

RESOLUTION

GRANTING

APPEAL NO. 2014-05

WHEREAS, Donald Bills, 9300 Arnold Lane, Loveland, OH 45140, appellant, on March 3, 2014 filed Appeal No. 2014-05 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 9300 Arnold Lane, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on March 3, 2014, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a detached garage occupying more area in the required rear yard than permitted in an "A" Residence District; and

WHEREAS, said Zoning Inspector, on March 3, 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 April 7, 2014, notice of such hearing was given by first class mail to parties of 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" 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 applicant is requesting approval to construct a five hundred seventy six (576) square-foot, twelve (12) foot high detached pole building garage within the required thirty-five (35) foot rear yard area on the east side of the property; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the northeast corner of the Arnold Lane and McKinney Road intersection, south of Enyart Road; and

WHEREAS, according to further testimony offered at the public hearing, the proposed garage structure is one story in height and would include two garage doors facing Arnold Lane with vinyl siding and asphalt shingles to match the existing home; and

WHEREAS, according to further testimony offered at the public hearing; the garage cannot be placed further outside the required rear yard area due to an existing pool in the rear yard. However, the remainder of the rear yard area includes more than enough open space area to offset the proposed reduction within the required rear yard; and

WHEREAS, according to further testimony offered at the public hearing, the proposed garage structure would be utilized to store classic cars and pool equipment;

WHEREAS, according to further testimony offered at the public hearing, a shed was installed on the property without a zoning permit. The shed is located in the required front yard of McKinney Road and is adequately screened from view by mature landscaping from both streets; and

WHEREAS, according to further testimony offered at the public hearing, the owner would like to retain the shed in the current location to store yard equipment; 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 an irregular shape of the lot, topographic or other conditions, provided such variations 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 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 342.3 of the Zoning Resolution in accordance with the authority granted in 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 proposed garage structure not exceed five hundred seventy six (576) square-foot and that the height not exceed twelve (12) feet;
2. That, the proposed garage structure and shed remain exactly as shown on the plats and plans submitted to this Board;
3. That, the proposed garage structure and shed not be relocated or enlarged without the approval of this Board;
4. That, the proposed garage structure and shed be maintained in a satisfactory condition at all times;
5. That, the proposed garage structure and shed comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
6. That, the Zoning Certificate and Building permit (if required) for the proposed garage structure 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 – “aye,” Ms. Harlow – “aye”, Mr. Havill – “aye”, Mr. Misrach – “absent”, Mr. Ruehlmann – “aye”, Mr. Wolfe – “absent”.

JOURNALIZED: APRIL 7, 2014

Brian E. Elliff
Township Zoning Inspector

Todd Flagel, Vice-Chairperson