

RESOLUTION
DENYING
APPEAL NO. 2018-09

WHEREAS, Johnathan Freeman, 11793 Enyart Road, Loveland, OH 45140, appellant, on May 31, 2018, filed Appeal No. 2018-09 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 346.2 of said Resolution as applied to the property at 11793 Enyart Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on May 31, 2018, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the construction of a seven (7) foot high privacy fence located in the rear yard; and

WHEREAS, said Zoning Inspector, on May 31, 2018, acting upon said application and the plats and plans submitted, refused to issue said Certificate, the reasons being based upon the maps and regulations of the Zoning Resolution; and

WHEREAS, a public hearing was scheduled for said appeal on July 9, 2018, notice of such hearing was given by first class mail to parties of 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 hearings 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" Residence District; and

WHEREAS, Section 346.2 provides, in relevant part, that no fence or wall located in the rear yard shall be built to a height greater than six (6) feet above grade; and

WHEREAS, according to testimony offered at the public hearing, the applicant began construction of a new seven (7) foot high wooden privacy fence within the rear yard area of the north side of the existing single family home without obtaining a zoning permit. The fence extends from the rear corner of the home to the rear property line to the west and contains approximately ten (10) inches of decorative panels with caps. A trellis is attached to a section of the privacy fence by the garage; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the north side of Enyart Road, south of Symmes Valley Drive; and

WHEREAS, according to further testimony offered at the public hearing, the appellant claims that the extra foot of height is needed to screen the rear yard area of the home from the adjacent property to the north which is elevated two feet above grade and contains an in-ground pool, shed, pool house, playset, basketball court and a large oversized detached two (2) car garage; and

WHEREAS, according to further testimony offered at the public hearing, there does not appear to be anything unique about the property that would warrant the variance to the fence height standards. The majority of properties in the Township are similar in size and shape and granting a variance in this case may set a negative precedent; and

WHEREAS, according to further testimony offered at the public hearing, other alternatives are available for screening the adjacent property from view; 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 Section

346.2 of the Zoning Resolution will not result in unnecessary hardship or practical difficulty 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 Section 346.2 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 346.2 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 9th day of JULY 2018.

Mr. Fowler – ‘aye’, Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Horvath - ‘aye’ and Mr. Ruehlmann – ‘aye’.

DENIED: JULY 9, 2018

Luanne C. Felter
Zoning Secretary

Ronald Ruehlmann, Board Chairperson