



Building and Zoning Appeals Minutes

Meeting held in Boards and Commissions Room, Monday, September 12, 2022, at 6:00 p.m.

Members Present: Mike Svasta, Randall Roberts, Edward Franks, and Peggy Sykora.

Members Absent: Greg Seifert

Also Present: Patrick Sluss, Bill Lewis, Nick Gerring, Barb Canavan, Jennifer and Paul Frey, Christian Costello, Zack Cowan, and Mary Botts

Oath given to Peggy Sykora as a new Building and Zoning Commission Member by Mayor Pribonic.

Approval of Minutes: Minutes of the July 11, 2022, meeting, motion to approve by Mike Svasta, seconded by Randall Roberts, motion passed.

Meeting called to order by Chairman Edward Franks at 6:00 p.m.

Attendees sworn in.

Case #22-016

Request:

This is a request by Patrick Sluss, applicant, for approval to install a covered porch and patio at the rear of the property at 2590 Norton Road.

The property (parcel 56-06319) has an approximate area of 0.26 acres and is zoned R-2. The applicant proposes constructing a 12 ft. x 12 ft. (144 sq. ft.) porch 28 feet from the rear property line and a 21 ft. x 32 ft. patio approximately 25 feet from the rear property line. The zoning code requires that decks, patios, porches, steps, and any other extension to the principal structure shall comply with the principal building setbacks. This zoning district requires a minimum 30-foot rear yard. A 5-foot variance is required to allow for the patio setback. The applicant requests a 6-foot variance to accommodate minimal adjustments during construction.

The applicant is requesting the following variance:

Variance (6 ft.) from the minimum required rear yard setback of 30 feet – C.O.S. Section 1143.07(a).

Mr. Sluss stated this homeowner had an existing deck and existing pool and to his knowledge, pools are allowed to be 15' from the rear setback so actually the new structure is going to take up

less square footage than what the existing pool is so we are doing our best to work with the disturbed area of this property. What the homeowner has now is the wooden deck that is aged and they are ready to switch gears and redo their back yard. Their back yard is fenced in by a 6' fence and it is relatively private. Ms. Sykora asked if the fence was going to stay and Mr. Sluss said yes. Mr. Roberts asked Mrs. Botts if we had any comments from the neighbors and Mrs. Botts stated no. Mr. Svasta said there were two factors here that I took into consideration; it is a corner lot and an irregularly shaped lot. I think the fence itself provides very good screening to the existing deck and I did not see any impact on the neighborhood on encroaching on the rear yard setback. Mr. Roberts said he saw the same thing. In my viewpoint, with the corner lots the way Norton Road is curved there in a sort of unusual shape and the limited back yard distance and zero problems especially with the deck and porch roof are designed and the patio, and I didn't see that as a major issue. I just wanted to get some clarity myself on that. There were no other questions.

Motion to approve Case #22-016 made by Randall Roberts, seconded by Mike Svasta, motion passed 4-0.

Case #22-017

Request:

This is a request by Nick Gerring, applicant, for approval to construct a 360 sq. ft. deck at the rear of the property at 2725 Prescott Downs.

The property (parcel 56-18366) is zoned R-1 in the Pambi Farms Planned Residential Development (PRD). The applicant proposes constructing a 20 ft. x 18 ft. (360 sq. ft.) deck approximately 15 feet from the rear property line. The zoning code requires that decks, patios, porches, steps, and any other extension to the principal structure shall comply with the principal building setbacks. This PRD district requires a minimum 30-foot rear yard.

The applicant is requesting the following variance:

Variance (15 ft.) from the minimum required rear yard setback of 30 feet – C.O.S. Section 1143.07(a).

Mr. Gerring stated the homeowner's property is unique as it abuts to Pambi Farms. The structure does encroach on that property line a little closer than what this gentleman (previous case) just did but it still doesn't obstruct any view, there are plenty of shrubs and trees in the back there. Mr. Roberts inquired what the elevation of the deck off grade. Mr. Gerring stated it was less than 30 inches. Mr. Franks said it would be flush with floor level? Mr. Gerring said yes. Mr. Roberts said Mr. Chairman I do see that the applicant/owner got an approval from the Prescott Homeowner's Association which I was glad to see that was already received prior to this meeting. Beyond that, I know the property and there are a lot of shrubbery and trees and things and the golf course is right on the other side so it is not affecting any other property behind it. Mr. Franks said I was out there looking and it is abutting the first fairway so I don't think that will be an eyesore. Mr. Svasta said I think you are right for anybody in the rear but the neighbors to the sides would now see this deck because it goes back towards the golf course 18

