

RESOLUTION

GRANTING

APPEAL NO. 2014-06

WHEREAS, Jeff & Carol Schubeler, 6341 Kugler Mill Road, Cincinnati, OH 45236, appellant, on March 27, 2014 filed Appeal No. 2014-06 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 9565 Loveland Madeira Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on March 7, 2014, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a new single family residence with less rear yard setback than required; and

WHEREAS, said Zoning Inspector, on March 27, 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 May 5, 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 "C" Residence District; and

WHEREAS, Section 84.3 provides, in relevant part, that there shall be a rear yard with a depth not less than thirty (30) feet; and

WHEREAS, according to testimony offered at the public hearing, the applicant is requesting approval to construct a new single family home on a triangular shaped lot that would extend twenty four (24) feet into the required rear yard setback; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the north side of Loveland Madeira Road, east of Humphrey Road and contains approximately zero point three seven (0.37) acres; and

WHEREAS, according to further testimony offered at the public hearing, the property was formerly zoned and used for commercial purposes but was amended to "C" Residence in 1992; and

WHEREAS, according to further testimony offered at the public hearing, a vacant dilapidated commercial building currently exists on the property but will be removed for the single family home; and

WHEREAS, according to further testimony offered at the public hearing, a private driveway serving four existing single-family homes is located behind the property and separated by a twenty (20) foot vegetated buffer that will not be removed; and

WHEREAS, according to further testimony offered at the public hearing, the proposed home would be a single-story ranch with approximately two thousand (2,000) square feet of living space and include a basement and a three car garage; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is requesting the ranch style home for function ability and needs a three car garage due to limited parking on the site; and

WHEREAS, according to further testimony offered at the public hearing, the home could be reconfigured differently on the lot as a way to reduce the setback area but would not provide a backyard area for the family;

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 84.3 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 84.3 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 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 single family home remain exactly as shown on the plats and plans submitted to this Board;
2. That, the proposed single family home not be relocated or enlarged without the approval of this Board;
3. That, the proposed single family home be maintained in a satisfactory condition at all times;
4. That, the proposed single family home 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 proposed single family home be obtained within six (6) months and all work be completed within one (1) year 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 5<sup>th</sup> day of May 2014.

Mr. Flagel – “nay,” Ms. Harlow – “absent”, Mr. Havill – “nay”, Mr. Misrach – “nay”, Mr. Ruehlmann – “nay”, Mr. Wolfe – “nay”.

JOURNALIZED: MAY 5, 2014

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Brian E. Elliff  
Township Zoning Inspector

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Ralph Wolfe, Chairperson