

RESOLUTION

GRANTING

APPEAL NO. 2020-06

WHEREAS, Brent Sheppard, 8730 Remington Road, Cincinnati, OH 45242, appellant, on April 9, 2020, filed Appeal No. 2020-06 with the Symmes Township Board of Zoning Appeals under Section 183 of the Zoning Resolution, seeking a variance from the literal enforcement of Sections 105.1, 328.1-3 and 328.2-7 of said Resolution as applied to the property at 8772 Glendale Milford Road, Symmes Township, Hamilton County, Ohio; and

WHEREAS, said appellant, on April 9, 2020, applied to the Symmes Township Zoning Inspector for a Zoning Certificate to allow the construction of a commercial building addition to an existing structure with less side and rear yard setback than required; and

WHEREAS, said Zoning Inspector, on April 9, 2020, 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 June 1, 2020, 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 "E" Residence District; and

WHEREAS, Section 105.1 provides, in relevant part, that the minimum setback for buildings shall be thirty (30) feet for side yards and fifty (50) feet for rear yards; and

WHEREAS, Section 328.1-3 provides, in relevant part, that in an "E" District, a boundary buffer of twenty-five (25) feet shall be required along abutting "A-A", "A", "A-2", "B", "B-2", "C", "D" or "DD" Residence Districts or residential use property and such buffer shall have a minimum of four (4) canopy trees and twelve (12) shrubs per one hundred (100) linear feet of boundary buffer required; and

WHEREAS, Section 328.2-7 provides, in relevant part, that in any "E" District, a streetscape buffer of ten (10) feet shall be required and such buffer shall be a minimum of one and one half (1.5) canopy trees and twenty (20) shrubs per one hundred (100) linear feet of boundary buffer required; and

WHEREAS, according to testimony offered at the public hearing, the request is for variance approval for the construction of a one-story addition onto the existing structure that would include less rear yard setback than required on the north side and less side yard setback on the western side; and

WHEREAS, according to further testimony offered at the public hearing, the subject property is located on the north side of Glendale Milford Road, west of Loveland Madeira Road;

WHEREAS, according to further testimony offered at the public hearing, the applicant is proposing to construct a two thousand one hundred (2100) square feet addition for business purposes that would extend approximately fifty-two (52) feet north from an existing structure that is a single-family home; and

WHEREAS, according to further testimony offered at the public hearing, the property currently contains two (2) parcels that need to be consolidated to provide the required twenty-five (25) foot setback between the proposed parking area and the eastern property line. The setback

from the addition to the northern property line would be thirty-one (31) feet where a fifty (50) foot rear yard setback is required and the setback from the addition to the western property line would be twenty point five (20.5) feet where a thirty (30) foot side yard setback is required; and

WHEREAS, according to further testimony offered at the public hearing, the applicant will utilize an existing paved area to stripe an eight (8) space parking lot; and

WHEREAS, according to further testimony offered at the public hearing, the applicant is providing the required streetscape buffer along Glendale Milford Road along with the required amount of plants. However, the applicant is proposing to waive the boundary buffer requirement along the western property line since it already contains mature vegetation that will screen the addition for the adjacent property; 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 Sections 105.1, 328.1-3 and 328.2-7 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 Sections 105.1, 328.1-3 and 328.2-7 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 105.1, 328.1-3 and 328.2-7 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 proposed commercial building addition shall be located a minimum of thirty-one (31) feet from the northern property line and twenty point five (20.5) feet from the western property line; and
2. That, the required boundary buffer required along the western property line for the proposed commercial building addition shall be waived due to existing mature vegetation; and
3. That, the required proposed commercial building addition shall remain exactly as shown on the plats and plans submitted to this Board;
4. That, the proposed commercial building addition shall not be relocated or enlarged without the approval of this Board;

5. That, the proposed commercial building addition shall be maintained in a satisfactory condition at all times;
6. That, the proposed commercial building addition shall comply in all other respects with the Zoning Resolution and the lawful requirements of the Hamilton County Building Commissioner;
7. That, the Zoning Certificate and Building permit (if required) for the proposed commercial building 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;

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 June 2020.

Ms. Harlow – ‘aye’, Mr. Havill – ‘aye’, Mr. Horvath – ‘aye’, and Mr. Wolfe – ‘aye’.

APPROVED: JUNE 1, 2020

Luanne Felter
Zoning Secretary

Jennifer Harlow, Board Chairperson