

RESOLUTION

GRANTING

APPEAL NO. 2013-06

WHEREAS, Ken Rieder, KCR Construction LLC, 1743 Scott Road, Oxford, Ohio 45056, appellant, on March 21, 2013, filed Appeal No. 2013-06 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 134.1-1 and 171.13 of said Resolution as applied to the property at 9168 Link Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on March 21, 2013, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of covered porch and pergola with less front yard setback than required at the premises designated as 9168 Link Road ; and

WHEREAS, said Zoning Inspector, on March 21, 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, a public hearing was held on said appeal on May 6, 2013, 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 "H" Riverfront District; and

WHEREAS, Section 134.1-1 provides, in relevant part, that there shall be a front yard having a depth of not less than fifty (50) feet provided no alignment or setback or front yard depth shall be required to exceed the average of the minimum depth of the existing front yards on the lots adjacent on each side if each of such lots are within the same block and within one hundred (100) feet; and

WHEREAS, Section 171. 13 provides, in relevant part, that an open unenclosed or screened porch or paved terrace may project into a front yard for a distance not exceeding ten (10) feet; and

WHEREAS, according to testimony offered at the public hearing, the request is for a variance to permit the construction of a front porch and pergola addition extending into the front yard of the home; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the northwest side of Link Road, north of Glendale Milford Road and contains approximately zero point five nine five (0.595) acres; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is proposing to construct a nine (9) foot by twenty one (21) foot porch and pergola addition covering the existing patio in front of the home. The porch would cover the main portion of the patio and the main stairs leading to the front door and would tie into the existing roof and gutter system on the home; and

WHEREAS, according to further testimony offered at the public hearing, the pergola would extend to the side of the porch addition and would cover the remainder of the existing patio and secondary stairs leading down to the garage area. The posts for the porch and pergola would be partially wrapped in a man-made stone; and

WHEREAS, according to further testimony offered at the public hearing, the porch and pergola structure would extend nine (9) feet from the front of the existing home which currently sits within the required fifty (50) foot front yard setback area; and

WHEREAS, according to further testimony offered at the public hearing, a majority of the lots on this road have a front yard setback less than fifty (50) feet from the road; and

WHEREAS, according to further testimony offered at the public hearing, approval of the proposed porch and pergola addition would not likely have a negative impact on the surrounding properties; 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 134.1-1 and 171.13 of the Zoning Resolution will result in unnecessary hardship 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 134.1-1 and 171.13 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 134.1-1 and 171.13 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 porch and pergola addition remain exactly as shown on the plats and plans submitted to this Board;
2. That, the proposed porch and pergola addition comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
3. That, the Zoning Certificate and Building permit (if required) for the proposed porch and pergola addition be obtained within sixty (60) days and all work be completed within six (6) months from the date of adoption of this Resolution;
4. That, the proposed porch and pergola addition not be relocated or enlarged without the approval of this Board;
5. That, the proposed porch and pergola 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.

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 6<sup>th</sup> day of May 2013.

Mr. Flagel \_\_\_\_aye\_\_\_\_, Ms. Harlow \_\_\_\_aye\_\_\_\_, Mr. Havill \_\_\_\_aye\_\_\_\_,  
Mr. Misrach \_\_\_\_aye\_\_\_\_, Mr. Ruehlmann \_\_\_\_absent\_\_\_\_, Mr. Wolfe \_\_\_\_aye\_\_\_\_.

APPROVED: MARCH 6, 2013

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Brian E. Elliff  
Township Zoning Inspector

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Ralph Wolfe, Board Vice-Chairperson