

RESOLUTION

GRANTING

APPEAL NO. 2018-02

WHEREAS, Tom Muehlenkamp, A Motortoys Limousine Service Inc., 10034 Washington Avenue, Loveland, OH, appellant, on February 8, 2018, filed Appeal No. 2018-02 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 124.1-1, 148.1 and 148.2 of said Resolution as applied to the property at 10034 Washington Avenue, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on February 8, 2018, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for approval of a vehicular storage yard with less setback than required and without the required screening; and

WHEREAS, said Zoning Inspector, on February 8, 2018, 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 scheduled for said appeal on April 2, 2018, 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 the "C" Residence and "G" Heavy Industrial districts; and

WHEREAS, Section 124.1-1 provides, in relevant part, that there shall be a required front yard having a depth of not less than fifty (50) feet which shall be landscaped and properly maintained; and

WHEREAS, Section 148.1 provides, in relevant part, that any vehicular storage yard shall be located behind the minimum building setback for the site; and

WHEREAS, Section 148.2 provides, in relevant part, that all vehicular storage yards that are visible from public roads of Residence districts shall be screened and that the screening material shall be at least ten (10) feet in height and shall be of solid material; and

WHEREAS, according to testimony offered at the public hearing, the appellant is requesting approval to allow the storage of limousines and other vehicles on the existing noncomplying parking lot without meeting the setbacks or installing the required screening; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the entire block bounded by Washington Avenue to the south, Adams Avenue to the north, Jefferson Avenue to the west, and Victor Avenue to the east; and

WHEREAS, according to further testimony offered at the public hearing, the appellant recently moved an existing limousine service business onto the property without receiving a new tenant Zoning Certificate. The property includes a number of parcels, an existing parking lot and a former residential structure converted to office use; and

WHEREAS, according to further testimony offered at the public hearing, the appellant is using the office building for the office portion of his business and is storing the limousines and other vehicles used for his business on the existing parking lot which is currently not screened; and

WHEREAS, according to further testimony offered at the public hearing, the site includes nineteen (19) separate parcels. Of the nineteen (19), eighteen (18) of the parcels are

zoned "G" Heavy Industrial. The majority of the parcels are twenty five (25) feet wide with half fronting on Adams Avenue to the north and the other half fronting on Washington Avenue. The location of the office structure is on the largest parcel that is located at the far eastern end of the site. The one (1) parcel to the northwestern corner of the site is the one parcel zoned "C" Residence; and

WHEREAS, according to further testimony offered at the public hearing, the proposed use is permitted in the "G" Heavy Industrial district; however, the lot would need to be screened and streetscape landscaping would be required to be added to all three street frontages. Additionally the one residential lot would need boundary buffers. The property is fairly level and open and bringing the site into compliance could be accomplished with very little earth movement or loss of existing vegetation; and

WHEREAS, according to further testimony offered at the public hearing, the requirement for a ten (10) foot tall fence would create a barricade style look that is typically not encouraged elsewhere in the township and would be out of character with other types of fences permitted in the Zoning Resolution. This style of fence was likely created for bus depots, semi-trailers and other similar storage uses that would have a negative impact on the view from surrounding properties and was likely never intended to enclose an entire block where all four sides are visible from public streets; and

WHEREAS, according to further testimony offered at the public hearing, moving the parking lot back would bring the uses closer to the adjacent homes in the area. The streetscape buffering would help screen the use from these properties but would not adequately shield the required ten (10) foot high fence from the neighbors; and

WHEREAS, according to further testimony offered at the public hearing, the appellant states that the required fencing would be unsightly and expensive and would push back or cancel plans to construct a warehouse on the property to store the limousines inside within the next few years; and

WHEREAS, according to further testimony offered at the public hearing, approximately twelve (12) feet of the parking spaces and parking blocks for these spaces along Adams Avenue are located within the right of way. This configuration allows for parked vehicles to overhang into the traveling lane and thus need to be moved back for safety; 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 124.1-1, 148.1 and 148.2 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 124.1-1, 148.1 and 148.2 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 Sections 124.1-1, 148.1 and 148.2 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, the setback requirement for the vehicle storage yard shall be zero (0) feet;
2. That, the screening for the vehicle storage yard shall not be required;
3. That, the vehicle storage yard shall be located exactly as shown on the revised plans submitted to Board at the meeting;
4. That, the vehicle storage yard 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 vehicle storage yard 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 vehicle storage yard shall not be relocated or enlarged without the approval of this Board;
7. That, the vehicle storage yard 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 APRIL 2018.

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

JOURNALIZED: APRIL 2, 2018

Luanne C. Felter
Township Zoning Secretary

Ronald Ruehlmann, Board Chairperson