

Minutes of the Zoning Board of Appeals
Sheffield Lake, Ohio
April 20, 2011

The regular meeting of the Zoning Board of Appeals was held Wednesday, April 20, 2011. Chairwoman Jancura called the meeting to order at 7 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Tatter, McClelland, Kovach

Attending: Building Inspector Nemec

Minutes: *Motion by Tatter/Second by McClelland to approve the minutes of the Zoning Board of Appeals meeting of November 17, 2010 as presented. Yeas All.

PRESENTATIONS: *Mark and Barbara Valponi represented by David Gill of Gill Construction.* This is for an area variance that would grant 10-foot variance to their side-yards. Building Inspector Nemec presented Mr. Gill is requesting a variance of 10-foot and per the code section 1133.07 states every single building should have 2 side-yards combined with both to be not less than 30-feet and not less than 10-feet in width from the lesser of the one. On his drawings he is requiring a 10-foot variance on the east side/side lot of the structure. When he does meet the 10-foot side yard on the east side but on the west side where he needs to have 20, he is requiring a 10-foot variance because he does not meet that qualification.

Chairperson Jancura swore in Mr. & Mrs. Valponi and also Representative David Gill. Mr. David Gill is the representative of Mark and Barbera Valponi on this variance, he is the builder. Mrs. Barbera Valponi and Mr. Mark Valponi are owners of the property.

Chairperson Jancura advised applicants of the procedure for granting a variance. You need to demonstrate to the Board that there is a practical difficulty existing on the land that would give us grounds to grant the variance. There is case law that guides through factors to consider when granting this variance. Basically what does constitute a practical difficulty and the reason why I am stating this I hope our questions don't frustrate you. We just need to get onto the record, the Board is quasi judicial in as much as this is really an evidentiary hearing – that there is enough evidence that we grant or deny this variance. So our questions are really meant to give us as much information as possible to make a sound decision on granting the variance. So please don't take any of these questions as frustrating or irritating.

Chairperson Jancura asked are there any special circumstances that exist on the land itself: ie; is it in regular shape; narrow, shallow or extremely steep that causes a practical difficulty to build? Builder David Gill answered yes there is, when the

original split of this property was formed to meet the old zoning – there is a pinch point that is in an area which the area where the house would be built in order to keep the confirmation from the street scape, to keep the view for the neighbors. There is a pinch point on this property of roughly 10-feet less than the front and the back of the property right where the house would most likely be built, in order to keep the view. So there is a pinch point there of 10-feet that forces this question or the variance? Chairperson Jancura asked is there any issues with the width of the lot? Builder David Gill answered no I think the width right now conforms to zoning. Chairperson Jancura stated okay but in terms of is it narrower or wider or as wide as other lots in the area? Builder David Gill answered it is a lot narrower. Chairperson Jancura asked do you know, was this an original lot or was it split off from another parcel? Builder David Gill answered this lot got split off from a fairly sizable piece of property to the west. Building Inspector Nemec asked was there ever any other structure on the property ever? Builder David Gill answered not that we are aware of. Building Inspector Nemec asked there was never no primary structure on the property. Builder David Gill answered not that I am aware of, no. This at one time would have been the easterly side yard of the original lot. Member Tatter asked can you tell me who owns – you said the easterly lot? Builder David Gill answered this was the easterly side yard of the original lot. Member Tatter asked who owns the westerly lot than and who split it? Builder David Gill answered Dominic Gorreno and his wife currently own the westerly lot. Member Tatter stated that is this large existing 1 story frame residence identified on your lot plan? Builder David Gill explained those 2 parcels were split in 2004 and at that time they were owned by the same individual, a man named St. James. Member Tatter advised I would like to point out Madam Chairperson the last 3 digits of that parcel number identified – is that the original parcel number 021 because I could not find that anywhere? Chairperson Jancura answered that would be the parent, they call it the parent or the mother lot. Member Tatter asked so that is no longer in existence? Chairperson Jancura answered that parcel number doesn't exist, it got a new number when it was split. Member Tatter asked Mr. Gill, exhibit A shows the house located very near the top of the bank. It almost looks like it would be within 5-foot of the top of the bank, that is the one closer to the lake. Builder David Gill answered yes. Member Tatter asked would that require any additional footings or any additional expense in providing a safe and sound structure as opposed to exhibit B which is further from the bank? Builder David Gill explained yes, I mean any time you would build – the code is you would need to be 35-feet from the bottom of the bank which we would meet that but of course building that close there is always the inherent dangers of erosion structures as you are saying. That is one of the reasons why we are asking to pull it forward by the pinch point. Member Tatter stated because view in and of itself is not any type of hardship whatsoever. View is never considered for a variance or in building, you are only guaranteed what your lot lines allow and not what your neighbors do as far as blocking east or

