

RESOLUTION
GRANTING
APPEAL NO. 2017-12

WHEREAS, Aquarian Pools & Spa, 631 Loveland Miamiville Road, Loveland, OH 45140, appellant, on July 3, 2017, filed Appeal No. 2017-12 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 352 of said Resolution as applied to the property at 9699 Loveland Madeira Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on July 3, 2017, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of an in-ground swimming pool within the side yard; and

WHEREAS, said Zoning Inspector, on July 3, 2017, acting upon said application and the plats and plans submitted, refused to issue said Certificate, the reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was scheduled for said appeal on August 7, 2017, 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 352 provides, in relevant part, that swimming pools shall be permitted as an accessory use in all Residential Districts or any district with permitted residential uses provided they are located behind the rear line of the principal structure and at least ten (10) feet from all property lines and that fixed lighting for these uses shall be located, screened, or shielded so that any adjacent residential lots are not directly illuminated; and

WHEREAS, according to testimony offered at the public hearing, the applicant is requesting approval to construct a twenty (20) foot by thirty four (34) foot in-ground swimming pool within the side yard area;

WHEREAS, according to further testimony offered at the public hearing, the home is located on a flag lot on the north side of Loveland Madeira Road two thousand five hundred (2,500) feet east of the Loveland Madeira Road and Humphrey Road intersection and contains a shared driveway; and

WHEREAS, according to further testimony offered at the public hearing, the swimming pool cannot be placed in the rear of the home due to a wooded ravine that is not suitable for building a structure; and

WHEREAS, according to further testimony offered at the public hearing, the swimming pool will be located in the side yard approximately thirty six (36) feet from the northern property line and forty one (41) feet from the eastern property line and will include an associated concrete patio and fencing; and

WHEREAS, according to further testimony offered at the public hearing, the proposed location of the pool would not be visible from Loveland Madeira Road, would be minimally visible from the shared driveway and would not be visible from adjacent properties as woods exist around the proposed pool area. In addition, there is a steep wooded slope leading up to the nearest home to the north that provides a solid barrier and screens the properties; 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 352 of the Zoning Resolution will result in practical difficulty 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 352 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 352 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 in-ground swimming pool be constructed exactly as shown on the plats and plans submitted to this Board;
2. That, the proposed in-ground swimming pool not be relocated or enlarged without the approval of this Board;
3. That, the proposed in-ground swimming pool be maintained in a satisfactory condition at all times;
4. That, the proposed in-ground swimming pool 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 in-ground swimming pool 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 7th day of AUGUST 2017.

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

APPROVED: AUGUST 7, 2017

Luanne C. Felter
Zoning Secretary

Donald Misrach, Board Chairperson