

Minutes of the Zoning Board of Appeals
Sheffield Lake, Ohio
November 16, 2011

The regular meeting of the Zoning Board of Appeals was held Wednesday, November 16, 2011. Chairwoman Jancura called the meeting to order at 7:05 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Tatter, McClelland, Kovach
Attending: Council Members; Bring, Rosso, Stark, Elliott, Law Director Graves, Building Inspector Nemecek, Planning Commission; Chairman Scott Jancura and Member Debbie Belaska, Former Planning Commission Chairperson Sara Duff, Concerned Citizens, Members of the Media

Minutes: *Motion by Tatter/Second by McClelland to approve the minutes of the Zoning Board of Appeals meeting of August 30, 2011 as presented. Yeas All.

PRESENTATIONS: Chairperson Jancura advised this being a very unique kind of matter and we have a large group of people who would like to speak to the Board. There is a requirement that anyone who makes a statement before this Board needs to be sworn in. So in the essence of time, anyone who wants to make a statement to this Board could you please stand up at this time and raise your hand. Chairperson Jancura swore in the audience enmass for following testimony. She also advised for procedure when you come to the podium if you could please state your name and address for the record. Chairperson Jancura explained this is a very unusual application, the purpose of this Board on a typical application is to grant or deny a variance which is a deviation from the code whether it is they don't meet the side yard, rear yard or other area variance or a use requirement. The application before us which is made by Dearborn Land Investment is merely made to satisfy a requirement of Sheffield Lake ordinance#1139 which relates to when a B-1 or B-2 building which is a commercial building is proposed to be built on a lot that abuts a residential district, under the ordinance the applicant has to submit an application to the Board just for the approval of the size and the location of the building. We are not here to approve the use, the actual business itself – we are just here for the technical requirements of the building itself and the lot itself. Again I want to state we cannot say we don't want this business in our city, that is not what we are here for. With that in mind you all have your right to state for the record your feelings for the business and I will give you all an opportunity to do that but in terms of what we are voting on – again we are not voting on whether we want this business in our city, we are bound to just what the code tells us to do which the code is made by City Council.

Todd Hunt, Attorney for Dearborn Land Investment and also Zaremba Land Development LLC – Attorney Hunt advised they have an option on the property to purchase it for this Dollar General store and I guess the first thing I would like to say is this is a permitted B-2 use as you have said and this application meets all of the zoning regulations in the zoning code. Originally it was proposed that we had to somehow meet section 1139.06 provision which is un-lettered and un-numbered which does not apply to the B-2 district but is applicable to the B-1 district. If you look at the yard regulations in the B-2 district – those are in 1141.05 you will not find that magic language upon which you are hanging your jurisdiction this evening which is in the B-1 code at 1139.06. I would submit that that language in 1139.06 does not apply to any particular yard – it simply applies to a business that is on a corner lot or proposed to be on a corner lot that borders on a residential district and relates to size and location of the building and not a yard. So therefore I would submit that you do not have any jurisdiction to review this and we should be issued a building permit or my client should be issued a building permit. So with that I would register that objection to moving forward but we are certainly willing to make a presentation to the Board. Chairperson Jancura recognized the objection and disagreed. Law Director Graves advised if you would review, this property is zoned B-2 – if you would review chapter 1141 the requirements on a B-2 district mirror those of a B-1 district. It is the opinion of the Chief Building Official of the City and the Building Inspector of the City and also myself that any building within a B-2 district would have to meet the same requirements as a B-1 so that even though it is under 1141 it would have to meet that requirement of 1139.06c. Attorney Hunt advised we don't agree with that as I have stated. Nevertheless we will make a presentation to you this evening reserving the right to continue this objection at a later point, to appeal that interpretation but we will move forward this evening. I think as you have said Madam Chair there is nothing that you as a Board can do to disapprove of this particular use. If you proceed under this provision which we of course object to this is only a matter of site planning and I have with me this evening John Wojtila who is a certified engineer with the Zaremba Land Development Group and also the Architect Michael Rabino on this project from GPD Group which is a pretty well known architectural firm in Northeastern Ohio and they will make the presentation to you as to what is going on here. **Mr. John Wojtila** advised I work the Zaremba Group and I am a civil engineer and I am the project manager for Zaremba Group working on this project. Now Zaremba is a real estate development company headquartered in Lakewood and in addition to developing our company owned projects we also develop projects for individual clients who will own and operate their project and that is the case tonight. We are here as representative and agent for Dollar General Corporation where they will ultimately own the property and operate the property should it go forward. A little bit of background on our relationship with Dollar General we are currently working in 8 different states for Dollar General

