

Building and Zoning Appeals Minutes

Stow City Hall Boards and Commissions, Monday, October 10, 2016, at 6:00 p.m.

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

Members Absent: Debbie Cochrane

Also Present: Kenny Johnson, Rebecca Rupert Orr, 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 September 12, 2016, meeting by Mike Svasta, seconded by Robert Knight with no changes, all yea's, no nay's, motion passed 4-0.

Case #16-015

This is a request by Mr. Kenneth Johnson, property owner, for approval of a variance to construct an accessory building on his property located at 3646 Kent Road. The property is located on the corner of Kent Road and Hiwood Avenue and is zoned R-3 Residential.

The applicant is proposing to construct an accessory building 1,200 square feet in area (30 feet by 40 feet). The proposed garage will be constructed with metal siding and a metal roof and will contain 3 bays. It will be located behind (south) the house 80 feet from the Hiwood Avenue right of way, 25 feet from the east property line and 25 feet from the south property line.

The applicant is requesting a variance of 400 square feet (the maximum area permitted is 800 square feet according to Section 1143.07[b]).

Mr. Johnson said he wants to build a garage for all of his stuff. His girlfriend moved in, he has her stuff, my son, who is in the military, I have his stuff also. All my equipment that is outside would need to go in there. Ms. Smith asked do you have your own business, is that why you have so much stuff around there? Mr. Johnson stated he did yard work. I also have two cars and my son's two cars. Ms. Smith said so will you access the garage, from this picture, is there a drive that goes back there? Is that how you are going to access this? Mr. Johnson said yes, it comes off of Hiwood and around the backside of the house. Mr. Edwards asked how high is this garage going to be? The one picture looks like it is a pretty big garage. Mr. Johnson said it will be set up like a pole barn but it has no siding. That picture is not exactly a picture of the garage itself, just similar and I just wanted to show you how it was constructed. Mr. Knight said it is a rather large structure. You are asking for basically a 50% increase from the permitted amount.

Mr. Svasta stated you already have a three car garage attached to the house. This proposed garage, is this just for vehicles or storage? Mr. Johnson said that and her junk, all my junk, we have stuff in the house. I have been there for 32 years and I

have a kitchen upstairs that is full of her stuff, we are trying to box everything up and get it out of there so we can still work on the house. Mr. Edwards asked if it would have a concrete floor in it and Mr. Johnson said yes. Ms. Smith asked what is in that space right now? Mr. Johnson said firewood. Mr. Knight asked if the neighbors sent anything in and Ms. Botts stated no. Mr. Svasta asked is the fence staying? Mr. Johnson stated he will be tearing that down. The back part of the fence is where the garage is going to start. Mr. Knight said it is metal siding? Mr. Johnson said yes. Mr. Knight said it looks pretty industrial. Mr. Johnson said it will be the color of the other garage. Mr. Knight said we have to look at all the visual conditions and we don't get involved in the cost issues. To me, it looks like it is going to be industrial looking and large and this is a residential area. I understand it is a garage but nevertheless, as I have said in the meetings before, this is going to be there for a long time, probably after you are gone it will still be there. I have some issues with the type of construction from the siding standpoint, a metal roof doesn't bother me but when you put a metal sided building up, it looks like you are in an industrial zone and for that reason, I would not be in favor of this. You can build the 800 square foot by code, we don't have any input on that. I wouldn't necessarily be happy with an 800 square foot with metal siding but I can't do anything about that, but I do think this is too big given the type of construction for the neighborhood. Mr. Johnson said it is going to be the same colors as the house.

Mr. Svasta said what is the height of this? Mr. Johnson said basically the same height as my other garage. Mr. Knight said so it is within code and Mr. Johnson said yes.

Mr. Catalano said can you put siding on it to give it more of a residential look? Mr. Johnson that will be a lot more money. I don't know how much more it would be cost-wise. Mr. Catalano said I was going to suggest to you that back in my office I have a set of plans for a garage that put the beam and post at grade and then you build on top of the build and it is less expensive than a pole building and 20% less to build. That would give it more of a residential look if you would be interested. It is set up to put wiring or insulation, whatever you want to do. What I am suggesting to you is to put treated 4 x 4 in the ground 40" or so and run it all the way to the top where you would only use treated material to grade and then put the conventional lumber on top. It is much less expensive than what you proposed here and we give you the option of using regular siding and give it a more residential appeal. Mr. Knight said it would be some tradeoff in cost between the structure itself, reduce that cost and give you some money available to do a better siding to make it look more less industrial which is my concern. Mr. Catalano said so what I am saying is the treated lumber to grade with 4 x 4 posts and beam at grade and then you build regular 2 x 4 walls on top of it. It would be much less expensive. I can give you a plan and you can take it to your builder and ask the guy if he can do this. It will also look better in the neighborhood and it will be better for you in the long run than the initial pole building.

