

RESOLUTION

DISAPPROVING

APPEAL NO. 2017-04

WHEREAS, Michael Pachmayer, 10020 Bentcreek Drive, Loveland, 45140, appellant, on March 2, 2017, filed Appeal No. 2017-04 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 76.3 of said Resolution as applied to the property at 10020 Bentcreek Drive, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on February 21, 2017, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for approval to construct a covered deck with less rear yard setback than required; and

WHEREAS, said Zoning Inspector, on March 2, 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 April 3, 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 "B" Residence District; and

WHEREAS, Section 76.3 provides, in relevant part, that there shall be a rear yard having a depth of not less than thirty-five (35) feet; and

WHEREAS, according to testimony offered at the public hearing, the applicant has constructed a twenty two (22) foot by twenty four (24) foot partially covered, unenclosed wooden deck in the rear yard of the existing home without obtaining proper permits; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the north side of Bentcreek Drive, east of Lebanon Road; and

WHEREAS, according to further testimony offered at the public hearing, the deck is twenty two (22) inches off of the ground and extends eighteen point thirty three (18.33) feet out from the furthest projection of the home towards the rear yard on the north side of the property; and

WHEREAS, according to further testimony offered at the public hearing, the shed style roof structure covers fourteen point twenty five (14.25) feet of the width of the deck and extends the entire depth. The roof structure includes a fairly flat slope from eleven point thirteen (11.13) feet high against the house to ten point sixty one (10.61) feet at the outer edge; and

WHEREAS, according to further testimony offered at the public hearing, the deck and roof structure are constructed with wood with a wooden railing around the entire perimeter of the deck and a shingled roof; and

WHEREAS, according to further testimony offered at the public hearing, the reason for partially covering the deck is to provide shade but an awning could serve the same purpose; and

WHEREAS, according to further testimony offered at the public hearing, the subject property has a wider frontage with reduced setback. Therefore, the partially covered deck will be located twenty five point twenty five (25.25) feet from the neighbor's property line; 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 76.3 of the Zoning Resolution will not result in unnecessary hardship or practical difficulty to the applicant of the property in question; and

NOW, THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby deny the requested variance from the requirement of Section 76.3 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 76.3 of the Zoning Resolution is affirmed; and

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 April 2017.

DENIED: APRIL 3, 2017

Luanne C. Felter
Zoning Secretary

Donald Misrach, Board Chairperson