

Zoning Board of Appeals
Sheffield Lake, Ohio
September 15, 2016

The meeting of the Zoning Board of Appeals was held Thursday, September 15, 2016. Chairperson Diana Jancura called the meeting to order at 7 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Tatter, Radeff, Reilly, Harper, Kovach

Attending: Applicant Melissa Kodysh and Father-in-law Pete Kodysh,
Councilperson Gee, Concerned Citizens

Minutes: Special Zoning Board of Appeals, May 4, 2016 - *Motion by Reilly,
Second by Tatter to approve the minutes. Yeas All.

Chairperson Jancura swore in the applicant Melissa Kodysh, 844 Hollywood Avenue, Sheffield Lake for testimony. Chairperson Jancura swore in Father-in-law Pete Kodysh who advised his son is unable to be here tonight due to job, so he is standing in for him.

Chairperson Jancura advised this application is for a variance to be accepted from Sheffield Lake zoning ordinance 1133.07 regarding a side yard requirement, in particular section c which states every single building shall have two side yards, the combined width of both to be not less than 30 feet and the lesser of them to be not less than 10 feet in width. You are also seeking a variance from subsection d which states that no building shall be erected at a distance of less than 12 feet from another building. So we do have the topographical map which shows the current house and then there is an existing garage and then the layout for the new garage as well as the particular schematics from the builder. In terms of the actual variance, they are seeking a variance of 18-1/2 feet. Their south side yard is only 6 feet and their north side yard is 6 feet/6 inches. So they need a variance for both side yards because it has not less than 10 feet and they are both less than 10 feet and then they also don't meet the combined 30-foot requirement. So that is technically 3 variances and also I found the subsection d because their building if erected will be less than 12-feet from the neighbor's house.

Chairperson Jancura advised I am opening up the Board for discussion:

Member Tatter stated the current yard on the south side is 6 feet already. So why is it in within our responsibility to grant a variance for something that has been granted 30 years or built 30 years ago. Chairperson Jancura answered, I don't know about that, but only because they want a new building. So my thought was perhaps this house was put onto lot before there were side yard restrictions but

since this is going to be a new building we then enforce the code as to that yard. Member Reilly asked when was the building constructed? Councilman Kovach answered it has to be early 70's. Member Reilly stated so it was built after the code was put into effect because the code was put into effect in 1973. So apparently they must have gotten a variance or just ignored section c when they built the property. Chairperson Jancura replied it very well could have been. Member Reilly stated so I guess that would be grandfathered in, we just need to deal with the variance for the total width and the side. Member Radeff stated it could have just very well been their plans and everything was approved, build the house and could have easily been allowed. Member Harper stated especially if since it was part of a development as well. So everything was probably all approved to begin with now that the variance even went into effect. Chairperson Jancura stated but what I do in this case is since they are already here in front of us and we don't know if they have of a variance so to speak I would grant the variance for that south side just to make everything nice and clean. The Board concurred. Member Reilly asked when the construction is completed, just how far away will the garage be from the neighbor's house? Father-in-law Pete Kodysh, North Ridgeville asked I don't want to be misunderstood but Chairperson Jancura had made a comment that the request for the variance was less than 12-feet, which property line is that – is that the northern property line? Member Reilly clarified no we are saying that between the buildings themselves, not the property line. Chairperson Jancura explained between the buildings themselves, between the garage to be built and the neighbor's house will be less than 12-feet. Father-in-law Pete Kodysh stated we went to the Building Department and got some basic information to help try to design this and with that information my son and I actually measured from the house on the north side where this driveway is and we measured over and we knew that rule of 12-foot minimum and that is why we drew the garage at 19.5 feet but it is actually going to be more then 21 – 13 feet from the house. So that we are more than that 12-foot and that is the reason why the garage is only 19.5 feet. It is so that we maintain that 12-foot distance. Member Reilly stated on here it is written down that it is 20-feet or so by 24 and all of that. So then we don't have to worry about subsection d. Father-in-law Pete Kodysh stated it is 19.5 and that is what the request is and the side of the house is 26-foot foundation on the split level and there is a meter on the front corner which we are going to removing that and putting on the outside. So on the improvement the garage is going against the house and all the electric/subpanel will be moved onto the end of the garage. So that is in the requirement, it has to meter base? Member Reilly stated no but we do like it to be easily accessible. Father-in-law Pete Kodysh stated well it is kind of like in the way. There is a giant pipe and it would not look good unless we installed a new one on the end of the garage, so we are going to basically take the

