

RESOLUTION

GRANTING

APPEAL NO. 2014-03

WHEREAS, C.J. Carr, P.O. Box 54, Loveland, OH 45140, appellant, on January 6, 2014, filed Appeal No. 2014-03 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 84.3 of said Resolution as applied to the property at 10477 Willow Drive, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on January 6, 2014, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a covered screened porch with less rear yard setback than required for the property at 10477 Willow Drive; and

WHEREAS, said Zoning Inspector, on January 6, 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 February 3, 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 "C" Residence District; and

WHEREAS, Section 84.3 states, in relevant part, that within the "C" Residence district there shall be a rear yard having a depth not less than thirty (30) feet; and

WHEREAS, according to testimony offered at the public hearing, the request is for variance approval to construct a twelve (12) foot by twelve (12) foot screened in covered porch to the rear of an approved single family home; and

WHEREAS, according to further testimony offered at the public hearing, the site includes four small parcels platted as part of the Loveland Park subdivision that would be consolidated into one parcel as part of the home construction process; and

WHEREAS, according to further testimony offered at the public hearing, a building permit for the home included an uncovered deck on the back of the home that is permitted per the Zoning regulations; and

WHEREAS, according to further testimony offered at the public hearing, the future homeowners have requested that a screened-in covered porch be built on the back of the home instead of the deck for shelter and shade; and

WHEREAS, according to further testimony offered at the public hearing, the proposed covered screened-in porch would extend six (6) feet nine (9) inches into the required thirty (30) foot rear yard setback; and

WHEREAS, according to further testimony offered at the public hearing, the rear yard of the property abuts the rear yard of existing homes on Riveroaks Drive. These homes are located in a "B" Residence District but were constructed on lots that are generally one half acre in size; and

WHEREAS, according to further testimony offered at the public hearing, the home directly adjacent to the south of the subject site has a number of evergreen trees planted along the property that would screen the proposed porch from view; and

WHEREAS, according to further testimony offered at the public hearing, the applicant has made modifications to the floor plan so the covered porch will not extend as much into the rear yard setback; and

WHEREAS, according to further testimony offered at the public hearing, the proposed home cannot be placed on the parcel any differently as it would change the streetscape; and

WHEREAS, 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 84.3 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 Section 84.3 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 84.3 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 covered screened-in porch remain exactly as shown on the plats and plans submitted to this Board;
2. That, the proposed covered screened-in porch not be relocated or enlarged without the approval of this Board;
3. That, the Zoning Certificate and Building permit (if required) for the proposed covered screened-in porch be obtained within sixty (90) days and all work be completed within one (1) year from the date of adoption of this Resolution;
4. That, the proposed covered screened-in porch, once constructed, be maintained in a satisfactory condition at all times;
5. That, the proposed covered screened-in porch comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;

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 3rd day of February 2014.

Mr. Flagel - 'absent', Ms. Harlow - 'nay'; Mr. Havill - 'nay', Mr. Misrach - 'aye';  
Mr. Ruehlmann - 'aye', Mr. Wolfe - 'aye'.

APPROVED: FEBRUARY 3, 2014

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Brian E. Elliff  
Township Zoning Inspector

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Ralph Wolfe, Board Vice Chairperson