

RESOLUTION

DENYING

APPEAL NO. 2018-06

WHEREAS, 10251 Fawncrest Court, Loveland, OH 45140, appellant, on April 2, 2018, filed Appeal No. 2018-06 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 351.1-1 and 351.2-1 of said Resolution as applied to the property at 10251 Fawncrest Court, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on April 2, 2018, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of an accessory structure with less rear yard setback than required and greater height than permitted; and

WHEREAS, said Zoning Inspector, on April 2, 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 May 7, 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 "B" Residence District; and

WHEREAS, Section 351.1-1 provides, in relevant part, that on parcels of less than one (1) acre, detached structures shall be measured no less than twelve and one-half (12.5) feet in height measured to the mean height level between eaves and ridge for gable hip and gambrel roofs; and

WHEREAS, Section 351.2-1 provides, in relevant part, that on parcels of less than one (1) acres, no detached garage, storage barn or other detached structure shall be closer than five (5) feet from any property line; and

WHEREAS, according to testimony offered at the public hearing, the applicant is requesting approval to complete the construction a treehouse in the rear yard of the existing single family home that was begun without obtaining a Zoning Certificate; and

WHEREAS, according to further testimony offered at the public hearing, the partially constructed tree house is located along the rear property line and extends into the adjacent property to the west which is Loveland High School property in the City of Loveland and does not meet the minimum setback requirement. The exact location of the treehouse and how far it extends into the neighboring property cannot be determined since an official survey of the land has not been provided and the site plan is not to scale; and

WHEREAS, according to further testimony offered at the public hearing, the applicant stated that they have permission to keep the tree house on the Loveland School Board's property but no documentation has been submitted; and

WHEREAS, according to further testimony offered at the public hearing, the tree house measures two hundred twenty (220) square feet in size and exceeds the maximum height requirement of twelve point five (12.5) feet for a lot that size; and

WHEREAS, according to further testimony offered at the public hearing, the tree house is highly visible from the road and adjacent residential properties and larger in scale than typical accessory structures in the area; and

WHEREAS, according to further testimony offered at the public hearing, there are other mature trees on the property where the tree house could have been constructed that would meet the setback requirement; 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 351.1-1 and 351.2-1 of the Zoning Resolution will not result in practical difficulties to the appellant of the property in question; and

NOW, THEREFORE BE IT RESOLVED that upon consideration of the foregoing, the Symmes Township Board of Zoning Appeals does hereby deny the requested variance from the requirement of Sections 351.1-1 and 351.2-1 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 Sections 351.1-1 and 351.2-1 of the Zoning Resolution is affirmed; and

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 7th day of MAY 2018.

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

DENIED: MAY 7, 2018

Luanne C. Felter
Township Zoning Secretary

Ronald Ruehlmann, Board Chairperson