

RESOLUTION

GRANTING

APPEAL NO. 2017-16

WHEREAS, Ronald J. Seibert, 10199 Fletcher Road, Camp Dennison, OH 45111, appellant, on September 5, 2017 filed Appeal No. 2017-16 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 134.2 of said Resolution as applied to the property at 10199 Fletcher Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on September 5, 2017, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of an uncovered deck addition with less side yard setback that required; and

WHEREAS, said Zoning Inspector, on September 5, 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, a public hearing was held on said appeal on October 2, 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 an "H" Riverfront District; and

WHEREAS, Section 134.2 provides, in relevant part, that there shall be a side yard on each side of a building which yard shall be a width of not less than fifteen (15) feet; and

WHEREAS, according to testimony offered at the public hearing, the applicant is requesting the construction of a two hundred twenty four (224) square foot wooden deck addition on the side of the home that would be within the required side yard setback of the property; and

WHEREAS, according to further testimony offered at the public hearing, the property is located off of the northeast end of Fletcher Road, east of Glendale Milford Road, along the Little Miami River; and

WHEREAS, according to further testimony offered at the public hearing, the applicant replaced a badly deteriorated deck that was over forty (40) years old with a newly expanded deck without the required zoning certificate. It includes a railing and stairs from the front yard with access from a side door to the existing single family home; and

WHEREAS, according to further testimony offered at the public hearing, the deck was constructed with a ten (10) foot setback from the eastern property line where a fifteen (15) foot side yard setback is required; and

WHEREAS, according to further testimony offered at the public hearing, the previous deck appears to have been more of a concrete patio constructed on a concrete block base extending out from the home with a side yard setback area of approximately fourteen (14) feet; and

WHEREAS, according to further testimony offered at the public hearing, the homes on this portion of Fletcher Road appear to have been constructed as a summer camp prior to adoption of Symmes Township Zoning. At the time the structures were constructed there may not have been parcels for the individual structures as this appears to have been added later possibly to address the fact the structures were being converted to single family use and current Zoning does not permit more than one dwelling per parcel; and

WHEREAS, according to further testimony offered at the public hearing, given the layout of the homes in this area and a sixty five (65) foot setback between the deck and adjacent single family home the deck will not have any impact on adjacent properties; and

WHEREAS, Section 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 134.2 of the Zoning Resolution will result in practical difficulties to the owner 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 134.2 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 134.2 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, a building permit, if necessary, shall be obtained and approved prior to use of the deck;
2. That, the deck shall remain exactly as shown on the plats and plans submitted to this Board;
3. That, the deck shall not be relocated or enlarged without the approval of this Board;
4. That, the deck shall be maintained in a satisfactory condition at all times;
5. That, the deck shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
6. That, the Zoning Certificate and Building permit (if required) for the deck shall be obtained within sixty (60) days and all work be completed within six (6) months 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 2nd day of October 2017.

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

APPROVED: OCTOBER 2, 2017

Luanne C. Felter
Township Zoning Secretary

Donald Misrach, Board Vice-Chairperson