

RESOLUTION

GRANTING

APPEAL NO. 2013-12

WHEREAS, David Fenton, 10472 Shadyside Lane, Cincinnati, OH 45249, appellant, on May 24, 2013, filed Appeal No. 2013-12 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 351.2-1 of said Resolution as applied to the property at 10472 Shadyside Lane, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on May 7, 2013, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for a variance to permit the construction of a detached accessory shed with less setback than required for the property at 10472 Shadyside Lane; and

WHEREAS, said Zoning Inspector, on May 7, 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 July 1, 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 "A" Single Family Residence District; and

WHEREAS, Section 351.2-1 provides, in relevant part, that on parcels of less than one acre, no detached garage, storage barn or other detached structure shall be closer than five feet from any property line; and

WHEREAS, according to testimony offered at the public hearing, the request is for a variance to allow a detached storage shed be located in the rear yard with less setback than required; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the northeast side of Shadyside, north of Stonecrest Court and south of Hopewell Road; and

WHEREAS, according to further testimony offered at the public hearing, the applicant has placed a prefabricated garden shed in the rear of the home on the north side of the rear yard without obtaining a zoning permit; and

WHEREAS, according to further testimony offered at the public hearing, the structure does not run parallel with the northern lot line of the pie-shaped lot, as required, rather it is in line with the rear of the existing home; and

WHEREAS, according to further testimony offered at the public hearing, the shed is located two feet four inches from the northern side property line at its closest point and is located behind a well landscaped and fenced area on the applicant's property. The shed is screened from the neighbor's property to the north by existing trees and shrubs; and

WHEREAS, according to further testimony offered at the public hearing, the purpose of the shed is to store bicycles and yard equipment. The location was chosen to allow easy access for the bicycles to the street and driveway and to align the shed with the existing fence for better curb appeal; and

WHEREAS, according to further testimony offered at the public hearing, there would be limited difference in the appearance of the shed from either the street or the adjacent property to the north if the shed was moved; 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 351.2-1 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 351.2-1 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 351.2-1 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;
2. That, the shed 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 shed 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 shed not be relocated or enlarged without the approval of this Board;
5. That, the shed 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 1st day of July 2013.

Mr. Flagel ___aye___, Mr. Havill ___aye___, Mr. Misrach ___nay___,
Mr. Ruehlmann ___aye___, Mr. Wolfe ___aye___.

APPROVED: JULY 1, 2013

Brian E. Elliff
Township Zoning Inspector

Ron Ruehlmann, Board Chairperson