

RESOLUTION

GRANTING

APPEAL NO. 2017-03

WHEREAS, Donald Martin, Jody Martin Inc., 1250 Neale Lane, Loveland 45140, appellant, on February 6, 2017, filed Appeal No. 2017-03 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 104.1 of said Resolution as applied to the property located at 10750 Loveland Madeira Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on February 6, 2017, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of two (2) new sand volleyball courts with less front yard setback than required; and

WHEREAS, said Zoning Inspector, on February 7, 2017, 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 March 6, 2017, 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 "E" Residence District; and

WHEREAS, Section 104.1 provides, in relevant part, that there shall be a front yard having a depth of not less than fifty (50) feet; and

WHEREAS, according to testimony offered at the public hearing, the applicant is proposing to construct two (2) new outdoor sand volleyball courts surrounded by netting and new outdoor lighting with less front yard setback than required at the existing Grand Sands Volleyball development; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the south side of Loveland Madeira Road, west of Lebanon Road and east of Cottonwood Drive; and

WHEREAS, according to testimony offered at the public hearing, the (2) new outdoor sand volleyball courts would be located between two (2) existing courts on the west side of the property and three (3) existing courts on the east side making a total of seven (7) outdoor sand volleyball courts; and

WHEREAS, according to testimony offered at the public hearing, the two (2) new outdoor sand volleyball courts will be located approximately thirty (30) feet from the right-of-way at its closest point and forty (40) feet from the edge of pavement of Loveland Madeira Road; and

WHEREAS, according to further testimony offered at the public hearing, the two (2) new outdoor sand volleyball courts will be surrounded by an 18-foot high net with a four (4) foot black aluminum fence similar to what is located on the existing courts to provide a secured, fenced in outdoor area; and

WHEREAS, according to further testimony offered at the public hearing, five (5) new twenty five (25) foot tall matching light poles will be located in the middle of the existing lighted areas; and

WHEREAS, according to further testimony offered at the public hearing, the proposed addition of two (2) new sand volleyball courts requires an additional ten (10) parking spaces on the property bringing the total required spaces to seventy five (75). A review of the site found that the restriped existing parking spaces do not appear to meet the dimensional requirements of the Zoning Resolution in terms of stall length and width and aisle width and a gravel parking lot to the west of the building was never approved. However, there is plenty of space on the property to pave an additional area as necessary and restripe the existing asphalt parking areas to comply with the Zoning requirements; and

WHEREAS, according to further testimony offered at the public hearing, the location of the two (2) new outdoor sand volleyball courts and light poles will be screened from view by existing streetscape landscaping and is located next to industrial and commercial uses so it would not have an adverse effect on the surrounding area; and

WHEREAS, Section 184.2 empowers this Board to authorize, upon appeal, in specific cases, such variance from the terms of the Zoning Resolution, as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the Resolution will result in unnecessary hardship, and so that the spirit of the Resolution shall be observed and substantial justice done; 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 104.1 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 requirements of Section 104.1 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 104.1 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 outdoor sand volleyball courts shall not be located any closer than thirty (30) feet from the right-of-way at its closest point and forty (40) feet from the edge of pavement of Loveland Madeira Road;
2. That, the existing outdoor sand volleyball courts shall be permitted to remain in the current location less than fifty (50) feet from Loveland Madeira Road as shown on the plats and plans submitted;
3. That, the five (5) new light poles for the proposed outdoor sand volleyball courts shall not exceed twenty five (25) feet in height and not be located any closer than fifty (50) feet from Loveland Madeira Road;
4. That, the light poles for the proposed outdoor sand volleyball courts shall be shielded to prevent the light from extending onto Loveland Madeira

Road or the abutting properties;

5. That, the parking area for the entire property shall be paved and restriped according with the Zoning Code;
6. That, the proposed outdoor sand volleyball courts and light poles be constructed and located exactly as shown on the plats and plans submitted to this Board;
7. That, the proposed outdoor volleyball courts and light poles comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
8. That, the Zoning Certificate and Building permit for the proposed outdoor sand volleyball courts and light poles be obtained within sixty (60) days and all work be completed within six (6) months from the date of adoption of this Resolution;
9. That, the proposed outdoor sand volleyball courts and light poles not be relocated or enlarged without the approval of this Board;
10. That, the proposed outdoor sand volleyball courts and light poles, once constructed, be maintained in a satisfactory condition at all times;

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 6th day of March 2017.

Mr. Fowler – ‘aye’, Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Ruehlmann – ‘aye’ and Mr. Wolfe – ‘aye’

APPROVED: MARCH 6, 2017

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Luanne C. Felter  
Zoning Secretary

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Ronald Ruehlmann, Board Chairperson