Corporation. We have completed 16 projects in the last year for Dollar General, stores that have actually opened and we are actively working on 40 more locations for Dollar General again in those 8 different states throughout the country. Dollar General is focusing on the development of its free-standing stores and as I mentioned earlier they will own the land and they are making a big effort to improve the interior appearance through enhanced graphics and store layouts. Their motto is simple – today's neighborhood general store serving the needs of its customers every day by providing convenience, quality and service. The project location that we are here for tonight is located on the south side of Lake Road between Harris Road and Robinwood Avenue. To the south is Tennyson Avenue which is un-improved and also the right of way that extends beyond that. The property area is approximately 1.09 acres. As Mr. Hunt stated earlier we fully comply with chapter 1139 and specifically areas related to the size, the lot coverage and the yards. Since the provision that we are here for tonight talks about the yards I would like to focus a little bit on that from a zoning code standpoint; the front yard setback is 25-feet - that is the requirement and what we provide is 71-feet. So 185% more of what is required by code is what we are proposing for the front yard. Similarly for the side yard the requirement is 15-foot combined or 6-foot single side yard whereas we are providing 77 and 19 – 310% more than what is required. In the rear yard, the requirement is 15-feet and we are providing 47 – more than 3 times what is required by code. With that I will ask Mike to talk a little bit about the site plan. **Mr. Mike Rabino** advised as you can see by our proposed site rendering here and it is overlaid on a current aerial photograph so it is a little bit easier to get your bearings; the main entrance to the building faces north to Lake Road and there is also a loading area to the east. Access to the site by 2 different curb cuts; one on Lake Road and the secondary cut on Harris Road. We anticipate that most of the traffic will come off Lake Road obviously. The intent is obviously to meet all the requirements of the zoning code as far as landscaping setbacks, coverage, lighting – all those things. Whatever questions you may have I would be happy to answer those in regard to the site plan or the building. **Attorney Hunt** stated I would just like to point out that the proposed development also meets all the parking requirements – I think it has actually 1 more space than what is required and to get those parking spaces in and the building size that is necessary for this retail development from an economic standpoint, this is pretty much locked in as to where the location of the building should be with respect to the parking and the need for parking, etc. Chairperson Jancura asked is there any at least current plans to – what will be done with the rear yard of the un-improved Tennyson, will the bush be left? Mr. Wojtila answered the Tennyson right of way is off our property so we won't be touching that at all.

Law Director Graves advised in the interest of time normally concerned citizens would be allowed approximately 2 to 3 minutes a piece to address the Board. If everyone here tonight would want to address the Board we would be here for a

very long time. We would ask that everyone who wanted to address the Board keep their comments to a minimum, try not to repeat comments that other people have already made and if there is one person that you have designated as kind of a representative than that person could be allowed some additional time to speak on behalf of the group.

Elie Moussa, 4674 Hawthorne Avenue stated we do have all night to discuss this if we have to.

Ed Rinderknecht, 4669 Edgewater Drive stated let me begin by saying we recognize the jurisdiction of this Board over the variance, at the same time we want to thank you for inviting us in your letter of October 20th to come and voice our concerns. The brief presentation that I am going to make to you are on behalf of 13 of our neighbors collectively. I just spoke the loudest that is why I got to stand up. The parcels in question are currently zoned B-2 and they are surrounded on the northeast and south sides by long established residential community. Given this unique placement, specific diligence and planning must be employed by the city in considering the merits of development and doing so without adversely affecting the residential neighbors or the City of Sheffield Lake itself. Therefore we submit the following issues to the Zoning Board of Appeals as well as to the Building Department and Law Department for their review and subsequent action. I am going to start with a brief statement of concern and then we will outline 7 issues which I have in presentation form, that I will be happy to put in your hands so that you can more accurately join us in following along with those. We recognize the value that business brings to this city and let me start there. However we also firmly believe that commercial development does great harm to all of us when it is undertaken without regard to a long term development plan and at the expense of residential communities. Having said that we believe this is clearly the case with Dearborn Land Investment Company's pending application. The pending application of Dearborn Land Investment to build a Dollar General Store in the middle of a 60 year old real established residential community mandates we believe a long and hard self-examination by the city regarding the irreparable harm that will be done to all of the surrounding home owners as well as to the future of Sheffield Lake itself. We are for future development but we believe there is a proper place for businesses to be located and allowing a Dollar General to be built in the middle of a residential community is not proper by any standard. Moreover, the closing of the existing Dollar General store in Shoreway Plaza will create yet another vacancy to an already challenged center. Therefore we have identified 7 separate issues that go directly to the building and land that we would like to be taken into account regarding the pending application and we ask that you give these issues your full and thorough consideration.

