

RESOLUTION
GRANTING
APPEAL NO. 2017-18

WHEREAS, Matt Raih, 10310 Richland Park Drive, Loveland, OH 45140, appellant, on November 2, 2017 filed Appeal No. 2017-18 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 74.1 of said Resolution as applied to the property at 10310 Richland Park Drive, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on October 17, 2017, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a chicken coop with less setback than required; and

WHEREAS, said Zoning Inspector, on October 17, 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 December 4, 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 "B" Residence; and

WHEREAS, Section 74.1 provides, in relevant part, that agriculture on lots less than five (5) acres, provided any buildings, structures, exterior storage, refuse or supplies shall be at least sixty (60) feet from every property line of adjacent parcels in Residence districts and further provided that specific agricultural uses listed in this Article shall comply with specific standards for such uses; and

WHEREAS, according to testimony offered at the public hearing, the appellant constructed a twenty six point twenty five (26.25) square foot chicken coop that is six (6) feet high in the rear yard without obtaining a zoning permit; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the north side of Richland Park Drive, west of Rich Road and east of Waters Edge Court; and

WHEREAS, according to further testimony offered at the public hearing, the chicken coop is located ten (10) feet from the northern property line and approximately fifty (50) feet from the eastern property line where sixty (60) foot setbacks are required; and

WHEREAS, according to further testimony offered at the public hearing, the chicken coop is located adjacent to a private driveway that provides access to two (2) panhandle lots to the rear of the subject property and can easily be seen even with a row of pine trees; and

WHEREAS, according to further testimony offered at the public hearing, the chicken coop allows the property owners to teach their children about urban farming and supports greener living, healthy food options and sustainability; and

WHEREAS, according to further testimony offered at the public hearing, the Hamilton County Zoning Resolution was revised several years ago with various restrictions to allow small sized urban chicken coops on subdivision sized lots. With these requirements in place, a number of permits have been issued for chicken coops in the townships without any complaints; and

WHEREAS, according to further testimony offered at the public hearing, the Symmes Township Zoning Commission passed a motion to initiate a text amendment to the Symmes Township Zoning Resolution adopting the same standards and a twenty (20) foot setback included in the Hamilton County Zoning Resolution. This text amendment will be considered during future hearings; 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 74.1 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 74.1 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 74.1 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. The sole purpose of keeping suburban chickens is for the farming of their eggs for the private consumption of the property owner and not to sell the product. In no case shall any product produced or made as a result of the keeping of suburban chickens as provided in this section be offered to sale on the property;
2. The number of chickens shall be limited to ten (10). Roosters are prohibited;
3. Any accessory building or enclosure (including fences) shall be located a minimum of thirty (30) feet from all property lines, shall be located within the rear yard, shall provide a minimum of ten (10) square feet in area per chicken with a maximum size of one hundred (100) square feet for the total enclosure area, and shall be a maximum of six (6) feet in height at the highest point;
4. Chickens and their enclosures shall be kept in neat, clean and sanitary condition free from offensive odors, excessive noise or any other condition that would constitute a nuisance;
5. Chickens shall not be permitted to be outside the designated fenced enclosure, which shall include the use of chicken wire mesh, and shall be closed up in their coop between the hours of 10 p.m. and 7 a.m.;
6. No chickens shall be slaughtered on the property; however, those chickens that die through some other means or are slaughtered off site may be cleaned and dressed on the property for consumption or disposal.
7. That, the chicken coop shall be maintained in a satisfactory condition at all times;
8. That, the chicken coop shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
9. That, the Zoning Certificate and Building permit (if required) for the chicken coop 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 4th day of December 2017.

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

APPROVED: DECEMBER 4, 2017

Luanne C. Felter
Township Zoning Secretary

Ralph Wolfe, Board Vice-Chairperson