

RESOLUTION

DENYING

APPEAL NO. 2018-11

WHEREAS, Mark Hutton, Janet Davies and Mimi's House LLC, 4320 Randall Drive, Liberty Township, OH 45011, appellants, on October 31, 2018 filed Appeal No. 2018-11 under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 64.1-1, 143.3 and 144.2 of said Resolution as applied to the property located at 11621 Symmescreek Drive, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellants, on October 31, 2018, applied to the Symmes Township Zoning Inspector for a Zoning Certificate for interior alterations resulting in the required parking spaces to be relocated within the required front yard; and

WHEREAS, said Zoning Inspector, on October 31, 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 December 3, 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 519.15 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 64.1-1 provides, in relevant part, that there shall be a front yard having a depth of not less than fifty (50) feet provided, however, no alignment setbacks or front yard depth shall be required to exceed the average minimum depths of the existing front yards on the lots adjacent on each side, if each of such lots are within the same block and within one hundred (100) feet; and after discussions

WHEREAS, Section 143.3 provides, in relevant part, that on any residentially used parcel or Residence District other than "O" and "E" no off-street parking area, maneuvering area for parking spaces or loading area shall be located within a required front yard; and

WHEREAS, Section 144.2 provides, in relevant part, that off-street parking spaces shall be prohibited in the required front yard in any Residence District other than the "O" and "E" Residence Districts; and

WHEREAS, according to testimony offered at the public hearing, the appellants purchased the subject property with the intent to use the house as a Residential Facility in accordance with the provision of the Zoning Resolution and the requirements of the Ohio Revised Code. The plans for the property include converting the existing garage within the home to additional living space; and

WHEREAS, according to further testimony offered at the public hearing, the renovation was submitted to Hamilton County for zoning approval as part of the building permit application. When reviewing these plans, zoning staff determined that the garage provided the required parking spaces for the home and that conversion of the garage and moving the parking to the existing driveway would result in the parking spaces being located within the required fifty (50) foot front yard setback of the "A" Residence District, which is not permitted by the Zoning Resolution. In addition, the facility would house up to eight (8) residents with a maximum of two (2) staff members and would require a total of four (4) spaces; and

WHEREAS, according to further testimony offered at the public hearing, following this review, the appellant prepared a revised site plan that included construction of a second

driveway with the required four (4) parking spaces located to the south side of the home and beyond the required fifty (50) feet from the right-of-way of Symmescreek Drive. Staff also discussed the requirements for compliance with the Zoning Resolution and State Law regarding Residential Facilities located in single family zoning districts and received all required documentation from the appellant to prove compliance with these requirements. As there are no zoning restrictions regarding the maximum number of driveways permitted on a property and the proposed plan met all other zoning requirements, zoning staff signed off on the building permit application to allow the interior renovation to convert the garage into additional living space. The building permit was issued and conversion of the garage is currently underway; and

WHEREAS, according to further testimony offered at the public hearing, the appellant is now requesting a variance to allow the existing driveway to provide the required four (4) parking spaces within the fifty (50) foot front yard setback. The appellant states that constructing the additional driveway and parking area would not be consistent with the character of the neighborhood since the additional parking area would make the home stand out and look more like a business instead of a residential home; and

WHEREAS, according to further testimony offered at the public hearing, the appellant states that there will be no more than two (2) employees on site at a time and their policy does not allow residents living in the home to have cars parked at the facility. Therefore, the existing driveway will be adequate to provide the required parking spaces; and

WHEREAS, according to further testimony offered at the public hearing, allowing the appellant to provide four (4) parking spaces within the required setback would not likely change the existing character of the neighborhood since there are no zoning restrictions to prevent people from using the required parking spaces within the garage for storage and parking permanently in the driveway nor are there any limitations on the number of vehicles per household; and

WHEREAS, according to further testimony offered at the public hearing, a second driveway can better accommodate a residential home that requires frequent deliveries, staff changes and visitors and alleviate on street parking. This would not be completely out of character with the neighborhood since there are five (5) other properties in the neighborhood with two (2) driveway entrances; and

WHEREAS, according to further testimony offered at the public hearing, there have been no other similar requests for location of required parking within the front yard area within the vicinity of the subject site. Additionally, there has only been one other such request in the entire Township within the last ten (10) years and that case was denied; and

WHEREAS, according to further testimony offered at the public hearing, the house is located in an area where the road bends creating a sightline problem for motorists trying to maneuver between parked cars; 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, at the conclusion of the public hearing held on December 3, 2018, Mr. Wolfe made a motion to deny the request to allow the required parking area to be located within the required fifty (50) foot front yard setback. Mr. Havill seconded the motion and the

roll call vote was as follows: Mr. Fowler – ‘aye’, Mrs. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Horvath – ‘aye’ and Mr. Wolf – ‘aye’.

WHEREAS, after discussions and after careful consideration of all the facts, testimony, and evidence submitted, that the literal enforcement of the strict application of Sections 64.1-1, 143.3 and 144.2 of the Zoning Resolution will not result in 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 Sections 64.1-1, 143.3 and 144.2 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 64.1-1, 143.3 and 144.2 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 appeal was denied on December 3, 2018.

Luanne C. Felter
Zoning Secretary

Ralph Wolfe, Chairperson