

Building and Zoning Appeals Minutes

Stow City Hall Boards and Commissions, Monday, June 9, 2014, at 6:00 p.m.

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

Members Absent: None

Also Present: Mark Vitullo, Raymond Downey, Jillian and Shaun Williams, Bunny and Bill Suplit, 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 May 12, 2013 meeting by Robert Knight, seconded by Mike Svasta, all yeas, no nays, motion passed 5-0.

Case #14-002

This is a request by Raymond Downey, Jr., property located at 3455 Stillwood Boulevard, to construct a 12 x 16 foot rear deck that would encroach 6 feet into the required rear yard setback. The property is located in an R-2 PRD District. The recorded plat for this development established a 30 foot rear yard setback.

Mr. Downey's contractor passed out pictures of the back yard and where the current patio sits. What they have is a very irregular lot and there is already an existing slab that the builder put in and all they are looking to do is to add a very small 12' x 16' deck since they have nothing to properly put a patio set on. Mr. Downey said he did not understand the 30 foot setback. Mr. Knight said it is set by the subdivision. Ms. Carper said this is a planned residential development (PRD) and a 30' setback is the rear setback. Mr. Downey said there is nothing in the back yard other than the patio. Mr. Knight asked what was behind this and it is undeveloped land. Mr. Knight asked if it was developable and Ms. Carper said I believe it is open space. Ms. Carper said, at this point, there is no access to this and if you look at this particular graphic, this is the edge of the Stillwood Development so that would probably never happen (development). Mr. Knight said so there is a nice wooded space in the back with no potential for a neighbor right up against your property line. Mr. Knight asked what the square footage was of his home and Mr. Downing said 2100 square feet, single story. Mr. Knight asked what the acreage was on the lot. Ms. Carper said .206. Mr. Knight said so not quite quarter of an acre. Mr. Knight said my typical position is

that you bought the house and the developer built it, but he squeezed, in my opinion, too big of a footprint on the parcel and he squeezed you into an unenviable position of not having any room for anything outside the parameter of your building, including a deck. Mr. Knight asked how did he get that concrete slab there? Ms. Carper said I have no idea and it was not part of the original plan. Mr. Knight said therefore that is not to code either. Ms. Carper said no, it encroaches into the 30' setback. Mr. Knight said he did not get a variance to put that concrete slab in. In reality this is out of code, this concrete slab. Mr. Downey's contractor said essentially what we are asking for is to just be able to put in a very small deck along with this concrete slab so they have enough space that they can go out and use the property. Mr. Knight said I sympathize with you and I have a pretty well known position on houses that are too big for lots that are too small and this is what we have here, through no fault of your own. Mr. Knight said the only thing that tempers my concern here is the fact that you do have this parcel to the rear that cannot be built on.

Motion to approve Case #14-002 by Mike Svasta, seconded by Matt Aloisi, motion approved 5-0.

Case #14-003

Variance A is the 2 foot variance in the front yard (fence height)

Variance B is the 10' front yard variance

This is a request by Shaun Williams, property located at 4666 Friar Road, for a 2 foot variance to construct a 6 foot privacy fence in the front yard. Mr. Williams' property is located on the corner of Valleydale and Friar Roads and he is proposing to construct the fence 10 feet from the front yard property line adjacent to Valleydale Road. This property is located in an R-3 District. Section 1143.07(e) limits the height of a fence in the front yard to 4 feet.

Mr. Svasta said it looks like we actually have two variances here; one is a two foot fence height variance and the 10' variance for the setback.

Mr. Williams said this is going to be a wood fence (shadow box). Mr. Svasta said I am not familiar with that term. Mr. Williams said what that means is that we are going to put the posts in and concrete to set those and then it is alternating wood on each side, so it is not a 100% privacy fence but somewhat private. Mr. Svasta asked if there were any neighbors there tonight in the audience and there were not. Mr. Feldman said I want to make sure I am understanding the variance on the side of Valleydale. You face Friar correct? Ms. Williams said yes, it's really our back yard but it's

just the side. We are on a corner lot so it is front yard by code. The variance is only for behind the back of our building. We would like the 6' fence. Mr. Svasta said I did visit your property and I understand the exposure that you have to folks driving down Valleydale and I think the purpose of the 4' tall fence is because the people pulling out of their street, have a clear view of the oncoming traffic. From the looks of your diagram, it didn't appear to me that anybody would have the vision impairment problem because your fence is so far down the street before it even starts. This seems like a reasonable request to me. Mr. Franks asked if they would be acting on these two variances individually and Ms. Carper said yes.