- 1) Traffic and Safety – the first 4 photographs that you find under traffic and safety are simply photographs with dimensions of the roads that actually do surround this property; Lake Road on the north (36 feet in total width),

Robinwood Avenue on the west (18 feet in total width consisting of no marked lanes/crumbling and broken asphalt and no curbs), Hawthorne on the south side and I would challenge anyone to find Tennyson – it has long been gone as we know (15 feet in total length, consisting of no marked lanes/crumbling asphalt/no curbs) and Harris on the west side (28 feet in width). With that as background, Robinwood and Hawthorne at this point are completely inadequate for increased private and commercial traffic. We would respectfully request that an independent traffic study be undertaken at the direction of the city and paid for by the developer – Dearborn Land Investment. We request that this traffic study include an address, all usual and necessary components associated with commercial development in a residential district including but not limited to the need to widen and improve existing roadways. The need for additional traffic signals and safety concerns stemming from increased motor traffic abutting residential housing. We have not had an opportunity to see the site plan, none of the folks that we have spoken have had an opportunity to see it and it was not included in the materials that were sent by the Board. We understand for the first time this evening that there is a point of road cuts for entrance and exist; ingress and egress both one on Lake Road and one facing Harris Road. We would respectfully request that we be informed of the progress of this study and be granted opportunity to read and review the same as it is completed. One last word on Safety – as parents and grandparents we are deeply concerned for the safety of our children. None of us would allow our kids to play in the parking lot at Dollar General much less be in a situation where they could be approached by strangers. We feel that allowing a Dollar General store to be built in the middle of this long established residential enclave guarantees that soon or later someone's child will be injured, killed or worse. We believe that this development proposal is nothing less than a recipe for disaster.

- 2) Sewage and Water – these 6 acres currently, pardon me this 1.094 acres consisting of 12 individual parcels predominantly at present covered by grass with areas of bush and vegetation, development of these parcels will unavoidably replace water absorbing fields with paved parking lots and a retail building that will drain all the water and snow into the adjacent sewer system. The current sewer system that services this area has proven to be inadequate to say the least in draining/disposing of such water as can be attested by many if not all the people in this room. Just this week, earlier this week on Monday – both Hawthorne and Harris were flooded once again following a brief rain storm. This past summer, the portion of Edgewater Drive situated directly across the street from the parcels in question was seriously flooded on more than 3 occasions after strong storms with water backing up into the basements and through the sewer lines. Therefore we

request that a study be undertaken by the City of Sheffield Lake to determine the anticipated additional volume of water that will be directed into the system by the proposed development of the Dollar General store. We further suggest the study be paid for by the developer Dearborn Land Investment LLC and request that this study include specific recommendations to improve and expand the existing sewer system to adequately handle this additional volume of water without further endangering the adjacent and surrounding residential properties. Of course once again we would ask to be kept appraised.

- 3) Lighting – again the reason that we go back to each of these issues is that these parcels though currently zoned B-2 are very unique. They are exceedingly unique in that they are literally in the middle of a long established residential community. Most if not all of the homes that surround these parcels have living rooms, family rooms, dining rooms and bedrooms facing the proposed development site. What plans Dearborn Land Investment has or have offered to ensure that lighting from this commercial endeavor does not intrude upon or invade the quiet enjoyment and solitude of the surrounding homes we have yet to hear. What specific solutions have the developer submitted to insure that the proposed lighting of parking lots, loading docks and associated signage will not shine upon or into the adjacent residences. Moreover and I am not trying to make light of this but it is a serious question particularly for our neighbors whose homes will abut by feet a loading dock and road cut on Harris Road – what does the developer propose to do to keep headlights from the vehicles leaving the proposed store from shining into our homes? The nearest residential property is as I said is feet away on the southwest corner of Lake and Harris Road. Although we have not had the benefit of seeing specific business plans and elevations for this proposed development, we have visited the newly constructed Dollar General store located on Colorado Avenue in the City of Lorain. Please note that store is 3.8 miles away from this proposed location. The following 3 photographs that you will see in the presentation were taken at that location and they fairly depict the type of lighting and lit signage that causes us great concern. Also, please note that the Dollar General store photographed was not located in or surrounded by a residential community. Accordingly we request that prior to approving the pending application and certainly prior to issuing a building permit the City of Sheffield Lake present to all affected property owners the specific lighting plans of the developer, as well as the proposed solutions of the lighting issues raised herein and the times of illumination of the proposed Dollar General store. The parking lot in the first photograph you will see lights that are in that parking lot on Colorado and the second is an illuminated street signage and the third is the illuminated front signage of the store itself.

