

Minutes of the Zoning Board of Appeals
Sheffield Lake, Ohio
April 15, 2015

The regular meeting of the Zoning Board of Appeals was held Wednesday, April 15, 2015. Chairperson Jancura called the meeting to order at 7 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Melbar, Reilly, Kovach, Chief Building Official Lahetta
Absent: Tatter (excused)
Attending: Law Director Graves

Chairperson Jancura welcomed Chief Building Official Lahetta to our first meeting.

MINUTES: October 15, 201 - *Motion by Reilly/Second by Melbar to approve the minutes of October 15, 2014 meeting as presented. Yeas All.

CORRESPONDENCE: **None.**

PRESENTATIONS: Chairperson Jancura swore in applicants Don and Ann Schuerger for testimony.

Don and Ann Schuerger, 4426 Edgewater – request for garage.

Chairperson Jancura advised this application involves the building of a new garage which to my understanding will be over a shed which is to be demoed, is this correct? Mr. Schuerger advised we are going to give the shed to a neighbor. Chairperson Jancura continued so this property is Edgewater property so we are in nonconforming world, so that is 1153. Chief Building Official advised the proponents are seeking variances on 2 sections of the zoning code. The first is a continuation of nonconforming use, the code allows the rebuilding of a nonconforming use and extending that only up to or enlarging only up to 10% increase. The proponents here have a substantially greater increase then what the code would allow on that. Chairperson Jancura asked do we know exactly how much because that shed is pretty small, maybe about 8 X 10 or 12. It is not very big at all. It is my understanding that we are in the second paragraph of 1153.05 because it is a non-conforming use of an outdoor storage area or do we go to the first paragraph regarding the building since it is going to be a garage. That is a little bit of grey for me. Chief Building Inspector Lahetta answered I would be in the first section because it is a non-conforming use and it is the continuation of a non-conforming use overall. The second section that we have is in regards the 60-foot setback which could easily be changed to the 60-foot setback and moved to comply

with that. So that is the second section of the request. Member Melbar stated I am unsure if 1153 the correct ordinance section. My understanding is that the building such as a shed would be just movable and should be classified as an accessory building which was being removed and thereby this would merely fall under 1133 – the R1 ordinance for a garage as a new structure. Chairperson Jancura advised we are in non-conformed because it is lakefront property – it is always backwards. So they're garages are in their front yards and there are in the back of the property. Since this is Edgewater property it is non-conforming. Member Melbar stated isn't this parcel itself on Lake Road and that is considered the front of that piece of that piece of property. Law Director Graves advised those parcels are all non-conforming, they are part of the old cottages and none meet current frontage requirements. Chairperson Jancura advised anything between Lake Road and Edgewater is non-conforming. Law Director Graves continued the lots themselves are all non-conforming – they are grandfathered. Member Melbar stated I just think that this doesn't classify as an actual structure as a building that is going to be expanded, I think it is just classified as a shed or an accessory building which can be hauled off. Chairperson Jancura answered well they are building a garage. Member Melbar stated wouldn't this classify merely as a new structure. Chairperson Jancura answered correct. Member Melbar stated wouldn't that not then just apply under 1133.07 and then 1151.02? Chairperson Jancura answered no it is still the non-conforming, we are still in 1153. He is a new member so he is not familiar quirky lake front property. It is very quirky, lake front property is everything is backwards. Applicant Schuerger stated when I talked to Jon the Building Inspector he said that the garage can be 10% bigger than your house and I am not sure if that is right or not but that was the impression that I got. You couldn't make it bigger than your house by more than 10% but I am not sure if that is correct or not. Law Director Graves advised the code that we are looking here is – this is a non-conforming lot therefore the shed in the primary structure that was there that has now been demolished and arguably when that primary structure was demolished the shed probably should have been demolished along with it because you can't have an accessory building where there is not primary building. But because you own all 3 lots, you could treat the whole thing as one zoning lot but it is going to fall under non-conforming use and whether you classify it as a building or an outdoor storage area under 1153.05 that is what you are talking about – building or an outdoor storage, that would be permitted a one-time expansion of no more than 10% in the square footage. Chairperson Jancura advised that is from the existing shed or accessory building that is going to be taken down. Law Director Graves stated that is if you build it on the same footprint of the old building, if you move it then it has to be in conformance. Applicant Ann Schuerger asked what is considered the old building? Law Director Graves answered the shed – you build it on the same footprint. Chairperson Jancura stated just to let you know the standard

