

Minutes of the Zoning Board of Appeals
Sheffield Lake, Ohio
February 18, 2016

The regular meeting of the Zoning Board of Appeals was held Wednesday, February 18, 2016. Chairperson Jancura called the meeting to order at 7:03 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Tatter, Radeff, Reilly, Kovach

Absent: Harper (excused)

Attending: Mayor Bring, Applicants

MINUTES: October 21, 2015 - *Motion by Reilly/Second by Radeff to approve the minutes of October 21, 2015 meeting as presented. Yeas All.

CORRESPONDENCE: None.

PRESENTATIONS: *Ustin Denes, Elm St., Sheffield Lake* – Chairperson Jancura swore in applicant Mr. Denes and his translator Cristinela Minzat for testimony. She continued Mr. Denes would like to build a house located 40/41 Elm St., and we do have the schematics for the building but the variance that is before us is for a 10 foot variance of the side yards. The city requires 10 foot from the lot border to the structure and he does not have that. Member Reilly stated I think he has the 10 feet it is just the total lot width. Chairperson Jancura concurred yes because he has narrow lots. So he is seeking an exception to 1133.05 of the ordinance that says lots must be 90 feet and because he has 2 lots that are 40 feet each that is why he needs a variance. So he has 80 feet total with 2 parcels so he will need 10 feet. Member Tatter asked is this going to be your home, you are going to occupy this home? Mr. Denes answered yes. Member Tatter asked you purchased the land, the 2 lots about a year ago; February of 2015? Mr. Denes answered yes. Member Tatter stated on the same day and recorded within hours or minutes of your purchase, a company named INC incorporated also purchased 2 lots totaling 80 foot from the same seller do you know anything about that? Mr. Denes translator answered yes he is my cousin, all the lots was like 80 feet wide. Member Tatter stated yes there were 4 lots. Mr. Denes translator advised we have to come to a meeting for this because when we purchased the land I thought it is okay being 80, nobody told us they have to be 90. Member Tatter asked did the seller mention to you that they were not buildable lots? Mr. Denes and his translator answered no, never. Member Tatter stated I see since then you have also purchased 3 lots which are combined buildable on the opposite side of the street? Mr. Denes answered yes I buy after. Member Tatter asked do you plan on building another house there then? Mr. Denes answered yes maybe later. Chairperson Jancura asked Mr. Denes

are you a builder? Mr. Denes answered I work in construction. Chairperson Jancura asked so you will build this house? Mr. Denes translator answered he lives in Avon Lake since 1989 and they want to live in Sheffield Lake. Member Reilly stated it seems in that area along the streets around Elm that an awful lot of properties are getting sold in the last year. I think in the future we may have to expect some more applications like this because all the lots are like that so they are going to be combining them as they go along in order to build houses on them. Chairperson Jancura stated I am going to ask you some strange questions but it is only to satisfy certain requirements that are needed to grant your variance. Do you think any government services, so garbage, ambulance, fire would be impeded from getting access to your house if your variance is granted? Mr. Denes answered I think I am not the only one that buy that wide land, those 2 lots. Member Reilly stated the only thing is if we are okay with sitting precedence by this in this area, I don't see a problem with it because it puts the lots to good use and it increasing values and gives us property taxes and all of that. We should expect though over the next couple of years or so that area is going to be developed so we will see quite a bit of this.

Chairperson Jancura advised I am fine with this, my own lots on my house are 70 foot frontage which you can't really do anything with that. It is just too small so you have to buy a couple of them.

Member Tatter stated I have a concern on this type of variance, that development as it was developing closer to Lake Road. The builder at that time was required to meet the 90 foot requirements, no variances were granted and the people bought or the builder either combined the lots and sold them as 90 foot to 120 foot lots and the people paid a bit more of a premium to have that type of lot. In addition on the block that we are concerned with there are a few houses from what I could see and all of those houses have a combined 120 foot lot. People bought 3 lots to meet the requirements for building and I am concerned that a variance be granted on something our city Council has established in ordinance and people have abided by that ordinance and they paid extra for those lots. While there may be a hardship on the applicants part it is a hardship that was created by himself knowingly or unknowingly. The zoning restrictions there of 90 foot lot existed prior to his purchase and it is not so much of the hardship on him as what will he be doing to the rest of the residents on that street as Elm is the only one with 40 foot. Parkview has 50 foot lots that are combined to meet the requirements and I am just concerned for the existing people who paid the premium to get 3 lots or for that matter the people closer to Lake Road who the builder charged a premium in order to meet city zoning requirements. I think that we have to consider not necessarily a self-made hardship but we have to consider what would the effect be on the existing houses and the existing residents who did comply with the building requirements. Chairperson Jancura advised I can definitely understand where you

