

Building and Zoning Appeals Minutes

Stow City Hall Boards and Commissions, Monday, March 14, 2016, at 6:00 p.m.

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

Members Absent: Debbie Cochrane

Also Present: Bryan Jellison, Ken and Amy Roush, Jason and Sarah Kuznicki, Tony Catalano, and Mary Botts.

Meeting called to order by Robert Knight at 6:00 p.m.

Approval of Minutes: Motion to approve the minutes of the October 10, 2015 meeting by Mike Svasta, seconded by Edward Franks with no changes, all yeas, no nays, motion passed 4-0.

Case #16-001

This is a request by Mr. Bryan Jellison, property located at 4734 Darby Court, for approval of a variance of 2.5 feet in order to construct an addition to the attached garage. The proposed addition is approximately 540 square feet in area (12 feet by 36 feet). The lot is 75 wide by 125.5 feet deep. The proposed addition would be located 7.5 feet from the north property line. According to the approved plan for this development, the minimum setback from the side property line is 10 feet. The applicant had previously requested a variance of 5.5 feet to construct an addition 15 by 36 feet in area in the same location. This request was denied at the October 10, 2015 Board of Zoning Appeals Meeting.

Mr. Jellison stated after the last meeting, it was suggested that I shrink it down and reapply for a variance to bring it down by about 2.5 feet in width, making it more of a reasonable structure to go inside the subdivision itself. I do feel that it is a reasonable request for the 2.5 feet making a 12 foot space which would make it more reasonable as far as to be able to get around both sides of the vehicle. The design itself would match the existing structure and go along with the guidelines of the Homeowner's Association.

Mr. Knight asked if there were any questions from the board. Mr. Svasta said based on going by your place today, I saw a Building Permit posted in your window, can you tell me what that is about? Mr. Jellison said I went ahead and got a permit so I could get ahead with my excavator and mason scheduled too far out with the regulations of the setback and I was able to get a permit for a 9.5 foot wide by 36 foot. It was not exactly what I would want but if I am not able to get the variance, then that is what I am going to have to do. It is not ideal but it beats paying rent for where I currently store my vehicles. Mr. Svasta said so you wouldn't need a variance the way it is. Mr. Jellison said I know, especially the way the winter has been all winter, excavators and masons, they really build up quick and when the weather breaks they can push me out in May, June and July really quickly so I was trying to get it done last fall and I am just trying to move forward today. Mr.

Feldman said on that side, you have no windows, correct? Mr. Jellison said one window, it is on the second story.

Mr. Knight asked if anyone had spoken out against or for this. Mary Botts said she received three calls regarding this case and they were not happy about it and Mr. & Mrs. Kuznicki were present to discuss this.

Mr. Kuznicki stated he was the neighbor next door. I think that last time for the first variance, we just sent a letter with a lot of details in there but to not re-read all of those but what we realized is any structure really there is going to be, we think, a negative impact on our property value because it is going to block our window use and we also think we are around the bend of the cul de sac so it is not going to be just the front corner of the window but it is going to be like a hallway effect down the side of the house. We think that is going to also affect the even spacing of the homes. The other item that we touched on was on the feel of the neighborhood. Anyone who even walks by our house on the block asks us what is your neighbor doing and when we explain it they say oh, why is he doing that? Just because the spacing, it doesn't look like a sizeable structure that fits there to maintain the look. There is no other structures in our neighborhood that hold four or five cars. I think there are plenty of areas in Stow that you could do that but Call's Farm does, in my opinion, seem to be one of those neighborhoods. We are kind of confused why Bryan even wants to put the money, time, and resources into building a structure that is ultimately not meeting what he wants. He really wants a 12' wide garage and it just doesn't fit in that space. The other thing that we have been going through is one time we expressed our concerns and he referred to a marker that was maybe 8 to 10 feet from his house and he said that is where I could build out toward the front of my house without any variance requests at all but instead I would rather build to the side and only build 2 feet out but since I know you guys don't like it, I will only build 1 foot out as a gesture of good will. The reality is his house is right on the front setback and so there is only one foot of leeway there. That to us is that either he was trying to purposely deceive and manipulate in that or he was really going to try to go for a structure that was really 8 feet out than any other house on the block. That, for us, was kind of showing us disregard for the feel of the neighbors and look of the community. The first variance request, we kind of just wanted the request to be over. I talked to Rob Kurtz and he said there is no limit on the number of requests so really the reason we came was, if you guys would hear it, we would like to propose a motion in that we don't consider any future variance requests for these properties. We don't want to have to come back in for 2 feet and come back in for 1 foot or 6 inches.

Mr. Knight said from this standpoint, you can only request a variance that is different as he has done this time from the previous request. I don't know how many options he has. We can't do anything about the number of requests a resident would like to present, we can only respond to what he has presented. Again, it has to be different than something he previously presented and rejected. I have been elected in the past for Call's Farm to take a position to that being a planned unit development that was submitted to Council for final plat and layout of

the properties, setbacks and the entire development, was approved by Council at some point in time before the building started. We are residents of the City, the Council are elected officials of the City and they are paid elected officials of the City so personally, I think that Call's Farm, being what it is, doesn't leave a lot of room for adjustments and I have held that position for a number of years here and on this board. I don't know if anyone else wants to speak up and give their opinion on the board.

