

Building and Zoning Appeals Minutes

Stow City Hall Boards and Commissions, Monday, May 12, 2014, at 6:00 p.m.

Members Present: Robert Knight, Matthew Aloisi, Edward Franks, and Mike Svasta

Members Absent: Cyle Feldman

Also Present: Terrence Fox, Adam Fox, Bobbie Carper, and Mary Botts.

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

Approval of Minutes: Motion to approve the minutes of the August 12, 2013 meeting by Edward Franks, seconded by Robert Knight, all yea's, no nay's, motion passed 4-0.

Case #14-001

This is a request by Terrence Fox, property located at 1125 Springdale Road, for a 2 foot variance to construct a 6 foot privacy fence in the front yard. Mr. Fox's property is located on the corner of Springdale and Ellsworth Roads and he is proposing to construct the fence 20 feet from both front yard property lines. This property is located in an R-1 District. Section 1143.07(e) limits the height of a fence in the front yard to 4 feet.

Mr. Svasta asked Mr. Fox to tell the Board a little more about the fence, the type of materials, who is going to put it in for you, why a four foot fence is not adequate. Mr. Adam Fox said the gentleman that we were planning on doing this, Jeff Reed, and he has given us an estimate on what this is going to cost. It will be a wooden, handmade fence and the point of the variance is that the property sits up on a steep bank with a ditch at the bottom next to Springdale Road and the house then sits further, a little higher than that point up in the yard and a four foot fence, as viewed from the front yard of the house, doesn't give any privacy. Everybody driving by can still see everything right there. This all came about as a result of the removal of ample forest from my property by Ohio Edison or First Energy, who came and took down all the trees within 25 feet of the wires into our yard. What used to be a pretty much wooded, somewhat private lot, into a wide open prairie and so looking at options about what to do with this, a fence came up and when we had Mr. Reed come out and give us the estimate, he told us about the limit of four feet on the front of the house. That put us in motion to come in and talk to you folks. I talked to Ms. Carper on the phone about it and I have to say that I am one of those people who came in about 3:00 p.m. the day of the cutoff because I only found out about it two days before and I had some hustling to do to get the materials ready to submit to show you folks. The part of the fence of where we want it, is to maximize the size of the yard for use because there are two children living there and a dog that we would like to keep from running out into the street so we are looking at moving down as far as we could and when we were told that the actual setback for a 6' fence was 50' and that is just outside the front door. Mr.

Fox said I believe you all received this photo (Mr. Fox passed around a satellite view of his yard)? This is the back yard and you can actually see how the majority of our yard is the front here and it is now wide open to this absurd amount of traffic that goes down that road as a cut through towards Hudson Drive. I have put up a swing set and trampoline towards the side of the yard and you can't do anything without being stared at outside in the front. It is very unfortunate. Mr. Knight said so all these trees that were close to the house appear to be gone also. I saw a number of stumps. Mr. Fox said yes, these two trees here, silver maples. The 25' is from their wires. Mr. Knight said there is a pole on the corner so basically they were in the right of way. Mr. Knight asked what happened to those two trees and Mr. Fox said those are still there. It is all of these along this line and everything down in this corner is all gone. Mr. Fox said they are not picking on us, they are doing the entire side all the way to Hudson Drive. Mr. Knight said if this was a four foot fence request, could it be put out there at the 20 foot setback or would we still have to be at the 50'? Ms. Carper said no, it would be put out to the 20 foot setback. Mr. Knight said but if it was a 6 foot fence it would have to be at the 50'? I just want to make sure we have the right variance request. It is just the two foot at the 20 foot setback? Ms. Carper said yes. Mr. Knight said so the proposal is the 20 foot setback and the request is for an additional two feet at that location. Ms. Carper said correct.

Mr. Franks asked if we had heard from any of the neighbors and Ms. Carper said no. Mr. Franks asked Mr. Fox if he had any discussions with his neighbor. Mr. Fox said yes, none of them minded. The neighbors to the left of the front of the house were the only one who would have been affected by this fence going up, and that would be them backing out of their driveway and I talked to them about it and where we laid out the flags that you saw where the fence is proposed, they came out and saw it and they have plenty of room to still see the road if they pull out but we have not had any complaints. Mr. Fox said the way the land falls, Springdale goes downhill at that point and our property stays level so the fence continues to rise above the road plus that ditch down there, the bank, there is no sidewalk and I doubt there ever will be sidewalk there. Mr. Knight said I stopped at Ellsworth and pulled out and I was a little bit ahead of the stop bar, but I could see down to the left, and the obstruction would not have been that fence, it is slope right there. Mr. Fox said yes, the slope and the chopped off utility pole that sticks out at an angle that we have been having discussions with people about how to get rid of that too. No one seems to know who it belongs to. There is no tag on it. Someone said it would have been cable equipment and cable came out and took all the equipment off. Mr. Knight said cable usually jumps on a First Energy pole anyway. Did you ask them to pull it out? Mr. Fox said they wouldn't touch it and that it wasn't theirs. We have tried multiple times in the past to have it removed and never gotten anywhere. Mr. Fox said he talked to Mr. Kurtz in the Planning Department when I brought the request in that day and he was going to forward information to the Service Department to see if they can look into it. Mr. Aloisi said he had some contacts at First Energy to contact them too. Mr. Fox said the gentleman who came out to do the tree cutting, I talked to him about it and he said that probably isn't our pole.

