

Building and Zoning Appeals Minutes

Stow City Hall Boards and Commissions, Monday, October 13 2014, at 6:00 p.m.

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

Members Absent: Cyle Feldman

Also Present: Harlynn Hobbs, Charles Conway, Paul Cronin, Arnetta Stover, Sharon Nagy, Charles Nagy, Malcolm Robbie, visiting students from Kent State, 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 11, 2014 meeting by Mike Svasta, seconded by Robert Knight with no changes, all yeas, no nays, motion passed 4-0.

Case #14-007

This is a request by Harlynn Hobbs and Charles Conway, property located at 4120 Darrow Road, for a 180 square foot variance to permit construction of a 1,380 square foot accessory building. There is an existing 1,800 square foot accessory structure that is in serious disrepair. The applicants could repair the building on the existing foundation without benefit of a variance. The proposed new construction would allow more access to the rear of the property for maintenance.

The property is located in an R-2 District. Section 1143.07 limits the floor area of any single accessory structure on a parcel over one acre to 1,200 square feet.

Mr. Hobbs stated the existing building is in serious disrepair with the block building. It is over the property line as well. We would like to remove that building completely without changing the grade or anything on the property and it will be for storage and other personal items. Mr. Conway said basically the building is in disarray and if you see the property, it is pretty unsightly. We would like have the new building for storage for personal effects and stuff like that that we have accumulated over our lives to put in there. We want to build something nice and have access to the back yard because that building goes all the way across the property and it makes it difficult to get around the back in there to do maintenance.

Mr. Edwards asked Bobbie Carper, the pavilion that they are showing on the plan, does that come into play with allowable area of accessory building? Ms. Carper said no, because on a parcel that is over 3 acres, they are permitted up to 1500 square feet total square footage, the code states it is 1200 s.f. per building so that does not put them over. Mr. Knight asked Mr. Hobbs if there was a reason why you can't comply with the code for square footage? Is it strictly your desire to have this square footage? We are talking 180 square feet so if you went to a 1200 square foot building... Mr. Conway said I think with what I have accumulated, I think I take up probably more than half of what we are asking for. Mr. Knight said the reason I bring it up is that we live in a zoned community, the zoning rules state this and I

guess my approach on these, as the Board well knows, is that I would like to stay within the code unless there is some specific overbearing reason that it is not in the best interest. Mr. Conway said if you look at some of the other properties, if we have stuff that won't fit or put in the building, personal stuff, like tractor, lawnmower, or whatever we need to put in the building, we don't want to put in yards and it would be unsightly. Mr. Edwards said so just to keep everything under cover and secure. Mr. Conway said yes. Mr. Knight said I understand that this is a residential community, Stow in general, and if you have too much stuff, in my opinion, you have too much stuff and you get rid of it. Mr. Conway said some of the stuff that I have accumulated are antiques that my mother-in-law, who passed last year, my wife's mother, and I would like to keep it somewhere and I don't have a place to put it and I don't want to pay storage for it and I don't want it to get damaged; furniture and stuff like that. Mr. Knight said you have to go back to the fact that we do have storage facilities in the community, we do have a zoning code that permits the square footage of an accessory building and we are residents, we live and everyone lives within the codes. I understand that there is a variance process but City Council and the Planning Commission have developed a zoning code in this community and I personally would like to see us hold to that unless there is some unavailable option for your solution and a separate storage facility is an option, that is my opinion. Mr. Conway said, myself, I can't afford another payment for another storage facility. Mr. Hobbs said we are actually reducing the square footage by taking down that 1800 s.f. elongated unsightly building. Mr. Knight said that was probably before the City adopted a zoning code so that doesn't come into play anymore. I am not trying to cause you more cost or grief, but I am just trying to express my opinion on how I think our position is, at least again, my opinion, that we should be trying to stick to the code. Again, we are volunteers, the elected officials of this community are the ones, and appointed persons in the Planning Department are the ones who came up with the zoning code.

Mike Svasta said I would like to follow up on that thought because the proposed structure is 30 x 46 feet and what Mr. Knight is saying that if you proposed a 30 ft by 40 ft. structure, you would be compliant, you would not need a variance. So we are talking 30 x 40 feet versus 30 x 46 feet so you are talking about 6 feet. I have to agree with Mr. Knight here that a 30 x 40 foot structure is what the code allows and I don't see why that is not possible.

