



## Building and Zoning Appeals Minutes

Meeting held in Boards & Commissions, Monday, April 11, 2022, at 6:00 p.m.

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

Members Absent: None

Also Present: Mr. & Mrs. Chris Yanda, Ronald Waine, Michael Seppanen, Victoria Walker, Martin Iliev, Nate Leppo, and Mary Botts

Approval of Minutes: Minutes of the February 14, 2022, meeting, motion to approve by Mike Svasta, seconded by Randall Roberts, motion passed 4-0.

Meeting called to order by Chairman Edward Franks at 6:00 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)(3).

Mr. Yanda said I am asking for the variances for the structure with the variances given so that I can attempt to keep the garage that is there. Mr. Franks said you already have a two car garage there right? Mr. Yanda said correct. Mr. Franks asked what is the purpose of this new building for? Mr. Yanda said it is for a hobby structure, storage and to park an RV, that is the reason for the height variance. Mrs. Yanda said to also do some additional work in the garage so we have some place to do that, we don't have that room in the existing garage. We are going to do welding, wood working and things like that and store the RV. Mr. Roberts said that Mr. Yanda came to us previously and decided that he wanted to come back when the board had more members and so that is why he is here tonight. One of the questions that just came up now, which I am sure was not addressed back then, the work in your garage, like welding, things like that, is that personal or business? Mr. Yanda stated personal. Mr. Roberts said we need to ask that so we can get it in the records so we have that for clarity. Mrs. Yanda said she wasn't sure on how many got to come out and see the property, but the existing garage that is on there is not in great shape so we don't know how much longer it is going to last so the goal would be eventually the new one would take the place of that but we now have the garage there and we would need to maintain it for some period of time as it has electricity, has the all the things we need to be able to store things in it until eventually the other building is built and would take over. Mr. Franks said he had a question regarding the side setback, you have a 180 ft. x 548 ft. wide, why do you have to make it so close to the property line? Mr. Yanda said there is already an existing structure there which was part of it that is going to be removed, so just maintaining the same setback of the structure that is being replaced and also the way the driveway is shaped in order to back a trailer that winds up where the garage doors would have to be on the existing driveway instead of moving the whole driveway over. Mr. Roberts said if the existing garage is there in front of it, proposed garage was removed, does the driveway would that line up with the garage if it could be moved over in compliance with the side yard dimension? Mr. Yanda said there is more elevation on that side where the garage is and it would be significant grading but as far as a straight line from the driveway, yes. Mrs. Yanda said there is that additional gap space but it is weird with how that space between our house and our neighbor's there is a whole gap and we talked to them a lot about it and it kind of gets buffered. Mr. Franks asked Mrs. Botts if we had heard from any of the neighbors and Mrs. Botts stated no. Mrs. Yanda said the person who the variance is affecting did not have any concerns but he was not there tonight.

Mr. Svasta said during our meeting in February, I expressed my concern for the size of the structure and the variance you required was over 1500 s.f. and that is as big as the house, that is a large structure, that is what I was concerned about then and still am concerned about that now. You are allowed 1500 s.f. of combined space which means you can building something that is 860 s.f. and that would put you at that limit. 860 s.f. is a pretty big sized building in itself. I would like to know why you can't build something that is within the limits of the code. Mr. Yanda said 1163 s.f. I can build 2.5% of my lot size on lots greater than two acres so that puts me at 2470 s.f. Mr. Leppo said up to so whichever is more restrictive so the 1500 s.f. applies. Mr. Yanda said the maximum is 4000 s.f. if the lot is greater. Mr. Leppo said correct but right now you have more than one building. Mr. Yanda said so essentially if I get rid of the garage then there would be no concern with the square footage. Mr. Seifert said I think the greenhouse would probably tip your scale a little bit there. Mr. Seifert said my concern is that we get variances that are reasonably over that maximum allowed, 1500 s.f. but this is 102% over, more than double what is allowed and I think that is what the Board here is having issues over. Mrs. Yanda said so what would