westerly views. I don't know if you are aware of that but view does not enter into this for any form of a hardship consideration. By the way I learned that the hard way. Chairperson Jancura asked in being up the lake view, do other homes situated along your lake line have a view of the lake, is anybody blocking anybody else? Builder David Gill answered currently yes, if there was a street scape done that would show an aerial and I have actually one that I got from the county records. It shows the houses right now are semi-lined up, where they are obstructing – probably the biggest thing is the value. I understand the view but the value of the property is the view on the lake. Member Tatter stated I will differ with you there, I am a lakefront owner whose neighbor put his house right on top of the bank and view – although it was a consideration to one of our neighbors, was not a consideration for anything as far as building goes and that is case law. Chairperson Jancura explained we can consider whether the character of the neighborhood would be substantially altered or whether adjoining properties suffer a substantial detriment. So if you build your house under proposed exhibit A - you would, you would change the character and you would block people's views and obviously adjoining properties would suffer a detriment. Builder David Gill advised exhibit A really becomes a huge structural building problem. Chairperson Jancura stated I would also like to ask because I am a car woman, so you have a nice 3-car garage proposed here correct? Builder David Gill answered yes. Chairperson Jancura asked is there under exhibit A proposal – is there enough room to turn a car in a driveway to get into a garage with that garage being kind of catty-rumpus? Builder David Gill answered it would be an extremely, extremely stuff navigation point – yes. Chairperson Jancura stated that is a bad turn because you couldn't just drive into it, you would have to wiggle your way into it. Builder David Gill stated he might have to sell his pick-up truck in order to do it. Chairperson Jancura answered oh no, so we have another practical difficulty in terms of the 3-car garage. Now in terms of your vehicles, we have a pick-up and Mrs. Valponi – you probably have a car? Mrs. Valponi answered I have a car. Chairperson Jancura stated and Mr. Valponi you probably have a regular car? Mr. Valponi answered we do have 2 cars, I have a regular sedan but my wife has an SUV which I think would have trouble navigating the garage in exhibit A. Chairperson Jancura asked do you have a 3rd car or what would you use the 3rd area for? Mr. Valponi answered either a 3rd car or storage. Chairperson Jancura asked did you know the property had this restriction on it when you bought the land, in terms of the side yards and all this? Mr. Valponi answered I knew that there was a pinch point but I did not realize what the side yard variance requirements were going to be. Chairperson Jancura asked do you think the variance would adversely affect the delivery of governmental services such as water, sewer or trash pick-up? Builder David Gill answered no. Member McClelland stated I am just looking at it in terms of common sense but my house is on the lake too and I get it about getting too close because we have a wall. You are telling that that is not a consideration here.