Mr. Aloisi asked what was the plan for the remainder of the foundation that is there now. Are you going to just build over the existing foundation? Mr. Hobbs said it will be completely removed, all the concrete too. Mr. Knight said this is a pole building? Mr. Conway said yes. Mr. Knight said so the interior will be gravel? Mr. Conway said it will be concrete.

Mr. Svasta asked if there were any neighbors who wanted to speak? Ms. Stover said we are neighbors next to this house and the building they are talking about, used to be a dog kennel and it is really falling and my biggest concern was that whatever they did over there, if they drained anymore water down there, because previously there has been a lot of water that came from that down onto our

property. Mr. Knight said the Building Department would have to assure that proper roof drainage is collected for whatever size structure, so your concern should be addressed through the Building Department. Mr. Hobbs said we are not looking for anymore standing water and mosquitoes and all that stuff. Ms. Stover lives at 4132 Darrow (property to the north).

Mr. Edwards said are you changing the grading? Mr. Hobbs said no. We are just trying to make the property more presentable for the neighborhood.

Mr. Knight said what is the future for this site? You are redoing the house and you are putting in storage. Mr. Hobbs said he will be living in the house, the unit will be storage. I have two duplexes on McTaggart, which are within two miles that I can maintain. Mr. Knight said so you are a private property owner and you are not running a maintenance operation? Mr. Hobbs said no, I have a full-time day job.

Motion to approve Case #14-007 by Mike Svasta, seconded by Robert Knight.
Motion passed 4-0.

Case #14-008

This is a request by Malcolm Robbie, property located at 4044 Redwing Trail, for a variance to place an 8 x 10 square foot accessory structure one foot from the rear of the garage on two sides. The topography of the parcel makes it difficult to locate the structure in compliance with code. This property is located in an R-2 District. Section 1143.07 states that any detached accessory building is required to be 12 feet from the principal residence.

Mr. Robbie stated basically, I need some place to put a shed. The area that I wanted to put it in the very back, but that is a flood plain during the spring and it returns to that every spring and then I can't use that as an area. I was thinking of doing it on the intermediate landing but that is unconsolidated fill from when they put the Ryan Home in, it is a steep slope to it so I can't even get to it. The hope was that if I could put it next to the only spot remaining then it is next to the house which puts me in violation of the zoning and so that is why I am here today so I can just use it as a shed. It is going to be a nice shed. I am going to buy it from Lowe's, it is going to be one of the really nice vinyl ones and it is going to be matching the property. I have woods on all the sides so no one can really see it and it is just an attempt to clean up the area and get everything consolidated. Mr. Svasta said the zoning code requires a 12 foot separation from your main residence and accessory building and I really can't tell what the separation is going to be here. Mr. Robbie said it is a foot what I was looking at. A foot from the corner and the back of my house is a corner area and the only real place to get it tucked in a foot from each side and that was the hope. Mr. Knight said what is the structure, is it aluminum? Mr. Robbie said it is T11 wood siding. Mr. Knight said so it is painted. Mr. Robbie said it is stained. Mr. Knight said so you are going to have to move the shed to get in there. Mr. Robbie said no, the way I have set it up is that I can get in with that clearance. Actually, the wood begins 4 feet above it so I can get in there and replace the siding. It is block below. Mr. Knight said it has a couple of

skylights in it? Mr. Robbie said yes, for domestic harmony I selected the best one. It has some skylights in it and it was the one I picked out from Home Depot. I will be freeing up the clutter in the garage, moving the mower out and consolidating and tidying up the area.

Mr. Svasta asked about the 12 foot separation. Is it a safety issue? Ms. Carper said it is my understanding that it is a fire issue and in the past, we have required them to put fire resistant drywall in structures that are closer to the residence. That is an option. Mr. Robbie said perhaps material selection on the shed, perhaps something that is fire retardant, maybe something along those lines, maybe offered through Home Depot. They tended to have the largest selection. I would be happy to line it with fire resistant drywall on the inside, if that is required. If there is a fire rating capability that is cited, I could procure a shed within that fire rating capability. Mr. Robbie said I don't plan on storing any combustibles. Mr. Knight said you aren't going to have a tractor or any gasoline in there? Mr. Robbie said no, I plan on storing dry materials in there. Mr. Knight asked if the Building Department weighed in on this and Ms. Carper said they wouldn't because it is under 200 s.f. Mr. Knight said what about the fact that we have this fire code issue. This is the only avenue. Ms. Carper said the 12 foot requirement is in the zoning code. I can't swear to the fact that this is a fire issue. Ms. Carper said also that the other avenue that Mr. Robbie was looking at, which the Building Department did discourage him from doing, was to attach the shed to the house and make it an addition, which would be possible but I think it is the type of shed that he is thinking of purchasing, building didn't really like that idea. Mr. Svasta asked if you are using this as storage and I did see lawn mowers out in the yard and that type of equipment. Mr. Robbie said I don't have lawn mowers in my yard. Basically, I am a wood worker and I want to store my wood in there and that would free up my shop. Mr. Knight asked Mr. Robbie if he would be receptive to the possibility of us tabling this so you can pursue some additional information about a fire rating on this structure? Mr. Knight said you would have to do the research, you would have to find out from Lowe's or whoever else makes such a shed and you would have to, in my mind, bring forward to the committee some evidence that you could indeed get at least a one hour fire rating. I don't know what the minimum is. Mr. Robbie said the weather is becoming rather inclement and my hope is that I wouldn't be assembling it in the November rains. Mr. Svasta stated you can see why we are concerned.

