

Zoning Board of Appeals
Sheffield Lake, Ohio
February 16, 2017

The meeting of the Zoning Board of Appeals was held Thursday, February 16, 2017. Chairperson Diana Jancura called the meeting to order at 7 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Tatter, Reilly, Harper, Kovach

Absent: Radeff (excused)

Attending: Law Director Graves

Minutes: Zoning Board of Appeals, November 17, 2016 - *Motion by Harper/ Second by Tatter to approve the minutes. Yeas All.

CORRESPONDENCE: None.

PRESENTATIONS:

Greg Stricher, 850 Robinwood Avenue - Chairperson Jancura swore in Greg Stricher for testimony as owner of the property. Law Director Graves presented on behalf of the city. He stated in reviewing the written materials that were submitted to the Board from the Building Inspector I did note that there were some inaccuracies and I just want to make sure that everyone is clear on that. Items numbers 1 & 2, the code states that the total side yard requirement would be a total of 30 feet, not 35 as it is written. With neither side being less than 10, so as he states on the south side yard the plan as presented would allow for 15-feet. So, there is no problem with item#1, he is going to have 15-feet on the south side yard. The issue that becomes on the north side yard where it is proposed to be only 3 feet. So, the first variance that would be necessary is a 12-foot variance on the north side yard because that is what would be needed to take it up to the required total of 30 and he would need 15 there. So, he is talking about a 12-foot variance on the north side yard. Then, the second variance that would be required is in regard to the setback, the code requires a 50-foot setback. The house is currently existing non-conforming, it is grandfathered as it was built prior to the zoning code being enacted. The house is 36.4 feet and the proposed garage addition would only be 31, it is farther encroaching into the required setback. So, he would need a variance in order to do that.

Chairperson Jancura allowed Mr. Greg Stricher the floor for proposal of new garage. Mr. Stricher advised it is to park a vehicle and to give me a little area for storage for the most part. Chairperson Jancura stated I see you currently have a shed on the property. Mr. Stricher concurred yes. Chairperson Jancura asked will

that shed stay in place. Mr. Stricher answered yes. Chairperson Jancura asked what about the current attached garage, what do you store in that garage? Mr. Stricher answered a muscle car and my wife parks in it. My truck is on the side apron. Chairperson Jancura asked so how many vehicles total do you have? Mr. Stricher answered I have three, right now I actually have four, I have another car but it is at my daughter's. Chairperson Jancura asked do you intend to bring it onto your property if we grant the variance? Mr. Stricher's answer was inaudible. Chairperson Jancura asked how many drivers are in your home? Mr. Stricher answered me and my wife. Chairperson Jancura asked what can't you fit into your current garage that you would need 540 square foot? Mr. Stricher answered vehicle and it is going to be like a little shop area in the back and storage. Chairperson Stricher asked what type of shop? Mr. Stricher answered handyman, I am not going to be doing any kind of work out of there. Chairperson Jancura asked would it be woodworking or to work on your cars? Mr. Stricher answered to work on my cars mostly. Tinkering, gives me something to do since I am retired instead of just sitting around. Law Director Graves asked so your current garage is 15 feet off of the property line which is within code, the entire addition would be in the required side yard setback. In order for the Board to allow that, I have to prove on a practical difficulty standard why the code shouldn't apply to, what your hardship is and you have provided with written responses based on the factors from the case Duncan versus Middlefield which are the factors that the Board will use to determine whether you have proven by the preponderance of the evidence if this variance is necessary. I am sure the Board has read those written responses, is there anything that you would like to say today to highlight and supplement those written responses to show how you meet those factors to prove practical difficulty so that the ordinances of Sheffield Lake should not apply to this addition. Mr. Stricher stated I have been a property owner here since 1979 and I feel I just want to make an improvement to the home. It is not going to be something that is going to be thrown up, it is going to be put up by a contractor and it is going to just look like part of the house. As far as me needing extra area and extra room, I have two old cars that I have had for fifteen years. Instead of kicking my wife out of the garage in bringing my other car home, she would have to park her car outside. This way she will get to keep parking inside and we will go on as we have been just with another garage. Chairperson Jancura stated my concern is on the side yard of having only 3 feet, will there be will enough room if there is an emergency; ems, fire or service? If there is a fire in that garage, that there will be enough room as there is serious concerns. Mr. Stricher answered there is going to be a door in the front and a door in the back and there is going to be a man door to get into which I don't have now. Chairperson Jancura stated but if they need to get through the inside of the building to get to the back yard. Member Harper stated she is saying that once you put that garage up, is there going to be enough room between that