are coming from as it does seem unfair to make prior residents have to buy the 3 lots and now we are granting a variance but from my understanding of the lots themselves. These 2 that we are dealing with were the only ones that were available, he didn't really have a choice in terms of parcels. Now granted he could build a smaller house especially since this is new construction, you could make the house smaller to comply. Oh no you can't. So then what do you do with the parcels that are unbuildable so then we have vacant parcels. Member Tatter stated the recourse of course for the applicant would be to go back to the seller if they were in any way that the contract implied that they were buildable. But I do feel that this particular type of purchase is a buyer beware and he should have shown due diligence as he did across the street when he bought 3 additional lots to make a buildable lot. I think by granting this variance we are setting precedence and his partners brother or cousin will probably get that application in a short time to create another 80 foot lot next door. I just feel like we are going against what the plan and the planning department had in mind when they recommended to Council that 90 lot be the minimum. It is not something that just came up and that is my argument to your argument.

Member Radeff stated the question I have is it says it was passed in 2012 so do we know what it was before that or if it was still 90 feet. It is pretty recent, do we know why it was changed. Mayor Bring advised originally when Gilfeather had all of that and had plenty of property over there and some of the lots I think even at 90 foot, I think some of the back ones they were trying to get pie shaped lots so as he got towards the end there they changed those last lots and that is why they haven't been building on them except for the 3 lots. So that is why those last lots on Elm were only 40 foot. But City Council did require that when any new development came in, they wanted 90 lots but then as we talked about this and I think Steve can maybe reaffirm this but we had talked about a while ago changing the lot size. We have 35 foot lots also, this is not new and Mr. Tatter is 100% correct because any time we put in a new development they are supposed to be 90 foot but some of the lots we have are 35 foot so we are basically saying that a 70 foot lot that was ok to build on but it would have to come to the Zoning Board. We didn't want to make it car blanch to say a 70 foot was able to build on it but we have several of those. When they changed these to 40's it was just because the way the lot sizes came out towards the end there because he wanted to get the most for what he had but then Mr. Gilfeather went out of business. But that is why and I think if you look at a couple of those up front, I think they may have gotten variances for a couple of those didn't they Steve. Mr. Kovach stated upfront, as the construction went he came before for one variance and they were denied but then again in argument for that as Dennis has said here that was at one time all owned by one builder trying to build the whole development. He then went under and the lots kind of were bought up piece mill. It should be a consideration of buyer beware but we have made

exception continuously on the 70 footers to use up available land that was not going to be sold. They bought them together and I am sure there was no conspiracy, they did not know they were not buildable. Member Tatter stated I understand the 35 foot/70 foot requirement because when Sheffield Lake probably was originally platted most lots were 35 foot. These being at 40 foot are kind of in the middle, they are certainly better than this 35 foot lots but they are not what Council had in mind for new developments. I do have a concern on the effect of value to those people that did comply and the charges they incurred because of it. Member Reilly stated I don't see how their value is going to go down by having some more developed property on the block. Member Tatter explained your tax base is front footage so value is established by the county. Member Reilly stated also the value of the home and the income and all of that for people moving in. I admit that having a 90 foot frontage is very nice when you are trying to move up from a small local city like we are we have people like myself who live with 35 foot frontage but when you get the opportunity for some undeveloped land where the original project has gone south and you are talking about a variance of maybe 10 feet. I am willing to look the other way just in the interest of bringing in more people here. The 90 feet I think is more of a guideline then a hard fast rule. Member Tatter stated bringing in more people though is not a reason for granting a variance. Chairperson Jancura stated that's true but we also are lead by the spirit and intent of a variance in as much as without this variance these 2 parcels will go empty forever because you can't build on it unless one of the neighbors on each of the sides buys up. Member Tatter explained there is people with 40 foot lots that are in that predicament and I don't deny that. I am just looking at the spirit and intent of Council in establishing zoning and probably at 90 foot I would have to think that one of the intents of Council was to improve the type of housing in the city by going for a larger lot. That is not to say that those on smaller lots are inferior however new construction does seem to be going with larger lots and larger housing. Chairperson Jancura stated in terms of sitting precedence, yes we are making an exception to the rule but as a Board we also have the ability to say if a future applicant comes and says well you did it here we can say that was a unique set of circumstances even if it is Mr. Denes that comes to us and says well you gave me a variance 5 months ago. We can still say yes but that was under this condition especially since Mr. Denes now knows you got 80 feet of frontage you are going to need more land. Member Tatter asked Mr. Denes you did say you would be an owner/occupant on this house? Mr. Denes answered yes. Member Tatter advised there were 4 lots for sale by the same owner but the owner probably wanted to maximize his money and so he split them up to 80 each. Chairperson Jancura stated you have to wonder if the seller didn't know so if the seller didn't know that he sold unbuildable, did he know he was selling unbuildable lots and if he did then he is in the wrong. Member Tatter stated that would give Mr. Denes