Mr. Jellison said last year there was a variance in Call's Farm, they are under construction right now, on Duxbury Drive, asking for a one foot variance for a 12 by 32' structure for a garage and laundry room. The structure doesn't make a difference whether it is a laundry room or a garage, it is still a variance in my opinion. Mr. Knight said that was on a wedge shaped property and that was the front corner of the structure and it didn't impede any visual of the house, either from the neighbors or from within the house itself.

Mr. Svasta said we have seen a number of appeals for Call's Farm but this is the only one that I can recall that there was so much opposition with three calls and Mr. Kuznicki voicing his concerns and taking time to write letters and photographs. I could understand his position and the other calls not wanting to change the position of the neighborhood with such a large addition. Mr. Jellison said mine is the same size as the one on the pie-shaped lot. The outside will look the same. When I didn't get my variance approved the last time, I did approach Mrs. Kuznicki outside and said I would like to talk, maybe there is something we can come to common terms and she said that is not necessary, we will let the city make up their decision. My suggestion was going to be with that 12 foot wide variance, to actually move it back two feet so it was a foot behind the corner of the existing house but I didn't change any of my plans because they were already in the process, everything was already submitted. That was going to be one of the suggestions I was going to make but I didn't have the opportunity to explain this.

Mr. Knight said the point is these houses are pretty tightly positioned in these lots in this particular subdivision as a planned unit development, that is the way it is set up. I don't see anything that, in my opinion, that you could put there that wouldn't have a negative impact. For a garage, I am not in favor of it.

Ms. Kuznicki said the corner of our house is part of our children's bedrooms on the second floor where his garage wants to be built, and he has told multiple neighbors that he would like to put a lift to have multiple cars in there. I am concerned about fire and noise for our children. The people who lived there before had dogs and would wake our children up. It is just that our houses sit so close that there is really noise and fire concerns for us. Mr. Knight said we don't address the issue of what is going in the building, we are looking at the zoning code which deals with setbacks and square footage. It does not address the occupancy of the building.

Motion to approve Case #16-001 by Mike Svasta, seconded by Edward Franks, motion denied 4-0 (Debbie Cochrane not in attendance)

Case #16-002

This is a request by Mr. Kenneth Roush, property located at 1732 Ritchie Road, for approval of a variance of four (4) feet in order to raise the roof on an existing garage to 19 feet in height. The existing garage is 1,176 square feet in area (42 feet by 28 feet) and is located behind the house approximately 150 feet from the Ritchie Road right of way. The property is 1.8 acres in area. According to C.O.S. Section 1143.07(c), the maximum height of an accessory building is 15 feet (building height is defined as the midpoint between the peak and eave of the roof).

Mr. Roush stated basically we have a camper and I wanted to build a garage a little higher so I could put a 12 to 14 foot door in so I could put in a camper. The roof was already falling down so I started doing work on it until the City had me stop. That is basically what the variance is for so I have enough clearance with my driveway going slightly down, I would like to put a 14' door in so I can clear the air conditioner on my camper and everything when I back it down. Mr. Knight said so this is a self-propelled camper, this is a full size vehicle. Mr. Roush said, no, it is a tow behind.

Mr. Knight said regarding the sketch in the packet, this appears to have a pitch on a peak roof, so this is not exactly what you built at this point. Mr. Roush said no. Mr. Knight said he was out there this evening and saw this. Mr. Roush said this is what it was and basically I raised this up and was doing the floor on 12 pitch on this and I hadn't started this half. I am still going to do the other half if it is approved. So basically our driveway comes down and I want to put a 14' door so the camper can come down into that so I need the clearance to put the door and garage door in.

Mr. Knight asked if there were any questions from the Board. Mr. Feldman said the yards and neighbors are pretty far away from the right. Mr. Roush said we actually have two lots, one to the side. There is wooded area behind the garage. Mr. Knight said it is a substantial way from the roadway. Mr. Roush said I am trying to keep the pitch for snow also.

Mr. Knight asked if there were any calls from the neighbors. Mary Botts said there were two calls and they basically said they didn't like the look of it because it was not finished. Mr. Svasta said to be honest, that was my first impression also when I saw the one side was just straight, it looked like a commercial building. Mr. Roush said the City told me to stop until I got a permit and then when I went in they told me I needed to apply for a variance due to the height. I stopped construction completely until the variance. Mr. Roush said I was going by what other people told me and they said if you are going to do it, go 14 feet for clearance and also we were talking about possible future change to a 5th wheel which kind of gives you the need for a little bit more height. I wanted to do it right the first time instead of having to come back. I think we could do 12 feet but it would be cutting it close. There will be three doors so as you are looking at the picture, that would be where the big doors are. The other doors would stay the

same. Mr. Knight said that is a huge structure. The other parts have storage above it.

Mr. Feldman said he is asking for a height variance and the footprint would stay the same. Mr. Roush said correct, just raising the roof. I am requesting a four feet height variance.

Motion to approve Case #16-002 by Mike Svasta, seconded by Edward Franks, motion approved 3-1 (Mike Svasta no vote)

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

Robert Knight, Chairman

Mary Botts, Secretary