

## **Building and Zoning Appeals Minutes**

Stow City Hall Boards and Commissions, Monday, July 29, 2013, at 6:00 p.m.

Members Present: Robert Knight, Richard Hodge, Edward Franks, and Mike Svasta

Members Absent: Cycle Feldman

Also Present: Scott Ferrek (Kempel Homes), Rob Armbruster, Jessica Armbruster, Rick Hasebein, 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 June 10, 2013, meeting by Mike Svasta. Motion seconded by Robert Knight, all yea's, no nay's, motion passed 4-0.

### **Case #13-011**

This is a request by Kempel Homes, property located at 1993 Ducksport Drive, on behalf of Rob and Jessica Armbruster, to construct a new single family residence that would encroach 7 feet into the required rear yard setback. The property is located in an R-1 PUD District. The recorded plat for this development established a 45 foot rear yard setback.

Mr. Ferrek, from Kempel Homes spoke. He said basically we are asking for a 7 foot setback off the back of the house because of the floor plan. The way the property is laid out, I don't see it hurting anything. Mr. Franks asked if we had heard anything from the adjacent owners. Ms. Carper said she had a call this afternoon from a Christina Tanner who lives on the corner of Ducksport and Lake Breeze and she had some concerns about feeling crowded, so it would be the house directly to the left of that property. She had concerns about feeling crowded because of that encroachment and she thought that the house can be designed to fit the envelope. Ms. Carper said if you look at your site plan, the reality is that the house currently sits right at the front building line and it is right at the side building alignment on the right hand side so the house, as designed, there is really no place to move it. Mr. Franks asked is that house smaller than the one on either side of it? Ms. Carper said she did not know. Mr. Knight asked what the square foot of the footprint, not the total square footage? Mr. Armbruster said 3100 sq. ft. Mr. Knight said so with two floors the total square footage of the house is what then? Is it half of that for the base footprint? Mr. Armbruster said yes, the second floor is not quite that much. Mr. Knight said the porch doesn't go up to the second floor. Mr. Knight said is there any consideration of moving it up front even with the front of the garage? Mr. Ferrek said that is something we would have to look at. Mr. Knight said it wouldn't quite do it but it might get you closer to being out of that setback. Mr. Svasta asked if there was an elevation in front of that house? Mr. Ferrek said he did not bring it with him. Ms. Carper said she would go look if they had it. Mr. Knight said no. Mr. Knight said I have a known issue with houses that

are too big for the property based on the fact that this parcel is part of a subdivision that was approved by the Engineer and Council and I am not in favor of encroaching upon the setbacks because of that issue. We are volunteer community members, we are not legislators in the City. They have taken on the burden of that responsibility and for whatever reason, decided this was an appropriate lot for that subdivision, probably just the way it ended up laying out. That is my position.

Mr. Svasta said I think the main issue here is the irregular shape of the lot, which does not allow for this construction and even if you were to move this structure closer to the street, you may be encroaching on the front setback, if you wanted to stay with the same footprint of the house. What other options could you suggest (asking Mr. Ferrek). Mr. Ferrek said I don't really know what other houses we have. It is that irregular shaped lot. There is a row of pine trees there and I don't see where it would be crowded and you probably wouldn't see the house at all since the trees are 20 feet high. Mr. Franks asked is the bump out the chimney? Mr. Armbruster said that is the morning room. Mr. Franks said so even taking the chimney out, it is still 33' off the side property line. Mr. Svasta asked were there any other styles of homes that you looked at that would fit in this? Mr. Armbruster said the problem that we had is that we looked at another development and the lots were even smaller and we looked on S.R. 59 at the new development over there and their lots were considerably smaller so that is why we chose this. Mrs. Armbruster said we were actually looking at a first floor master but because of the irregular shape of the lot, we weren't able to do that, so we thought we were already trying to work within the lot and that is why we moved the master to the upstairs because we thought we were trying to overcome all of the problems already and that is why we did the two-story. Mr. Knight said so you have looked at other parcels in the City to try to build on? Mr. Armbruster said we have family and friends that live in that community and we have three small children and we want to be in a community that has a lot of kids so our kids can play with them.

Mr. Knight said given the facts, I can overlook my previous objection given the fact that they have sought out other parcels to build on. Mr. Svasta said I see there was a previous variance approved back in 1999 resulting in a 35' rear yard setback, it was a 10' variance and it happened to be on Bayside Lake Boulevard. I am not sure what the situation was in that case. Mr. Hodge said I think that was for decks. We have had problems with this neighborhood before. Mr. Knight asked are you planning on putting a deck on after this? Mr. Armbruster said all I am asking for is a house. Mr. Hasebein asked what part of the house encroaches on the 7 feet? Mr. Ferrek said the opposite side of your house. Mr. Hasebein said my name is Rick Hasebein. I live on the right side, the home on the other side, right next to the trees. Mr. Svasta asked if he had any objections? Mr. Hasebein said I am here more for observation and Christina Tanner did come over and said she had tried to be here. They are doctors and they have to work at the hospital tonight and couldn't make this meeting. On my side, I don't have any objections but the Tanner's are very concerned though. Mr. Ferrek said it is just the right corner of the house, we just want to build that thing out and move on.

Ms. Armbruster said when we reconfigured it, because when we started the process, we had the first floor master and we had to redraw it three different times to try to make it work on that lot and there are no other lots that we could move it to make it work. Mr. Svasta said it might be less objectionable to the Tanners if you were to move the house to the front and get a front setback variance. I am not sure what that would take. Mr. Franks said that is not going to move the house away from it. Mr. Knight said that would move the garage up and encroach in the 40 foot setback. Ms. Carper said it is right on the 40 foot setback now. Mr. Svasta asked if there were any more questions. There were none.

Motion to approve Case #13-011 by Mike Svasta, seconded by Robert Knight, motion approved 4-0.

Adjournment: With no further business to be discussed, motion to adjourn by Mike Svasta, seconded by Robert Knight, meeting was adjourned at 6:16 p.m.

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Mike Svasta, Chairman

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Mary Botts, Secretary