- 4) Noise and Fumes – as with issue 3, we are concerned about the noise that will be unavoidably be associated with loading and unloading store merchandise from commercial vehicles; both to and from this proposed site. We are also concerned about the increased noise of customer traffic as well as customers themselves but even if commercial loading and unloading were prohibited between the hours of 6 pm and 8 am there remains the possibility of engine noise from commercial trucks parked overnight waiting to unload their goods in the morning. Likewise fumes from the tractor trailers running all night and from customer vehicles present another noxious issue. If the trucks run all night, it goes to say that these homes that are nearby will be affected and we won't be able to open their windows. We fail to see how this issue can be avoided or rectified.
- 5) Trees – I will tell you that currently there are 7 mature trees that line the sidewalk along the south side of Lake Road on the parcels in question. They are located 18 feet from Lake Road and within approximately 9 feet of the sidewalk. They may or may not be in a City of Sheffield Lake right of way, I don't know if the right of way extends or not. But these trees provide ½ of a beautiful canopy of green along that portion of Lake Road and one we wish to see permanently preserved regardless of any future development of these parcels. You will note that the trees are not beautifully green in the photographs in as much as they were taken 10 days ago but nevertheless they are gorgeous.
- 6) Signage and landscaping – the signage and front appearance of the Dollar General store located on Colorado Avenue may be appropriate and customary for commercial development in wholly commercial and business areas. However given the three residential areas surrounding this proposed location such an approach by the developer would have a profound negative impact upon the neighboring home values as well as on the City of Sheffield Lake as a whole. The following 3 photographs show Dollar General signage currently used at the Colorado location. The first shows 4 of 6 – 15 high foot banners directly in front of Dollar General's parking lot on Colorado Avenue. From this we can assume a similar approach will be taken along Lake Road. Secondly the Dollar General sign once again located at the parking lot entrance to Colorado Avenue we think is wholly inappropriate for a residential area as well as the store front signage and banners again from this Colorado location. Should the parcels in question be developed there is an alternative approach that is both innovative and attractive while preserving the integrity of the neighborhoods. Such an approach to signage and landscaping would also serve to build a strong and lasting relationship between all neighbors both residential and commercial. We are referring to the approach that was taken in Lakewood Ohio on Lake Road where a mobile service station was inserted in literally the middle of a residential

neighborhood. Lakewood insisted upon signage and building placement as shown on the following 2 pages. You will note in the first particularly there is a retaining wall, the mobile sign in the second – attractive landscaping and in the third one of the residence's directly next door to that property behind and below the retaining wall. What can be seen in the first and third photographs, the photo on the next page shows the fully operational service station which is not visible from either Lake Road or from the surrounding homes. Should these parcels ever be developed as commercial enterprise we would ask the City of Sheffield Lake insist on similar signage and building placement and landscaping in order to preserve, enhance and protect the appearance and value of our homes.

- 7) Residential home values and tax basis – more than 15 single family homes directly face the parcels in question. Many dozens more are adjacent to the proposed development site. This residential community near Lake Erie is one of the most desirable in all of Sheffield Lake and is certainly highly be inserted into the very heart of this neighborhood would cause the fair market value of our homes to decline significantly. Some of us have been advised to expect the loss in value of up to 50%. Not only is this unconscionable but in fact avoidable by not allowing this development to proceed. Accordingly we request the City of Sheffield Lake direct a team of licensed independent residential property appraisers to undertake a study to determine the projected impact the development of the Dollar General store will have upon the fair market value of the homes within close proximity to the proposed site. We further suggest the study be paid for by the developer Dearborn Land Investment LLC. Moreover in the event that the study concludes that adjacent home values would decrease than we ask the City actively petition Lorain County Auditor to decrease our property tax bases in a similar manner and I would suggest that you are talking about dozens upon dozens of homes. Lastly we request that all affected property owners be compensated by the developer for the full amount of any such projected decrease in fair market value to each negatively affect residential property and there is constitutional precedence for that request. Lastly, the last map you will see on the back highlighted in yellow in the map which was taken from the Lorain County Auditors website shows the parcels in question as well as the surrounding neighborhood. In conclusion let me say that we are mindful of the proper uses associated with parcels zoned B-2. We also recognize the value that businesses bring to our city but we are also mindful that this application is very unique in that it proposes to add a commercial retail business into a well-established residential area. The issues and concerns that we have presented should and must be considered and addressed by the City of Sheffield Lake. We sincerely wish that you join us in seeking a better future for our city and for us this hearing is the first step

in achieving that dream. I will leave you now with one last comment and that is there is always a way out and I would in addition to the 7 issues that we have raised here tonight, I would suggest the city also consider eminent domain – taking this property for the greater good and turning it into a park. You are going to preserve the tax bases that will far exceed anything that Dollar General could hope to bring and it would in fact show a unified plan to take this city forward in a way that enhances to its current and future residence.

