

## **Building and Zoning Appeals Minutes**

Stow City Hall Boards and Commissions, Monday, September 12, 2016, at 6:00 p.m.

Members Present: Robert Knight, Edward Franks, Mike Svasta, Jill Smith, and Debbie Cochrane

Members Absent: None

Also Present: Ken and Kim Nixon, Mike Burgan, Tom Fanara, Matt Riemenschneider, Ashlee Hodges and Adam Harris, 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 August 8, 2016, meeting by Mike Svasta, seconded by Debbie Cochrane with no changes, all yea's, no nay's, motion passed 5-0.

### **Case #16-011**

This is a request by Mr. Kenneth Nixon, property owner, for approval of two variances for a proposed new single family home to be located at 2029 Brighton Place. The property is located in an R-1 PUD district. A variance of 4 feet is requested to accommodate a front porch that is proposed to be located 36 feet from the Brighton Place right of way (40 feet is the minimum required per C.O.S. Section 1167.04(c)). A second variance to locate the building 11 feet from the west property line (12 feet is the minimum required from C.O.S. Section 116704(c)). This property is also encumbered with an Ohio Edison easement that occupies a significant portion of the east side of the lot. No construction or any encroachment is permitted in this easement.

Mr. Nixon said the easement is inside the line and the only part of the actual structure in the easement is the overhanging gutter that was over like 6 to 8 inches so Rob suggested putting a foot down for the variance. The porch on the front, to move the porch back any farther, you would have to shrink the square footage most likely and there is a minimum square footage in Bayside Lakes so we are trying to stay within that square footage. The porch is just a stoop with two posts, it doesn't block anyone's view or interfere with anything. Mr. Knight said so you have a one foot setback on the side apparently, so when you said that is strictly the gutter? Mr. Nixon said the gutter was the line.

Mr. Svasta said it is a vacant lot right now. Mr. Franks said it is nice to see that lot being developed.

Motion to approve Case #16-011 by Edward Franks, seconded by Mike Svasta, motion passed 5-0.

**Case #16-012**

This is a request by Ashlee Hodges, property owner, for approval of two variances to install a privacy fence 6 feet in height in the front yard at 5533 Pond Court. The property is zoned R-2 Residential and is located on the southeast corner of Pond Court and Norton Road. The proposed fence is proposed to be 6 feet in height and located 10 feet from Norton Road right of way. The applicant is requesting a variance of 2 feet in height (the maximum height of a fence according to Section 1143.07(e) is 4 feet; and a variance to reduce the setback to 10 feet (the minimum setback according to Section 1143.07(e) is 20 feet).

Ms. Hodges said they just moved in there in April and they want to put in a vinyl fence. We live on the corner of Norton and Pond Court and since we live on the corner it is considered two front yards and we would like to put in a 6' fence along that side and along the back for our big dog.

Ms. Hodges said they would like to put it 2 feet from the property line on all sides. Mr. Knight said are we looking at the height and setback? Mr. Catalano said the fence can be on the property line. Ms. Hodges said we are asking for two feet in the property line. Mr. Knight said the reason the zoning code is the way it is is to try to prevent encampment looking properties and yes, you have that unique situation, as I do, of living on a corner lot so I have held pretty steadfast that this is not acceptable. I understand your particular circumstances but I am only one of five voters up here so I am letting you know that I don't concur with this variance based on that height. You are asking for a ten foot to get more area also so I wouldn't have a problem necessarily with a four foot high and the larger area because I don't like the idea of a six foot high fence; now board members can respond to that or make their own case one way or the other but that is where I stand. Mr. Franks said I wouldn't mind the six foot if it was the 20 foot setback.