sound reasonable to you if we needed to adjust the size? Mr. Roberts said I think from my standpoint I will speak candidly, if part of our approval and that is how we word it, that if we could move to add to build the new garage and have the existing garage razed and demo'd to eradicate the side yard variance and move it over so it is within the scope, the peak of the garage I am not too worried about it because we understand you want the RV to put in there and that takes space, I get that so personally I think that might work for me, I am not going to speak for the rest of the board members, that is something you can consider, this is a conversation so it is not set in stone. Mr. Yanda asked can we raze the garage post construction so I don't have to pay storage? Mr. Roberts said my opinion would be we would say once the new garage receives its Certificate of Occupancy for final inspection, then we would have a limited time to have the existing building removed (garage). Mr. Leppo said the time would be set by the Board and it would be a condition of approval is what it would be called, we want to make this a working session, you can work with them. Mr. Svasta said I was thinking along the lines of something to simplify the process if we, you have three separate requests that we vote on each one separately. I have no problem with the side yard setback and no problem with the height but I am going to vote no on the size. If you get two out of three approved, then all you are dealing with is size and as long as you can submit a plan showing that you are going to stay within that 1500 s.f. limit, then you are willing to come back here and I think it will be a lot simpler. Mrs. Yanda said maintain the existing structures? Mr. Svasta said it would be up to you, you would have to figure that out. You are allowed 1500 s.f. so what are you going to give up? Mrs. Yanda said I don't think that is an option for us to not have the square footage. Mr. Yanda said as far as I understand, this section of the code is that I can build a single building up to 2-1/2% of my lot status so if I am to remove the building that I have, which I am in favor of, that size would be permissible according to the section of the code. Mr. Leppo stated if you remove the section of that garage, that does change things so it is not 1500 s.f. We are just reviewing a proposal that is narrow in scope, if something changes we can react to it. Mrs. Yanda said so is that something that can be discussed now or do we have to submit a new proposal? Mr. Leppo said I think if you are willing to completely remove the existing garage, it changes parameters and not code via submission which would then open you up to a larger size but that is something that would be between you and the Board, at least if it comes to the idea of the existing building. Mrs. Yanda said I think for us we know the garage is in bad shape and was not intended to be a long term option for us but it does provide us storage and electricity and work from there already. We would want to know what are the terms of how long we would have, these are the things that we would need to know, what are the options and how long, say, three months after the new building is done to demolish the old building. Mr. Seifert said is it acceptable to agree to take down the existing garage? Mr. Yanda said yes. Mr. Seifert asked what is a timeframe that you would be comfortable with? Mr. Yanda said it is hard to find anybody to do anything right now but if I can get it done in 90 days... Mr. Seifert said Mr. Roberts mentioned that it would be set as when you had your Certificate of Occupancy for the new garage, that is when the clock would start ticking and I know that a variety of schedules and what have you, I would be comfortable with, maybe up to six months for example, you mentioned 30, 60, 90 days. Mr. Franks said you mentioned 90 days and if everything can be moved out into the new building and if you get in trouble with the contractor delaying and demolishing the other one, then we can consider an extension on that one. Mr. Roberts said I think that is reasonable. Mr. Franks said because that is out of our control but what is in your control is to move all your other things. Mr. Roberts said to get your new building open and usable and have the shell until such time as the contractor can get there to take it down for you or whoever.

Variance #1 (1,540, s.f.) – Mr. Roberts made the motion to allow a 40'x 60' (2400 s.f.) accessory building to be approved with the condition that the existing built building, which is a 20'x24' garage, be razed no later than 90 days after the completion of the new accessory building and the issuance of the Certificate of Occupancy. Seconded by Greg Seifert. Motion passed 4-0

Variance #2 (2'4" maximum height of 15'), motion to approve by Greg Seifert, seconded by Mike Svasta, motion passed 4-0.

Variance #3 (10') locate an accessory building on a lot greater than 2 acres or less than 30' from a side lot line. Motion to approve by Randall Robert, seconded by Greg Seifert, motion passed 4-0.

### **Case #22-002**

This is a request by Ronald Waino, applicant, for approval to construct an addition to an existing detached garage located at 4198 Ellsworth Road.

The property (parcel 5609108) has frontage along Ellsworth Rd with an area of 1.17 acres and is zoned R-1. The applicant proposes constructing a 600 sq. ft. addition to an existing 864 sq. ft. detached garage making the total square footage of 1,464 sq. ft.. The height of the structure's peak is 16 ft. - 6 in. The structure's proposed location is two (2) ft. away from the side property line. The side setback for a detached garage greater than 800 sq. ft. in an R-1 designated parcel is 25 feet.

