

RESOLUTION

GRANTING

APPEAL NO. 2013-10

WHEREAS, Timothy Sharp, 6868 Drake Road, Cincinnati, OH 45111, appellant, on April 1, 2013, filed Appeal No. 2013-10 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 84.1-1 and 84.1-3 of said Resolution as applied to the property at 7906 Clement Street, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on April 1, 2013, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of an addition with less front yard setback than required at the premises; and

WHEREAS, said Zoning Inspector, on April 1, 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 "C" Single Family Residence District; and

WHEREAS, Section 84.1-1 provides, in relevant part, that a front yard shall have a depth of not less than thirty (30) feet, provided, however, no alignment setback or front yard depth shall be required to exceed the average of the minimum depths 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 84.1-3 provides, in relevant part, that where a lot is located at the intersection of two (2) or more streets, there shall be a front yard on each street side of a corner lot and no accessory building shall project beyond the front yard line on either street; and

WHEREAS, according to testimony offered at the public hearing, the request is for variance approval for a building addition to an existing home with less front yard setback than required on the corner lot; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the northeast corner of the Clement Street and Campbell Avenue intersections and contains approximately zero point one five (0.15) acres; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is proposing to construct a small addition onto the rear of the existing home. The project would include enclosing the rear porch and extending the rear wall two point five (2.5) feet into the rear yard as part of a kitchen expansion and remodel; and

WHEREAS, according to further testimony offered at the public hearing, the existing home was constructed in 1880 and several additions were made in the early 1900s; and

WHEREAS, according to further testimony offered at the public hearing, the home was constructed prior to the adoption of any zoning standards by Hamilton County and Symmes Township; consequently the home does not meet the current setback requirements;

WHEREAS, according to further testimony offered at the public hearing, the home is located on a corner lot and provides a twenty (20) foot setback to the main structure on Clement Street and a zero (0) foot setback on Campbell Avenue to the side of the structure with a portion of the chimney possibly located within the right-of-way; and

WHEREAS, according to further testimony offered at the public hearing, the proposed addition would be to the rear of the home where the existing walls are located three (3) feet from the right of way. The applicant has stated that the cantilever addition would be setback four point five (4.5) feet from the right-of-way to limit the impact on the neighbors; and

WHEREAS, according to further testimony offered at the public hearing, the Camp Dennison area of Symmes Township includes a number of lots and structures that were platted and built long before the adoption of zoning standards and do not meet the minimum area and setback requirements throughout the neighborhood; and

WHEREAS, 184.8-9 empowers this Board to grant the extension of a non-conforming use or building upon a lot or tract of land occupied by such use or building, where such extension is necessarily incident to the existing use, provided, however, that the floor area of such extension or extensions shall not exceed in all fifty percent (50%) of the floor area of the existing building or buildings devoted to the non-conforming use on the effective date of this Resolution;

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 84.1-1 and 84.1-3 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 Sections 84.1-1 and 84.1-3 of the Zoning Resolution in accordance with the authority granted in Section 184.8-9. 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 84.1-1 and 84.1-3 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 addition remain exactly as shown on the plats and plans submitted to this Board;
2. That, the proposed 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 addition be obtained within six (6) months and all work be completed within one (1) year from the date of adoption of this Resolution;
4. That, the proposed addition not be relocated or enlarged without the approval of this Board;
5. That, the 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.

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

Mr. Flagel ____aye____, Ms. Harlow ____aye____, Mr. Havill ____aye____,
Mr. Ruehlmann ____absent____, Mr. Wolfe ____aye____.

APPROVED: MAY 6, 2013

Brian E. Elliff
Township Zoning Inspector

Ralph Wolfe, Board Vice-Chairperson