

Minutes of the Zoning Board of Appeals
Sheffield Lake, Ohio
September 16, 2015

The regular meeting of the Zoning Board of Appeals was held Wednesday, September 16, 2015. Chairperson Jancura called the meeting to order at 7:05 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Tatter, Melbar, Reilly, Harper, Kovach
Attending: Law Director Graves

MINUTES: April 15, 2015 - *Motion by Reilly/Second by Melbar to approve the minutes of April 15, 2015 meeting as presented. Yeas All.

CORRESPONDENCE: None.

PRESENTATIONS: Chairperson Jancura swore in applicant Brandon Bock, 878 Dillewood Avenue – side lot requirement. Chairperson Jancura swore Brandon Bock in for testimony.

Chairperson Jancura confirmed that Mr. Brandon Joseph Bock is the owner of the property. She advised it is my understanding that you are seeking a variance from ordinance 1151.02 regarding private garages. Law Director Graves corrected due to this being an attached garage to the existing dwelling he is going to be okay with the setback. I think the section that he is going to need a variance from is 1133.07. It is a side yard requirement is what he needs – 1133.07. Chairperson Jancura read 1133.07c for the Board which is variance that Mr. Bock needs. She explained when Mr. Bock's attached garage will be constructed on the north side of the property it will be 8 foot of a side yard and on the south side of the property he only has 10 feet of a side yard. So he will need 2 variances for this evening. He will need a side yard variance of 2 feet for his north side and he will need a 12 foot variance for the combined widths of both side yards since he only has 18 feet and it has to be not less 30 feet. In terms of the construction she requested Mr. Bock to give details for the building of the garage. Mr. Bock explained when my wife and I purchased the home back in 2007 the foundations were already poured. The concrete blocks were already put up for walls to put on it, it was already there. Now that we are looking to move forward to hopefully build on it we find that there is a city building code where we are too close to the property line. Chairperson Jancura stated when the Inspector was at your property did he indicate any issues with the concrete foundation, the pad – is it suitable to build upon? Mr. Bock answered I am not sure if the Building Inspector came to the property. In talking to my construction buddies who are going to help me build the structure, the top layer of bricks will have to be taken off and replaced. Chairperson Jancura

stated that is only on the perimeter correct? Mr. Bock answered correct but there is nothing wrong with the pad, the footers are there and intact and 3 feet down. So to my knowledge there is nothing wrong with the foundation now. Law Director Graves advised there is an area variance, there are 2 types of variances; use variances and area variances. Area variances are judged on practical difficulties standard and there are a number of factors to establish practical difficulties derived from the case of Duncan versus Middlefield. Were you provided with a copy of those with your application? Mr. Bock answered to be honest I don't think so. I received 3 pieces of the application and I don't believe I got a copy of that. Law Director Graves advised that is supposed to be with the application.

Will the property yield a reasonable return or can there be a beneficial use of the property without the variance? Mr. Bock answered there is really no benefit to having that cement pad there. It is really useless so that is pretty much that.

Would the variance cause substantial alterations in the neighborhood or cause substantial detriment to adjoining properties? Mr. Bock answered not at all, that is not going to affect anything. My neighbor is totally aware of it where the structure will be close to his property and he is okay with it. He sees no problem with it. Law Director Graves advised all adjoining, adjacent and abutting property owners did receive notice of this and to my knowledge obviously no one is here with any objections. I don't think we received any correspondence.

Would the variance affect delivery of governmental services? Mr. Bock answered not at all. It is not close to the road or anything like that so it is not going to interfere with any services such as gas, water, emergency services or anything like that.

Did the property owners purchase a property of the zoning restriction? Mr. Bock answered we didn't know, we thought the foundation was there and we were good to go and we actually bought the house as a foreclosure auction so it was kind of fast moving. So we bought the house and we thought we were good to go and we actually left the country shortly after we bought the house and spent some time overseas and now that we came back and we had the money to build that is where we are at right now.

Did the property owners purchase the property? Mr. Bock noted we just talked about that.

Could the problem be solved in some manner other than granting a variance? Mr. Bock answered no, the only thing that I could think of is you really can't use it for anything else so it would have to be torn up and that will cost lots of money. I am looking at maybe \$5000.00, they got to rip it up and back fill it and all that stuff.

Would the variance preserve spirit and intent of the zoning requirement and substantial justice be done by granting the variance? Mr. Bock asked for explanation? Chairperson Jancura answered the granting of the variance, a variance is basically we authorize you to not conform with the law and the reason there are

variances in the first place is you have a very specific reason that is set out by those perimeters that you shouldn't have to comply. So do you believe that granting the variance is in the spirit of a variance itself? Mr. Bock answered yes.

Will the general welfare of the community be preserved? Mr. Bock answered absolutely I think it is going to raise the property values. We all know, we saw the reports from Sheffield Lake property values are going down unfortunately again but hopefully with doing this it will make the neighborhood look a lot better and raise the property values.

Member Tatter asked is the foundation that is in existence already set up for a 24 foot wide garage? Mr. Bock answered correct.

