

## **Building and Zoning Appeals Minutes**

Stow City Hall Boards and Commissions, Monday, April 8, 2013, at 6:00 p.m.

Members Present: Cyle Feldman, Robert Knight, Richard Hodge, and Mike Svasta

Members Absent: Edward Franks

Also Present: Rolando Borjas, Mitch Rose, Susanne Woodward Waskowski, Tony Catalano, Bobbie Carper, and Mary Botts

Meeting called to order by Mike Svasta at 6:00 p.m.

Approval of Minutes: Motion to approve minutes of the November 12, 2012, meeting by Robert Knight. Motion seconded by Richard Hodge, all yea's, no nay's, motion passed 4-0.

### **Case #13-001A**

This is a request by Rolando L. Borjas, property located at 4244 Kenneth Rd., for a 512 square foot variance to permit the construction of a detached three car garage. The property is located in an R-3 District. Section 1143.07 limits the floor area of the accessory structures on a parcel less than one acre to 800 square feet or 60% of the gross floor area of the principal structure, whichever is less. The square footage of Mr. Borjas's house is 1,014, limiting him to a 608 square foot garage. An existing single car garage would be demolished before the proposed construction begins. The existing 160 square foot shed will remain and is part of the requested variance.

### **Case #13-001B**

This is a request by Rolando Borjas for a 2 foot side yard setback variance to permit construction of a detached three car garage. The property is located in an R-3 District. Code section 1143.04 requires a 6 foot side yard setback.

Mr. Svasta stated that these are two separate requests so it is going to take two separate votes.

Mr. Borjas stated said he wanted to start on the second request. I am asking for a two foot variance as the zoning requirement is six foot off the property line. I want to make it four foot on the property line, not two foot. I just wanted to make that clear that I was looking for four foot off the property line instead of six foot. Mr. Svasta said so this would be for a two foot variance on the side. The reason I am requesting that is I have a really odd shaped yard, it is not very wide and is extremely narrow and the way I am proposing to put my garage and you basically have to turn into it and I figured any amount of room that I can gain to be able to turn into the garage would be a plus and that is why I am asking for a two foot variance which is better than nothing. Mr. Svasta said I see why you were asking for the two foot variance down the side line. Mr. Svasta said so your initial appeal

then is for the 512 sq. ft. variance to construct the garage. Mr. Borjas said correct, my property is odd shaped, narrow and long, and I have a one lane driveway right now. I have three vehicles right now; my girlfriend, myself, and I have a vehicle for the company I work for, all of them there. It is kind of a pain to maneuver the cars around, we are just constantly shuffling cars. I even have a pop-up camper and right now during the winter months, I keep it at my mom's which she lives outside of Toledo, so during the summer months, it is another thing in my driveway taking up room. The reason I am going for a three car is again, there are three vehicles at the house. I don't think the request is that unreasonable. I have walked the neighborhood and within a  $\frac{3}{4}$  mile radius, there are at least four other garages that are rather large; one is just two doors from my back yard. It sits way back. Also, that is rather large and is close to what I am requesting.

Mr. Svasta said we understand you are going to tear down the existing single car garage and the shed in the back is to remain. Mr. Borjas stated that was my intention. Mr. Svasta said therefore the need for the 512 s.f. variance. Mr. Svasta asked if anyone in the audience was a neighbor of Mr. Borjas. Ms. Woodward stood and said he would be putting the garage up against my fenced yard and I have absolutely no objections. He keeps his yard beautifully. Mr. Svasta asked if she owned that property and she said yes. Mr. Feldman asked if the red shed was hers. Ms. Woodward said the neighbor who lives on the other side. Ms. Woodward said I live on the side where the garage is going, by the fence. The back of his garage would be against my property. Mr. Knight said it looks like your driveway currently encroaches on your neighbor's property. Mr. Borjas said correct, and there is an easement on that. Mr. Knight asked if he had documentation on that and Mr. Borjas said he did not know if he had that, but it is documented. The front of my driveway is actually on his property and the back of his driveway is actually on my property. I think it is a 2' variance on the back of his driveway and 6" on the front of my driveway. Mr. Knight said my only concern to the Board here is that we would want, or I think we should, have it be conditional upon producing that easement so that the City is not intruding into an encroachment issue that hasn't previously been recorded as an easement.

Ms. Carper asked if he had that information and Mr. Borjas said it may be in his mortgage documentation when I purchased the house and I will look for it. Mr. Knight said I am not questioning whether it exists but from a paperwork standpoint here, I am recommending our approval be conditional upon presentation of that documentation. The County Recorder's office would have it if you don't have it in your possession, you would have to go down to the County Recorder's office and get a copy of that easement. Mr. Hodge said it should be on your survey when you purchased the house. Mr. Borjas said he will have to look for it. Ms. Carper said you may want to call the Recorder's office first because it may be a document that you can access online. Ms. Botts said there are some documents on the County webpage. Mr. Knight said if we participate in granting you this expansion of your facility here, in order to access that, and I don't want to contribute to something that wasn't legal, I am not suggesting it is not, but I think we, as the body here, need to be assured that the document can be part of the documentation that we

are involved in. Mr. Borjas asked who he would turn it into and Ms. Carper said she would take it. Mr. Knight said it's just cleaning up a loophole.