said garage and the neighbor's house, so that emergency can get in the back. Mr. Stricher answered there will be three feet there. Member Harper stated plus the neighbor's side yard, how much is that? Mr. Stricher asked neighbor, how much is your side yard? Unknown subject answered I think we have 13 feet from the property line to the south side of our house. Member Harper stated so there is 16 feet and there is no fence. Chairperson Jancura asked do you intend on putting a fence between the houses to connect the yards? Mr. Stricher answered I wasn't planning on it, I have a stockade fence now that is going to come down or most of it is going to come down. Chairperson Jancura stated my concern is the code was written with safety standards in it mind and the minimum of 10 feet was set to establish safety standards. Mr. Stricher stated I didn't think they can drive a fire truck down between the houses now. Chairperson Jancura answered correct and I am not looking for that but if they would need to get a gurney or safety equipment through there, that is really my concern. Mr. Stricher stated they will have plenty of room to get down along side the house. Chairperson Jancura stated but not on your property, when you take into consideration your neighbor's property but we don't do that here. We take into consideration your property. So, that is my concern, you are asking to be exempt from the law. She explained an ordinance is a law, you have to establish that you really do have this practical difficulty that must be established, especially this is new construction to an existing building. Why couldn't you relocate your garage? Mr. Stricher stated I could relocate and leave Sheffield Lake which I don't want to do. Chairperson Jancura clarified within your own property to conform, especially your front yard. You have houses set back 36 feet which is non-conforming. Mr. Stricher stated there is no other place to build this garage on my property. Chairperson Jancura stated and you feel the garage is absolutely necessary because why do you feel it is necessary? Mr. Stricher answered because it gives me more parking area and storage area. Chairperson Jancura asked what if you sell your 2 fun cars and go down to just 2 cars and now you have this huge garage. Mr. Stricher stated then I could have more area to do things in, right now in my 2-car garage I can't do anything because it is so small. That is the way they built the houses back then, they give you 21-foot garage and that is it. You can't do anything in that garage when you have anything in that garage. You can walk through them to get to the back door and that is it, you can't do anything else in that garage. Chairperson Jancura stated well for me they are made to just park your car in there, garage were meant to store things and park your cars. Mr. Stricher stated when they built these houses back in the 70's they were supposed to be efficient homes, all electric, very little windows, very little area and that is the way they built them back then. Now if I would have had it built myself I would have had it built a lot different but I bought the house brand new where somebody else backed out of the deal and I bought the home back in the 1979 and I have lived there ever since. Member Tatter asked Law Director Graves,

the current garage is grandfathered but you said the front setback is grandfathered. However, you don't have blueprints in front of us but we do have a proposed picture and it appears that the entire front elevation in the garage is going to change as far as pitch of the roof, the size of the roof and so on. Will that change to the existing garage, it will be altered so will that effect the grandfathering? Law Director Graves answered yes and that is why he needs a variance for the setback as well because the current garage would be existing non-conforming. His addition encroaches even farther into the setback and so he needs a variance for that.

Member Tatter stated but we need a variance on what was presented to us, we need a variance not only for number 2; side yard, we need a front yard setback. Law Director Graves answered correct, there is 2 variances. So, he needs to establish practical difficulty as to why he needs the addition to encroach 12-feet into the side yard setback and also why it needs to encroach into the 50-foot front yard setback.

Chairperson Jancura stated what Mr. Tatter was getting to is we have a diagram of his existing garage with the pitch; the height is the same as the house and the new one is higher. Member Tatter stated it appears from the drawing it is higher than the roof. Member Harper stated it is because what you have to do is in order to meet that pitch because you are adding 12-feet onto it, we have raise the actual pitch of the garage in order to make that work. Law Director Graves stated I am going to defer to the Building Inspector here and say that he has determined that that would be within code, I have not reviewed the height of the roof. Chairperson Jancura stated that is usually what we do, if he hasn't said that they need a variance then this is fine. Member Tatter stated even it is illegal. Chairperson Jancura stated then he will have to deal with it, he only gives us the variances that he feels are needed. So, if he has missed something then on him. The Board concluded discussions with applicant.

Paul Grattan, 849 Robinwood (neighbor) stated I live directly across the street from Mr. Stricher and I have talked to Greg and he is right he has a small garage and I have no objections to it. I don't see safety issues that you guys brought up, like you guys brought up of fire fighters being able to move around or paramedics and things like that, that won't be a problem. I see no problem with this, I think it is going to add value to the home and it is a good deal for Greg. I am all for what his design is which I have saw before we came down here. I would stress to the Board he is looking for a variance, it would be a good thing and I am totally 100% for it. I have lived across the street from him for 20+ years. I am retired steel worker and I am not going anywhere either as I have been in this town since 1958. I think it is a good deal, it is a positive and with his landscaping there is no problem here. So, that is coming from me and that is safety wise either, I have been around.

