



## **Building and Zoning Appeals Minutes**

Meeting held in Boards & Commissions, Monday, February 14, 2022, at 6:00 p.m.

Members Present: Mike Svasta, Randall Roberts, and Greg Seifert.

Members Absent: Edward Franks

Mayor Pribonic swore in Greg Seifert for another term.

Also Present: Mayor Pribonic, Chris Yanda, Nate Leppo and Mary Botts

Approval of Minutes: Minutes of the December 13, 2021, meeting, motion to approve by Mike Svasta, seconded by Greg Seifert, motion passed 3-0.

Meeting called to order by Randall Roberts at 6:02 p.m.

Attendees sworn in.

### **Case #22-001**

This is a request by Christopher Yanda, applicant, for approval to construct an accessory building with an area of approximately 2,400 sq. ft. located at 1705 Arndale Road.

The property (parcel 5603378) has frontage along Arndale Road with an area of 2.21 acres and is zoned R-2. The applicant proposes constructing a garage with dimensions of 40 ft. x 60 ft. (2,400 sq. ft.) and at peak be 20 ft—8 in. in height. The structure's proposed location is 20 ft. away from the side property line.

The property already has two existing accessory structures. The first is a detached garage measuring approximately 20 ft. x 24 ft. (480 sq. ft.) and a greenhouse which measures approximately 10 ft. x 16 ft. (160 sq. ft.). With the new garage, the total area of accessory structures on the property would be 3,040 sq. ft. in total. The maximum allowable area of accessory structures for a parcel greater than 1 acre is 1,500 sq. feet.

The applicant is requesting the following variances:

1. Variance (1,540 sq. ft.) from the maximum combined floor area of 1,500 sq. ft. for all accessory buildings on a parcel - C.O.S. Section 1143.07 (b).
2. Variance (2 ft.—4 in.) for lots greater than 2 acres requiring a maximum height of 15 ft. as measured from average grade to midpoint between peak and eave of the roof - C.O.S. Section 1143.07 (c).
3. Variance (10 ft.) to locate an accessory building on a lot greater than 2 acres no less than 30 ft. from a side lot line. - C.O.S. Section 1163.04 (k).

Mr. Roberts stated to Mr. Yanda that this board is typically made up of five members, one from each ward and an at-large person. We have one of our members who is absent tonight and we have another member that had resigned his position so as you heard from the Mayor, we have an open position, so with three members in attendance, we do have a quorum for a hearing of your appeal, however, with only three in attendance, we have to have not a majority vote but we have to have a unanimous vote in your favor, so with that we have to give you the option with knowing that coming into this meeting, we can continue with your approval and we will do so or if you so desire, you can ask for the motion for your appeal to be tabled and if it is tabled that will come up at our next meeting, we just need you to be aware of that so if all three of us don't vote in favor, it is a 2-1 vote or whatever, it means it is not approved so it is your choice how you want to proceed. Mr. Yanda stated he wanted to proceed. Mr. Roberts stated he has that on the minutes that Mr. Yanda wants to proceed with the 3 member quorum.

Mr. Roberts asked Mr. Yanda to tell us about your project, give us some information and upon completion of your presentation, the board members can question you and you can respond in kind. Mr. Yanda said he would like to build a detached structure, I have a drawing that shows kind of the location. The main reason is because when we moved to Stow we saw that there are other houses on the street had buildings like that and it appealed to me.

