

Building and Zoning Appeals Minutes

Stow City Hall Boards and Commissions, Monday, January 8, 2018, at 6:00 p.m.

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

Members Absent: Robert Knight and Jaime Syx

Also Present: Tom and Jestein Black, Bill Whitlock (Wyoga Lake Conservation Board Member), Rob Kurtz, and Mary Botts

Meeting called to order by Edward Franks at 6:05 p.m.

Approval of Minutes: Motion to approve the minutes of the December 11, 2017, meeting by Mike Svasta, seconded by Jill Smith with no changes, all yeas, no nays, motion passed 3-0.

Case #18-001

This is a request by Mr. Thomas Black, property owner, property located at 725 Hampshire Road, for approval of a variance of 8 feet from the required minimum setback in order to expand his house. He is proposing to construct an addition (21' x 32') to the west side of his residence. The proposed expansion will be located up to the west property line. The property to the west is owned by the Wyoga Lake Conservation Association.

The property is zoned R-3 and the minimum side setback is 8 feet. The applicant is requesting a variance of 8 feet from the side setback requirement according to C.O.S. Section 1143.04.

Mr. Black stated basically the way this started was my father just passed away a couple of months ago and my mom is living down in Florida and we want to build an in-law suite attached to our home for her. We had a couple of contractors come out and look at it and after going through all the layouts with them and options, we felt that this would be our best option and almost our only option being that the east side of the home only has a 12' space within the houses. Going forward with that, it was our best option and that is the plan we came up with is to go off the west side and we are currently asking for the maximum amount on the variance which I understand is right up to the property line. Originally, we had thought that wasn't our property line so we actually had someone come out and show us where it is at. There is a lot of green space, just green grass, in between our home and right before you get to the woods, which, to my understanding, again I thought that was my property, come to find out apparently it is not, it curves a little bit back more to the right so that is why the variance we asked for comes right up to the property line, however, there will still be grass space in

between and also we are open to discussion on that. If I have to leave a foot or two just so there is some sort of boundary there, we are open to that. It was just the maximum that we had drawn up by contractors and that was for that 21 feet thinking that we had a little more than that, that being the conservation starts at the woods. I did take a picture which I did not include just for you guys to look at just as to where the woods are, you can kind of see the stake right there which is where it will come to and then you will still have 19 feet of just grass before you actually get to the woods so it is not right on the woods line or anything like that if there was any confusion. Mr. Svasta asked if he was cutting the grass. Mr. Black said all of the time because I figured it was mine and so when the contractors came over and people came over and we thought we have plenty of room over here, there is 45' up until the woods, up until I talked to Rob and a couple of other people and found out I only had the 21 feet and after talking to Rob earlier today, angles back a little bit to the 18' so that was our concern with it having some space in between for the woods and having some space leeway. I know we can go far enough south as we want, that wasn't the issue if I were to make it longer to make it go 35' or maybe 40' that is still on my property completely. The only problem with that for us is that it makes it more of a narrow space and we were trying to fit a bedroom, a living room, that sort of thing.

Mr. Franks said the 21 foot in the front of the house and you only have 18' across, Mr. Black stated so it would have to angle at the back, it would not go over the property line whatsoever which if we needed to do maybe a 20' x 17', that would be perfectly fine to leave that foot of leeway on both sides.

Mr. Franks asked Ms. Botts if she had heard from neighbors and she stated no. Mr. Whitlock, who was present and was representing the Conservation Association, stated he was there to ask a few questions and he wasn't sure if they were going to vote on it today or if this was more of an information type thing. Mr. Whitlock was hoping to get some information and he had not had a chance to talk to the rest of the Board. Mike Svasta said if you build right up to the property line, your ladder will be on someone else's property. Did you discuss an easement or something from the Conservation. Mr. Black said he thought if need be, they could if something like that came up, we would cut back a foot or two to allow for that space there. Mr. Svasta said even with the construction, you can see how the contractor would be able to get in there and work. Mr. Black said they will have the green space but technically, they would be on their property. Mr. Whitlock said if you build up to the property line there is no way they can do that without being across our property. Ms. Smith said so are you going to comment on behalf of the Conservation? Mr. Whitlock said I was just going to ask some questions. Our questions are more around equipment on our property and any potential runoff although that is going into an area that I can't picture what it looks