The property already has two existing accessory structures. The first is a previously mentioned detached garage measuring approximately 24 ft. x 36 ft. (864 sq. ft.) and a shed (484 sq. ft.). With the proposed garage addition, the total area of accessory structures on the property would be 1,948 sq. ft. in total. The maximum allowable combined floor 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 (23 ft.) from the maximum side setback for an accessory building greater than 800 sq. ft. from a side Lot Line - C.O.S. Section 1143.07 (a)(1).
2. Variance (264 sq. ft.) from the maximum area of 1,200 sq. ft. for a single building on a parcel greater than 1 acre - C.O.S. Section 1143.07(b).
3. Variance (448 sq. ft.) from the maximum combined floor area of 1,500 sq. ft. for all accessory buildings on a parcel greater than 1 acre - C.O.S. Section 1143.07(b).
4. Variance (1 ft. – 6in.) from the maximum in height, as measured from the average grade to the structure's highest point - C.O.S. Section 1143.07 (c).

Mr. Waino stated I have a problem collecting automobiles and motorcycles and that is what it is all about. As you can see by the layout of the land the garage is coming straight down to the back of it and I want to cut a hole in the back of the existing garage to put more cars in. Mr. Franks said is that the only way to access the new addition is from the existing garage? Mr. Waino said unless I go completely around the other side of the house and the other accessory building is 484 s.f. and it is in the back of the property down the hill and is 250' from the house through the back yard to get to it. It counts in the

overall scheme of things but it is not useable, I can't park my car or anything in that. It was there when I bought the place in 1988. In fact, they had animals in it so that is what that was, an animal barn. The side is only 2' but at this point if you look at the side all you can see is that it goes in the driveway straight and in the back of the drive and the issue with the height is that my lot goes down the further you get back so the height goes up. If you were at the project it would be within height but the foundation is going to be 4' out of the ground on the back side. Mr. Robert said it is a continuation of your roof line? Mr. Waino said yes. Mr. Franks asked what is that shed being used for now? Mr. Waino said lawnmower and picnic table that I carry down there in the fall and back up in the spring and some old lumber. It is too far away from the house to be useful. Mr. Svasta asked if he built the shed and Mr. Waino said it was there when he bought the property in 1988. Mr. Svasta said he was curious as to why it was so far in the back. Mr. Waino said it is a cinderblock building in the back of the property. Mr. Seifert asked if he was going to match the materials? Mr. Waino stated yes as close as possible. Mr. Franks asked Mary Botts if she had heard from any of the neighbors and she said no. Mr. Roberts said they always take into consideration any comments from the neighbors especially looking at the property lines. Mr. Franks asked if the current accessory building was built with a variance? Mr. Waino said yes. Mr. Waino produced the original plans for that variance.

Variance #1 – 23' side setback. Motion to approve by Randall Roberts, seconded by Greg Seifert, motion passed 4-0

Variance #2 – 264 s.f. max area. Motion to approve by Randall Roberts, seconded by Mike Svasta, motion passed 4-0

Variance #3 – 448 s.f. for all accessory buildings. Motion to approve by Greg Seifert, seconded by Mike Svasta, motion passed 4-0

Variance #4 – Max height of 1'6". Motion to approve by Mike Svasta, seconded by Greg Seifert, motion passed 4-0

### **Case #22-003**

This is a request by Martin Iliev, property owner, to approve variances to resolve current issues known with the construction of an existing garage at 4319 Lorwood Drive. The applicant previously intended to apply for an unrelated variance when this structure was discovered. The applicant then diligently contacted a surveyor and is attempting to rectify the situation with the current garage, which will require variances to be lawful.

The building on the property (parcel 5603792) is a duplex with frontage along Lorwood Dr, with an area of 0.28 acres, and is zoned R-3. The garage is located ~1 ft. - 5 in. away from the side property at the closest and 10 ft. from the back property line. The required distance for an accessory building from a side lot line is 10 ft.

The garage is approximately 26 ft. in width x 28 ft. in depth (~ 730 sq. ft.) and the maximum square footage allowed for a property less than ½ acre is 500 sq. ft. There are currently two sheds on the property, both measuring 10 ft. x 8 ft. (160 sq. ft. total). This puts the combined square footage of all accessory buildings on the property (garage + sheds) at 890 sq. ft. which is over the total allowable limit of 500 sq. ft. on a property less than ½ acre.