to grant a variance is that the Board needs to have a finding of practical difficulty, that without the granting of the variance you have a practical difficulty. So we will ask a series of questions that are all factors that are set forth when granting a variance – these are the factors that we should consider. So if I start to ask some strange questions that is the list of questions that I am going for. Just answer them to be the best of your knowledge and some may not apply or seem rather silly but please bear with us. It is all part of the variance process. It is my understanding that the garage will be facing Lake Road, is that correct? Applicants Schuerger answered yes. Chairperson Jancura asked can you explain how you arrived to having the garage facing Lake Road rather than facing Edgewater where your house faces? So why is the garage going to be backwards? Applicant Ann Schuerger answered in the winter, the part of Edgewater that are on is private as in usually isn't plowed by the city. At least the last 2 winters hasn't been and especially that we are at the bottom of the hill and we have times when we can't get out of the road. We have some friends who have plows but it might be noon before they get around. So I have an access directly onto Lake Road which is a city plowed street and we will be able to get out of our house. Chairperson Jancura asked Mr. Lahetta, could you please address the easement issue in terms of the right of way and the city storm and the sewer lines. Member Melbar stated I have a question about the storm sewer which seems to run from Lake Road all the way to the back of the property and the building itself – will that encroach on that? The easement from what I have read was 25 feet and I know there is some leeway there. But as far as the building, I don't have a drawing of where the building is going exactly on the lot. Chairperson Jancura asked Applicant Schuerger to come up and roughly advise/estimate of where you are going to put the garage. Applicant Ann Schuerger advised you are correct that the sewer does run through the entire length of the property. Member Melbar advised yes front to back but I couldn't picture where it was going to sit. Review of plan was had and questions of the Board were answered via the applicants. Applicant Schuerger advised we didn't want to do anything over top of the sewer because we might have to dig it back up. Chairperson Jancura asked is there a reason why you wouldn't put the garage closer to the front of your house and still maybe have it facing Lake Road but put it forward?

Applicant Schuerger answered we are eventually put a patio and landscape closer to the house and then we want to have as much green space as we could. But they way we designed the garage we would have like a little porch and a dorm window so it would tie in so it wouldn't look like a structure at all – it would be tied in, that was part of the master plan.

Chairperson Jancura asked will the property yield a reasonable return or can there be a better use of the property without the variance being granted. Applicant Ann Schuerger stated depends on your definition of reasonable. It would not achieve the

objective of being able to do a garage. Chairperson Jancura asked could you enjoy the property without the variance? Applicant Ann Schuerger asked could you enjoy a jail cell? Applicant Don Schuerger advised we would enjoy it more if it was granted. Chairperson Jancura asked do you feel that the variance is substantial? Applicant Ann Schuerger answered we are requesting it. Chairperson Jancura asked would the variance cause substantial alterations in your neighborhood or cause substantial detriment to adjoining properties? Applicant Ann Schuerger answered no. Chairperson Jancura asked would the variance affect delivery of government services including trash collection, EMS, Fire and Rescue? Applicant Don Schuerger answered no. Chairperson Jancura asked did you purchase the property with knowledge of the zoning restriction, do you know? Applicant Don Schuerger answered yes. Chairperson Jancura asked could this problem be solved in some other manner other than granting the variance? Applicant Ann Schuerger answered no. Chairperson Jancura asked do you think that the variance preserve the spirit and intent of the city's zoning requirement and substantial justice be done by granting the variance? So do you think that your request is in line with the spirit and intent of what a variance is? Applicant Don and Ann Schuerger answered yes. Chairperson Jancura asked do you think the general welfare of the community is being preserved? Applicant Don Schuerger answered yes. Law Director Graves stated I didn't understand your answer to the first question, why couldn't the garage be shifted back to meet the 60-foot setback requirement? Applicant Ann Schuerger answered there is a couple of issues in there. 1) we have a hardship on the property already because of how the sewer runs down there and I don't know if what you are looking at shows the storm sewer. Law Director Graves asked does the storm sewer run north and south. Applicant Ann Schuerger answered it runs north/south entirely through the property, so we are restrained. Law Director Graves stated if you shifted it north? Applicant Ann Schuerger answered if we shift north further, we now lose that much more of the green space and in addition we would need to concrete more. Law Director Graves asked how deep, this is going to be 22-feet deep? Applicant Don Schuerger answered there is a tree that I have to take down and then the driveway would have to be longer. Law Director Graves advised I think these are the things that you need to discuss with the Board. You have to meet a hardship requirement, you have to show practical difficulties. There are factors and right now you are proposing a setback of how far from the street, it looks about 41? Applicant Don Schuerger advised depends on where the street meets the little bike path. Law Director Graves advised it looks like you got about 63 feet from the road to the rear of the garage 63-feet correct? That is what you are showing on your diagram. Applicant Ann Schuerger answered I am not sure on those measurements. Law Director Graves advised okay so on this diagram that I am looking at that you drew from the road to the rear of the garage it looks like you have indicated 63-feet? Applicant Don Schuerger answered yes that is the

