

Minutes of the Zoning Board of Appeals
Sheffield Lake, Ohio
January 18, 2012

The regular meeting of the Zoning Board of Appeals was held Wednesday, January 18, 2012. Chairwoman Jancura called the meeting to order at 7:05 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Tatter, McClelland, Rinderknecht, Kovach, Building Inspector Wiblin

Attending: Mayor Bring, Law Director Graves, Councilwoman Belaska, Planning; Guenther, Civil Service Commission; Huffman, Concerned Citizens

Mayor Bring swore in Diane Jancura, Ken Tatter and Miles McClelland for service to the Zoning Board of Appeals for the City of Sheffield Lake.

*Motion by Tatter/Second by Rinderknecht to nominate Diane Jancura for Chairperson of the Zoning Board of Appeals. Yeas All.

Law Director Graves called for point of order and advised as everyone is probably aware the newest member of the Board spoke at length during the last meeting on this issue and he is one of the affected property owners. As such he would have conflict in voting on any or even participating in any discussions of this issue and I would advise that he would even refrain from voting on the approval of the minutes from the last meeting since a large portion of those are his comments.

MINUTES: *Motion by Tatter/Second by McClelland to approve the minutes of the Zoning Board of Appeals meeting of November 16, 2011 with noted correction on page 13. Yeas – Jancura, Tatter, McClelland.

CORRESPONDENCE: None.

PRESENTATIONS: None.

OLD BUSINESS:

- a.) *Dearborn Land Investment; Dollar General* – **TABLED.** *Motion by Tatter/Second by McClelland to untable. Yeas – Jancura, Tatter, McClelland. Member Tatter advised I put something to paper and I just felt that I should justify why I made the motion to table. I gave a copy to everyone here on the Board and also City Officials. Member Tatter read his statement into the record; “My interpretation of the relevant zoning code

section is that providing that the Board review and approve the rear set-back line, the spirit and intent of this provision was meant to provide an additional layer of protection from undue hardship to the affected homeowners. It has been brought to my attention that there is a claim that the parcel in question was once zoned residential and that the commercial zoning was subject to certain restrictions. One of the alleged restrictions that if the parcel was not developed within a certain time period the zoning would revert to residential. In keeping with the spirit and intent of the zoning code, it is my decision to provide additional time for the homeowners to give them a reasonable opportunity to show proof that the parcel is no longer zoned commercial. Furthermore section 1115.06 provides that in the event of exceptional circumstances where the strict application of any provision of zoning would result in exceptional, practical, undue hardship to any property owner the Zoning Board may interpret the zoning code so as to relieve such hardship provided the Board's interpretation remains in harmony with the general purpose and intent of the zoning code. As noted above in this instance because the zoning code requires the Zoning Board to review the rear setback line notwithstanding that all others zoning requirements have been met. My interpretation of this provision is that the general purpose and intent was to provide additional protection to adjacent property owners that may be negatively affected by the commercial development. I would ask that while we wait confirmation that the property is still in fact zoned commercial, that the city Law Director review the applicable code to determine if it is within the scope of this Board's power to deny a permit for construction if such construction will cause undue hardship to adjacent homeowners". Member McClelland advised my notes from the last time, I have a note saying that the relevant ordinance is conflicted in a sense that you can interpret it 2 ways and that seems to be a problem but in my head you interpret it to best serve the residents in the community. I think the residents in the community have spoken pretty loudly. Chairperson Jancura advised I also have looked into the applicable code section and I agree, it is ambiguous and my feeling there has to be a reason why they wrote the code section in such a way that for a rear-yard setback it comes before us that it seems such a technical thing that can be complied with but why do you still have to come before us. Especially we are not talking a residential district or a variance; this is a business that is touching a residential district. So it seemed that the intent of when the code was written regardless of its ambiguity they wanted somebody within the government of the city to have some say-so as to what kind of business is going to be operating that touches a residential district. This is a really important piece of land because it not only touches a residential district but it is lakefront and that is what our city is known for – we are Sheffield Lake, we are on the lake. I think we have

very reasonable grounds to take a very careful scrutiny look at what is going to go on with this building and how it is going to affect so many property owners and the city as a whole. Especially when we already have a Dollar General in an appropriate area, it does well and then we have this totally different business popping up on the lake. I might quite comment that I have been on the Board when the Bi-Rite reopened; there were no objections to this extent. There were concerns, people came in and we addressed them and the Bi-Rite is doing well. Other businesses had to open, needed a variance but this is the biggest and most objectionable business that has opened. I have been on the Board now for 8 years and I have never seen a meeting that heated. That really means something and it wasn't just the affected property owners – there were a lot of other people. So I think this is really something that we need to take a harsh look at. It may cause some defense on Mr. Graves end in terms of the appeals if we deny but that is what he is there for. Law Director Graves advised I would like to provide the Board with a copy, I did review Mr. Tatters memo and was able to quickly run downstairs – this is actually the ordinance that rezoned the property from residential to commercial in 1969 and there is no provision on this which would provide for it to revert to residential if it wasn't developed. That is the actual zoning ordinance. Chairperson Jancura stated this appears to be very much spot zoning in terms of ordinance. Law Director Graves concurred as with many other areas in the city, there was probably someone that wanted to develop and filed the petition and the city went ahead and granted back in that time. Then for one reason or another it never was developed. Chairperson Jancura advised I think we have resolved that it is commercial and that it continues to be commercial. *Motion by Tatter/Second by Jancura to **TABLE**. Yeas – Jancura, Tatter, McClelland. Chairperson Jancura advised this matter is **TABLED** until our regularly February meeting at which time we will vote on it.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by McClelland/Second by Tatter to adjourn at 7:35 pm. Yeas All.

CLERK OF COMMITTEE AFFIRMATION: This Meeting Of The City Committee Of The City of Sheffield Lake, Ohio Was Held and Conducted Under All Rules and Regulations Governing The Sunshine Laws Of The State Of Ohio As They May Apply. All meetings are recorded and available in council's office.

CLERK OF COUNCIL

Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Committee
Of Sheffield Lake DO HEREBY CERTIFY that this
Is a true and exact copy of the Minutes of the
Zoning Board of Appeals meeting of January 18, 2012.

CHAIRMAN OF COMMITTEE

Diana Jancura

PRESIDENT OF COUNCIL

Edward R Podmanik

And/or

COUNCIL PRO TEM

Rick Rosso