**The applicant is requesting the following variances:**

1. Variance (8 ft. - 7 in.) from required 10 ft. minimum side yard width. - C.O.S. Section 1143.07 (a)(1)
2. Variance (230 sq. ft.) from the maximum allowable floor area of any single accessory building of 500 sq. ft. on properties less than ½ acre. - C.O.S. Section 1143.07 (b)
3. Variance (390 sq. ft.) from the maximum allowable combined floor area of all accessory buildings on properties less than ½ acre. - C.O.S. Section 1143.07 (b)

Mr. Iliev stated we applied for a variance, my parents and I live in a duplex, they live on one side and I live on the other side. We were going to apply to extend the porch on the 4319 side to cover the driveway and vehicle because our car on that side has a bunch of dents from the tree next to the house next to us so we applied for that and then we got word about the garage and we got a surveyor to come in and survey out the yard. We have had that property since 2001 and shortly after we made a carport and we wanted to upgrade that because I got my car in 2013 and wanted to do hobbies with it and also wanted to do some woodworking and stuff like that. A little carport is not going to do that for us so I contacted a steel garage company to actually outfit that garage with steel. They recommended these pre design garages and they assured us that everything was ready to go to do it so we did it and just to go over what we are missing. We would just like to rectify issues that we had along with maintaining the spirit of the code. I do want to make a note that my math might be off on this but I actually do have an approved drawing from the City of Stow in 2004 recognizing the two sheds on the property. Just noting that for the square footage. Mr. Leppo said as mentioned, the property was discovered, the fear was that it was actually over the property line so as mentioned, he diligently and continued to check in with me, get ahold of a surveyor which is not easy right now. Between law and our department, we don't plan to pursue this to county court and Law Department wanted me to let you know. Mr. Roberts said when this was constructed, your parents had constructed? Mr. Iliev stated they had two businesses in Stow and they are busy all day long with it and they are busy so I just decided to take care of the garage. Mr. Roberts stated he was just curious to know I am talking to the right person, so basically it was constructed outside the scope of zoning and building so those are certainly issues and thank goodness law has decided not to pursue something for your benefit because in a courtroom the judge is going to say it is the owner's responsibility and that is in the Ohio Revised Code and Building Codes so we understand that sometimes contractors do things or say things just to get a job so our goal tonight is to hold that against you just to get that all on the table. Mr. Iliev said he appreciated that. Mr. Roberts said we will try to find a way to work with you if there is a way possible to help you over a hump especially now since we now know that the Law Department is not in a position that they want to continue any action or injunctions. Mr. Franks asked Mary Botts if any of the neighbors had called in and she said no. Mr. Iliev said the neighbor behind us said the building helped him with privacy quite a bit because the back of her house faces the baseball fields and street. Mr. Seifert said in your letter that you were trying to contact the school for an easement, has that made any progress? Mr. Iliev stated he hasn't reached out because he wasn't sure what would be most appropriate, I didn't want to start heading down that rabbit hole without going with you guys first. The surveyor actually brought that up because he was just interested in the situation I suppose. He considered an easement based on the drawings that I brought just to straighten out the one side of the property where I have been mowing anyhow for 20 years ever since I could push a mower. We discussed with the previous principal, Ms. Martucci, can we just take care of this 2600 s.f. area and she said sure because they used to mow with

industrial mowers right up to the house. Obviously we don't claim to own it. Mr. Roberts asked what the two sheds in the back are currently used for? Mr. Iliev stated the one on my side has my tractor and extra wood in it and the one on my parents side have our bicycles and yard equipment.

Mr. Iliev does not have to submit any paperwork to the Building Department. His properties are now legal entities.

Variance #1 (8'7") side yard width. Motion to approve by Greg Seifert, seconded by Edward Franks, motion passed 4-0

Variance #2 230 s.f. max floor area. Motion to approve by Greg Seifert, seconded by Mike Svasta, motion passed 4-0

Variance #3 – 390 s.f. max combined floor area. Motion to approved by Greg Seifert, seconded by Mike Svasta, motion passed 4-0

#### **Case #22-005**

This is a request by Victoria Walker, property owner, for approval of a variance to construct a deck (accessory use) higher than 30 in. on the back of their primary residence at 1280 Housley Rd.