power, the phone and all the cable and move that to the corner of the garage so that it is there. There will be a new subpanel to send power to.

Question/Answer period for Duncan vs Middlefield standards: establishing evidence of standing for practical difficulty for granting a variance.

Chairperson Jancura asked will the property yield a reasonable return and can there be a beneficial use of the property without the variance? Mrs. Kodysh answered it will. Chairperson Jancura asked why do you think the garage would be a beneficial use to the property? Mrs. Kodysh answered it will increase the value of our property and it will open up our back yard. We have 2 small children so it would benefit us in that regards and be a safer entrance into our home.

Chairperson Jancura asked is the variance substantial or large? Mrs. Kodysh answered I would say so.

Chairperson Jancura asked will the essential character of the neighborhood be substantially altered or adjoining properties suffer a substantial detriment as a result of the granting of the variance? Mrs. Kodysh answered I do not because a lot of the houses on our street, our new garage would conform to the rest of the neighborhood as a lot of them have attached garages already.

Chairperson Jancura asked would the variance adversely affect the delivery of governmental services such as; water, sewer, garbage and safety? Mrs. Kodysh answered no.

Chairperson Jancura asked did you purchase the property with the knowledge of the zoning restriction? Mrs. Kodysh answered no I did not.

Chairperson Jancura asked would your predicament feasibly be resolved through some other method other than a variance? Mrs. Kodysh answered it could be where it is now, in our back yard.

Chairperson Jancura asked is the spirit and intent behind a zoning requirement observed and substantial justice done by granting the variance in your opinion? Mrs. Kodysh answered yes.

Member Reilly asked I didn't see any information here about notification to the neighbors? Chairperson Jancura answered yes notice to the neighbors has been done. Kay informed me that we no longer have to do certified, it is just regular mail and they were all informed.

Member Radeff asked has the neighbors said anything about it, do they care? Mrs. Kodysh answered the neighbors on the north side are in favor. Chairperson Jancura stated I did walk by the house and I did notice that many of the houses in that area are configured similarly. That being said and as someone who has an attached garage under my house, being that the houses – everybody seems to kind of like violate the side yard and so the houses are really pretty close together. I did have some concerns that if there is a fire in the back of that house or if there is something going on in the back of the house it would be difficult for EMS to get