current drive that is there now. Law Director Graves advised so if this is 22 that would leave 41, why can't you shift it back 19-feet you wouldn't even need a variance. Why can't you do that? Applicant Ann Schuerger advised we would still need a variance because of the side lot. Applicant Don Schuerger explained if we move the garage back 60-feet it would then incur a hardship on our neighbor – Carl because the way his garage is, he needs to go into our yard to turn around and that will be closer to his house which he would have to structure closer to his house and it wouldn't be as sight-ly so he would not be happy with that. Applicant Ann Schuerger advised Carl is the next lot west of our house. Applicant Don Schuerger added the way his driveway is, the way it comes out now he goes into our yard a little bit to back out. If we were to move the garage back, that would hinder his way of getting in and out of the garage and then it would cut down the tree that is right there that is a nice looking tree that he gets to see. Chairperson Jancura asked so Carl is on Lake Road, correct? Applicant Ann Schuerger answered his property is all the way through, the brown house. Applicant Don Schuerger advised he goes from Edgewater to Lake. Chairperson Jancura stated so his lot is deep and his driveway is off of Lake Road. Applicant Don Schuerger stated we share driveways. Applicant Ann Schuerger stated so for them to back out of their garage, their kind cars kind of go over our lot which currently is fine because it is just grass. If we had a garage there, I don't know they would be able to get in and out of their garage. Law Director Graves asked you are telling me that they can't get in their garage without driving on your property. Applicant Ann Schuerger stated the back of their tires go right up to the wall which is on the property. So the back of that car is hanging back over. Applicant Don Schuerger advised just like a foot or so. Applicant Ann Schuerger added whatever an SUV is, these lots crammed in there next to each other. He swings in, his garage door faces east. He said he was in support of it and his only comment was if there was any way to keep that turn radius that he has got and he will sometimes back into ours and we said we don't care – that is fine. Chairperson Jancura asked does anyone know about big the existing shed is right now so I know how much bigger than 10% we are going. We know the new garage is going to be 15 X 22. Law Director Graves asked it is 8 X 10 – so they are going from 80 to 330 square feet of the footprint. Applicant Ann Schuerger asked you don't compare it to the structure that had been on the lot? Law Director Graves asked you are not going to meet the 3-foot side yard? Applicant Don Schuerger answered no, it would be 2-feet. Applicant Ann Schuerger advised again we would like to but we can't because of the storm sewer. Chairperson Jancura asked is your neighbor Carl here today. Applicant Ann Schuerger answered he is not, he said he was going to try to but he was also finishing up faxing. Chairperson Jancura asked for any neighbor's abetting and abutting who would like to make any statements to the Board.

Paula Bill, 4427 Lake Road stated we are on the east side of them. Chairperson Jancura swore her in for testimony. Mrs. Bill continued that block has always been a disaster and since they bought it, it has been so improved. I just think it would look much better with them being able to do this and do the landscaping. I know Carl too on the other side and he doesn't have a problem with it. Chairperson Jancura advised so having a garage that is 200% bigger than the current shed? Mrs. Bill stated the way they landscape and the building that I saw they are building I think it will look much nicer than it ever has.

Chairperson Jancura closed floor for public commentary and the Board proceeded with review and discussion on request.

Member Reilly stated I wouldn't say ordinarily that you have a special hardship or just an occasion that would warrant putting it exactly into that spot but on the other hand it does seem like most of your neighbors do have access to Lake Road due to the poor conditions on your own road and it does look like it would improve the property value in the neighborhood quite a bit. Chairperson Reilly stated from past experiences with garages, this Board has found that having a garage is a necessity. In this day and age they are only asking for a single car garage, they could have been going a whole lot bigger. It is not that this is a gigantic structure that is going to take away from the neighborhood in general and that yes non-conforming property is strange. It is non-conforming and I think Ann made a very good point that Edgewater is privately owned so you have to have private plow-er's and they don't always get around and even if they would plow being right on the lake – if it is a bad blizzard, 20 minutes later you are going to need another plow and so it is reasonable to have access to Lake Road which is well maintained and well plowed. Member Melbar stated also I think since we removed the other structure, certainly improved the view to the lake for cars passing through and then all this landscaping will be quite a nice glance over to the side as you are going past.

Chairperson Jancura stated I was concerned that neighbors would have issues with having a garage in the way. But if neighbors close by, it seems like Carl would be okay with it because if you had to put the garage back he wouldn't be able to get out of his garage. That could definitely be an issue because you would be encroaching on his property. Since we are not in storm water or sewer world that is not an issue anymore. I think they do have reasonable grounds to preserve the Edgewater part of the property for green space and patio living. They bought lake front property because they want to look at the lake so to have to put the garage in the front and have the garage blocking the view of the lake doesn't make any sense. That is why the city has 1153 for lakefront property because your back yard is everything.