Mr. Robbie asked what if it has an internal fire suppression system; sprinkler system or halogen, smoke alarm? Mr. Knight said there are some code issues that exist, I don't know the details of them but when you start taking it to that level, it starts becoming a building instead of a shed. Perhaps something that inherently had the fire retarding capabilities in the various structure that the materials would address the concern and perhaps something along the lines of some of these sheds may very well be rated for a certain burn rating. Steel sheds tend to rust and corrode.

Mr. Knight said we are discussing something that doesn't really fall in our scope of authority here but we see this, because of this proximity situation that you asked for, it seems reasonable, even from our non-architect individuals lay people in respect to building structures, there is a concern there, we don't know how to resolve it, but I guess I am concerned enough to wonder if there isn't an answer that Lowe's can help you with outside of this venue that would be more palatable to us. Mr. Robbie said I understand that if you do an up/down vote and it could go very badly.

Mr. Aloisi said you got this in position, is there any way to move that back at all? You are showing the soft ground as in back here but the structure you have here, there seems to be some space, you are tied more to that structure. Mr. Aloisi said you have it closer to the house here, my question is, is it possible to move it back a little so you are not still in the soft ground but yet you are farther back. Mr. Robbie said it drops off precipitously down to this lower level so it is a steep drop within about five feet, it goes just right down. I really don't want it there either. If I can satisfy the zoning, I would certainly want to do that. Now if I moved it, say two feet away, would that do anything? Mr. Knight said if the code says 12 feet, it is still a variance.

Mr. Robbie said if I built the structure against the house, then I would have to go through the construction. I am just trying to understand my options. Ms. Carper said again, you talked to our Chief Building Inspector who had discouraged you from attaching that to the house, he really didn't like that. Mr. Robbie said I have an alternative design where I would literally design and attach the shed to the house and then work it as a building permit and the Chief Building Inspector said no, do the variance, that is the better way to go and that is why I am here today. Mr. Svasta said if you find out the variance was not approved, then you have a little more weight back to the Building Department. Mr. Knight said now you are talking building expansion as opposed to a shed that is tacked on. That was what he was discouraged against. Mr. Robbie said he (Building Inspector) physically didn't want this attached to the house and he recommended that this was the way to go.

Ms. Carper said the choices are to table it until the next meeting which is on November 10th and I realize this is not what you want to hear, and not put it up for approval, or to go ahead and vote on it tonight. If the Board denies your variance tonight, if you wanted to come back before the Board, you would have to pay the \$125.00 fee again and submit a new proposal. It wouldn't be up to me in terms of saying yea or nay.

Mr. Knight said I think we should table it and give this gentleman the opportunity to investigate options that would sit better with the Board, bring it before us next month, I understand it is a delay, but as far as being able to achieve this goal, that is probably the best bet at this stage.

Mr. Robbie said is there some kind of criteria, some type of criteria that I can have a dialog with someone about so I am just not wandering around. Ms. Carper said

she would act as the liaison between him and the Fire Department because they would be the ones who would have to answer whether the fire rating would be desired. I will see if I can find someone for you to have that discussion with and I will put the two of you together.