John Weinbrandt, 415 Harris Road stated according to the people from Dollar General, they said the loading would be on Harris Road which is directly across the street. If this proposal goes through, why can't you do it on Robinwood where there is commercial building already there for the loading?

Resident, states corner of Harris and Lake stated Harris is used so much for the ambulance, the police department, the fire trucks.

Virginia Weinbrandt, 415 Harris stated unlike the developers I don't have 40 or 60 stores that I putting up, I have 1 home.

Chairperson Jancura asked is there a representative of Mr. Kolleda or Mr. Kolleda himself at this meeting? Attorney Hunt advised no there is not, we have his property under contract so he spoke to another gentleman in our office today and he was down in Florida. Chairperson Jancura

David Carek, 4635 Edgewater Drive stated I did not receive notification of this. I appreciate all the concerns that were expressed in the first presentation and I believe they should be addressed. My concern is I guess more practical and it is the stormwater issue. I live about a block away and when we have heavy rainfalls I have seen a river of water come down between my house and my neighbors house, basically it eroded a 1-foot cavern just last year during the rainfalls. I am not sure whether the city's utilities are actually adequate to accommodate the additional storm water that will happen with this development. Currently you have permeable surface which is a buffer to accept a lot of the water when we have heavy rainfalls, paving over that including roof surfaces only overloads the stormwater system even more. So I would suggest that a detailed study be done of the stormwater sewer system to ensure that the overall infrastructure can handle the additional load because what I have seen at my house and with my neighbor's it doesn't appear to do that and I live quite a ways away from it. I am a registered professional engineer in the State of Ohio and I do believe that these studies can be done and I am not sure that the infrastructure can support the extra run-off.

Michael Duff, 3605 Lake advised by I own the property at 4625 Edgewater which would be directly across from this, that is on the lake and right next to Mr. Carek's house. I just want to say this I have been in this town for 57 years – my whole life,

you have something really nice going down there on that Edgewater Drive. I know there is some commercial properties across there – Mac’s Auto Care and that, as I bought that property I thought why the heck would Sheffield Lake allow a car wash to be blasting at night across from such a nice area. I don’t live in that house but I have been over there at night when that car wash goes off and that is disturbing. We don’t want to make this a whole commercial area right across from such a nice exquisite high class residential area on the lake. It is an exquisite lakefront community, it really is what they have going down there and there has been encroachments on that that should have never been allowed in the first place. Westlake – I know a gentleman put a car wash out there, they put hours on it where you couldn’t operate after 10 o’clock because it makes noise. Where is Mr. Smith – I am sure he can hear it at night, the car wash never should have been allowed or there should have been hours put on it so that at 10 o’clock you can go to bed and open his windows and not hear a car being blow-dried. Listen, for years and Mr. Graves knows this, I have discussed it with him many times – the problem with this town is we allow stuff to come in and overwhelm us and things to be built that aren’t fit for a town like Westlake, Bay Village, Avon Lake – why can’t we be like them and try to have consistency? We shouldn’t be the red-headed step-child of local communities.

Jack Petrucci, 500 Harris advised right on the corner of Harris and Hawthorne. When we built our house there 5 years ago, we built it there specifically because it was a quiet area. Now I remember specifically one Councilman coming to me and saying don’t worry we are going to put a park on that parcel of land, that is yet to happen because they were planning on taking that land back from Jim Kolleda. Also do we know what kind of building they are going to build there, is it a pole barn, is it a corrugated steel barn or is it brick and mortar – we don’t that do we? Chairperson Jancura answered no it is not on the site plan. Mr. Petrucci stated I think that is something that we need to find out.

Cindy Petrucci, 500 Harris stated in addition to the flooding that was talked about, the flooding on Robinwood happens very, very often right in that area between Hawthorne and Lake Road. It happened numerous times over the summer not to mention that flooding that happens on Hawthorne which is the street that our driveway comes off of. So between Harris and Robinwood, that floods continuously over the summer and as it was mentioned that flooded just the other night. So where is that water going to go if this happens? Again like my husband said, we built that house 15 years ago because we really valued the area. I have lived in Sheffield Lake my entire life and really care about what happens here.