their equipment back there because they are so close together. Member Reilly stated that applies to the entire neighborhood. Member Radeff stated most of the city. Member Reilly stated some of the side lots in between the attached garages and the homes in that area are blocked by fences or vehicles or construction equipment, trees, etc. It is kind of a moot point for the entire street. Member Tatter stated it is not moot point. Chairperson Jancura stated this is still an ordinance of the city itself even though this one particular street violates or goes against the ordinance itself, it doesn't necessarily mean that it won't because everybody else is doing it we should ignore it. Member Tatter stated this Board can't be held responsible for the mistakes of other Boards and a variance that were possibly granted illegally and so on. So we have to go by exactly what the current ordinances are, that is the considerations. I agree that the neighborhood will not be changed because there are houses with attached garages. However, there are also a number of houses with detached garages. I did a bit of research and building setbacks differ by community and I would like to enter this into the record that building setbacks, this is the distance which a building must be setback from property boundaries at ground and/or upper floor levels. There are standards that govern minimum guidelines for setbacks. I am sorry, my printer didn't work correctly and it cut off part of it. Does anyone have the guideline for setbacks? Chairperson Jancura stated I did contact EMS/Fire people that I know about houses that are close together. In particular, what about people with fences and stuff like that and he said it does in fact delay services. So if you have a fire to the back of your house and if the front of your house is in flames and we need to get an alternate entrance that having a restricted alley way or fence between the two will obviously deter services. So it is going to take longer to get EMS into the house, Safety Fire Fighters into the house. So for me there really is a concern. Member Tatter stated one step further and I did talk to our Fire Chief and one of the guidelines here is that the reason for setbacks is to minimize fire hazards to adjoining properties because of radiant heat or for Fire Fighters to enter the back yard on foot and you are trying to minimize and provide for safety for the Fire Fighters and the first thing out of the Sheffield Lake Fire Chief's mouth when I questioned him on why there are properties setback requirements. He said it is for radiant heat catching adjoining buildings that are too close and catching them on fire. The setbacks are made to protect adjoining properties and to protect his Fire Fighters, that was the first thing out of his mouth and I just feel that should be a primary concern of this Board and the 30-foot setback being changed to a 12-foot setback or 12-1/2 whatever it might be. There is no access on either side on the house if we allow for an attached garage. Secondly I feel that the house was purchased and while you may not have known of the setbacks required or the ordinances that govern it is your responsibility to know these things and not necessarily at purchase but did purchase the house with a detached garage as it

existed at the time of purchase and it looks like the garage has suffered some damage. So it is my feeling that the concern for Fire and Safety and EMS services and so on could be reached by just constructing the garage where currently is in existence and that would be a detached garage. I don't see how that would affect the house whatsoever as far as hardship goes which is also a requirement for a variance. I don't think a hardship would be created by putting the garage on the same foundation or a new foundation. Member Reilly asked how big is the back yard, the distance between the rear property line and your garage in the back. Father-in-law Pete Kodysh answered it is the 3-foot, 5 inches. Member Reilly stated this is what I was thinking, the radiant heat distance for a building on fire apparently is a minimum of 30-feet and that is what is recommended – California who has a lot more fires then we do and they said 30-feet would be distance before one building sets off another and there is no way to get anywhere near that. The only access to the rear of the house now is either through the south part here which is blocked by a fence or around the existing garage in which case the Fire Fighters have 3-1/2 feet to work through before they get to the rear of the house and can do anything. Also their vehicles can't make it to the rear of the house in case they are needed. Now if the garage is moved I admit I don't like it being that close to the neighbor's house, I would like it to be a little narrower but I think actually access to the rear yard would be eased because they are going to have at least 13 feet and an entire fire truck is only 8. They are going to be able to have enough room 20-feet or so to move around the rear of the garage and get in that area and so I think it might actually be easier and safer for them to have access around the rear of the garage rather than just access between the 2 houses and getting just stuck there. Member Tatter stated I think what you are missing though is the detached garage allows the 13-foot for that fire access. However, if you move the garage forward that 13-foot is totally eliminated and the garage itself is, I am not sure on how far the existing garage set back from the neighbor's house or from the subject's house but it certainly is much more than 6-foot. If there is a fire in the house, people don't live in the garage so if there is a fire in the house, emergency services could easily access the rear yard to the existing garage. Member Reilly stated I don't know you have got quite a bit of fencing blocking these two buildings here. Member Tatter asked why would you want to go behind the garage? Member Reilly stated I am just saying that it just looks like 6 of 1 and 1/2 dozen of the other. I mean right now if the Firemen come and they can't get around the back of the garage, they can't bring their vehicles down to the house. Chairperson Jancura answered yes, they would, they would go down the garage, down the driveway and they would cut behind the house. Member Tatter stated exactly they will be in front of the garage the whole time fighting a house fire, there is no reason to go behind the garage because that is probably very close to the rear property line. Member Reilly stated that is what I was saying right now it is 3-1/2 feet. Member Tatter