feet. Was there any discussion about this maybe building out the patio a few extra feet? Mr. Gerring said there was but then the issue she had with it was she has a storage unit with some passed down furniture that she wants to make sure gets on there, a table and patio chairs, and she wants to make sure the size was appropriate to accommodate that. Mr. Svasta said I really have a concern with trying to maintain privacy because there is some vegetation and kind of a barrier between the neighbors, and one neighbor did say they had no problem with it but it was not staked. When I indicated how far back 18 feet is from the house, the neighbor seemed to be concerned. Mr. Svasta asked Mrs. Botts if we had heard from any of the neighbors and Mrs. Botts stated no. Mr. Svasta stated I did tell the neighbors if they had a concern to call into the City. Mr. Gerring stated he believed the owner did have conversations with all the neighbors that are right there next to her and there were never any issues brought to my attention. Mr. Svasta stated he did speak to the Homeowner's Association as I was curious to know if decks are allowed in Pambi Farms and they are allowed. Mr. Gerring said the neighbor next door has one and they are basically building it the same way. Ms. Sykora asked the neighbors to the left? Mr. Gerring stated yes. Mr. Svasta said my concern is privacy and I think it being so far back from the rear of the house is going to have a negative impact with the neighbors. Sooner or later the house is going to be sold and there are going to be new people in there and maybe the next person will have a problem with the deck being that far back. Mr. Franks said my personal opinion, looking at it, was it wouldn't be detrimental from the neighbor's views. Ms. Sykora stated hasn't precedent already been set with the neighbor? If you are looking at this property, the neighbor to the left is only 20 feet off, that neighbor is only 21 feet off and this neighbor to the right is only 13 feet off so hasn't precedent been set with these three other properties that have exterior elements? I can hardly say you can deny a person the next year element when four of their neighbors already have it. Mike Svasta said I didn't look at it like that. I stood back here where the deck was extended to it and if you were sitting there, and it was elevated, you are going to be up high and you won't be able to see above your neighbor's. Ms. Sykora said but you are on a golf course and that trumps everything, all of them are on a golf course.

Motion to approved Case #22-017 made by Mike Svasta, seconded by Peggy Sykora, motion passed 3-1 (no vote by Mike Svasta).

Case #22-018

Request:

This is a request by Paul & Jen Frey, applicants, for approval to install a 120 sq. ft. shed located at 4083 Burton Drive.

The property (parcel 56-05009) has an approximate area of 0.31 acres and is zoned R-3. The applicant proposes constructing a 120 sq. ft. (10 ft. x 12 ft.) shed at the rear of the property, 30 feet from the side property line and 23 feet from the rear. There is an existing 750 sq. ft. detached garage on the property.

The maximum combined floor area of all accessory buildings for a lot area less than ½ acre is 500 sq. ft. The total floor area of all accessory buildings including the shed and existing garage is 870 sq. ft.

The applicant is requesting the following variance:

Variance (370 sq. ft.) from the maximum combined floor area of 500 sq. ft. for a combined floor area of all accessory buildings on a parcel with an area less than ½ acre. - C.O.S. Section 1143.07(b).

Mr. Frey stated my wife and I have been property owners at 4083 Burton Drive. We experienced high winds in late May or early June that blew over the existing shed that was behind the garage and we want to be able to replace that shed. The garage obviously is oversized according to the Zoning Code but it was existing from the time we took ownership of the property. The shed would not be visible from the roadside. Mrs. Frey said we are just wanting to replace it, that is all we want to do. Mr. Svasta asked if the surveyor staked the corners. Mr. Frey said yes. Mr. Roberts asked what size was the existing shed? Mr. Frey said the size was 10' x 10' and the new proposed one is 10' x 12'. Mr. Franks asked Mrs. Botts if there was a variance approved for the original shed? Mrs. Botts did not know. Mr. Cowan did not recall seeing anything. Ms. Sykora asked if the 10' x 12' shed is a single story? Mr. Frey said yes. It will be a wooden shed, pre-manufactured shed kit. We have plans for re-siding the house and garage and we will match it to the proposed color of the shed. Mr. Roberts said replacing an existing shed with the garage and its existing shed, which would be nonconforming to today's code, I don't see anything wrong, especially with the parcel as I have viewed it. The topography of the land, the surrounding areas, I didn't see anything major, and unfortunately, wind does its damage so I am sure the Building Department will guide you on anchorage to meet the 115 mph wind speed as required by the Building Code when you put that in which will be critical to your design so I don't have any other questions myself. There were no other questions.

Motion to approve Case #22-018 made by Randall Roberts, seconded by Peggy Sykora, motion passed 4-0.

Case #22-019

Request:

This is a request by Christian Costello, applicant, for approval to install a detached pergola over an existing patio at the rear of the property.

