. RUEHLMANN stated that the applicant will lose the accessibility of the garage if he is required to move the contents of the shed into the garage. He noted that the shed has been on site for quite some time and no one has complained.

MR. FLAGEL wanted to know how the Board wanted to handle the variances. Mr. Ruehlmann suggested that the Board make two separate motions. The Board concurred.

MR. RUEHLMANN made a motion to consider the following:

RESOLUTION  
GRANTING  
APPEAL NO. 2014-05

WHEREAS, Donald Bills, 9300 Arnold Lane, Loveland, OH 45140, appellant, on March 3, 2014 filed Appeal No. 2014-05 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 342.3 of said Resolution as applied to the property at 9300 Arnold Lane, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on March 3, 2014, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a detached garage

occupying more area in the required rear yard than permitted in an "A" Residence District; and

WHEREAS, said Zoning Inspector, on March 3, 2014, acting upon said application and the plats and plans submitted, refused to issue said Certificate, his reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was held on said appeal on April 7, 2014, 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 342.3 provides, in relevant part, that no accessory structure shall be located in the front or side yard and the total combined area of all accessory structures shall no occupy more than thirty (30%) percent of the required area of the rear yard; and

WHEREAS, according to testimony offered at the public hearing, the applicant is requesting approval to construct a five hundred seventy six (576) square-foot, twelve (12) foot high detached pole building garage within the required thirty-five (35) foot rear yard area on the east side of the property; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the northeast corner of the Arnold Lane and McKinney Road intersection, south of Enyart Road; and

WHEREAS, according to further testimony offered at the public hearing, the proposed garage structure is one story in height and would include two garage doors facing Arnold Lane with vinyl siding and asphalt shingles to match the existing home; and

WHEREAS, according to further testimony offered at the public hearing; the garage cannot be placed further outside the required rear yard area due to an existing pool in the rear yard. However, the remainder of the rear yard area includes more than enough open space area to offset the proposed reduction within the required rear yard; and

WHEREAS, according to further testimony offered at the public hearing, the proposed garage structure would be utilized to store classic cars and pool equipment;

WHEREAS, according to further testimony offered at the public hearing, a shed was installed on the property without a zoning permit. The shed is located in the required front yard of McKinney Road and is adequately screened from view by mature landscaping from both streets; and

WHEREAS, according to further testimony offered at the public hearing, the owner would like to retain the shed in the current location to store yard equipment; 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 an irregular shape of the lot, topographic or other conditions, provided such variations 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 342.3 of the Zoning Resolution will result in practical difficulties to the owners 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 342.3 of the Zoning Resolution in accordance with the authority granted in 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 342.3 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 garage structure not exceed five hundred seventy six (576) square-foot and that the height not exceed twelve (12) feet;
2. That, the proposed garage structure and shed remain exactly as shown on the plats and plans submitted to this Board;
3. That, the proposed garage structure and shed not be relocated or enlarged without the approval of this Board;
4. That, the proposed garage structure and shed be maintained in a satisfactory condition at all times;
5. That, the proposed garage structure and shed 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 garage structure be obtained within sixty (60) days and all work be completed within six (6) months 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.

MS. HARLOW seconded the motion and the roll call vote was as follows:

Mr. Flagel – ‘aye’; Ms. Harlow – ‘aye’; Mr. Havill – ‘aye’; Mr. Misrach – ‘absent’;  
Mr. Ruehlmann – ‘aye’; Mr. Wolfe – ‘absent’.

#### ADMINISTRATIVE MATTERS

MR. SNYDER stated that the Cincinnati Hills Christian Academy has requested a time extension for BZA 2013-12 for the modular classroom building. Apparently, the school needs time to evaluate the enrollment numbers to see if it feasible to continue with the elementary classroom expansion and, if so, they need to obtain the Board's approval. They are requesting the timeframe be extended to June 1, 2014.

MR. RUEHLMANN made a motion to extend the timeframe for BZA 2013-12 for the modular classroom building at Cincinnati Hills Christian Academy to June 1, 2014.

MR. HAVILL seconded the motion and the roll call vote was as follows:

Mr. Flagel – 'aye'; Ms. Harlow – 'aye'; Mr. Havill – 'aye'; Mr. Misrach – 'absent';  
Mr. Ruehlmann – 'aye'; Mr. Wolfe – 'absent'.

#### APPROVAL OF MINUTES

MR. RUEHLMANN made a motion to approve the minutes of the February 3, 2014 meeting.

MS. HARLOW seconded the motion and the roll call vote was as follows:

Mr. Flagel – 'aye'; Ms. Harlow – 'aye'; Mr. Havill – 'aye'; Mr. Misrach – 'absent';  
Mr. Ruehlmann – 'aye'; Mr. Wolfe – 'absent'.

#### ADJOURNMENT

The meeting adjourned at 7:40 p.m.

Approved: \_\_\_\_\_

Luanne Felter  
Secretary