debated there is nothing behind the garage and they are probably 30 or 40 feet from the other one. Chairperson Jancura added there isn't another structure on the other side. Member Reilly stated I am just talking about the guys having to move their way around, if the house is on fire, they may not be able to get in between the garage and the house. Chairperson Jancura stated I think he is trying to argue that this isn't enough. Member Reilly stated if they right now want to get in here, this is blocked for any reason they got to go around and there is no way they are going to be able to make it in in good order around here. Up here they have a bottleneck here, but at least it will be 13-feet between the buildings. Chairperson Jancura debated with a new garage this is going to be even worse because now you are going to have the whole building here, that is one big building that you are going to have to fit your equipment down that little alleyway. Yes, it opens up back here, but you are still cramped on both sides so they are really not going to have a choice of where to go. That is my concern as well in addition to the fact that with an attached garage, you are now much more likely to suffer damage to your house because fires start in a garage often as that is where your flammable gases and stuff. So if a fire is in his garage it will easily spread to his house, where as a detached you are like leeway. Member Tatter stated, we know this approximately 6-foot, the distance between the house and the garage definitely exceeds the distance between the property line and the house. So I still would argue that there would be plenty of space between the rear of the structure of the house and the front of the garage. I would say based on this I would say there is at least 10 to 12 feet between the rear of the house and garage. Many voices (inaudible). Member Tatter asked, you said 3-foot, now is that on the north side or the rear of the garage. Father-in-law Pete Kodysh said clearance on the back side of the garage. Member Tatter asked what is the clearance between the north side of the existing garage and the north property line? Father-in-law Pete Kodysh answered it says 8.5 feet. Member Tatter asked do you happen to know by chance the between the rear of the house and the front of existing garage? Member Harper answered if you do the map it is about 15 feet. Member Tatter concurred that is what I would say too. Member Radeff asked are you guys assuming that this truck is going to go behind the house? Member Tatter answered no I am concerned about Firemen on foot. Chairperson Jancura added Firemen on foot, a gurney, dragging hoses. I literally called a Fire Chief in Parma about this and they said it would be really tight. Member Radeff stated I am saying if all the other houses, like the one to the left of them looks. Member Reilly stated some of the houses in the neighborhood have no access whatsoever. Chairperson Jancura answered because we have to look at this application. While we do look at other houses. Member Radeff stated I understand we are looking at this application, but I mean yet again, it is going to conform with the rest of the neighborhood. Chairperson Jancura stated that is just one factor. Member Radeff stated I understand it is one factor, but the other factors are, they