Chairperson Jancura stated as it stands the variance would allow for the building of the new structure which would be about 200% larger than the existing structure since we are going from an 8 X 10 shed which is 80 square feet to 15 X 22 at 350

feet. It also going to include a 19-foot setback variance and 8-foot side yard variance. Law Director Graves addressed you are satisfied that this isn't going to interfere with the storm water easement? Chairperson Jancura answered I am satisfied. Law Director Graves advised it is a 35-foot wide lot and if you are 2-foot off, you are coming over 17-feet with this garage. So you are about 1/2 way over. Member Melbar stated the easement for the sewer is 25-feet, to me that is 12-1/2 feet each way. There is no way not to be in the easement. Chairperson Jancura asked how far into the easement are they? Member Melbar answered 28-feet. Member Reilly stated so there should be plenty of room for anybody to get whatever equipment they need on this other side, to do any of the work. Representative Kovach stated I would think would only need to access really to the manhole because the jet vac should be capable of clearing any blockages out, unless it would be a collapse. Law Director Graves advised just so everybody understands the obligation on the property owner is preserve the easement for the easement holder and if the city ever needed to access that storm sewer for maintenance or repair, we would need to access that. If there was a permanent structure in the way, it would have to be removed. If we were able to access it than it wouldn't be a problem. Applicant Don and Ann Schuerger stated we are familiar with that, my parents had the same problem and they had the bad misfortune of the city having to go in there. Applicant Ann Schuerger stated so we are being very, very cognizant of exactly where that storm sewer is. Applicant Don Schuerger stated where the sewer is if it totally collapses, we don't think would be in the way of the structure because where the sewer goes. You can climb in there and it has been exposed before and I covered it up. The manhole cover is as far over as it goes, the actual sewer goes over on the east, so they had to dig it up. We don't think you would to remove the structure but if you had to, we acknowledge that. Applicant Ann Schuerger stated after think this through is probably all the more reason why we don't want to sit the garage further back because we currently have it proposed, you got real clear access to that manhole cover. If the garage is further back, the garage would not be over the manhole cover but you would be more butting up against it. Now we are going catty corner, so you can definitely get equipment in if needed. Chairperson Jancura clarified do we need to grant an easement or a variance for the easement encroachment? Law Director Graves answered no. Chairperson Jancura advised so the city needs access than they have to move because encroachment runs with the land. Applicant Ann and Don Schuerger advised we are absolutely aware of that. The other reason why we are planning on keeping most of the yard is just landscape to enjoy the lake. Frankly you can't build much on it with the storm sewer running through it.

Paula Bill, 4427 Lake Road stated if they would have to sit it back than that would block my view, I would be staring at a double sliding glass doors and a garage

would be better. Chairperson Jancura clarified so where it is proposed would not block your view? Mrs. Bill answered yes.

DRC Construction – Chairperson Jancura swore him in for testimony. DRC Construction reported I don't know if you noticed in the print would there is a small side covered porch as part of that garage. You need to include that in your square footage. It is a 15-foot covered porch that faces north. Chief Building Official Lahetta advised anything under the roof is part of the square footage. So it would be 28 X 15. Chairperson Jancura asked do you have to have that porch? Can you build it with just the garage and not the porch on it? Chief Building Official Lahetta advised that would be 420 feet total. Chairperson Jancura stated because that gets to be really substantial. Applicant Don Schuerger stated that goes towards the north, not the south. Member Melbar asked that would be the manhole cover? Applicant Don Schuerger answered no, it is off to the side. Chief Building Official Lahetta recommended be advised to 420 square feet on this request. Chairperson Jancura stated we are going to correct the record to the expansion of the existing building from 80-feet to 420-square feet which will include the garage and the porch that comes off the north side of the garage building.

*Motion by Reilly/Second by Melbar to approve the variance as applied for which will include an expansion of the building from 80 feet to 420 feet, 19-foot setback variance.

ROLL CALL FOR APPROVAL: Yeas All – Melbar, Reilly, Jancura.

Chairperson Jancura advised it is a substantial enlargement of the building but neighbors feel that it is encroaching on their rights and it will improve the overall neighborhood itself.

OLD BUSINESS: Law Director Graves advised I did argue the Dollar General zoning case in the 9th District Court of Appeals and we are currently awaiting a decision out of that court.

CITIZENS COMMENTARY: **None.**

MEETING ADJOURNED: With no further business before this board, *Motion by Reilly/Second by Melbar to adjourn at 7:41 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

| *Zoning Board of Appeals 04152015*

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 15, 2015.

PRESIDENT OF COUNCIL

Rick Rosso

and/or

COUNCIL PRO TEM

Alan Smith