Trisha Markovic, 4681 Edgewater Drive stated my property will be directly across from this store. You have to remember that Lake Road is part of the Lake Erie circle drive which I think would suffer a substantial detriment as a result of this variance.

Law Director Graves advised just for clarification a couple of people have referred to this as a variance, they are not seeking a variance from our code. This is just a review of compliance with the other provisions. Chairperson Jancura advised this is just an approval of size and location of the proposed building – that is all we are considering.

Paul Biber, 4709 Lake Road & 315 Harris Road stated I have commend Mr. Rinderknecht – all these things, I had many objections I had personally but this nails it. The run-off, the pollution and all that and my concern obviously was selfish which is the diminishment of my property value. Those are the 2 most valuable things that I own and I can see nothing but a diminishment in this whole process but other things – you are going to have to put a traffic light in there at that intersection because at 4 o'clock you can't get out of Harris Road to cross Lake Road most of the time without a considerable wait. I have to seriously question does Dollar General knows what the heck they are doing because pulling those trucks in even off of Harris is going to be a nightmare. I mean they had to put it on Harris because the other 2 roads are totally unsustainable for making any deliveries and even Harris – those trucks making wide turns, those people that live on the east side of Harris, good luck with your curbs especially in the winter time and things like that. It is just a bad idea and as Mr. Duff said this is a suburban community, if you propose to do this at Columbia and Lake Road in Bay Village it would be considered an outrage and I understand that it complies with the law but this is just a bad idea for Sheffield Lake and the property owners.

Elie Moussa, 4674 Hawthorne stated the proposed building is right in front of my house. Has a building permit been issued yet? Chairperson Jancura answered no it has not. Mr. Moussa stated recently bought a Harley and trying to make a left on Harris for 15 minutes, the traffic is so bad you can't even get in and get out. Even trying to do it on Robinwood, even worse as the street is so narrow that you can't even make a right or left. It is just terrible. Mr. Moussa advised I would like to address the crime that Dollar General brings to the area. I currently own a Reuben's Deli and Restaurant in Elyria, next door to me is a Dollar General. Every year there is not once, not twice break-in's in Dollar General – on a regular basis weekly the Police get called there. How is the City of Sheffield Lake going to address that issue? Is the Police Department going to be able and capable for this particular issue? We have families and kids and grand-kids that live in that area, we all know what Dollar General traffic brings in. I would like to make sure that the city is aware of this and inform us of what actions are taken for this particular issue.

Gary Gerding, 867 Sunset stated I have a question for Dearborn Land Investment? Dearborn Land Investment advised not a relevant question.

Attorney Hunt, Dearborn Land Investment stated from a stormwater standpoint because we have heard that brought up quite a few times, I would like to ask Mike briefly talk about stormwater issue.

Mr. Rabino, Dearborn Land Investment stated stormwater is an important issue. It is not an issue that is before you, it is not within your jurisdiction and when a building permit is issued – Dollar General or anyone developing that property is going to have to comply with the City stormwater regulations. That is all there is to it.

Attorney Hunt concurred exactly what I was going to say, the State of Ohio local ordinances, County ordinances, National ordinances – all require the developer to comply stormwater quality and stormwater quantity regulations. So not only will we be required to detain any stormwater on site and release it to a rate that is equal to or better than the current situation, we would be treating it for stormwater quality which will go through a series of filters – be it different methods but from a stormwater standpoint it shouldn't be a concern as we are not just running water off into the storm sewer – it does have to be detained on site and released at a rate equal to what is currently at the site. Relative to the size of the building – Dollar General has been in Sheffield Lake for quite some time and they know what their shoppers requirements are as far as the space goes and this is a typical store size for them. They have told us that this is what they would need to properly operate in Sheffield Lake, what we have proposed is minimum that Dollar General has requested of us. Chairperson Jancura stated with regard to what the building will look like, will it be a typical store similar to the one already on Colorado Avenue in Lorain that we have a picture of here? Attorney Hunt answered the entire front facing Lake Road would have masonry at the base similar to that one with a decorative panel above it. Chairperson Jancura asked what are the store hours of Dollar General? Attorney Hunt answered store hours are generally 8 am to 10 pm and then on Sundays reduced from I think 9 am to 8 pm. Chairperson Jancura advised audience your concerns are extremely valid and they are very, very, very well presented. You have an extremely articulate and well prepared representative and I really commend him. All of that being said we are bound by the code that controls us, we can limit Dollar General to signage, to visibility, to not putting signs up – that is all in the Sheffield Lake code governing signs, governing B-1 and B-2 and what they are allowed and not allowed to do and that is not a consideration that we vote on. We are only considering the size of the building and the location of the building on the site. You really do have very valid concerns and as I live in Sheffield Lake as well – I am a newby, only here for 11 years but we do all – Miles and Ken all really love Sheffield Lake. They both live on the lake and I live away from the lake but we really do love Sheffield Lake and we would not be volunteers on this Board every month if we didn't love our city and feel an obligation to serving it. This deal lies in the hands of 1 man – Jim Kolleda owns this property. If you really want to voice an objection, voice it to him – he is in Florida tonight with no representative to take questions, to ask; he is in Florida. While I know he has done a lot for our city, this is what he is doing to our city at this time. This is just an option to purchase the land, it is not a done deal. He holds this deal in his hand,