all seem to be – not all of them. Member Harper asked so once the structure is built there is going to be 13-1/2 feet between the edge of the garage and the next building? Chairperson Jancura answered yes. Member Harper asked so we are arguing that 13-1/2 feet is not going to be enough move for people to get around. Member Tatter answered no it isn't because then if we allow that and you assume there is going to be 13-1/2 foot you then take the right of the neighbor, the use of his property. He has the right of that 6-1/2 foot, if he wanted to put a fence and you are telling him he couldn't do it. I mean we don't have that authority, but he does have the right in his bundle of rights of owning property. Member Harper stated so, then from edge of structure to be built to edge of property line, what do you have, 6-1/2 feet? Mrs. Kodysh stated yes. Member Harper stated so we are still arguing at 6-1/2 feet is not enough room for people to walk around? I am not following you guys. Chairperson Jancura stated that is not what we are talking about, if there is a fire and they are trying to get hoses and equipment back there; a gurney or a stretcher and maybe they can't get into the front of the house so they have to go in through the back. If it is all connected, this is going to be the only access possibly the only access. Member Harper stated I understand that, but I don't see how 6-1/2 feet is not enough room, I have been in the building/construction trades for 20 some years and I don't see how. I am not disagreeing with you I am just saying I don't understand why you guys are saying that 6-1/2 feet are not enough. Chairperson Jancura stated two things; radiant heat from the fire and also Fire Fighters need room. I mean the guy told me we are trying to run and get there as fast as possible, so to have to be bottlenecked into an alley way slows down their arrival and getting things there. Member Reilly stated I agree with you completely, but I don't see any resolution where they are not going to get bottle necked, if we leave it as it is if there is a problem there. Member Harper stated if we left structure as is, you do have 15-feet between the rear of the structure and front of the garage. I mean I understand that. Chairperson Jancura stated it is not really bottle necking between 2 buildings. My focus is really on a hardship this in my mind is kind of like more of a convenience thing. As having an attached garage is a convenience, but it is not really a hardship and we have to meet the standard of a hardship, especially since there is a very substantial variance – 18-1/2 feet is a big variance. If it were 2 or 3 I am much more likely to go for it. If someone were in a wheelchair or some other physical disability, I would be much more inclined to grant it, especially if they have an existing garage that they can build on that footprint and the fact that there is a building kind of behind their house a little bit and it does fence in their yard a little bit. Just a bit, the building itself acts as a bit of a petition so in my mind they haven't met the hardship, especially since it is such a large variance – 18-1/2 feet is big. Member Reilly stated still it would substantially improve the property value. Member Tatter answered not at all. Chairperson Jancura stated not at all, I have an attached garage. Member Reilly

stated an attached garage would increase the size of the back yard and of course the fact that the garage is right there, that would be a much better sale than it is now. Member Harper stated the size of the back yard still goes on square footage of property. Chairperson Jancura stated it is not like the current garage is so far away from the house, it is not that far of a walk from the current garage to the entrance of the house. If it was farther away, like I have a lot that my attached garage is on a whole different other street. But this isn't so unreasonable. Member Reilly asked could you reduce the width of the garage by say another 10-feet and make it more of a 1-car garage then a 2? Mrs. Kodysh answered no.

Chairperson Jancura advised a roll call vote of yes to grant the variance and no to deny the variance. She explained a vote of yes will be that hardship has been established and to grant the variance and a vote of no will be that a hardship has not been established and to deny the variance. This doesn't mean that you can't still build a garage on the existing garage, it just means you can't build a garage as proposed. Member Harper stated the 3-1/2 feet from the back of the property line, what are the restrictions if they were to build a building exactly where it is at?

Member Tatter answered it would be grandfathered. Chairperson Jancura concurred and added because it is on the same footprint. Member Harper asked even on the same footprint, but what if the foundation needed to be replaced?

Chairperson Jancura answered that is fine, as long as they build on the same footprint its fine. So if your slab for the existing is bad and you have to rip it up, as long as they lay the slab on the existing footprint that is fine even if that footprint is not in compliance. Member Tatter stated you could always make a bigger garage that way. Chairperson Jancura stated so if you wanted a bigger garage you could, you just can't have it going the way you wanted it to go. Mrs. Kodysh stated I just wanted a garage attached to my house, we have been here for 8 years and I love Sheffield Lake. We don't want to move, but we really want that to get done. We were very excited about this, we bought it because we have been here for 8 years. My kids just started school here, this is hard for me in the mornings because my husband works at night and it is hard for me when it is snowing outside to get from the inside of our house to our detached garage. I have to drag them through the snow. We had a rough time last winter and that was our intent was to build an attached garage so that this winter, we would be able to take our kids right into the garage so we are not dragging them through the cold weather. Member Reilly stated I still am not convinced that there would be any increased hazard to this garage, I think you would have the same limited access that you have now but just go around an extra border. Member Harper stated my only concern is what you brought up with the radiant from one structure to the other but you have that everywhere. Member Reilly stated there is no way around that, our Fire Department had better really improve itself if your garage goes up. Chairperson Jancura stated how about this Mr. Reilly, if the variance is granted it is contingent