The property (parcel 5617767) has frontage along Housely Rd. (front) & Mallard Ave. with an area of 0.28 acres. The property is zoned R-2 and is a corner lot. The applicant proposes constructing a deck with exterior dimensions approximately 20 ft. width x 12 ft. depth (~240 sq. ft.). The proposed deck will be ~20 ft.-2 in. from the back property line. The required distance is 30 ft.

#### **The applicant is requesting the following variance:**

1. Variance (20 ft.-2 in.) from the current zoning regulations requiring 30 ft. rear yard setback - C.O.S. Section 1143.07 (a)(4).

Mr. Seifert stated for clarification the variance should be 9'10" and not 20'2". Mr. Leppo stated that was correct.

Ms. Walker stated she had brought pictures and she knows a few board members had the opportunity to drive by and look. My backyard slopes pretty badly so we lived there since 2002 and most of our neighbors are on their second and third of some sort of backyard useable space and we haven't done anything yet mostly because we had kids and couldn't afford to and now that the kids are all moved out we would like to be able to have some sort of outdoor space, a deck, on the back of our house to go ahead and just have coffee in the morning and a margarita after a day of work. Unfortunately, the way our house is set up, the builder, we didn't build it, it was already built, they put it pretty far back so that it really didn't leave us a whole lot of room in the back and the way they did the parachute lot, again, the way it sloped it is not like we can go ahead and really do a whole lot with the patio. We did go ahead and put extra dirt in there before and the ground does tend to shift a little bit so even if we were to pursue the patio route, I have a feeling we would wind up making repairs probably within 5-10 years because of the earth shifting. Mr. Franks asked if there were any responses from the neighbors and Ms. Botts stated no. Mr. Seifert said you made the reference to being higher than 30", if it is lower than 30",

it is a different requirement? Mr. Leppo said not for this one, it is just how the deck is classified for a building permit.

Motion to approve Variance #1 (9'10") rear yard setback by Mike Svasta, seconded by Randall Roberts, motion approved 4-0

**Case #22-006**

This is a request by Michael Seppanen, property owner, for approval of a variance to construct an addition in the form of a garage on their primary residence with an exterior area of approximately 312 sq. ft. at 4235 Maplepark Rd.

The property (parcel 5608203) has frontage along Maplepark Rd. (front) & Norman Dr. E. with an area of 0.27 acres. The property is zoned R-3 and is a corner lot. The applicant proposes constructing an addition with exterior dimensions approximately 11 ft.-11 in width x 26 ft.-2 in. depth (~312 sq. ft.). The current primary residence is legal, non-conforming. The garage portion will be parallel with the current residence and will be 18 ft.-1 in. at the closest point to the back property line. The required distance is 30 ft.

**The applicant is requesting the following variance:**

1. Variance (11 ft. - 11 in.) from the current zoning regulations requiring 30 ft. rear yard setback - C.O.S. Section 1143.04 (a).

Mr. Seifert asked what would be the setback for the sideyard? Mr. Leppo said 8' for R-3. Mr. Seppanen stated I have been here for 8-9 years and when I moved in I had one car and so over the years I found additional cars and my girlfriend moved in about a year ago so that is an additional car there so we currently have five cars total and I work on my cars as well so that takes up room as well. This variance will give me additional garage parking for about 2 of my cars to be inside of the garage.

Mr. Franks asked Mary Botts if she had heard from the neighbors and she said no. Mr. Roberts stated this was pretty much self-explanatory with the artist renderings of the plan and showed it will be parallel on the garage roof in the front so it makes sense. Mr. Franks said we have a typical corner lot problem which is what it is, you have two rear yards and side yard but that acts as a side yard and if that acts as a side yard and if that is 8' allowable setback you have 8-1/2' in my mind, that is appropriate for this location.

Motion to approve Variance #1, 11'11" rear yard setback made by Randall Roberts, seconded by Mike Svasta, motion passed 4-0.

**Nomination and Approval of Chairman and Vice Chairman:** Randall Roberts made a motion that we retain for the 2022 year the current Chairman (Edward Franks) and Vice Chairman (Randall Roberts) positions, seconded by Greg Seifert, motion passed 4-0.

**Adjournment:** With no further business to be discussed, motion to adjourn by Edward Franks , seconded by Greg Seifert, meeting was adjourned at 7:00 p.m.

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Edward Franks, Chairman

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Mary Botts, Secretary