Motion to approve #14-003, Variance A for the 2' variance from a 4' fence to a 6' fence by Mike Svasta, seconded by Matt Aloisi, motion passed 4-1.

Motion to approve #14-003, Variance B for the 10' front yard setback variance by Mike Svasta, seconded by Matt Aloisi, motion denied 3-2.

Ms. Carper said according to the dimensions on this graphic here, they wanted to place that fence 16' out from the existing patio and whatever this other stuff is in the backyard, so realistically, they could still place it out 6', so you can still go 6' towards Valleydale.

Case #14-004

This is a request by Mark Vitullo, property located at 3564 Adaline Drive, for a 2 foot front yard variance to permit construction of a front porch that would extend 2 feet beyond the existing stoop. The existing stoop, which was part of the original construction, encroaches 9 feet into the required front yard setback and the proposed new porch would encroach 11 feet. This property is located in an R-2 District. Section 1143.04 requires a 40 foot front yard setback.

Mr. Svasta said I visited your property and I took a look at your existing porch that you have and I saw the condition of it. Mr. Vitullo said the porch is crumbling and we want to use it more, the front yard. It is a really nice neighborhood, people are out and we are kind of cut off from the front and so I just wanted to put a nice entrance to the front door and then I want to do a step down and have a little sitting area in front of the dining room in front of the house there, so it is going to be a front entrance porch and then a step down to go, and hopefully, eventually, the idea is to have a door from the dining on to the front porch and be able to use that, with the thought of covering it with a pergola cover over the front part eventually. The reason I wanted the two extra feet there in front was because everything I have read about deck design and construction is that 8 feet is a nice width. Mr. Knight

said according to your sketch here, this implies that that is going to remain. Mr. Vitullo said I had the driveway done. This driveway, when I moved in 13 or 14 years ago, it was a brick driveway with pavers. Mr. Knight said so this will all go away and this whole footprint will all be decking material with steps down. Mr. Vitullo said correct. Mr. Knight said so you are expanding, my understanding is that the existing porch is noncompliant with current code, maybe it was back when but by virtue of that, it is grandfathered in, but you are expanding the footprint. Now by virtue of that, the grandfather goes away. Ms. Carper said the reality is if he was just replacing existing, he wouldn't be here. He is just asking for the additional two feet. Mr. Knight said I understand, he is pushing it out and we have a lot of requests that come and this type of situation, where people want to rebuild their existing porch, so the character change of the structure hasn't substantially changed because they are just redoing it for the reasons you have here, this is deteriorating to the point where it needs to be replaced. You are taking it one step further and adding this substantially longer square foot. Mr. Vitullo said it is already encroaching, so if I went out as far as this, I would only be six feet? Would I also be able to continue that 6 feet? Mr. Knight said well again, there are lots of possibilities. I am simply pointing out and verbalizing what I see in terms of what you are doing here. You are taking a grandfathered position and you are changing it substantially to where you lose the grandfather so now you are actually, in my mind, considering this new structure on the front of your house and with a 9 foot variance for the width of the whole structure. Ms. Carper said here's the problem with that line of thinking, this was advertised as a 2' front yard variance to permit this additional footage and the advertising, if it is the same as what the agenda reads, does indicate that the proposing porch would encroach 11 feet but did we advertise for two feet or eleven feet and if it is two feet then you can't grant it. Mr. Knight said so are you saying Bobbie that maybe this is not written correctly? Ms. Carper said she had discussed this with Rob Kurtz, Planning Director, and we agreed that this was how we were going to advertise it. It was his line of thinking that what he is asking for is the additional two foot variance. Mr. Feldman said so this side doesn't mean anything, we are talking about the front and how far it comes out. Mr. Knight said including the steps. Mr. Feldman said to me it looked like you need two more feet out front. Mr. Vitullo said you would step down and then a little lower and then put a table out there with a pergola.

Mr. Svasta said from the description, I was expecting a porch but when I looked at the details, it looks more like a deck. Mr. Vitullo said I am going to try to match that arts and crafts look that the house has and stay with that and with the colors and paint and just keep the character. Mr. Svasta said so it is going to be painted? Mr. Vitullo said yes, to match the house. Mr.

Knight said so you are saying that we are going to have something different than what we are seeing. Mr. Vitullo said I want to cover that porch. I am going with that New England kind of porch. Mr. Svasta said I do like the fact that is going to be painted to match the house rather than a deck look.

Motion to approve Case #14-004 by Mike Svasta with the condition that the porch materials be painted to match the house and that the porch be covered with a pergola to match the house within a year to the existing footprint, seconded by Edward Franks, motion passed 4-1.

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

Mike Svasta, Chairman

Mary Botts, Secretary