upon if it is not already in the plans of a firewall. A firewall must be not only between the outside walls, but the inside walls. So fire walls on the outside so the north wall and a fire wall between the connection wall and the house and the actual garage. Father-in-law Pete Kodysh stated that is code by the way, 5/8 drywall is fire code and if you want it doubled I can put double on it. Chairperson Jancura stated no offense, but we are more concerned with the neighbor because we are granting a variance if their house burns down and they come back and say you gave them a variance and our house burnt down because of this variance. So granting a variance, we have to take into consideration what we are doing to surrounding neighbors and how this variance is going to affect their property. Mrs. Kodysh asked is there anything that the neighbor can do because I know that they came over right away and told us oh you're building an attached garage, we are so excited for you. Is there anything that our neighbors could do to help make this happen for us? Councilman Kovach stated when this house was built and I speak professionally because I had a house built at 641 Hollywood in 1973 with a 30-foot side yard and the ordinance was not in place and it wasn't in place in 1974, it was a 6-foot side yard requirement at the time. Now I don't know if there is no structure, there so I don't know if conforming, like all the problems we have on Lake Road. Chairperson Jancura advised non-conforming. Councilman Kovach stated I don't know if that would apply here just due to the fact. Chairperson Jancura answered no. Councilman Kovach stated you could have a minimum of like 12-foot between the 2 properties if say you had 2 homes of the split-level design with attached garages on at the time on two 35-foot wide lots because that is the way the neighborhood was structured. Chairperson Jancura clarified if the variance is granted it would be contingent upon a firewall on the outside of the north wall. Father-in-law Pete Kodysh stated with the intent of building this garage, the garage that is standing now currently it is just open frame inside, all 2 X 4's and plywood. The code in this garage can be the same, but we were consideration of dry-walling the whole interior of it to have it finished inside. So that is even more, it is 5/8 code fire wall between the living structure and the garage, but if you require that on the existing north side wall. We are planning on hanging ½ inch at the top and back so it is going to make it more fire resistant.

Annamaria Gere, 833 Kenilworth – Chairperson Jancura swore her in for testimony. Mrs. Gere stated I think where they want to build it is the house this way, my house is at the back yard. My concern is I don't see how it is going to affect me because it is going to north and south. Chairperson Jancura explained by law, any variance granted or an application for a variance it is served upon all property owners of abetting, abutting and adjoining, so that means anything next to or across from. Mrs. Gere advised my other question is the garage sets back, do they want to tear that garage down and add to the house? Chairperson Jancura answered yes, they want to take the existing garage down and move it up so it is

part of the house to have an attached garage. Mrs. Gere stated then I don't have a problem with that. Member Reilly stated so the backyard is actually going to increase in size. Mrs. Gere stated the backyard will be different and that was the only concern because I was wondering are they going to add to their existing garage and then add to the house. Chairperson Jancura quipped that would be a nice 4-car garage. Mrs. Gere stated that was the only question that I had because I didn't see how it was going to affect me because the property that I am next to is 60 X 100 and the last 30 feet I own because I wanted to avoid anybody purchasing that 60 feet to build a house on. Member Reilly stated this sort of thing for example and block your view of the lake and something like that.

ROLL CALL TO GRANT THE VARIANCE CONTINGENT ON A FIREWALL EXIST ON THE NORTH SIDE BETWEEN THE NEW GARAGE AND THE NEIGHBORS STRUCTURE AND A FINDING OF HARDSHIP. A FINDING OF NO WILL BE A FINDING OF NO HARDSHIP AND DENIAL OF VARIANCE: Yeas – Reilly, Harper, Radeff/Nays – Tatter. Chairperson Jancura advised your variance request has been granted with a contingency as noted.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Reilly/Second by Tatter to adjourn at 7:45 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 15, 2016.

PRESIDENT OF COUNCIL

Rick Rosso