Mr. Svasta said that the issue we have before us tonight is a variance to allow you to construct a 6' wooden privacy fence as opposed to a 4' fence which is allowed to have a 20' setback, so had you put up a 4' fence, then we wouldn't be here tonight. I could not find anywhere in the code where the 50' setback is required. Ms. Carper said in an R1 district, 50 is the front yard setback. Bobbie will show Mr. Svasta where that is in the code book after the meeting. Mr. Svasta said I am concerned about the exposure of the 6' tall fence along Springdale Road. I understand you wanting to have privacy but there is also the view from the street as you are driving down Springdale and since you have so much frontage there, I personally feel that a 6' tall fence would be objectionable to some folks, especially across the street which has a pretty nice view if they look out their window. I did not speak to any of your neighbors, I thought if they were concerned enough they would call or they would come to the meeting because they had been invited. Is there any way a 4' fence would work for you? Mr. Fox said no, it won't do anything as far as privacy goes. All that will do is contain a soccer ball or the dog. We contemplated many things before we went with the fence plans, which is the only thing we can plant there is something that can grow within 15' or up to 15' after they came and cut down all our trees, that is what they told us. There was just nothing that was going to be, especially for that distance of 219', that was going to be easy to plant, affordable, easy to maintain. Mr. Svasta said, the 219' that is the exposure that I am concerned about. I noticed that you are planning to put up a 4' high to the east end in the rear of your property, wouldn't it make more sense just to continue that 4' tall fence all the way around? Mr. Fox said you haven't lived there and had to deal. I didn't realize the road was so busy until the day of the home inspection, which at that point was too late to back out now. I am not a fan of it at all, I can't stand, like I was telling you, everybody looks at you, everybody stares at you. I pointed to you that corner that we were standing out there, you could not be seen from the road, nobody knew you were there and they just took everything down and it is unacceptable by me, I don't want people to drive by and see our trampoline, our swing set, a pool that I plan on getting in the future, and teenagers and know it is there so they come for a late night swim or start bouncing on my trampoline. I want it closed off and it is the biggest portion of our yard and at this point, it is ruined. I also have a concern about my dog and the 4' fence. I don't think you saw her (dog) out there. Every person who walks by with a dog, on roller blades, on a bike, even loud trucks, she goes nuts and just bolts out there and starting going nuts. The 4' fence is not going to stop that. Mr. Knight said they have a leash law there and Mr. Fox said she is on a leash. The point is that she is making a ruckus every single time somebody goes by and it causes commotion. I have seen her leap to the top of a 3-1/2' couch so there is some concern about her leaping over a 4' fence.

Mr. Knight said there was a fence down the street that was 6' tall. I am inclined to be consistent with that. Mr. Svasta said I noticed there is a 4' fence probably the same distance away and it is even longer.

Mr. Edwards asked Ms. Carper if there were any setback requirements for the 4' fence on the side yards that he is proposing? Ms. Carper said again, if it passes the 20' mark so within the first 20' of both of those street frontages, it would have to be a picket 4' but the proposal doesn't appear to be encroaching into that requirement. Mr. Edwards asked is there a setback distance from the property line for that 4' fence? Ms. Carper said no, we don't have a setback here in the City, you can go up to, but not on the property line. I usually recommend that people pull it back a few inches just to be safe.

Mr. Fox said we had some issues along that northern boundary. When the property was first developed in the 70's, the young man who lived there, the dad told him to plant some trees and he planted them right on the property line so they are straddling the line now. Ms. Carper said I would assume you would put your fence on the inside and Mr. Fox said yes.

Mr. Svasta asked if there were any other questions. There were none.

Motion to approve case #14-001 by Robert Knight, seconded by Matthew Aloisi, motion passed 3-1.

Mr. Svasta welcomed Mr. Aliosi to the Board.

Adjournment: With no further business to be discussed, motion to adjourn by Mike Svasta, seconded by Robert Knight, meeting was adjourned at 6:24 p.m.

Mike Svasta, Chairman

Mary Botts, Secretary