Chairperson Jancura answered I will argue that it is a consideration because it does change the character of the neighborhood and the adjoining properties are suffered substantial detriment. They lose their view of the lake, why else would you live on the lake but for the view. You can't live because you like the wind unless you put a turbine up. Member Tatter stated I am only telling you of the variance that was previously denied for the very reason of view, view is not a consideration. Building Inspector Nemec asked exhibit A where you are going to be close to the bank and you are going to need more structural means for the house structure, how much more in extra structural integrity are we talking – 5, 10, 15 thousand? Builder David Gill answered I would say in excess of 50,000. Building Inspector Nemec stated 50 additional thousand if it is put within requirements as it sits in exhibit A because you meet variance. You are talking another additional 50,000 to make it structural sound. Builder David Gill answered yes because it wouldn't be just the structure, you would have to be able to hold the property in the current state because you couldn't afford to lose an inch at that point. Building Inspector Nemec stated so that is an additional 50 on his proposed value already. Builder David Gill answered correct, yes sir. Member Tatter stated just to be clear, with the variance granted you will be building a house as shown in exhibit B? Builder David Gill answered yes sir. Chairperson Jancura asked if we grant the variance as applied for, you would be getting a 10-foot variance for your side yard requirements because you will have 2-10 feet side yards and we require at least 30 feet combined. So you will only have 20 feet combined, so we are giving you 10-feet for your variance. Builder David Gill answered yes. Building Inspector Nemec asked you fell that that is plenty of accessibility for maneuverability for any vehicle? Builder David Gill answered when you square up the property, there is 2 parts to that – if we are able to pull it forward and get the variance, we are able to go parallel with the side property line which doesn't give you a negative break or a negative angle to come in and out of. It is not just moving it up, it is being able to turn it parallel with the property. Building Inspector Nemec asked even with vehicles, what happens if the owners decide to buy a camper or a boat and they want to put it in that driveway as well? Builder David Gill answered than they are going to have to consider that before they buy it. Member McClelland asked I am wondering how the owners to the west, what their feeling is? Building Inspector Nemec asked how far does that west home from the property line? Builder David Gill answered I am going to give the practical view – we are only asking for a 10-foot variance, understanding that we can have 10-foot on the west side or 10-foot on the east side with a combination of 30. So we can choose whether we want 10-foot on the east and 20-foot on the west. So as long as we are within that 10-foot on either side, it really doesn't impact them anymore than it could if I flip the house around. If you kind of understand what I am trying to say. I think the impact would be if we were asking for 20-foot where we would be squeezing into that 5-foot and then at that point there would be other things to consider.

Robert Uecker advised my wife Carol and I own the property to the east of where exhibit B is proposed. **Chairperson Jancura swore in Mr. Uecker for testimony.** Mr. Uecker stated I have talked with Gill Construction a little bit about it and went over this layout of exhibit A/exhibit B. Exhibit B obviously seems the most logical way to go with this and the floor plan of the house looks perfect, everything looks really, really good – it would be a nice addition to our neighborhood. At the pinch point where they are looking at building this creates a nice lineup of all the houses over there. There is 5 houses existing now that have followed a nice uniform line along the lake and everybody has a substantial amount of money invested in their houses over there. This would be a great addition to the neighborhood. No objections at all.

Member Tatter advised I would just like to point out at an additional costs to \$50,000.00 and even with that reinforcement, if we denied the variance and they would be forced to go into exhibit A I think it would probably cause a practical difficulty hardship because of not only the additional costs but the potential for future erosion causing problems to the foundation of the property. So I think that exhibit B should be granted – the variance.

Chairperson Jancura advised this is a vote on the granting of the variance as presented which would be a 10-foot variance deviating from the 30-foot side yard requirement. (The proposal being 10-feet and 10-feet). Building Inspector Nemec stated that is what he is going to have to stick with because then he is going into a residential code of Ohio's side lines – he can't be so many feet from a lot line.

Chairperson Jancura stated so it is going to have to be 10-feet each side yard which is 10-feet less than the required 30 feet total. Member Tatter asked so we will be granting the 10-foot variance on one side, east or west? Chairperson Jancura stated it looks like we will be granting it on the east side for 10-feet. Member Tatter voted yes. Member McClelland voted yes. Chairperson Jancura voted yes. All yeas – for a 10-foot on the east side. Building Inspector Nemec advised you have been granted the variance and you have 90 days. Chairperson Jancura advised your variance is granted, you must pull the permit for building within 90 days from today. Building Inspector Nemec advised failure to do so, you would be null and void of your variance. Chairperson Jancura advised we cannot reconsider it, we granted the variance and so if you let this go you would have to go to the court system. You have a long time to build but pull the permit.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Tatter/Second by McClelland to adjourn at 7:34 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

CHAIRMAN OF COMMITTEE

Diana Jancura

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 April 20,
2011.

PRESIDENT OF COUNCIL

Edward R Podmanik