Mike Svasta said he had a question before they made a motion to vote. The reason for the 6' high fence is what? Mr. Harris said we have a Golden Retriever and he is a jumper. Mr. Svasta said if you didn't have the dog would you be building a fence? Ms. Hodges said she wasn't sure. Mr. Svasta said the reason I asked is that we have granted and regretted a few of these and when I go back and look at it, there is one not too far from your house and it really stands out and it looks like some kind of compound. Mr. Knight said the issue with the Board is the City is always going to be here but the residents move in and out so although you just moved into your home recently and you have these plans, you won't be there for perpetuity so we have to consider that it is a zoned community, we didn't create regulations, it is the City Council that discusses them and approves them via the Planning Department's recommendations and we are just volunteers here. We are just trying to provide some uniformity and in certain circumstances where there is a burden on the property owner, we are asked to make some variance approvals and we have done that but we have also resisted certain things at times because they are too much for the code. I have a golden retriever so I am sympathetic to your needs. Each of us has a single vote so you need three of us to approve it. Mr. Svasta said you are still allowed to build a fence but it can't be any more than 4' tall

and if you want to get closer to the right of way, you could even get it closer to the right of way as long as it is not a vision impairing fence. There are options. Mr. Catalano said I spoke to the Planning Department today about this issue and they have no problem with the 6' high fence 20 feet back from the right of way.

Motion to approve Case #16-012 amended by Robert Knight as a variance of a 6' high fence with a setback of 21' from the city right of way on Norton Road, seconded by Edward Franks, motion passed 5-0.

### **Case #16-013**

This is a request by Mr. Thomas Fanara, Jr., property owner, for approval of a variance to install an accessory building 1,728 feet in area at 1011 Springdale Road. The property is approximately 2.1 acres in area and is zoned R-2 Residential. The accessory building is proposed to be located in the rear yard 290 feet from Springdale Road and 25 feet from the east property line. The applicant is requesting a variance of 528 square feet from the maximum area permitted (the maximum area of an accessory on a lot this size is 1,200 square feet according to Section 1143.07(b)).

Mr. Fanara stated I believe I am actually allowed two accessory buildings. I am allowed 1,500 square feet and not one structure larger than 1,200 square feet so I am just trying to combine two into one but still have the depth that I need so that is why I am trying to exceed the 1,500 square feet. I am just trying to get one building to suit my needs instead of trying to put up a second one down the road. Mr. Knight said is that your existing building and Mr. Fanara said that is a swimming pool. The only garage is attached right now. The garage comes in off the driveway side. There is an extension of the drive already. Mr. Knight asked if he was aware of a letter that was sent in. Mr. Knight read the letter to Mr. Fanara. The letter indicated the resident was concerned that Mr. Fanara was running a construction business out of his house and the noise level was a concern. The resident stated that they cannot enjoy their deck due to the noise. The resident stated they never know when they will get any peace with the noise. They contacted the police recently because of the noise and that it was unbearable at times. The resident stated lots of heavy equipment going in and out and it seems like a business of some sort. They fear for their home value as who would want to buy their house when they see what appears to be construction and hear the noise. Building a structure the size of their house makes them even more concerned what his intentions might be. Resident claims they had a small wooded area separating us that Mr. Fanara cut a lot down, some of which were my trees on my property. Parts of the wetlands are protected and while he should never have touched our property, he may have been wrong in cutting down anything in that wetland as well. We are trying to build up the wooded area back up by planting lots of trees but it is going to take years to make a difference. I understand he can construct this building whether it is 1200 or 1720 square feet, however, my main concerns are the incessant noise, is it going to get worse or better or stay the same with this new building, is there a commercial enterprise being run out of there? Does Mr. Fanara have any plans to provide some sort of privacy from the aesthetic fall/winter

when the leaves have fallen and the noise concerns I have. Copied on this letter were her Councilman and this is on record in case this rears up in the future.

Mr. Knight said obviously we have some serious concerns from the neighbor. Mr. Fanara said this has been an ongoing project for at least a couple years now as far as dirt, clearing the lot and stuff like that. I have a full time job so I do this after hours, weekends and stuff and as far as someone calling the cops for noise violation or any sort, they would have come to my house. Mr. Knight said so nobody approached you from the Police Department? Mr. Fanara said no. I never heard one thing about that. Mr. Knight said so you are saying you are not running a commercial business? Mr. Fanara said no. He said it does look like a construction site because it is, I am doing it myself with borrowed equipment or equipment of my own. Mr. Knight said what will be the use of the building once you construct it? Mr. Fanara said I have multiple vehicles, I have three sons, the garage up top is full of four wheelers and ATV and dirt bikes and I need it to store my stuff.

