

RESOLUTION

GRANTING

APPEAL NO. 2017-14

WHEREAS, Cynthia J. King, 10472 Willow Drive, Loveland, OH 45140, appellant, on August 4, 2017, filed Appeal No. 2017-14 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 346.1 and 342.3 of said Resolution as applied to the property at 10472 Willow Drive, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on July 23, 2017, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a privacy fence and detached accessory structure located in the front yard; and

WHEREAS, said Zoning Inspector, on July 23, 2017, acting upon said application and the plats and plans submitted, refused to issue said Certificate, her reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, public hearings were scheduled for said appeal on September 11, 2017 and October 2, 2017, notice of such hearings were 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 dates of said hearings 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 342.3 provides, in relevant part, that no accessory use or structure shall be located in the front or side yard and the total combined area of all accessory structures shall not occupy more than thirty (30%) percent of the required area of the rear yard; 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 no more than four (4) feet above grade, shall have an open face area of no less than seventy-five (75%) percent; and

WHEREAS, Section 351.2-1 provides, in relevant part, that on parcels of less than one (1) acres, no detached garage, storage barn or other detached structure shall be closer than five (5) feet from any property line; and

WHEREAS, according to testimony offered at the public hearing, the applicant originally requested approval to construct a wooden pergola structure in the front northwestern area of the home that is located on a corner lot and requested a variance to allow a portion of the existing privacy fence that extends into the front yard area to remain. However, after the meeting was continued in September the applicant revised the plans. She is now requesting to construct the pergola structure twenty seven (27) feet from the western property line and three (3) feet from the northern property line where a five (5) foot setback is required. A seven (7) foot section of the existing privacy fence will be removed to be in compliance; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the northeast corner of Willow Drive and an unimproved public right-of-way for Maple Drive, east of Rich Road; and

WHEREAS, according to further testimony offered at the public hearing, the wooden pergola structure would be one hundred sixty eight (168) square feet and constructed with cedar posts and a grey metal roof that would be ten feet tall; and

WHEREAS, according to further testimony offered at the public hearing, a Zoning certificate was issued for the privacy fence but there was some confusion in the details of the

plan that led to the fence extending past the front corner of the home. The applicant has since agreed to remove one seven (7) foot section of the fence; therefore, a variance is no longer required; 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 Sections 346.1 and 351.2-1 of the Zoning Resolution will result in practical difficulties 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 Sections 346.1 and 351.2-1 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 Sections 346.1 and 351.2-1 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 wooden pergola be granted a three (3) foot setback from the northern property line where a five (5) foot setback is required per the revised plans submitted to the Board;
2. That, one (1) seven (7) foot section of the existing privacy fence shall be removed from the northern property line and that the rest of the privacy fence can remain regardless of its location;
3. That, the proposed wooden pergola and privacy fence shall be located exactly as shown on the revised plans submitted to Board at the meeting;
4. That, the proposed wooden pergola and privacy fence shall 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 wooden pergola and privacy fence shall be obtained within six months (6) months and all work be completed within one (1) year from the date of adoption of this Resolution;
6. That, the proposed wooden pergola and privacy fence shall not be relocated or enlarged without the approval of this Board;
7. That, the proposed wooden pergola and privacy fence shall 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 2nd day of OCTOBER 2017.

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

JOURNALIZED: OCTOBER 2, 2017

Luanne C. Felter
Township Zoning Secretary

Donald Misrach, Board Chairperson