

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.

ADOPTED at a regularly scheduled meeting of the Symmes Township Board of Zoning Appeals in session this 7TH day of April 2014.

Mr. Flagel ___abstain___, Ms. Harlow ___aye___, Mr. Havill ___aye___,
Mr. Misrach ___absent___, Mr. Ruehlmann ___aye___, Mr. Wolfe ___absent___.

APPROVED: APRIL 7, 2014

Brian E. Elliff
Township Zoning Inspector

Todd Flagel, Board Vice-Chairperson