Mr. Roberts said I had a question on the form where you checked the one box, "is minimum necessary to allow for maximum reasonable use of the land" and there is nothing else on that form but you did give us a nice letter so the question I have is right now you have an existing 20 x 24' garage and it is indicated in our documentation that you have a 10 x 16' greenhouse and you want to build the 40 x 60' which the numbers sort of match in your appeal, but in your letter, there is no date on the letter, it establishes that your intention is tear the existing 14 x 24' shed which is not defined anywhere within the document for square footage so tell us is that an error, is it missing? Mr. Yanda stated it is in the location of where the proposed structure would go, so it would be replaced by the new one. Mr. Roberts said I assumed that but I didn't want to assume anything and wanted to be clear for the purpose of your appeal. Mr. Svasta said you are allowed 1500 s.f. of an accessory building and you are planning on keeping the greenhouse and the detached garage, correct? Mr. Yanda said the detached garage at some point will either have to be demolished or rebuilt because it is starting to deteriorate. Mr. Svasta said that is a side issue but for this variance request, we are just looking at the greenhouse and the existing garage which you are planning to keep and you are going to tear down the existing shed, the 14 x 24' shed that is in the same location of your proposed 40 x 60' building? Mr. Yanda said yes. Mr. Svasta said when you tear down the 14 x 20' shed, you will have 640 s.f. of accessory space taken out as part of that 1500 s.f. that you are allowed so you still have a little over 500 s.f. of space available to build a shed without a variance. Mr. Yanda said I

understand. Mr. Svasta said that is what I am leaning toward, is there any way you can stay within that 1500 s.f. allowance by building a smaller a shed? Mr. Yanda said no, that would not be practical for my needs. I intend to park a recreational vehicle, that is why it is the size that I proposed and also the wall height variance that I proposed so that I can have a door large enough to park that vehicle inside. Mr. Svasta asked what type of recreational vehicle do you have to need that much headroom? Mr. Yanda said to get a 12' garage door you have to have a 14' wall according to all the builders I have spoken with. The camper that I already own is just under 10'9" ceiling clearance so the next standard size door. Mr. Svasta said so the camper is what is driving the height variance? Mr. Yanda stated yes, that is what I need, it is the standard RV doors, that is the smallest RV doors. Mr. Svasta said I understand the height but now I am still wondering why something smaller can't be done to accommodate your RV because 40 x 60', that is a huge structure. Mr. Yanda said yes, I have other things that I would like to store in there. I am getting rid of the shed so my tractor, my lawnmower, all of my tools and things. I inherited a lot of woodworking tools from my grandfather recently and they are all just sitting on pallets in my garage.

Mr. Svasta said I know there are other properties with large accessory buildings that you have seen and whether that was right or not, I know we did approve of those in the past and I have had regrets after the structures were built. I go back and take a look at things like that too so I have a better feel for the next time there is a request like that. Our decision to allow that for other properties does not set a precedent that from now on, we are going to allow that on Arndale Road. I hope you understand that.

Mr. Roberts said the location of the proposed new building is 20' from the property line which you are asking for a variance on that as well with a lot line from 30', is there a reason that it has to be that close to the property line that we have to have that variance proposed? Mr. Yanda said yes because of where the garage is, the turn would be too tight to negotiate, so in order to back a trailer into there would be exceptionally difficult so I would have to leave the structure over far enough so that I can feasibly back a large trailer into the structure. Mr. Roberts said correctly if I am wrong, did I hear you say that the existing garage, the 20 x 24' was in poor condition to the point that you are considering it having it raised and removed? Mr. Yanda said at some point, it is not like it is a danger or anything but it is old so at some point in the future, it will need fixed up and repairs or just to be removed. Mr. Roberts said if today it was in the position where it was disrepair that you would have to have it demoed, would the new garage take its place in other words, to fill that void? Let's say we would approve the new building today, the 2400 s.f., and if that was approved today and you have the existing building sitting there, is that something that you have to have both buildings for the area of square footage storage or would the new garage be able to take its place and removing the old garage because if it was in such disrepair that couldn't be used today, that you wouldn't need it? I don't know what you are storing in there, I don't know how much room you need? You have one garage that is existing and then the new

garage. Mr. Yanda said ideally the garage that is existing would be to park vehicles. Mr. Roberts said I was just trying to get a picture because a lot of people will create a garage and use it for an all encompassing, a one size fits all. Mr. Yanda said ideally I would not have wet cars in and out, woodworking tools and things like that that I don't want rusty or damaged or further destroyed. A lot of them are antiques and irreplaceable.

