

BLUE ASH BOARD OF ZONING APPEALS

December 10, 2007

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ITEM 1. – MEETING CALLED TO ORDER

Chairman Paul Collett called the regular meeting of the Board of Zoning Appeals to order at 7:00 p.m. on Monday, December 10, 2007.

MEMBERS PRESENT: Paul Collett, Jr., Julie Brook, Tom Adamec, John Berry and Marc Sirkin

ALSO PRESENT: Assistant Community Development Director Dan Johnson, Administrative Clerk Traci Smith and interested citizens

ITEM 2. – APPROVAL OF MINUTES

The Board waived the reading of the minutes of November 13, 2007.

DECISION: John Berry moved, Tom Adamec seconded the motion to approve the regular meeting minutes of November 13, 2007. A voice vote was taken. All members present voted aye. Motion carried.

ITEM 3. – 3599 Lobelia Drive – Michael T. Crowe, Jr.

Appeal to allow an accessory building with a setback less than five feet from the property line

PRESENT: Michael Crowe, Appellant

Chairman Paul Collett swore in those wishing to testify and gave a brief overview of the Board of Zoning Appeals.

Michael Crowe said he is not sure of the exact setback of his accessory building, but it is possibly too close to the property line. He would like to be granted a variance to leave the building in the current position. Mr. Crowe said he used the retaining wall as the property line to take his measurements and built his building 5-feet from that point. Dan Johnson advised the Board that the City received a complaint from a neighbor that it was too close to the property line. Mr. Johnson inspected and was unable to determine the location of the property line. He noted that if the property line was half way between the neighbor's retaining wall and Mr. Crowe's fence, then the building is approximately 4 feet from the property line. Mr. Johnson said Mr. Crowe could actually be meeting the setback requirement but there is not a survey to confirm since the City does not require a survey for this type of work. Paul Collett asked Mr. Crowe if the 5-foot setback requirement was clear to him when he applied for the permit. Mr. Crowe said he understood the rule and, from what he thought is the property line, he is actually over the 5-feet. Joe Puccini said he built the retaining wall approximately 45 years ago close to the property line, but not on it. Paul Collett asked about a survey stake and Mr. Crowe said he was unable to locate any.

Paul Collett asked Mr. Crowe what the intention was for this building. Mr. Crowe said he needed additional storage for a riding mower and other yard equipment. Mr. Crowe said this area was overgrown and thought it was a perfect spot for this type of building. He cleaned up the area and removed three trees. Mr. Collett said he assumed Mr. Crowe wanted this building to be as far away from the house as possible. Mr. Crowe said that area was not the most desirable area on his property and just felt it was the

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right spot for this type of building. Mr. Collett said he appreciates that it was the least attractive segment of the property and building something there may have been a good place to put it. The purpose of the Code is to keep away from adjacent properties as much as possible. Mr. Collett said he is trying to make as clear as possible that Mr. Crowe chose that spot for a reason and because it was overgrown by brush makes it a better place, but the Code must be respected.

Julie Brook asked how far the building is from meeting the required setback. Dan Johnson said about a foot at most. Ms. Brook asked Michael Crowe how much investment the applicant has in the project and what it would cost to move. Mr. Crowe said he has approximately \$2,000.00 and he would have to take apart to move the 1-foot, which would essentially be starting over. Paul Collett asked if there were any comments from the public.

Rick West said he lives behind the applicant and can see the building from his back yard. Mr. West said there is nothing unappealing about this structure at all. Mr. West noted that he thought the accessory building is in an appropriate location in the yard. Mr. Crowe presented a letter of support from another neighbor who was unable to attend.

John Berry asked about the appearance of the finished product. Mr. Crowe presented an updated picture to the Board. The only thing left to do is to shingle the roof and put a sliding door on. It will be painted a neutral color.

Paul Collett said that if this would have come before the Board prior to construction that he would not have voted to approve it. He said a smaller building could have been constructed or he could have complied with the setbacks. The burden upon the Board is to find an unusual circumstance to grant a variance. The only circumstance he can find with this appeal is that construction has already begun.

John Berry said that the appellant should have done a survey since he did not know the property line location exactly. Marc Sirkin said 1-foot does not make any difference to him, especially how this property is laid out. To make him have to take apart and move the structure is above and beyond reason.

As there were no further questions Chairman Paul Collett closed the public hearing portion of the meeting.

John Berry commented that it appears the majority of the neighborhood has no problem with what is being done and does not feel this was intentional. Tom Adamec said he would have a problem if the neighbors that it affects had a problem.

DECISION: Marc Sirkin moved, John Berry seconded to grant a variance to Michael T. Crowe, Jr. at 3599 Lobelia Drive to allow continued construction of an accessory building with a reduced setback from the west side of the property at the location it is presently being built. A roll call vote was taken. All members present voted aye. Motion carried.

ITEM 4. – MISCELLANEOUS BUSINESS

Dan Johnson informed the Board that the gravel driveway on Brasher will be complete by May 15, 2008 and the second entrance will be removed.

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Marc Sirkin asked if a motion gets voted down, does a new motion need to be made. John Berry said the first motion dies so another one would need to be made to disapprove. Just because a motion fails, the implied opposite is not approved.

ITEM 5. – ADJOURNMENT

DECISION: There being no further business, John Berry moved, Marc Sirkin seconded to adjourn the meeting. A voice vote was taken. All members present voted aye. The meeting was adjourned at 7:34 p.m.

Paul Collett, Jr., Chairman

MINUTES RECORDED BY:

Traci Smith, Administrative Clerk