recourse. Chairperson Jancura asked Mr. Denes did you know the seller of the lots? Mr. Denes answered no. Chairperson Jancura asked he never talked to you about these lots being unbuildable? Mr. Denes answered he said the builder want to buy house on 40 feet and the city said to put 2 together to let you build. Member Tatter stated so the seller said that they are buildable. Mr. Kovach stated it sounds like the real estate told them that, not necessarily the seller. Chairperson Jancura asked there was a real estate agent involved in that? Translator Minzat answered from both sides. Chairperson Jancura stated so misrepresentations were made about the lots to the buyer and yes he would recourse if we deny the variance to go back and sue on it but if it is not in the contract that these are unbuildable lots it is your word against mine, expensive lawsuits. So I personally do not believe that, yes we are setting a precedent of dealing with 40 foot lots. Member Radeff asked has anyone else tried to get a variance to only buy 2. Chairperson Jancura answered we have had matters of this before. Member Tatter stated in other areas of the city, not in this area. Member Radeff stated I know like you said one of your concerns is people who had to buy 3 but if no one came to Zoning Board on the issue I am not going to fault someone for using the process that we are here for. This is the process for him to be able to come here and talk about these issues and I am not saying it is right or wrong but I agree with you 100% that just because we allow his doesn't mean we have to let every single one as well. Chairperson Jancura concurred exactly especially if misrepresentations were made to him. Member Radeff stated I think typically from what I understand too when you talked the area there, is it going to take away from what the purpose of that lot is or the purpose of that area and if we don't think that him building his house is going to detract from you know is her going to build a smaller house or is he going to build one that just doesn't fit in there. That might be an issue but I don't see if it is kind of fitting in with maybe nicer houses, it seems like if it is a nicer house that kind of goes with the purpose of making it bigger. If he went in and wanted to build just a small house then we wanted bigger lots for bigger homes. Member Tatter stated I don't disagree with anything that you are saying I just again go back to why Council decided on 90 foot. Other houses in that development are already meeting the code. A number of applicants for variances could possibly the idea of what the neighborhood was at its inception, houses that have a minimum of 90 foot lots. There is enough vacant lots on that portion of Elm to probably equal what has already been constructed on Parkview and the upper portions of Elm. Again I am just concerned for the existing neighbors but then none are here. Owner occupancy goes a long way. Mr. Kovach advised one nice thing is it your cousin who is building next to you, will have an unfair advantage because the one neighbor that is living next door that could contest I don't think could.

ROLL CALL TO GRANT THE VARIANCE: Yeas All – Tatter, Radeff, Reilly, Jancura.

OLD BUSINESS: None.