Chairperson Jancura advised I did go to the property and I took pictures and while I am not an Inspector I looked at the pad and it seems to be fine. The bricks that he mentioned are just on the perimeters where they were literally getting ready to build and more than likely ran out of money or something else happened. He even dug a hole of a footer and the footer and again while I am not an Inspector but the footer looked to be fine as well. Since the Inspector didn't say anything about your footers we are only here for the variance for the side yards. But it did seem to be in fine condition, a little cracking but that is just settling and happens to every piece of cement ever poured.

Law Director Graves asked Mr. Bock do you intend to consolidate those 3 lots? Mr. Bock answered correct. Law Director Graves advised the new structure would be on a different parcel, although it will be attached it is another parcel and the Building Inspector had expressed some reservation about that consolidation. So while that won't have to go to Planning Commission for the consolidation, the Board would have the option to make the variance upon obtaining that lot consolidation if you so choose.

Member Tatter asked since it is not consolidated do we have to give a variance for the 2 foot that will be one parcel and then the overall would be on the whole thing. Chairperson Jancura advised we will end up granting him the 2 variances, so we will do the side yard which will give him the 2 feet for the 10 foot requirement and then the overall 12 feet since he is not at the 30 feet, so we will grant 2 variances that he needs.

Member Tatter asked Law Director Graves isn't it a requirement that the lots be consolidated? Law Director Graves answered not officially, it is a good idea when you are building an additional structures on other parcels. Typically you see this where it is a detached structure where the concern would be you wouldn't want one parcel where the house would be sold off and then retaining the accessory building on an additional parcel or something like that. While this isn't a detached garage is on another parcel and the Building Inspector had expressed, he felt more comfortable if they were consolidated. So it is not required but it is a good idea. We can't make him do it but it could a condition of the variance, if you wanted to.

Member Tatter asked is there a basis in the legal requirements to make that a contingent type variance? Law Director Graves answered sure. Member Tatter stated we may not have that authority. Law Director Graves stated you can put conditions on variances. Member Tatter stated right but there is no requirement for the lots to be consolidated. Law Director Graves advised but he is asking for relief, he is asking for extraordinary relief from the code. So you can require things that aren't necessarily required by law. If he wasn't building this we can't just come to him and say consolidate the lots. So he is coming and saying I want relief from the code and you can say well if we give you the relief you are going to consolidate the lots. Chairperson Jancura stated but there is no legal requirement for him to consolidate the lots, we would just be putting a requirement on him. Law Director Graves advised a condition of the variance. Member Harper stated just out of curiosity, aside from doing it intentionally what circumstances might the lots be sold separately with a garage attached to it? Law Director Graves answered there wouldn't be, with an attached garage. Chairperson Jancura advised if he had an empty lot and his neighbor wanted it. Law Director Graves explained many communities require when you have an assemblage of parcels when you build on them that you actually consolidate them. We have not always required that so all over the city you see houses built on an assemblage of lots, one house with 3 – 35 foot lots. Chairperson Jancura concurred my lot is that way, I have 3 – 70 foot lots. Law Director Graves advised so it is not as neat and maybe we should start consolidating some of these. It is up to you, if you don't feel it is necessary – it is just an additional thing. Member Tatter stated it is a good idea but I don't to impose additional costs on them. Chairperson Jancura stated just for kind of discussion of the matter, I am the real estate Lawyer and I know it is not an easy thing to consolidate those parcels. You have to get it surveyed and all the meets and bounds on a survey that is not necessarily cheap and Mr. Tatter you know that. He can't use of us because we are on the Board so it is kind of an additional requirement that we are making him obtain that is not necessarily required. Member Tatter concurred right and that is where I am coming from. Chairperson Jancura stated I think it would be a burden that shouldn't be put upon him, it is really just a paperwork thing to kind of clean things up. You have to get the survey and then you have to go to the county and have that approved so it is not necessarily an easy thing to do. Member Harper stated can the Building Department require that though? Chairperson Jancura answered no only we require it, it is right here with the variance. Law Director Graves advised the Building Department would be limited to the code. Chairperson Jancura advised it is not in the code and we are the only ones that can impose it and I don't necessarily see a need to do it. If nobody else in the city has to do it I don't think Mr. Bock should have to be our first case.

*Motion by Tatter/Second by Harper to grant two variances for said property; 1) 2-feet of the side yard and 2) 12-foot variance since he does not meet the minimum 30 feet overall side yard requirement. Chairperson Jancura advised he only has 18-feet so we will grant him a 12-foot overall side yard variance due to his testimony of practical difficulty of costs to remove said pad and footer and purchasing the home with the pad and footer already poured and the intent of finishing garage unbeknownst to them the code requirements. Law Director Graves advised there are other structures over there that are within the side lot requirement correct? This would not be outside of the character of the neighborhood? Mr. Bock answered no. Law Director Graves continued there is other houses and garages that are closer than they were supposed to be in your immediate area. Mr. Bock answered yes. Law Director Graves concluded so it would be in the character of the neighborhood. **ROLL CALL FOR APPROVAL:** Yeas All – Tatter, Melbar, Reilly, Harper, Jancura.

There was a brief discussion regarding application for rezoning from Industrial to R-1 residential on Cove Beach which was presented at the last Planning Commission meeting.

OLD BUSINESS: None.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Harper/Second by Tatter to adjourn at 7:30 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 September 16, 2015.

PRESIDENT OF COUNCIL
Rick Rosso

and/or

COUNCIL PRO TEM
Alan Smith