he can easily resend it or get out of the contract. There are options that he has, contact him. He lives in Sheffield Lake, he lives on the lake and he owns other property. If you know how to contact him, voice your objections to him. He is the crux of this deal, he wants to sell the land. We cannot control that, he has a right to sell the land but what happens to this land in his hands and he is the only one. We cannot control this transaction, he can and he is the only one. Law Director Graves advised I want to thank everyone for coming tonight, I think that a lot of the comments tonight were very, very valid and I can assure that all of the comments presented tonight will be taken into consideration by the city in on-going site plan review. As was stated – issues like stormwater, signage, access; all of those have to meet specific code requirements and they will be reviewed by the city if this proceeds at this site. I think what the Chairman is trying to say is those are not issues that this Board is considering tonight. But those are very valid concerns that the city will take into consideration and one further point that I would like to just make; on the behalf of the city we continue to be very willing and able and ready to continue to negotiate keeping Dollar General in the shopping center where I think it belongs. Chairperson Jancura asked Mr. Graves could you for the Board and the concerned citizens provide some guidance as to our purpose for the approval or disapproval. Law Director Graves advised I have taken a good long look at this and as I said earlier it is the opinion of the city that the requirements of B-2 districts also apply to B-1. I know that Mr. Hunt disagrees with that interpretation but that is how we are operating. This provision was stuck in code in July 1981, under rear-yard where it provides for this Board additional review of approval of the size and location of the proposed building. I have gone back through, I have a copy of the actual ordinance that was passed #54-81 and I have gone back and taken a look at the minutes of the Planning Commission and the Ordinance Committee and the City Council from that time and have found very little if any direction on the intent of that language. It is the opinion at this point that your review is limited to whether or not they meet the specific requirements of 1139.04, .05 and .06 regarding size of the structure and percentage of lot coverage and then the front yard, side yard and rear yards. Your purpose is to review on whether they meet those requirements and that would be limited to that. Mr. Duff asked Mr. Graves you are saying that they limited to the dimensions of the building? Law Director Graves answered lot coverage, size and yardage. Mr. Duff stated inconsistency with the neighborhood where would that be? Law Director Graves answered that would be more of an issue if they were seeking a variance, we are dealing with the unfortunate reality that is zoned B-2. Mr. Duff stated that is why I would this matter tabled so that we can hire Counsel to address those issues to the Board. Member Tatter reviewed what he felt where conflicting statements of “interpretation” 1139 versus 1115.06, *Motion by Tatter/Second by Tatter to **TABLE** issue until our regularly February meeting which is the third Wednesday of the month. Attorney Hunt debated that is totally unreasonable, your jurisdiction

is clearly set forth in the code and you cannot table this for 3 months. ROLL CALL TO TABLE: Yeas All – Tatter, McClelland, Jancura. Chairperson Jancura requested an opinion on the section that Mr. Tatter has brought up before the February meeting. Mr. Tatter advised if 1115.06 and 1115.03 allow for other considerations by this Board since in 1139 has referred this situation.

OLD BUSINESS: Michelle Weinbrandt, 4438 Edgewater – TABLED.

Chairperson Jancura asked you want to put an awning on your 12 X 16 shed?

*Motion by Tatter/Second by McClelland to untable this matter. Yeas All.

