

## **Building and Zoning Appeals Minutes**

Stow City Hall Boards and Commissions, Monday, March 13, 2017, at 6:00 p.m.

New Member Jaime Syx sworn in by Pam Daerr

Members Present: Jaime Syx, Mike Svasta, Robert Knight, and Jill Smith

Members Absent: Edward Franks

Also Present: Carrie Wilson, Bruce Lukwinski, Jim Mullen, Todd Dye, Brian Widdows, Tony Catalano, and Pam Daerr.

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

Approval of Minutes: Motion to approve the minutes of the December 12, 2017, meeting by Mike Svasta, seconded by Jill Smith with no changes, all yeas, no nays, motion passed 4-0.

### **Case #17-001**

This is a request by Mr. James Mullen, property owner, property located at 3231 Englewood Drive, for approval of a variance in order to construct an addition to the existing attached garage on his property. The property is located on the northeast corner of Englewood Drive and Meadow Road.

The existing dwelling is located 49 feet from the Englewood Drive right of way and 20 feet from the Meadow Road right of way. The existing garage portion of the structure is located 25 feet from the Meadow Road right of way. The applicant is proposing to add onto this portion of the structure with an addition of 12 feet by 22 feet in area maintaining the 25 foot setback from Meadow Road. When completed, the structure would be located 25 feet from the Meadow Road right of way and 37 feet from the Englewood Drive right of way. The applicant is requesting a variance of 3 feet to locate the structure 37 feet from the Englewood Drive right of way and to extend existing nonconforming setback along Meadow Road. The minimum front setback in the R-2 District according to C.O.S. Section 1143.04 is 40 feet.

Mr. Mullen stated that this is exactly what was written above is what I am asking for. I would like to put in a work shop on the side of the garage. It will conform and I will try to exactly make it as close as possible as the same materials as the rest of the house so it is not going to be different on the side of the house. The only other option on the other side of the house wouldn't allow for a drive or access so I can go back and load materials or anything like that. I would have to drive across the front yard which this time of the year is not very good. I am asking for a 3' variance to the existing setback. Mr. Knight asked if there were any comments. Ms. Daerr said there were none. Ms. Smith asked would there be an initial garage door then on that part? Mr. Mullen said it is not going to be a traditional garage door but I am going to put carriage doors on it. The main reason for that is a regular garage door you have the rails on the inside so I am just trying

to use space inside. Ms. Smith said so you are not widening the driveway or anything. I am going to try to angle it into the existing driveway so I can pull up there but it is not going to be a full driveway in front of the unit. Mr. Knight said I have a question about the statement you presented where you state you are applying for a 12' variance to the current setback from Englewood Drive for a 12' addition to the existing garage for a workshop on the west side of the property and then you state "and any other variance" that may apply to the construction of the addition. Can you clarify what you may be thinking up there? Mr. Mullen said I didn't know what the setback to Meadow Drive was. It is following the existing plan in front of the garage so I didn't know exactly what would have been. Mr. Knight said the sketch shows a little more setback from Meadow while the concrete apron is about even with the front of your house currently according to your sketch. Mr. Mullen said well actually the front of the building is exactly where the front of the garage is, the existing is, and that other little piece out front would be the concrete apron out front. Mr. Knight said that is all part of the square footage in terms of the setback. It looks like you are even with the current setback off of Meadow which means you are not changing that or requesting a difference there. I got caught by "any other". Mr. Mullen said I was just making sure I didn't miss anything. Mr. Svasta said there is a 12' variance that you are asking for in your letter on the Englewood side but I am just wondering, where did you come up with the 12'? Mr. Mullen said if I measured everything right, does the right of way go from the road where the driveway starts? Mr. Svasta said that is what I thought you did, did you measure from the back of the pavement? Mr. Mullen said I did so from the back of the pavement to the existing garage is 68'. I wasn't sure where the right of way started so I didn't know where to measure from but given that the 40' setback from the right of way and not knowing where the right of way started it was kind of hard for me to get measurement properly. At the very least, the right of way has to start close to the edge of the road. Mr. Knight said not necessarily. If it is a 40' right of way and a 20' road, you are talking 12' of pavement and then another 8' to get to the right of way, 20' from the centerline in each direction. Mr. Svasta said so if this is correct, you only need a 3' variance, not a 12' variance. Mr. Svasta asked Mr. Catalano if he wanted to add anything to this. Mr. Catalano said he was in my office a month or so ago and we discussed the type of construction and the setback from Meadow Road is nonconforming and he is not encroaching any further into that setback and his house is presently sided so it would be hard to have any issue with that. Mr. Svasta asked how high is the proposed addition? Mr. Mullen said I am building it from under the eaves, right under the soffit of the existing garage which is 10' and it will angle down and will properly get a new gutter on it and everything and reroute the existing storm sewer line so instead of coming off of the house it will be coming off the addition. Mr. Knight said this is strictly a work space? Mr. Mullen said just for my tools.

