

RESOLUTION

GRANTING

APPEAL NO. 2017-20

WHEREAS, Keri Bourassa, 10018 East Kemper Road, Loveland, OH, 45140, appellant, on November 6, 2017 filed Appeal No. 2017-20 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 134.2 and 171.4 of said Resolution as applied to the property at 10018 East Kemper Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on November 6, 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 November 6, 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 "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, Section 171.4 provides, in relevant part, that any lot of record on the effective date of this Resolution may be used for any single-family dwelling irrespective of the width or area of said lot; the width of the side yard of any such lot need not exceed ten (10) percent of the width of the lot; and

WHEREAS, in accordance with Section 171.4, a six (6) foot side yard setback is required for the sixty (60) foot wide lot of record; and

WHEREAS, according to testimony offered at the public hearing, the appellant constructed a seven hundred ninety eight (798) square foot concrete block and wooden deck addition on the front of the home without obtaining a zoning and building permit; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the north side of East Kemper Road, east of Jefferson Avenue, west of Victor Avenue; and

WHEREAS, according to further testimony offered at the public hearing, the home previously had a raised planting bed constructed on concrete block running along the length of the front of the home and extending into the side yard setback. This planting bed was not considered to be part of the structure and was not required to maintain setbacks. However, the appellant removed and replaced this wall with a new concrete block wall and replaced the planting bed with a new deck on top which is attached to the front of the home. The deck is now considered to be part of the structure and required to meet the building setbacks; and

WHEREAS, according to further testimony offered at the public hearing, the deck addition is located four point five (4.5) feet from the western property line where a six (6) foot setback is required. Therefore, a variance of one point five (1.5) feet is requested; and

WHEREAS, according to further testimony offered at the public hearing, the appellant believes that the wall cannot be modified because it supports the home; and

WHEREAS, according to further testimony offered at the public hearing, given the array of different zoning districts and the fact that many of the homes in the area are located less than six (6) feet from the side property lines, the deck addition would not stand out and would not be out of character with the area; 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 Sections 134.2 and 171.4 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 Sections 134.2 and 171.4 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 134.2 and 171.4 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 deck addition shall remain exactly as shown on the plats and plans submitted to this Board;
2. That, the deck addition shall not be relocated or enlarged without the approval of this Board;
3. That, the deck addition shall be maintained in a satisfactory condition at all times;
4. That, the deck addition 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 deck addition 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 – ‘aye’, Mr. Havill – ‘aye’ and Mr. Wolfe – ‘aye’

APPROVED: DECEMBER 4, 2017

Luanne C. Felter
Township Zoning Secretary

Ralph Wolfe, Acting Vice Chairperson