Mr. Svasta said did you say you don't have a home occupation there? With the front loaders that you have, the trailers, the back hoe? Mr. Fanara said that is not mine. I own a dump trailer, a chipper and one skid that is on site. Mr. Svasta said do you understand where your neighbor is coming from? With that site clearing, with all that log splitting, the heavy equipment and if you drive over to her street on Glenrich, that neighborhood is completely different even though it is right next door to you, that neighborhood is completely different in makeup than your neighborhood. Those folks that live among that property line and yours are all affected by whatever you are doing there and the concern is that you are asking for 1,721 s.f. You can build a 1,200 s.f. addition and that is all we have power is to just keep you within code. Frankly, I understand their concern and we don't want to have a commercial looking property adjacent to all these residents, that is not fair to them. I am not going to vote for this approval.

Mr. Fanara said I am allowed two structures on the property, I am allowed 1500 square feet of accessory building but not one larger than 1200 square feet so I think it is going to impact the community less by having one larger building instead of two other buildings to look at. I am trying to get away from the commercial look by not going with steel siding, I am trying to get away from the commercial look by having asphalt shingles and vinyl siding and stuff like that.

Mr. Edwards said so if this variance gets denied, am I understanding that you would then feel the need to build a second building of 300 square feet? Mr. Fanara said yes. I would rather have one instead of two.

Mr. Knight asked if Mr. Fanara considered any type of sound wall or something that would help appease your neighbor's concerns? Mr. Fanara said once this is finished there shouldn't be an issue. Mr. Knight said so all this equipment that she is concerned about is going to go away once the building is built? Mr. Fanara said yes. Ms. Smith asked Mr. Fanara where he worked and Mr. Fanara said City of Stow. Mr. Fanara said the site is prepped and I will start immediately once I get

the building permit to start on it. Mr. Knight said we are going by what she is saying in this e-mail she sent. She implies that it has been going on for months. Ms. Smith said didn't you say you have been working on this for a couple of years? Mr. Fanara said this hasn't all happened in the last month, this has been going on, hit or miss, for the last year. Mr. Catalano said once your building is done things are going to calm down out there significantly, is that correct? Mr. Fanara said yes. Ms. Smith asked where are you running your ATV's? Mr. Fanara said in southern Ohio in Guernsey County. Ms. Smith that would be my concern if you are running them on this property, they are really loud. Mr. Fanara said I did remove scrub brush but didn't remove any trees or anything. When I bought the house it was a short sale. The house and everything outside was overgrown.

Mr. Riemenschneider, who lives at 4040 Glenrich Circle, said I live next to the person who wrote that letter. I had some of the same concerns. I approached Mr. Fanara and asked him in person about it and he told me the same thing. I am more sympathetic to what he was doing back there than my neighbor. When you work full time you have to do stuff when you can. As far as the building, it will be pretty much more visible from my backyard but his addition of square footage, he told me will be running instead of north/south, it is going to be just as visible, the additional square footage will be going west so from this house to my house, it won't appear any bigger and that extra footage would allow him to move the stuff that he has outside, to move it inside so we when the leaves are gone, we won't see as much as that stuff so I am in favor of the variance to give him more room to get his stuff inside.

Motion to approve Case #16-013 by Robert Knight, seconded by Mike Svasta, motion passed 3-2 (Edward Franks and Mike Svasta no votes).

#### **Case #16-014**

This is a request by Ms. Monica Burgan, property owner, for approval of a variance to add onto an existing accessory building on an existing property located at 3993 Genevieve Blvd. The property is zoned R-3 Residential.

There is an existing accessory building 667 square feet in area that is located in the rear yard approximately 14 feet from the side (south) property line. The applicant is proposing to extend the building 14 feet to the rear (east) of the property. The proposed new structure will be 975 square feet in area, and the applicant is requesting a variance of 175 square feet (the maximum area permitted is 800 square feet according to Section 1143.07[b]).

Mr. Burgan, husband of Monica Burgan, stated basically it is going to be turning a two car garage into a three car. We have a shed but we have a tractor in there for cutting the half acre I have so that fills the whole shed. I have one son and one on the way and they have a lot of toys. We can't park in the garage as it is so if we can put in a third garage we would be out of the way and be able to close the door. It would just be cleaner and will add to the property value as a three car garage. It will be a walled building with a door.

Motion to approve Case #16-014 by Mike Svasta, seconded by Debbie Cochrane, motion passed 5-0.

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

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Robert Knight, Chairman

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Mary Botts, Secretary