Mr. Knight said so we can table it tonight, which gives you the opportunity to investigate these alternatives with Bobbie's help, and I personally think that is the best we can give you this evening. We are not shutting you out. Mr. Aloisi asked do we have to wait until the next meeting or can we convene another time? Ms. Carper said you can hold a special meeting if the Board is agreeable, but it is not required. Mr. Aliosi said to Mr. Robbie if you get all the information together, I would be willing to spend a half an hour to reconvene. Ms. Carper said my suggestion would be to table this case. Obviously, we need Cyle's vote on holding a special meeting and he is not here tonight. Mary Botts can send out an e-mail to everyone asking if they are willing to convene sooner than November 10th to gather the information that Mr. Robbie's gets and then we can vote via e-mail and let Mr. Robbie know if he gets in sooner than November 10th or not.

Motion to table Case #14-008 by Robert Knight, seconded by Matt Aloisi, motion passed 4-0.

Case #14-009

This is a request by Sharon Nagy, property located at 5484 Celestevue Drive, for a 17 foot front yard variance to permit construction of a deck. The proposed deck would be 51 inches above grade at the highest level. This property is located in an R-2 District. Section 1143.04 requires a 40 foot front yard setback.

Ms. Nagy stated the reason for the variance is that I have some unusable land in the front of my house. I have a down grade that comes to my driveway and I did have a previous deck there that was deteriorating and needed to be replaced due to cracked wood and things like that, and I am just looking to enlarge it for my pleasure of seeing my front yard and enjoying the views and my children and my neighbors. My back yard is very close to my neighbors that live behind me, which I don't like to sit out there and enjoy the view because they have dogs and argue and yell and scream, so I am hoping to put something in my front yard that is a little bit more enjoyable. Mr. Svasta said the code requires a 40 foot front yard setback and it looked like your house was 43 feet so that only gives you 3 foot to work with which is basically just enough for the steps. Mr. Nagy said the previous deck still extended five feet off the house with the steps, so those weren't in code to begin with. A three foot platform is a safety issue anyways coming out of the house. I build decks for a living and I just think three foot going straight down the steps and the doors 3 feet itself, and I think 3 feet is just a little bit of a safety issue. Mr. Svasta said you started construction for the new deck. Mr. Nagy said we were replacing the old frame that was there and where the slope comes down to the driveway, there was a tree there, and the old steps and I just thought, o.k., there are trees here and there is nothing else to do there with the grade so steep in that small area so why not just make it useable by building a deck there. We plan

on enclosing it as well, the bottom part, we call it skirting, and she plans on selling here soon so it is also a selling point for the house as well. We are just trying to make it more enjoyable and comfortable for us instead of dealing with the neighbors in the back yard. Mr. Svasta asked if this was going to be treated like lumber and Mr. Nagy said yes. Mr. Edwards asked if there were any objections from the neighbors and Ms. Carper said no.

Motion to approve Case #14-009 by Matt Aloisi, seconded by Robert Knight, motion passed 4-0.

Case #14-010

This is a request by Paul Cronin, property located at 1290 Mac Drive, for a variance to place a 10 x 14 square foot accessory structure four feet from the side property line. The parcel has a narrow 50 foot width. This property is located in an R-3 District. Section 1143.07 states that any detached accessory building is required to be a minimum of six feet from the side lot line.

Mr. Cronin stated the reason for his variance was he bought the place fourteen months ago in a foreclosure and I knew when I bought the lot because the lot was only 50 feet wide and I don't see any way to put a garage on. I know that is not in my future but I want to keep the side edge of the shed even with the deck and the structure is going to be 13 feet away from the deck, but it will just follow a straight line because it is the line of sight like where the driveway is, so just to provide better flow rather than moving over into the backyard. I have the lake in the backyard and I don't want to take any view away from that. That is why I bought the house. Mr. Svasta said so this is for a 2 foot variance so instead of a 6 foot setback it will be a 4 foot setback. Mr. Cronin said correct. Mr. Knight said what kind of materials are you using? Mr. Cronin said I went with Alpine structure. They give you a lot of options and I ended up going with what they call "Duratemp" Siding. It is equal to a T1-11. Mr. Knight said so this will look like a mini garage from the street and Mr. Cronin said yes. It will be similar to that but I will have a door on the side but the front will have a double door.

Mr. Cronin said I don't want to put it on the side of the house. I can live with the four feet and keep it in line with the side of the deck. Mr. Svasta asked if we had heard from any of the neighbors and there weren't any calls.

Motion to approve Case #14-010 by Mike Svasta, seconded by Robert Knight, motion passed 4-0.

Adjournment: With no further business to be discussed, motion to adjourn by Mike Svasta, seconded by Robert Knight, meeting was adjourned at 6:55 p.m.

Mike Svasta, Chairman

Mary Botts, Secretary