

RESOLUTION  
GRANTING  
APPEALS NO. 2015-5

WHEREAS, Robert Isburgh, Chatham Woods Homeowners Association, P.O. Box 329, Loveland, OH 45140, appellant, on August 9, 2015, filed Appeal No. 2015-5 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 346.1 of said Resolution as applied to the properties of 10285 Chatham Woods Drive, 10286 Chatham Woods Drive, 11747 Rich Road and 11759 Rich Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on August 4, 2015, applied to the Symmes Township Zoning Inspector for a Zoning Certificate to allow fences with more height and less open face area in the front yards of four (4) homes located at the entry to the Chatham Woods subdivision; and

WHEREAS, said Zoning Inspector, on August 9, 2015, 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 scheduled for said appeal on October 5, 2015, 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 "B" Residence District; and

WHEREAS, Section 346.1 provides, in relevant part, that no fence or wall located in the front or side yard shall be built to a height greater than three (3) feet and shall have an open face area of no less than fifty (50%) percent or when constructed to a height of not more than four (4) feet above grade, shall have an open face area of no less than seventy-five (75%) percent; and

WHEREAS, according to testimony offered at the public hearing, the applicant is requesting variance approval to allow an existing five (5) foot high, four (4) board Kentucky board fence in the front yards of four homes located in the Chatham Woods subdivision; and

WHEREAS, according to further testimony offered at the public hearing, the properties are located on the west side of Rich Road on both sides of the intersection with Chatham Woods Drive; and

WHEREAS, according to further testimony offered at the public hearing, the Chatham Woods Homeowners Association replaced a four (4) foot high, three (3) board Kentucky board fence with a five (5) foot high, four (4) board Kentucky board fence without obtaining a Zoning Certificate; and

WHEREAS, according to further testimony offered at the public hearing, the previous fence was installed during the construction of the subdivision in the early 1990s and was in disrepair. The Chatham Woods Homeowners Association selected a different style fence because it provided more space underneath to mow; and

WHEREAS, according to further testimony offered at the public hearing, Kentucky board fences are common in this portion of Symmes Township and in subdivisions located in the City of Loveland. In addition, several variances have been approved by the Symmes Board of Zoning Appeals for properties within the township. These fences do not appear to have a negative impact on the aesthetics of the township; and

WHEREAS, according to further testimony offered at the public hearing, a park is located directly across the street from the subdivision entrance; 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 346.1 of the Zoning Resolution will result in unnecessary hardship to the appellant 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 346. 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 346.1 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 proposed Kentucky board fences be constructed exactly as shown on the plats and plans submitted to this Board;
2. That, the proposed Kentucky board fences not be relocated or enlarged without the approval of this Board;
3. That, the proposed Kentucky board fences be maintained in a satisfactory condition at all times;
4. That, the proposed Kentucky board fences 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 privacy Kentucky board fences be obtained within six months (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 5th day of OCTOBER 2015.

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

APPROVED: OCTOBER 5, 2015

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Luanne Felter  
Township Zoning Secretary

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Todd Flagel, Chairperson