Mr. Knight said I would suggest tabling this to give you an option instead of starting over again. We don't want you to have to pay the fee again to come in. I don't

know how the other board members feel and we can put it to a vote tonight but I would suggest that it might be beneficial to you in the long run, it would certainly appease my concern and I don't know how the other board members feel about the look of this industrial versus residential but that is my issue. Mr. Svasta said I did go out today and looked at the location. I did not have a problem with granting the variance for the additional square footage but Robert made a good point about the industrial look that is not going to fit with the residential neighborhood. I am in favor of tabling this until you resubmit with wood or vinyl siding, a residential style in appearance. Mr. Knight said that is your choice, we are not dictating how you move forward from here. We are just playing out some options for you.

Mr. Johnson said by the time I go through all of this and another month, I may not be able to build it until next year. Mr. Knight said it sounds like you don't have the votes tonight for this and if we move forward to the official vote, then it is rejected and you have to come back with something different and it is not just the type of construction but the square footage with this one otherwise it is the same request. Ms. Smith said or go with the 800 s.f. because that is within code. Mr. Johnson said I have to see if somebody can do the sides.

Motion to Table Case #16-015 by Mike Svasta, seconded by Robert Knight, Motion passed 4-0.

Case #16-016

This is a request by Ms. Rebecca Rupert Orr, property owner, for approval of two variances to install a privacy fence in the front yard at 3759 Osage Street. The property is zoned R-3 Residential and is located on the southeast corner of Osage Street and Hillcrest Drive.

The applicant is proposing to construct a solid wood fence 4 feet in height located 3 feet from the rights-of-way for Osage Street and Hillcrest Drive. The proposed fence will comply with the site distance triangle. The applicant is requesting a variance of 17 feet from the minimum setback distance (the minimum setback is 20 feet according to Section 1143.07[e]). The applicant is also proposing to construct a solid wood fence 6 feet in height to be located 20 feet from the Hillcrest Drive right-of-way. The applicant is requesting a variance of 20 feet from the minimum setback (the minimum setback according to Section 1143.07[e] is 40 feet).

Ms. Orr stated I want to build a fence, as I understand it, I can put up a picket fence but instead of a picket fence, I would like to put up a solid fence. The rationale for that is I have three small children. The privacy, because it is a high foot traffic place as well as I do have dogs and so a solid fence is better in neighborhoods with dogs than picket fences because the dogs can't see through the fence so it reduces barking. The yard is a side yard so I have virtually no back yard and so the majority of my yard is on the side so to maximize the space that I have, I am hoping to be able to use a solid 4' privacy fence so that I can maximize that space as well as keep as much harmony as I can possibly can in the neighborhood. My understanding is that part of the picket fence is visibility and so the 4' fence

would not obstruct any visibility from any way, shape or form as you drive that area and there is only one stop sign, the rest is a continuous turn so there would be no obstruction from any place right there. Mr. Svasta asked to see the picture she had. Ms. Orr said there is only one stop sign and this is my house and so the only stop sign is here and people are making a right otherwise it is a continuous turn coming off of Hillcrest and a continuous turn as they are coming out of Hillcrest this way and so obviously the people coming this way would have no visibility issues because of anything here and the way that you would have to turn for here when you are making a turn, you are already able to see cars that should be stopped right here and so the people that come to this stop sign make a right make a continuous right and then the people making a left come to a complete stop. If you drive up to the stop sign, you can clearly see down the entire road and even if, and the reason I proposed three feet, is to give a little bit of easement so people who are walking their pets on the sidewalk but even if I were to put up what is allowed, a picket fence, it would be no difference in site because the picket fences, when they line up, you wouldn't have a block. Honestly, the 4' fence could be put at the right of way and there would be no obstruction. If you looked, I kind of did two lines in here and that is the picture taken from my car and my car is stopped at the stop sign at the appropriate place on the stop sign so I am proposing the blue lines versus the orange lines are at the right of way and so with that, that is the angle there is the site triangle so even if I put it at the right of way at the back of the sidewalk, you could still see it but then again, I am proposing the 3' back so clearly people can see very easily down Hillcrest there so if this was cut off, you are able to see very clearly down the road.

Mr. Knight said so basically you are talking about a 4' fence here as you outlined it, and at what point does the higher fence take over, at the building setback line? Ms. Orr said the 6' fence is 20' back on Hillcrest which is slightly in front of the setback property line but not a significant distance from there. There is a chimney in the back of my house and so the chimney would be the dividing line and my rental already has a little picket fence in the back of their yard (it is a twinplex). All of the neighborhoods are twinplexes and that was my rationale for putting in a 6' fence versus the 4' ones there just because we are a homeowner occupant versus the neighbor is not an owner occupant, and so I wanted to get a little more privacy there with 3 young kids. They are never out there alone but at the same time, it gives me a little more privacy when they are out there from the neighbors when they are out in their yard. Mr. Knight said so it is coming off this corner and this is going to be four foot all the way to here back 20' from this point from the right of way and then it goes to 6' and then comes down to this line right here and 6' to the wall. This puts it at this point and it takes a lot of area out of what you are hoping to have. Ms. Orr said we have nice established oak trees that we want to keep in the yard.