like when it is dry. I think it stays wet most of the time, is that correct? Mr. Black said the woods part yes but not the grass. We see water fill up in the woods but not on the grass. Another question I had was if a tree falls on someone's property, who is responsible? Mr. Kurtz said he wasn't sure what the law was. Mr. Whitlock said his concern was now their house is closer to the trees and that would obviously increase the likelihood that a tree could fall and hit it. Ms. Smith asked what do you (Conservation Association) do with that piece of property. Mr. Whitlock said nothing, we leave it wild, we are a Conservation Association. Ms. Smith asked how large the grass area was that is owned by the Association. Mr. Black said the grass area is 19.5' from where I am wanting to go and then to the street it is 80'. Ms. Smith asked if the Conservation Association would be willing to maintain their property. Mr. Whitlock said we would if we had to. Mr. Black said we moved there for the woods, we are at the lake every day and we don't want to do anything to disrupt the woods and if I have to leave some footage there, that is perfectly fine and if I could go off the other side of the house I would but this was our only option to come out of this with the many contractors. There is really no other way to do it. The kids are all in Stow and we plan on being there another 50 years and we don't want to sell to get a bigger home which may be financially better to do if we really looked at it but we love the neighborhood and area and that is why we don't want to move and get a bigger house or anything like that and don't want to disrupt the woods. The kids love having a lake and everything so anything we do is we definitely have the woods in mind first.

Mr. Franks said at the very least whatever line you can go to, all portions of the structure would have to be behind that line, the foundations, overhanging roofs, etc. Mr. Black said it will all be on my property. Basically we are only coming in an extra 3 feet from the shed. It angles back here so my property is only the top of his hill. Mr. Svasta said would the Association consider selling a strip of land eight feet wide? Mr. Whitlock said I would have to vote on it but we would absolutely consider it. That strip of land is actually not wild, it is grass. Mr. Whitlock said they would definitely be amenable. Mr. Franks asked if the Association had any other concerns about building on this property. Mr. Whitlock said we are not too worried about the runoff since it will get wet anyway, again, the other thing was equipment and workers on our land, we would have some kind of permission. Mr. Franks said you can get a temporary work easement. Mr. Kurtz said that would not be typical for a permit because we obtain those when we do work (the City) and we certainly can assist in the form that the Association needs to give you permission and your employees to work on that property and restore it. Mr. Black said you wouldn't even have to ask for a variance if it is an 8' setback, and you are using a 32' ladder and that can easily fall and crack a neighbors window, whose fault is that, it would be mine anyway or the contractor so they would have some sort of insurance or reassurance

that the property would be put back to look the exact way it was. Mr. Whitlock said if something would happen we would want our legal fees taken care of.

Mr. Franks said he really liked the idea of the Association selling you the 8 feet of property and we would no longer have a variance and it would be yours for life but we aren't here to act on that, I don't know if that can be considered. Mr. Black said that would be a consideration, to purchase land up to the woods, that would definitely save me a lot of headaches. I could go a full 21' and I would still have the 8'. Mr. Whitlock said and we would not sell for what a full lot would sell for. Mr. Black said if that were the case and I owned that land, would I need to be back here for a meeting. Mr. Franks said no, you could build up to that. Mr. Franks said let me ask you a question then, do you want to wait and postpone this case until you can have the opportunity to talk to the Conservation Association about a purchase? Mr. Black said I think so. If I wasn't able to work something out for whatever reason, can I come back? Mr. Franks said we would table it. Mr. Black said would I have to wait until the February meeting? Mr. Black said we aren't in a rush but we would like to get something a little finalized. Mr. Franks said we could ask for a special meeting. Mr. Franks said we have held special meetings outside our normal ones. Ms. Black said our only concern is our mother has nowhere to go.

Mr. Kurtz said he would have to get a surveyor to draw up the lot and have lot descriptions drawn up. Once that is submitted to the Engineering Department, they will make sure the property closes and then deeds are drawn up and need to be stamped by the City Engineer, taken down to the County for recording, and once that is recorded, you can submit the building plans.

Motion to Table Case #18-001 until we hear back from the Appellate by Mike Svasta, seconded by Jill Smith, motion passed 3-0

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

Edward Franks, Vice Chairman

Mary Botts, Secretary