NEW BUSINESS: Chairperson Jancura advised we have a new Building Inspector and an Administrative Assistance and I met with both today. Jeff Fillar is the new Building Inspector and Suzanne Priest is his Assistant. Member Tatter asked are they both employees of this company? Chairperson Jancura answered yes of SAFEbuilt, so the city has outsourced its Building Department and the whole process of what we do. So I met with both of them and I gave Suzanne the current form, what we had in front of here is just miscommunication of when we transferred from the city doing it to SAFEbuilt doing it the forms got messed up. So I revised the form for the application to be what we all agreed on several months ago. So that will go into place and I also gave Suzanne a checklist. So our application for variance or a lot split or anything that goes before zoning or planning will have to be completed before it is set for hearing. So the schematics of the building if appropriate, copy of purchase agreement if necessary, the print out of the parcel(s)/print out of the auditors website and I want the overview of the parcels so everything we need has to be in the Building Department before that application is set for hearing. So we will not have pieces/parts coming in. They will not go in front of us until it is completed because I am not going to waste all of our time with what about this or what about that or we don't have this or we don't have that. We are volunteers and our time is very precious and I don't want to waste anyone's time and you know how I am with running a tight ship. I am organized and I love that. I have also taken it upon myself as the Lawyer to draft a proposed form for a Power of Attorney for the Board's use. So when we have a landowner who is either in Florida; snow birding or maybe they are a invalid and can't come to the meeting. This form is going to be held so they designate somebody else to come to the Board and make statements in front of us. They will have to get this notarized but then this will go to us so that okay you are authorized to speak on the property owners behalf. I have the language that says applicant acknowledges that all statements or information provided by said agent to any Sheffield Lake Board, Sheffield Lake employee or other Sheffield Lake representative is hereby deemed to be authorized by the applicant. So whoever is in front of us is going to be treated as if they are the applicant. So if Mom tells Son go see if you can do this – it is going to be as if Mom is standing in front of us with this form because we had always talked about we can't talk to you, you don't have standing to be in front of us this is now the Sheffield Lake's form that we can give to them and have this signed and notarized then you can come in front of us. So I think it will be more user friendly for residents who aren't up here all the time and not able to make it to the meeting. So everybody can take a look at this and I give this to Suzanne. I am also working on the kind of handbook for the Board. So Mr. Radeff, we each kind of took a part of the code that we are going to like specialize in. So your section that you are in charge of is section 1151; accessory buildings

and uses. So that is kind of your niche. So Mr. Riley has 1131 R-1's and Mr. Harper has B-1's and Mr. Tatter has non-conforming because he is on non-conforming. Member Tatter stated mine is conforming, my second lot is non-conforming. Chairperson Jancura stated everything on the lake is called non-conforming because it is all backwards. Mayor Bring advised the people that just came here they built one house on Webber Road and within probably 10 years I think 7 of their relatives built on there. So I would assume that they are all going to continue that too. They are actually very good builders and I think they are Ukrainian. Chairperson Jancura advised they are Romanian. Mayor Bring stated they do do a nice job and I do agree with Mr. Tatter that is exactly why City Council did do that but in this case I think what happened down there toward the end was Gilfeather was actually looking at 3 lots and building some bigger houses and I think he ran out of money before that. I appreciate you guys doing all of this. Member Tatter explained I have no problem with the 80 foot but Council establishes the requirements. Chairperson Jancura stated we need to go back to them and say reconsider this or reconsider that especially with these unbuildable lots. You do want them to be built so hey change this. Mr. Kovach stated I think the argument on that will be the intent is going to be left as is and they would just be brought case by case to the Zoning Board. Chairperson Jancura stated so they wanted us to do this. Mayor Bring and Mr. Kovach answered yes. Mr. Kovach advised even though the trend seems to be over the past 20 years everybody has been going to the larger houses and they seem to be downscaling. There was a brief discussion. Member Tatter stated could we get a copy of the zoning map because the first thing I thought of with this applicant is was Gilfeather granted a zoning variance. Mayor Bring advised I am going to get you a new one because Engineer Bramhall just made a new map for the streets for me. Kay was very adamant about me getting a zoning map so I am going to go back to them and beg again. They did an excellent job on the map which I will show you guys if you have 2 seconds.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Reilly/Second by Radeff to adjourn at 7:40 pm. Yeas All.

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

CLERK OF COUNCIL

Kay Fantauzzi

I, Kay Fantauzzi, duly appointed Clerk of Committee
Of Sheffield Lake DO HEREBY CERTIFY that this
Is a true and exact copy of the Minutes of the
Zoning Board of Appeals meeting of February 18, 2016.

CHAIRMAN OF COMMITTEE

Diana Jancura

PRESIDENT OF COUNCIL

Rick Rosso

and/or

COUNCIL PRO TEM

Alan Smith