Motion to approve Case #17-001 by Mike Svasta, seconded by Robert Knight, motion passed 4-0 (Edward Franks absent).

**Case #17-002**

This is a request by Mr. Brian Widdows, property owner, property located at 4330 Stow Road, for approval of a variance of 640 square feet to build/add onto the existing detached garage on his property. The property is 0.5 acres in the area and is zoned R-3.

There is currently a 912 square foot accessory structure on the property comprised of a 24' x 24' garage and a 16' x 21' attached shed. A variance was approved in 2003 (BZA#02-23) to permit this attached shed. Mr. Widdows is proposing to remove the shed portion and extend the existing garage to make the building 24' x 60'. According to C.O.S. Section 1143.07, the maximum size of accessory building(s) on this property is 800 square feet.

Mr. Widdows had previously requested a variance to construct a separate accessory building, 1,440 square feet in area, but the request was not approved (BZA#16-009).

Mr. Widdows stated I own quite a few vehicles and need more space. I would like to be able to keep those vehicles inside so the last request was for a separate building in the backyard and this request would be to extend the existing garage towards the rear of the property. Mike Svasta said he did visit the property and I noticed the grade does slope off quite a bit in the back where you are proposing to extend the garage. How did you intend to deal with that, the changing of the grade? Mr. Widdows said the foundation/footer would be step down and the foundation would lower in the back. I already spoke with a contractor. Mr. Svasta said you would be bringing the poured finished floor would be the same elevation? Mr. Knight said I did a little map and in essence, you have eliminated 336 sq. ft. by getting rid of the shed which leaves you 576 sq. ft. which leaves you the 24' x 24' that is there which is less than the 800 sq. ft. which is code compliant, but your new structure of 1440 sq. ft. exceeds the code by 640 sq. ft. which is 80% greater than what you are allowed. That is almost double for what the code allows for and I still have a problem with this particular request because this is a residential community, it is not a storage community and I still have a problem with that so I am putting it out there. Mr. Svasta said I voted against your original appeal and that case you were proposing to build the addition in your backyard and I was opposed to that because all of your neighbors would be impacted, it looks like a park-like setting and I thought that pushing that huge structure in your backyard, you would impact everyone's visual aesthetics. You can't look across and see kids playing, you would view that so I was pleased to see that you did take that into consideration for this variance in that you are just extending your existing garage and I think from the street, you wouldn't even notice the addition. I do understand what Robert is saying about the square footage and it is still going to be a big building but I think the impact is going to be a lot less than what it would have been with a separate building in someone's back yard. Mr. Widdows said I spoke with the neighbor and he did not have a problem with it in the backyard but he has a pool that he put in last year and when you are in the pool, you can see into the backyard so this size would not prevent him from seeing the woods in the backyard

where the previous one would have. Mr. Svasta asked if this was going to be the end of his additions? Mr. Widdows said it would be satisfactory going forward and would not need anything else. Ms. Smith asked how are you going to access that space? Mr. Widdows said it would be clear all the way through. Ms. Smith said between the house and the garage? Mr. Widdows said the doors on the existing garage so it would just go straight back and connect the two. Ms. Syx asked how many cars do you need to store? Mr. Widdows said I currently own eight. The garage would hold six. It currently holds two. Mr. Knight asked if they were vintage cars. Mr. Widdows said a few of them and a few are older. The rest are considered old but they are 15-20 years old.

Motion to approve Case #17-002 by Mike Svasta, seconded by Jill Smith, motion denied 2-2 ("no" votes from Robert Knight and Jaime Syx, "yes" votes by Mike Svasta and Jill Smith).

### **Case #17-003**

This is a request by Todd Dye, property owner, property located at 1625 Lillian Road for approval of two variances to construct an accessory building of 1,200 square feet on his property. The property is 0.54 acres in area and is zoned R-2.