Mr. Feldman said he had a few questions. When I was there, I saw your truck but no one answered and I need a little more overall plan. Is the tape where the garage is going? Mr. Borjas said that was correct. Mr. Feldman said there are a lot of 2 car detached garages. What is the overall plan to get back to the garage? Mr. Borjas said he has it drawn up. Mr. Feldman said where the rubble is, was that the garage? Mr. Borjas said yes. Mr. Feldman said so you want to extend the driveway and turn. Ms. Carper said she did receive a call from the neighbor to the north and she has no objection to the construction of the garage, but the concern was the drainage because he is going to be extending the driveway and also putting in a pretty sizeable structure, where does that runoff go to? His yard actually slopes down towards her about 4 feet total so Mr. Borjas has been working with our Assistant City Engineer, Sheila Rayman, and she handles all of our storm water issues and he understands that he has to present an acceptable drainage plan, in terms of how he is going to manage the water runoff, and that has to be approved before he begins construction. Mr. Feldman said this was a dilemma for me because it is a pretty big structure, but I am good with Mr. Knight's suggestion and I needed a little more with the overall plan. You are doing electrical work in the back on the patio now. I saw some wires back there. Mr. Borjas said that was existing lines that I ripped out. Mr. Feldman said he just wanted to make sure he was following all the rules with permits and everything. Mr. Feldman said so you are extending the driveway, you are going down and then you will have concrete? Mr. Borjas said not right away but eventually. Mr. Knight said so the construction issues are part of the Building and City Engineer's responsibility, correct? Ms. Carper said yes. Mr. Knight said so we are looking on whether or not we agree with your request to have this variance for the size of the structure and the side yard setback which is along this property line.

Motion to approve Case #13-001-A for the variance with two conditions:

1. That Mr. Borjas present proof of easement to the zoning official for the driveway.
2. That Mr. Borjas present an acceptable drainage plan to the City of Stow, Engineering Department.

Motion to approve by Mike Svasta, seconded by Robert Knight. Motion passed 4-0.

Motion to approve Case #13-001-B by Mike Svasta, seconded by Robert Knight. Motion passed 4-0 with conditions.

### **Case #13-002**

This is a request by Virginia McKillip to appeal an administrative decision by the Building Department giving her 30 days to vacate the condemned property at 554 Seasons Road. Due to the time of year of the administrative notice and the property owner's disability, Ms. McKillip is requesting until June 30, 2013 to remove her belongings from the residence.

Section 1137.05(1) provides recourse for anyone who feels adversely affected by an administrative decision by appealing it to the Board of Zoning and Building Appeals.

Appellant absent, no one else was there to represent her.

Motion to table Case #002 by Mike Svasta, seconded by Robert Knight. Motion passed 4-0.

### **Case #13-003**

This is a request by Mitchell Rose to appeal an administrative decision by the Building Department giving him 30 days to repair or remove the condemned property at 3676 Baumberger Road. Mr. Rose is requesting additional time until June 30, 2013 to complete the required repairs to bring the residence up to all building and zoning codes. Section 1137.05(1) provides recourse for anyone who feels adversely affected by an administrative decision by appealing it to the Board of Zoning and Building Appeals.

Mr. Svasta stated that Mr. Rose was asking for an extension to repair his property on Baumberger Road. Ms. Carper said she just wanted to give the Board a little information. The exterior of Mr. Rose's house is not in good condition; however, when the Chief Building Inspector, Fire Inspector and I went to Mr. Rose's house, he gave us access to the inside. He has been doing a lot of work on the inside, we were all pleasantly surprised and it is in a lot better shape than we expected so I think it is the City's intention, and Tony please correct me if I am wrong, that we would like to give him an extension of time to do the exterior work and then he can work on the interior as he has time and resources. That is where we are at this point. Mr. Svasta said I am glad you said that because we can only see it from the outside. Mr. Svasta asked Mr. Rose if he has ever lived in the house? Mr. Rose said yes. Mr. Svasta asked until how long ago? Mr. Rose said last winter (and the summers) because he didn't have heat in the house or he didn't want to waste money because I was there by myself. For some years I was driving a truck so I wasn't there the whole week and I didn't want to heat the house for no one so it just got to this point where I was hardly ever there, but I do live there. Mr. Svasta said but that is not your principal residence and Mr. Rose said it is actually. Mr. Svasta said I had a nice conversation with your neighbor and he said you pretty much have left it vacant over the last ten years. Mr. Rose said I am not truck driving anymore. I did stay this last winter, 99% time in Cuyahoga Falls. There is no sense in staying by myself. That was the reason behind that. Mr. Knight said then so your intention is to make the repairs on the inside for living purposes and your intention is to make repairs on the outside and either move into it full-time or try to sell it. Mr. Rose said yes, something like that. Mr. Feldman asked if he had given anyone at the City a timeline and Mr. Rose said no, I just looked at it and asked myself what the plan was and that I need to work on it because it looks terrible. I think right now the weather is fine and I have the resources to fix it up and make it look pretty on the outside. Mr. Catalano, Building Inspector, said we did a walk through and was surprised by the condition of the interior. He has done