Mr. Svasta said I am not convinced that it would not impede the vision of traffic coming off of Hillcrest and making that left and the continuous turn. Mr. Knight said they are going to cut right at the corner and not make that big turn. Ms. Orr said the measurement I took was 3 feet and that triangle is probably, I realize that

the one stake sits out a little bit farther than the rest and that is probably the one you were looking at there. I believe that the site triangle I had the angle is more turned and so as people are coming here, so if they are making a left hand turn here, this car should be stopped and so by the time they are making the turn here, and even if they start coming across here and they make this turn, this car is going to be stopped right here. Mr. Knight said this is all hypothetical. Mr. Svasta said when they get to here, they are already looking to see if there is any oncoming traffic and if there isn't, they are just going to cruise right through that. I can see if you stop at the right place there is no problem but I am thinking this closing distance of where it is 25 mph, you would need that little bit of space to see if there is anybody coming on Hillcrest. Ms. Orr said my only argument would be so if this is rejected, I am going to put up a picket fence which is also going to block there and I am going to put it at the right of way which will actually truly, it is going to do the same exact thing, it is not going to change this and so that doesn't have to necessarily go through this approval process. Mr. Knight said you would be within your rights to do what the current zoning code says you can do and to be honest with you, given the configuration of this intersection, that is what I am in favor of, that you stay within the zoning code. We have no control over that and you can do that without any kind of approval from this board or anybody else as far as I know. I am not in favor of this. Ms. Orr asked so if there a distance that you would feel comfortable approving this? Mr. Knight said given the size of the setback on this street, if you projected a line from this tangent all the way through here and came to this setback which is where you are going anyways, that is what I kind of would rather see. Mr. Svasta said I was trying to see if I could come up with a way to make this work for you and I thought that if you moved this with a condition that if it does impair the vision in any way, that section has to be moved back or changed. Mr. Knight said I am not sure we can grant a conditional variance and have it built and then say, no, that is not going to work so you are going to have to take it down. I don't think we have the authority on this board to make those kinds of conditions. Mr. Franks said I didn't think that site distance would be a problem. If you are looking at the drawing here you are looking at the right of way line, not the curb line. You have a sidewalk in there with a grass berm. I didn't think it would be a concern and it is just whether or not we want that solid fence making it look like a compound. Ms. Orr said I wouldn't say a compound, I would say a 6' fence would be a compound but a solid 4' fence, if you look around the neighborhood, there are a significant amount of houses that have that solid 4' fence.

Ms. Orr said if anything, this is going to make people look and make people stop because there are people who walk their children there, not only my children, and every time I am out there with my kids, people are spiking their brakes so this is going to actually make them slow down. Mr. Knight said that is your opinion that it is going to make them slow down but there are no guarantees.

Mike Svasta asked Tony Catalano that if they approve this case as stated and it does cause problems with site distance, does the City have a way to force her to make the changes. Mr. Catalano did not believe so; it may be possible but he never heard of that. Mr. Knight said so if we grant this variance and approve it

then that is it. Mr. Catalano said I don't think we can go back and change it that now they have to change it.

First variance request to construct a solid wood fence 4 feet in height located 3 feet from the rights of way for Osage Street and Hillcrest Drive. The applicant is requesting a variance of 17 feet from the minimum setback. Motion to approve this variance by Edward Franks, seconded by Mike Svasta, motion denied 4-0.

Ms. Orr said so the worry is site distance there. Mr. Knight said yes. Ms. Orr said I am going to put it in the actual right of way. Mr. Svasta said what if a child was riding their bike down the street and it is not a car coming down Hillcrest and you don't see that person on the bike. Ms. Orr said I guess my argument is that the decision made is ultimately putting the same fence up because your visibility will still be blocked. Mr. Knight said we have no control over that. That is what is allowed by the code.

Ms. Orr asked about the variance for the 6 foot fence. Mr. Franks said they haven't voted on that yet.

Second variance request to construct a solid wood fence 6 feet in height to be located 20 feet from the Hillcrest Drive right of way. The applicant is requested a variance of 20 feet from the minimum setback (the minimum setback is 40 feet). Motion to approve this variance by Mike Svasta, seconded by Jill Smith, motion approved 3-1, (Robert Knight - no vote).

Adjournment: With no further business to be discussed, motion to adjourn by Edward Franks, seconded by Mike Svasta, meeting was adjourned at 6:46 p.m.

Robert Knight, Chairman

Mary Botts, Secretary