

Franklin Township, Portage County  
Board of Zoning Appeals  
March 11, 2019

Present: Chair David Hansford, Marilyn Sessions, Glenn Russell, Justin Money Penny, and Alternate Jim Henry; Board Members Sam Abell, Zoning Inspector; Joe Ciccozzi, Assistant Zoning Inspector, and Jenny August, Administrative Assistant.

Mr. Hansford called the Board of Zoning Appeals meeting to order at 7:00 p.m. He introduced the Board Members and explained the procedures for the meeting.

**7:00 Hearing:**

At 7:00 p.m. an application by Christine McMullen, 1804 Merrill Rd. Kent OH for the property located at 1804 Merrill Rd. Kent OH (parcel number 12-034-00-019-000) was heard for variances to section 301.04.C.1 which requires the principal building to have a minimum side yard setback of twenty-five (25) feet, section 405.06.A.2.a which limits the aggregate gross floor area of accessory buildings to 768 square feet and section 405.06.A.8 which requires an accessory building to have a minimum side yard setback of ten (10) feet. The applicant has an existing principal building with a side yard setback of 3", existing accessory buildings with an aggregate gross floor area of 971 square feet including an existing accessory building that has a side yard setback of 6' 4". This hearing was a continuation from February 12, 2018.

Mr. Hansford asked who is here to speak to this tonight.

Mr. John Wyatt of 3476 Marcel Ave. Stow was sworn in. He stated that Mrs. McMullen's property was built 3" from his property line in 1895. The west side of the house is facing his property, and is getting all of the weather. It is impossible to maintain without going on his property. He is not granting permission for them to go on his property to perform any maintenance. They have been quarrelling about her garage that is grossly on his property. His suggestion to resolve this feud is to do a land trade. He would give them 17 feet next to their house if they would give him the back half of their property. That would stop the quarrelling and put everything legal. Then their children and his children would not have this problem. He has proper surveys that show where his property lines are.

Mr. Hansford said that at one time there were two surveys that did not agree. He wondered if that had been resolved. Mr. Hansford reminded Mr. Wyatt that we are here to deal with variances, not property lines.

Mrs. Christina McMullen of 1804 Merrill Rd was sworn in. She said due to this complicated situation, she is still working with her legal counsel on how they will move forward. She does not have any solutions at this time, but will discuss Mr. Wyatt's proposal with her attorney.

Mr. Abell said the McMullen lot is already undersized. Giving too much property away would be a self-inflicted hardship. He did not think he could sign a mylar if the lot was reduced.

Mr. Henry asked if the 17 square foot strip Mr. Wyatt is offering is the same area as what he wants in the back. Mr. Wyatt said the land he proposes trading for in the back area is larger than 17 sq. feet.

The Board said they would like to see everything resolved before they can consider a variance.

Mr. Henry asked if Mrs. McMullen has a copy of the other survey. Mrs. McMullen shared a copy of the 17 foot tract that was purchased by the person who owned her property at the time, G.S. Smith. This is a copy of a 1966 survey that she got from the Portage County Recorder's office. Then in 1973, G.S. Smith bought the neighboring property that Mr. Wyatt now owns. With the new piece of property, G.S. Smith had her side setback requirements. In 1976, she transferred the 17 foot tract from her parcel to his parcel. Later, she passed away and it was left to her daughter. That is when all of this started. Mr. Wyatt said Christine's mom bought the property at a Sheriff's sale as is, and then quit claimed it to Christine. He has a warranted deed and a title search.

Mrs. Rachel Wyatt of 3476 Marcel Ave. Stow was sworn in. She asked for clarification of what information the Board was waiting for when they granted a continuation one year ago. Mr. Hansford said the Board had conflicting surveys. Mrs. Wyatt said her husband has the most recent survey, which was from 2010. Mr. Hansford said we are waiting for Mrs. McMullen's attorney to prepare their side of the argument. Mrs. Wyatt said the minutes from the Feb. 12, 2018 minutes on page 4 of 6 states that after Mrs. Garnet had passed away, a 1976 survey was done splitting the parcel. How could this be because she passed away in 1983? The Board said it still means that we have conflicting surveys. Mrs. Wyatt requested an audio copy of the Feb. 2018 BZA meeting. Mr. Moneypenny asked if any hardships are being created by continuing this hearing. Mr. Wyatt said yes, he is unable to use his property.

Mrs. Wyatt said per the Franklin Township Exterior Maintenance resolution, the garage that is owned by Mrs. McMullen that sits on John Wyatt's property is in violation. Who is documenting these violations and who is enforcing the Exterior Maintenance resolution?

Mr. Abell said in his opinion, this Board has no authority to resolve the issue about the garage being on Mr. Wyatt's property. This is a trespass issue that must be resolved before the Board can rule. Mr. Henry informed Mrs. McMullen that the surveys are a conflict and needs resolved as quickly as possible.

Mr. Hansford closed public comment.

Mr. Russell moved to table these issues to be resolved within the 2019 calendar year, with a seconded by Mr. Henry. All Board members voted yes. The variance request is continued.

**Approval of Minutes:** Mr. Hansford moved to approve the minutes as presented from the January 14, 2019 meeting. Mr. Moneypenny seconded the motion. All Board members voted yes except Mr. Henry, who abstained. The meeting minutes were approved.

**Next Meeting:** The next meeting is scheduled for April 8, 2019 at 7:00 p.m.

**Adjournment:** The meeting was adjourned at 8:08 pm

Respectfully submitted,

Jenny August  
Administrative Assistant  
Board of Zoning Appeals

Approved as submitted:

---

Chairperson, David Hansford

Approved as amended:

---

Chairperson, David Hansford