The proposed accessory building will be 16 feet in height and 1,200 square feet in area. It will be located in the rear yard 20 feet from the side lot line and 35 feet from the rear lot line. The proposed building will be vinyl sided.

The applicant is requesting two variances: 400 feet from the C.O.S. Section 1143.07(b) (maximum size of accessory building permitted is 800 square feet); and a 1 foot variance from C.O.S. Section 1143.07(c) (maximum height of an accessory building permitted is 15 feet).

Mr. Dye said I have three kids and we have four wheelers and I also have a boat and the four wheelers and my tractor are all stored in the garage, I don't have a shed or anything. I need storage space for the four wheelers and the tractors and my boat to be able to store the boat in the winter. Basically, the height of the doors would be for the 10' boat and also I have three kids. My current garage you can only park one vehicle in there now. We are more concerned by the neighbors and here are some drawings to illustrate what the building would look like in the front and the side. Basically, the overhand that I asked for of 8' would be a porch and storing things and I probably build the same type of building as this has chairs on it and fire pit, that is basically what I want to do. Eight feet is not big enough to store anything. Mr. Knight said so the 10' garage door is to get the boat in. Mr. Dye said yes. Mr. Knight said so you would remove some trees? Mr. Dye said no. Ms. Smith said this is going right smack in the middle of the back yard. Mr. Dye said unfortunately, it has to be over 20' as there is a 20' easement on the one side. Mr. Smith said so where is that cement pad going? It is going out the front there, there is an overhang there. Mr. Dye said it will mostly be gravel for now, a single gravel drive. Mr. Knight said I have the same objection that I had in the previous case that this is a pretty good size building and again, we are a residential

community, we are not a storage shed community and we have a zoning code that says 800 sq. ft. that the elected officials set. We are residents of the city and you are asking us to, as all variances are, to deviate from what the elected officials chose to set up so like I said before, I have the same objection to just the physical size. Mr. Svasta said the existing back yards, it is a park like setting and this is a beautiful building, that is nicer than my first house, and I can see where you went to great expense to look like this, but it is such a large building, you will be affecting that openness that you enjoy right now, that your neighbors enjoy. Mr. Dye said there are trees that line the one side next to one neighbor and over here and I am totally willing to put up more trees in the back to block that as well. Mr. Svasta said it is the openness that you have right now that will be affected. You can put an 800 sq.ft. building back there and we can't stop you from doing that, that would be within code but everything beyond that, that is where we have a say. I am against this because of the size; the height and the visual impact. I would be against the 800 sq. ft. building if I can vote against it but I can't. Mr. Dye said if I end up building an 800 sq. ft. building, the boat will be parked next to it outside unfortunately. Mr. Knight said this is true but you don't have to come back to us to ask for an 800 sq. ft. building because that is within the code limits so you can put that out, we don't have any control over it. I don't know if there are any city regulations or subdivision regulations that restrict you parking the boat there for a period of time. I know in my subdivision theoretically you can't park it more than 30 days. Mr. Dye said I could put an inexpensive 24' x 32' building that is bright red barn instead of that. Mr. Knight said what I would rather have is City Council address this issue because there are so many of these coming before this group. Again, we are not elected officials, we are volunteers. We don't have an obligation to grant variances just for the sake of granting variances so we basically, I think as Mike has indicated, at least two of us, are against the size, the physical footprint of this request. Mr. Dye said I just consider the alternatives, a nice building versus an inexpensive red barn. Mr. Knight said I fully understand what you are saying, but you have to appreciate what we are saying that there is a code in the City, it doesn't meet the code.

Motion to Approve Case #17-003 by Mike Svasta, seconded by Robert Knight, motion denied 4-0.

#### **Voting of Chairman/Vice Chairman**

Motion to approve Robert Knight as Chairman, by Mike Svasta, seconded by Jill Smith, motion approved 3-0 (Mr. Knight abstained).

Motion to approve Edward Franks as Vice Chairman by Mike Svasta, seconded by Robert Knight, motion approved 4-0

Adjournment: With no further business to be discussed, motion to adjourn by Mike Svasta, seconded by Robert Knight, meeting was adjourned at 6:28 p.m.

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Robert Knight, Chairman

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Pam Daerr, Secretary