The property (parcel 56-17235) has an approximate area of 0.34 acres and is zoned R-1 with a PUD. The applicant proposes constructing a 13 ft. 4 in. x 16 ft. 7 in. (221 sq. ft.) pergola at 27 ft. 8 in. from the rear property line and 1-foot from the house. Any detached accessory building is required to be a minimum 12 feet from the principal building.

The applicant is requesting the following variance:

Variance (11 ft.) from the minimum setback of 12 ft. from a principal building - C.O.S. Section 1143.07(a).

Mr. Franks asked what material he was building the pergola in. Mr. Costello stated it would be treated wood. Mr. Roberts said what would be the height of the open rafters on top? Mr. Costello stated 10 feet. Mr. Roberts said so it will be out by the existing patio? There was confusion because of the four posts. Mr. Roberts said in our world it becomes a structure and so therefore it fits into the zoning code under that category even though it is an open frame design

so it does need that. Mr. Franks said code is worried about fire between one building to another and in my view, it is technically not a building but unfortunately, by code it appears to be that. Mr. Roberts asked Mrs. Botts if we heard from any neighbors and she stated no. Mr. Roberts said in my mind this one is one of those unique situations that is kind of simple but required under our rules of our charter so I don't have any other questions. There were no other questions.

Motion to approve Case #22-019 made by Randall Roberts, seconded by Mike Svasta, motion passed 4-0.

Case #22-020

Request:

This is a request by William Lewis, applicant, for approval to construct a new single family dwelling over the maximum allowed height.

The property (parcel 56-19707) has an approximate area of 18.8 acres and is zoned R-2 - Residential. The applicant proposes constructing a 17,000 sq. ft. single-family home at 42 feet in height. The maximum height for any permitted principal use in the R-2 district is 35 feet.

The applicant is requesting the following variance:

Variance (7 ft.) from the maximum principal building height of 35 ft. for a new dwelling. - C.O.S. Section 1143.06.

Mr. Lewis displayed a larger set of plans to the board of his proposed residence. The structure that my wife and I are building, we both fell in love with and at the peak, it is going to be 42' and the house itself is going to be about almost 160' wide. Only at 20' is it going to be at the 42', just one up top. Other than that, we are looking at 35' and below. Even if it was off 42', we are building on almost 19 acres. We are going back 620' from the road and we are approximately 700' from the rear and we are over 220' on each side. Currently, there is coverage on the left, right, and rear. The trees are over 60' so no one is ever going to see that. On the front, I am going to provide coverage because we are going to build up a mound with either Norwegian Spruces or Arborvitae to provide privacy. The only people that will probably even be able to see this property will be the two up front, I believe Ms. Carrie Roach who I sold the existing property to and I believe Ms. Canavan who will be to the right. I am going to provide coverage as I come in from the road because I am a private person. Ms. Sykora asked how is it oriented toward the street? Is it straight on or perpendicular? Mr. Lewis said it is going to sit right into the center of the property where the front door is, it is literally going to come back almost center here. Mr. Svasta asked if they got the easement already and Mr. Lewis said yes he got the easement when he sold the property. The easement is there for the driveway to come through. I just got a curve ball where I have to deal with the airport now too. I don't see an issue with that though. Mr. Roberts said I saw that today and I thought that was very important because I deal in that kind of area. I didn't think it would be any problem because even across the street between 11 green and 12 T, the airport had to take some trees down a couple of years ago

because they were in the vector line. Mr. Lewis said my wife and I, unfortunately, are married to this property and we chose Stow over multiple communities, all our kids actually grew up here so, unfortunately, I either need this variance or sell my property and build this in Hudson or Aurora. Mr. Roberts asked Mrs. Botts since the neighbors are here, are they making any pros or cons? Ms. Canavan said she did call because, and I didn't get to speak to anyone, she left a message but it was today and that was why she was here. I was trying to find out where the house was going to be because it was a very large house and we have a very small house there. I did talk to Bill right before the meeting and he told me it was going to be in the back in the middle so I do not have any objections. Mr. Roberts said for that small area that one gable area for the spiral of the house, I don't have any other questions or any major concerns that I can think of. Being where the location is off the road and the center of the large property, I do not have a problem with this. Mr. Franks said I have the same opinion. It is isolated and several hundred feet from the back and a couple hundred feet plus on either side of the trees. I don't think an extra 7' on that 20' of gable is going to hurt anything.

Motion to approve Case #22-020- made by Mike Svasta, seconded by Randall Roberts, motion passed 4-0.

Adjournment: With no further business to be discussed, motion to adjourn by Peggy Sykora, seconded by Edward Franks, meeting was adjourned at 6:35 p.m.

Edward Franks, Chairman

Mary Botts, Secretary