Chairperson Jancura asked there were some issues on whether the structure exceeded the maximum square footage for the yard? Building Inspector Nemec answered no the structure does qualify for the 35 percent, after his structure is built. Mr. Weinbrandt stated actually it is built, I pulled the permit and it is built – I am here for a variance. What I did I used an existing footer, there was an existing building there but I would have had to pull a variance to take out 22 so I went with the shed and I used the existing footer. Basically I can show you a picture of the existing footer, this was the whole footer but it complied to the zoning for a shed and I wanted to put an awning out the front. Basically it would look similar to that. It would only be a 6 foot awning, she has absolutely no trees or any shade in the back yard to even get out from under the rain. So basically by using the existing foundation that was there, I just wanted to add an awning on the shed to cover this little 6 foot concrete slab here. Mr. Tatter asked the concrete foundation with footers that was the size of the original I think greenhouse from what I remember, was that replaced and you granted a permit for a new structure or did you grant a permit for a new foundation and a new structure? Building Inspector Nemec answered just a new structure – the foundation was already there. Mr. Tatter asked so then the extra 6 foot was not there but was added? Mr. Weinbrandt answered no it was there. Mr. Tatter asked the 6 foot was still there? Mr. Weinbrandt stated let me explain, the greenhouse was owned by my step-mother and the neighbors had a lot of trees – it was right there on Edgewater, numerous times the branches would break and she didn't want to maintain it anymore and one of the neighbors offered to buy it from her. So she sold it, well when he took the greenhouse down it left the original foundation which was 22 X 12 feet and that is where the extra 6 foot comes from. Law Director Graves refreshed everyone's memory – the prior building would have been a non-conforming structure, it was larger than allowed but it has been torn down for more than 2 years so it has been discontinued and has lost its non-conforming status. Mr. Weinbrandt continued so I went with the conforming 12 X 16 shed and like I said she has no trees so I thought of using the existing footer foundation to put an awning on the front of the shed. Mr. Tatter asked but the 12 X 6 foot concrete piece, that is 1 step below your shed – that is still what was part of the original greenhouse that has not been removed, replaced. Mr. Weinbrandt answered yes it was, under this pad here there is actually a

foundation/footer. Chairperson Jancura asked Mr. Nemec what variances are we looking at here? Building Inspector Nemec answered I think we need to see if he qualified for the 35% of lot coverage and after, if he is granted the variance he would have 72 square feet remaining out of that 35% lot coverage. Mr. Weinbrandt stated I am the neighbor on the east side and the neighbor on the west side agreed – I showed her exactly the print that I had here of what was going on. Our property is almost to her fence but just to the drive there – over 10 foot, probably 11 foot of property. Law Director Graves stated Madam Chairperson, I don't think you have gotten a clear answer to the question that you asked and I would like to try and give that to you. At this point the only issue for the Board, the only variance he is looking at is the size of the accessory structure under 1383 where it is limited to 12 X 16 – with this additional awning he would exceed that. So the variance would be from Chapter 1383.02d, size of the structure limited 12 X 16. Chairperson Jancura asked Mr. Nemec what other limitations of the structure of 1383, are voting on feet, we giving him so many feet exceeding the limit currently in place? Building Inspector Nemec answered we are giving him an additional 6 feet. Mr. Tatter asked so the shed by and of itself without the awning is conforming? Building Inspector Nemec answered yes. Mr. Tatter asked so we are granting a variance only for the extension, that is what would be needed if we granted a variance? Building Inspector Nemec answered correct. Law Director Graves advised he has already looked at the distance off of the lot lines, the percentage coverage – all of that is conforming. Mr. Tatter stated the distance off of the lot line – it is 3 foot on one side but that is probably grandfathered in because the pad was never removed? Law Director Graves answered that is not grandfathered but accessory building can be within 3 feet. Chairperson Jancura asked the 6 foot pad that we are talking about, was that laid by you or was it pre-existing from the old greenhouse? Mr. Weinbrandt answered it was laid by me. Mrs. Weinbrandt added it is on top of the old pad. Chairperson Jancura asked Michelle Weinbrandt who is the property owner – without the granting of this variance, do you have shade or other comfort from the elements, nature; rain or whatever? Michelle Weinbrandt answered no. Chairperson Jancura asked do you think that the granting of the variance to allow the awning will impede safety; ambulance from getting to the house or any other services provided by the city? Michelle Weinbrandt answered absolutely not. Chairperson Jancura asked without the granting of the variance for the awning, what other choices do you have to allow yourself shade in your yard? Michelle Weinbrandt answered an umbrella. Chairperson Jancura asked nothing permanent? Michelle Weinbrandt quipped no unless you stand inside the house. Mr. Tatter stated it is not going to create it into a shed, it will be an awning. The building would not at some time further be extended as a shed, it must remain as an awning only for the variance to be effective. *Motion by McClelland/Second by Tatter to approve the 6 foot variance to allow the awning on the 12 X 16 shed. ROLL CALL

FOR APPROVAL: Tatter, McClelland, Jancura. Chairperson Jancura advised that is the condition - that the 6 feet is granted so long as it is kept as an awning.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Tatter/Second by McClelland to adjourn at 8:35 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

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 November 16, 2011.

PRESIDENT OF COUNCIL

Edward R Podmanik