quite a bit of work on the interior, however, we cannot allow this property to continue in this blighted condition and in this state of disrepair for some time. The property was addressed to Baumberger but there is no access to Baumberger. Originally, there was a common driveway with the next door neighbor and there was no easement for that driveway on Baumberger, so they eventually ended up cutting a driveway off of Gottschall. I think his plan is to move the front entrance to the back side of the house, re-side the property and make it in good condition. We think that the house is salvageable, but it is going to take a lot of work with a lot of resources. He would have to get all the required permits, he has done quite a bit of work on the interior without permits. I am concerned about the condition of the electric but it is not occupied right now. Mr. Knight asked has there been a discussion on what the most impactful item would be, would it be the exterior or the roof? Mr. Catalano said yes, so it doesn't bring down the value of the neighborhood. Mr. Knight said so if you are cognizant of the fact that you would book your resources that you have and concentrate on the exterior of your house, that would alleviate a lot of the problems and you are prepared to do that? Mr. Rose said yes. Mr. Hodge asked if he was going to do the work himself and Mr. Rose said yes. He will have some friends helping him also. Mr. Knight said you understand that you have to get permits for all of this now. Mr. Rose said yes. Mr. Knight asked if he has to go back and get an inspector for the electrical and make sure it is up to code? Mr. Catalano said yes. Mr. Knight asked if he did plumbing work and Mr. Catalano said yes. Mr. Rose said the west wall (he thinks they used pine) and the birds have riddled it with holes so I want to tear that down and put in a composite, not plastic, but a composite that they sell at Lowe's, and do the whole wall and then replace the cedar on the east side where it needs replacing. Mr. Knight said the point is, you don't have to get into details, the point is that you have a plan, the City is agreeable to give you some time to implement that, but it has to be considered the last notification. If you don't meet that timeline to the satisfaction of the City, then the condemnation is probably going to go through. As long as everyone understands that, there is probably not a problem here. Mr. Rose asked did he really need a permit to fix the siding. Mr. Knight said you need a permit for whatever the City determines you need a permit for so you have to get with the Building Department and find out what you need permits for. Ms. Carper said just an FYI that they did get a call from a neighbor of Mr. Rose's and he is in support of granting this variance. Mr. Hodge said as long as he has a timeline here and if you put money into it and then you quit, then you are going to lose all that money. Mr. Svasta said the variance is to give you until June 30<sup>th</sup> for the exterior. Mr. Svasta asked Mr. Catalano if he was the appointed authority to whether or not he is up to code and Mr. Catalano said yes.

Motion to approve Case #13-003 by Mike Svasta to give Mr. Rose until June 30, 2013 to make the necessary repairs, seconded by Richard Hodge, motion passed 4-0.

**New Business:** Mr. Svasta stated that it had come up when we do not have a quorum for an appeals case, should we automatically plan a special meeting and not have the citizen wait until the following month? So would the Board be open to automatically scheduling a meeting that was postponed due to lack of quorum, maybe two weeks after the meeting date to give the citizen some relief. Ms. Carper said it is really important to let Mary or myself know because it is not fair to the applicants if they find out the day of the meeting or the hour of the meeting, that it is not going to take place, I think it is important to let us know ahead of time if you are not going to be able to make it. Mr. Knight said I understand your point, but we have jobs too and I have been busy at work working 12 hour days and weekends, and I am happy to be here as a volunteer of the community to help the appellants out, but once a month is my limit. Mr. Hodge said it was okay with him. Mr. Svasta said he did think that something needs to be done because we are busy and I understand the long hours, I do the same myself and conflicts do come out. I just think that honestly we need to think of doing a service here for our citizens and that causes an unnecessary delay to ask that person to delay if you can give them another meeting in two weeks, I think that would be beneficial. Ms. Carper said the other option is to sort of be aware of the possible need to reschedule a meeting in the event of what happened last month and if everybody is considering that, we can just do it on a case by case basis. Mr. Knight said I would entertain that but I am not in favor of saying automatically if we don't have quorum, we are going to have another meeting in two weeks after that. Mary Botts said she would need time to advertise a new meeting and make sure the room is available.

Adjournment: With no further business to be discussed, motion to adjourn by Mike Svasta, seconded by Richard Hodge, meeting was adjourned at 6:35 p.m.

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Mike Svasta, Chairman

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Mary Botts, Secretary