

RESOLUTION  
GRANTING  
APPEAL NO. 2018-03

WHEREAS, Stephanie Brotherton, 9361 McKinney Road, Loveland, OH, 45140, appellant, on February 15, 2018, filed Appeal No. 2018-03 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 68.2 of said Resolution as applied to the property at 9361 McKinney Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on February 1, 2018, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a garage addition with less side yard setback than required; and

WHEREAS, said Zoning Inspector, on February 1, 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 held on 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 "A" Single Family Residence District; and

WHEREAS, Section 68.2 provides, in relevant part, that there shall be a side yard on each side of a building which yard shall have a width of not less than fifteen (15) feet; and

WHEREAS, according to testimony offered at the public hearing, the appellant recently converted a carport attached to the existing family home into a one (1) story garage addition without obtaining a zoning permit; and

WHEREAS, according to further testimony offered at the public hearing, the addition is seven point one (7.1) feet high and constructed of vinyl siding with a flat roof and a garage door in the front of the home and a garage door and access door in the rear of the home; and

WHEREAS, according to further testimony offered at the public hearing, the property is located on the south side of McKinney Road, east of the McKinney Road and Enyart Road intersection; and

WHEREAS, according to further testimony offered at the public hearing, the carport was not in compliance with the setback requirements of the Zoning Resolution because it contained a one point one (1.1) foot side yard setback from the eastern property line where a fifteen (15) foot setback is required. The enclosure was not extended and does not encroach any further into the eastern setback; and

WHEREAS, according to further testimony offered at the public hearing, the house was constructed at a slightly different angle than the eastern property line. At the front corner of the home, the setback from the eastern property line is approximately two point three (2.3) feet and the setback decreases as you move south along the eastern wall of the garage addition to one point one (1.1) feet; and

WHEREAS, according to further testimony offered at the public hearing, the purpose of converting the carport was to protect items stored from being stolen and weather conditions; and

WHEREAS, according to further testimony offered at the public hearing, the home to the east is located approximately thirty (30) feet from the garage addition and contains shrubbery and landscaping for buffering; and

WHEREAS, according to further testimony offered at the public hearing, the enclosure of the carport may reduce visual clutter and may reduce the noise that came from the carport area and would not likely have an impact on the adjacent property or the character of the area as a whole since the carport and non-complying side yard setback already existed; and

WHEREAS, according to further testimony offered at the public hearing, the Board of Zoning Appeals has granted several variances in this neighborhood for homes with less side yard and front yard setbacks than required; 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 68.2 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 68.2 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 68.2 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 garage addition shall be permitted to provide a side yard setback of one point one (1.1) feet where a fifteen (15) foot side yard setback is required; and
2. That, the garage addition shall remain exactly as shown on the plats and plans submitted to this Board;
3. That, the garage addition shall not be relocated or enlarged without the approval of this Board;
4. That, the garage 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 garage 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;
6. That, the garage addition 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 on this 2nd day of April 2018.

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

APPROVED: APRIL 2, 2018

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Luanne C. Felter  
Zoning Secretary

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Ronald Ruehlmann, Chairperson