

Building and Zoning Appeals Minutes

Stow City Hall Boards and Commissions, Monday, June 3, 2015, at 6:00 p.m.

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

Members Absent: None

Also Present: Brett Nagy, Tony Catalano, 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 April 13, 2015 meeting by Mike Svasta, seconded by Robert Knight with no changes, all yea's, no nay's, motion passed 4-0.

Case #15-003

This is a request by Ms. Emily Gesaman, property owner, property located at 4401 Oldham Way, for approval of a variance of 26 feet to install a 6 foot high solid privacy fence in the front yard. The property is located on the northeast corner of Wexford Blvd. and Oldham Way. The proposed fence is proposed to be located 14 feet from the Wexford Blvd. right of way, and according to C.O.S. Section 1143.07C, the fence must be located at the building line or at least 40 feet from the right of way.

Mr. Nagy (husband of Ms. Gesaman), spoke to the Board. Mr. Nagy stated the reason for the variance is he would like to put a fence on the side of the house because he really did not have a back yard. The other side of the house is a steeper hill and I want an area where my daughter can play that is safe. We are right up against the road and I am worried about cars and traffic. We also have two dogs, one of which is pretty agile and jumps pretty high and can get over the fence. The last reason is being that close to the road is pretty intrusive. You have the traffic and noise as they are going by and I think the fence would help knock down some of that and would make it more private. We plan on using a plastic privacy fence that is white and I myself plan on doing the installation but I have a friend who is going to help me out and is in the construction trade. I put up a deck and patio so I have done pretty well. I know what I am doing enough to make it look nice and it won't be an eyesore to the neighborhood.

Mr. Feldman asked Mr. Svasta are we voting on two issues two items for just the 26 foot variance. Mr. Svasta said it looked like the variance is for 26 feet because the setback requirement is 40 feet is one variance and the other variance is the height of the fence. Where you are proposing to put the fence is in the no fly zone, you are so far towards the right of way that the normal type of fence that would be allowed, I believe is a 4' nonvision appearing fence, so you are asking for a variance also for a 2' higher fence and a variance that it be solid and not an open type fence so it seems there is more of an issue here. Mr. Edwards said he is not asking for a variance in height, he is suggesting that the height he desired be

allowed out farther than permitted so it is just a variance to build a 6' high solid fence. Mr. Nagy said since I am on a corner it is considered two front yards. It was never brought to my attention, I didn't know it was a separate variance to get it solid instead of open fence, I was not aware of that. Mr. Catalano said you cannot have a vision obscuring fence within 20 feet of the right of way. The fence that he is proposing, I believe is 20 feet off the right of way, however, it is 26 feet into his front yard, he has two front yards so really is requesting one variance to move a 6' high fence permitted at 40' of the right of way line. He wants to put it out here (diagram) and encroach further into the setback. He can put a 4' picket fence right on the right of way line with this diagonal cut here on this for vision. He can put a 4' high solid fence where you see the dash or dots on the diagram and the straight dash line on the back he can put a 6' high fence. Mr. Nagy said my desire is to have a 6' high fence.

Mr. Svasta said here is what I was thinking. If you set the fence back 20' from the right of way and at 20' setback, you are allowed a 4' high solid fence, then the variance would only be a 2' high variance for the height because you would have the setback that you would be requesting a 6' high fence rather than a 4' high fence. Mr. Knight said the 6' high fence, I understand your reasoning but that is going to look like a wall, that is my opinion. I don't like the idea of a 6' high fence. This is a main street here and this side of the street will be looking across at that. Mr. Knight asked if anyone had called in regarding this. Ms. Botts said she had not received any calls. Mr. Nagy said the neighbors told him they did not have any problems with this. Mr. Knight said if I was a neighbor across the street I would not want to look at that. Mr. Nagy said I am going to have landscaping around it to look nice, not just a barrier. I did not know when I bought this house that being on the corner would be an issue. If I move this back 6' feet, this would not be a problem at all.

Mr. Feldman asked why he didn't use the side yard, that it was beautiful. Mr. Nagy said they have a lot of fruit trees there so a lot of bees are there. We do use the fruit from the trees and would rather not cut down the fruit trees.

Mr. Knight was stated he was surprised none of the neighbors had any objections. He was still reluctant about the height of the fence. He would like to bring the fence in and give the 6' height variance. Once the fence is up, it is up. Mr. Nagy said it will look nice and I will be doing some landscaping around it and will be taking care of it. I will not let it look like a compound. Mr. Knight asked if they should make mandatory landscaping as part of the variance approval. Mr. Catalano said you could but the question comes up then what happens if the plants die? Does he have to replace them? What is adequate? He says he is going to landscape. Mr. Knight said sometimes things happen, once a fence is up it is there.

Mr. Knight said would Mr. Catalano be checking the final markings before the fence went up and Mr. Catalano said yes.

Mr. Svasta said I would like to make a motion for approval of case #15-003 on the condition that the proposed fence be moved back 20 feet from the right of way, that is motion number #1, seconded by Robert Knight. Mr. Svasta said I would like to make a motion to approve the 2 feet height of fence to a total of 6 feet height in fence for the entire length, seconded by Robert Knight. Roll Call was held on both motions. Both motions passed 4-0. Motion approved.

Election of Chairman and Vice Chair

Chairman: Motion to elect Robert Knight as Chairman by Mike Svasta, seconded by Cyle Feldman, motion passed 3-1 (no by Mr. Knight).

Vice Chairman: Motion to elect Mike Svasta by Edward Franks, seconded by Cyle Feldman, motion passed 3-1 (no by Mr. Knight).

Adjournment: With no further business to be discussed, motion to adjourn by Mike Svasta, seconded by Edward Franks, meeting was adjourned at 6:31 p.m.

Mike Svasta, Chairman

Mary Botts, Secretary