Mr. Svasta said to be honest with you, there are 3 variance requests and I am good with the height and also the setback from the side yard but I can't vote for the variance that allows such a large structure involved, so since there are only three of us, I would like to give you the opportunity to maybe table this and come back. You might have better luck if we had five board members here because if we vote right now, one negative vote and you will not get that particular variance.

Mr. Roberts said to follow up on what Mr. Svasta was saying, if we vote, you can table this at any time, that is your choice as the appellant in this case, you can table it any time so if you choose to from hearing the discussions, you are allowed and we have to make sure you know you are allowed to do that. We are clarifying where we are at, we are a five member board. Right now we have four members, one just isn't here and we have one vacancy. When that will be fulfilled we do not know. If we come back under a four person board at a later date for your appeal or for any future appeals, then a majority takes place so it would three of the four votes to affirm and move on, even if we had a negative vote but today because we are only at three, we just have a quorum to hear the case and again all three have to vote in the affirmative to get your appeal passed. I will be honest with you, I am kind of following with what Mr. Svasta is saying here. I think, if this was the only garage that was going up on the property, it was a single garage, one of a kind, without other structures on the property, I think we might want to entertain it personally but I, like Mr. Svasta, the size and height of the mid point of the peak and the 10' for the variance to line up, that is not to big but we don't have anything from neighbors that say nay or yay but with this big of variance, but when we put up larger buildings or approved them, it wasn't due to this big of a variance having multiple buildings on the property that took us over. It was we are at 2400, the limit is this, but it is a one garage and done, I think we are more likely to approve those so before I call for a motion on your appeal and then a vote, certainly we can go either path you want to go or if we do vote for it tonight and it does fail, you can always change your appeal to something else and come back before this board. This is just for the three items you identified. If you change the size of the building, if you move it different places, if you do anything else it is a new appeal under those conditions. Mr. Yanda stated he would like to table this. Mr. Roberts stated we can accept that choice as a citizen of this city and it is our requirement as this board to accept that decision and we will table the appeal of Case #22-001 until the next meeting and at that point, you can come back and we will re-hear the case and at that time, you can check with the board secretary to check on the membership that would be in place at that time and be available for the meeting to

see if all four will be here. We can't judge at this point and we may have other cases to hear at that time and you can table and reschedule.

We may be down to only two members in March so we cannot hold the meeting until April. Mr. Leppo said if the board is not here in March the case will be approved. By Charter, you have 60 days to review it and that is starting today, so at 61 days it is approved. Mr. Roberts said regardless, I think for the benefit of the homeowner and the citizen and he asked us to table it, then I think we can follow our by-laws and let it be tabled and if it goes 61 days then it goes 61 days. Mr. Seifert asked is that true even if it is tabled? Mr. Leppo stated yes. Mr. Svasta asked would it be of any value to put up for vote the other two variances, the height and side lot setback on this? Mr Leppo said I would recommend doing it all as one. I think you have to review this all as one case because it is a hypothetical and I don't think you want to do that. Mr. Roberts said I recommend to allow for the tabling of the appeal to occur as requested by the homeowner. If we get to 61 days where we can't have the next meeting with a quorum, then at that point as you pointed out in the Charter, then it would be approved automatically and that is okay too because that is the law, that is the rule. Just as if we turned you down you can appeal and go higher, you can go to municipal courts and other places to appeal it higher. At this point, due to the membership minus the minimal membership that we have, that would make logical sense for you (Mr. Yanda) if you can wait that long with the spring season coming and so forth. Mr. Yanda stated yes.

Case 22-001 has been tabled until our next meeting or until such time that we exceed the max 60 days per the Charter and you will be notified by Zoning Department if that happens and maybe you can move on that way.

Voting of Chairman and Vice Chairman – Postponed until all members are in attendance.

**Adjournment:** With no further business to be discussed, motion to adjourn by Mike Svasta, seconded by Greg Seifert, meeting was adjourned at 6:29 p.m.

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Randall Roberts, Vice Chairman

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Mary Botts, Secretary