

RECORD OF PROCEEDINGS

**Minutes of Regular – BZA Meeting
Held at Township Administration Building**

August 4, 2014

MINUTES OF SYMMES TOWNSHIP BOARD OF ZONING APPEALS REGULAR MEETING

AUGUST 4, 2014

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

Also present were: Eric Fazzini - Hamilton County Rural Zoning and Luanne Felter - Symmes Township.

All persons wishing to testify before the Board were sworn.

PUBLIC HEARING

MR. RUEHLMANN convened the public hearing for BZA 2014-10 for the property located at 11186 Terwilligers Hill Court.

MR. FAZZINI stated that the request is for variance approval for a sunroom and deck that extends into the rear yard of the home that is located in an “A” Residence District.

The applicant is requesting to construct a five and one half (5 ½) foot extension to an existing second-story deck with improvements in order to make the second-story deck more usable. The improvements include a stone fireplace and a roof over the deck.

He noted that the homeowner was issued a zoning certificate and building permit in 2006 to construct a ten (10) foot addition to the sunroom immediately south of the deck as well as an eight (8) foot by eight (8) foot deck in the middle of the rear façade. On the approved plans, it indicated that the extension of the sunroom was to be setback thirty eight (38) feet from the rear property line but, upon review, it appears the sunroom was constructed twenty one (21) feet from the rear property line. Therefore, a variance will be required for the sunroom in addition to the proposed deck per the Zoning code.

MR. RUEHLMANN wanted to know how the discrepancy happened.

MR. FAZZINI stated that the Building Inspector or Zoning Inspector missed it.

STEPHEN SINGLETON (1921 Main Street, Goshen 45122) stated that he has been hired as the contractor. Upon review he realized that the owner had a permit for the previous work but not a variance. He does not believe the extension would have any impact on the neighbors because the home is very secluded by mature trees along the property line and the grade of the property. The only changes planned for the ground-level deck is a new railing.

MR. MISRACH did not see any problem granting the variances because the property is fairly secluded from the other property owners.

The Board concurred.

MR. MISRACH made a motion to consider the following:

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**RESOLUTION
GRANTING
APPEAL NO. 2014-10**

WHEREAS, Stephen C. Singleton, 1921 Main Street, Goshen, OH 45122, appellant, on July 3, 2014, filed Appeal No. 2014-10 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 68.3 of said Resolution as applied to the property at 11186 Terwilligers Hill Court, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on July 3, 2014, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for a variance for the construction of an addition with less rear yard setback than required at premises designated as 11186 Terwilligers Hill Court; and

WHEREAS, said Zoning Inspector, on July 7, 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 August 4, 2014, 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" Single Family Residence District; and

WHEREAS, Section 68.3 provides, in relevant part, that there shall be a rear yard having a depth of not less than thirty-five (35) feet; and

WHEREAS, according to testimony offered at the public hearing, the request is for approval to construct a five and one half (5 ½) foot extension to an existing second-story deck on the northeast corner of the single-family home located in the rear yard; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the southeast side of the Terwilligers Hill Court cul-de-sac; and

WHEREAS, according to further testimony offered at the public hearing, the owners of the property would like to make the second-story deck more usable. The extension would include new decking, railings, a stone fireplace and roof; and

WHEREAS, according to further testimony offered at the public hearing, the homeowner was issued a zoning certificate and building permit in 2006 to construct a ten (10) foot addition to the sunroom immediately south of the deck as well as an eight (8) foot by eight (8) foot deck in the middle of the rear façade. On the approved plans, the applicant indicated that the extension of the sunroom was to be setback 38 feet from the rear property line but, upon review, it appears the sunroom was constructed 21 feet from the rear property line. A variance will be required for the sunroom in addition to the proposed deck; and

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WHEREAS, according to further testimony offered at the public hearing, the sunroom and proposed deck will be secluded from view by mature trees along the property line and topography of the property; and

WHEREAS, according to further testimony offered at the public hearing, no changes are planned for the ground-level deck; 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 68.3 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 68.3 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 68.3 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 deck extension not exceed five and one half (5 ½) feet;
2. That, the sunroom not exceed more than twenty one (21) feet from the right-of-way line;
3. That, the sunroom and proposed addition remain exactly as shown on the plats and plans submitted to this Board;
4. That, the sunroom and proposed addition comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
5. That, the sunroom and proposed addition not be relocated or enlarged without the approval of this Board;

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6. That, the Zoning Certificate and Building permit (if required) for the proposed addition be obtained within sixty (60) days and all work be completed within six (6) months from the date of adoption of this Resolution;
7. That, proposed addition, once constructed, 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.

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

Mr. Flagel – “absent,” Ms. Harlow – “aye”, Mr. Havill – “aye”, Mr. Misrach – “aye”, Mr. Ruehlmann – “aye”, Mr. Wolfe – “absent”.

APPROVAL OF MINUTES

MR. MISRACH made a motion to approve the minutes of the May 5, 2014 meeting.

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

Mr. Flagel – “absent,” Ms. Harlow – “abstain”, Mr. Havill – “aye”, Mr. Misrach – “aye”, Mr. Ruehlmann – “aye”, Mr. Wolfe – “absent”.

MR. MISRACH made a motion to approve the minutes of the June 2, 2014 meeting.

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

Mr. Flagel – “absent,” Ms. Harlow – “abstain”, Mr. Havill – “aye”, Mr. Misrach – “aye”, Mr. Ruehlmann – “aye”, Mr. Wolfe – “absent”.

ADJOURNMENT

The meeting adjourned at 7:30 p.m.

Approved: _____

Luanne Felter
Secretary