

RESOLUTION
DENYING
APPEAL NO. 2019-02

WHEREAS, Allison Highland, 11901 Millstone Court, Loveland, OH, 45140, appellant, on March 4, 2019, filed Appeal No. 2019-02 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Section 346.1 of said Resolution as applied to the property at 11901 Millstone Court, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on March 4, 2019, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for the installation of a five (5) foot tall aluminum fence exceeding the height limit located within the front yard; and

WHEREAS, said Zoning Inspector, on March 4, 2019, 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 April 1, 2019, 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 346.1 provides, in relevant part, that no fence or wall located in the front or side yard shall be built to a height greater than three (3) feet and shall have an open face area of no less than fifty (50%) percent or when constructed to a height of not more than four (4) feet above grade, shall have an open face area of no less than sixty-two (62) percent; and

WHEREAS, according to testimony offered at the public hearing, the appellant is proposing to replace a damaged four (4) foot high black aluminum fence with a five (5) foot high black aluminum fence that would be eighty-three-point three (83.3) percent open; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on a corner lot created by a private drive off of Union Cemetery Road that connects to the entryway into the Stonebridge Farm neighborhood on Millstone Court; and

WHEREAS, according to further testimony offered at the public hearing, the proposed fence would connect to an existing three (3) plank wood fence that is four (4) feet tall and serves as gated entry into the neighborhood; and

WHEREAS, according to further testimony offered at the public hearing, the purpose of the additional height is to contain a large service dog in the backyard and provide safety and privacy from the busy roadway. However, the additional foot and openness of the fence may not make a difference; and

WHEREAS, according to further testimony offered at the public hearing, the fence would not have a negative impact on any adjacent properties due to the existing vegetation along all existing and proposed fence lines; and

WHEREAS, according to further testimony offered at the public hearing, there have been no other variances granted along Millstone Court although there have been similar variances for six (6) foot high privacy fences along Union Cemetery and to the south on Creekside Drive; 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 346.1 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 346.1 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 Section 346.1 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 1st day of APRIL 2019.

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

DENIED: APRIL 1, 2019

Luanne C. Felter
Zoning Secretary

Ralph Wolfe, Board Chairperson