Tom Pienoski, 840 Robinwood (neighbor) stated I live right next door on the side of the proposed addition. Like I said before as far as space between the buildings is

concerned, we refinanced our house a number of years ago and as part of that we had a mortgage identification survey done and according to that survey it shows that we have 13-foot clearance from the property line to our house. So, that would leave a total of 16-feet there. I do have a concern though as I looked up the zoning ordinances on line and I am not sure that I got the most up to date one. Chairperson Jancura stated you did. Mr. Pienoski stated it said that there has to be 12-feet between buildings. So, if Greg were to over there to 3-feet and I have the 13-foot would mean that if I were to ever want to add on and have to get a variance, I would only be allowed to put on like 4-feet onto the house which is effectively nothing. You can't really do anything with that. So, I just think the 3-feet is a little close to the line. Also, there are things like overhangs on the buildings and that. It is kind of ironic that he bought the house in 1979 because that is probably about the time I was doing all these surveys for all of these houses because I worked for McGlinchey & Associates at this time and he did all the surveys and laid out all these houses and everything. I remember a couple of times that I ran into issues with the houses where the overhang was actually encroaching on the neighbor's lot. It just seems there are other things there; such as, how is rain water going to be handled and stuff like that. The 3-feet just seems close to me but other than that I don't have a problem with it. Chairperson Jancura asked do you have any problem with the additional cars on the property or the use that he has proposed, it could be that there are now 4 cars on the property. Do you have any concerns with that? Mr. Pienoski answered I can't say that I do because we have 4 cars on our property. No, he is a great neighbor and everything and I would hate to see him go because he can't have a garage there, I just feel the 3-feet is a little close. You know by the time they start excavating for foundation and then all that kind of stuff.

Chairperson Jancura stated I would propose that and we do kind of make the standard that if the variance is indeed granted that the north wall of the garage must be a firewall since it is going to be so close. I am sure that the Building Inspector probably already told you that as a condition of that being a firewall. Unknown voice asked would it be possible to narrow the structure a foot or two? Chairperson Jancura advised our purpose is to consider what is before us. There were unidentified voices speaking of his muscle cars and possible narrowing of proposed.

Member Tatter stated I am considering the impact on the neighbor and the requirement there and I don't see where a practical difficulty has been established.

Chairperson Jancura stated the 3-feet is very close and it does impact the next door neighbor and as he had mentioned if wants to build, it is now narrowing these yards. The city put 12-feet because they didn't want houses being all on top of each other or having not enough room to get around, not having side yards. We have the ordinance so that we have yards. I am also concerned about the additional 5-feet into the front yard as he already has a non-conforming being 36-feet instead

of 50-feet and now he wants more room and making his front yard even smaller to put cars in front. I am very sympathetic to being a car guy in having being married to one but I just see the need for it as proposed.

Member Harper asked is it possible that you could drop it back so that it is the same distance away from the street the houses or as the garage already is, the 36.38 feet? Mr. Stricher answered the reason why that the 5-feet is like that is to put a man door in because I have no man door now. Member Harper asked you want it on the actual existing garage door side? Mr. Stricher stated not on Tom's side though. Member Harper stated so on the side where it is going to be meeting the actual garage door side. Mr. Stricher stated right, I was going to put a man door there because when the power goes off in Sheffield Lake which it does I can still get in my house because my wife when she locks it it is like locking up Fort Knox.

Member Reilly advised I have to admit I don't see a hardship or practical difficulty, on the hand a longtime resident who does hit in with the mesh-mash that is Sheffield Lake, safety issues will be concerned. Unfortunately for you sir, if you ever decide to put up a fence or an addition to your building there, that would definitely negate any chances of that. As seeing on my own house is 3-feet away from the property line, personally I am feeling inclined to seeing how the neighbor are on good terms that the applicant will take care of his neighbors needs since he is putting it up. I am inclined to grant it despite the lack of practical difficulty. Law Director Graves advised a legally defensible decision of the Board has to be based on practical difficulties. If this is taken to court by a neighbor opposing it, the question will be whether or not he has established practical difficulty standard. Member Reilly interceded it can be argued that in his mind there is a practical difficulty. Chairperson Jancura stated with the Board he has to establish difficulties based on the factors of Duncan versus Middlefield. Law Director Graves reiterate same. The only consideration in the court is whether he met the factors. If I have to defend this and I will be called upon to defend the decision of the Board. Member Reilly quipped are we already anticipating a law suit. Law Director Graves answered a legally defensible decision should always be your primary concern. Chairperson Jancura added because it could always come up in the future if the neighbors want to follow the law. Law Director Graves added why not follow the law.

***Motion by Tatter/Second by Reilly to deny the variance due to lack of evidence for practical difficulty. ROLL CALL TO DENY: Yeas All – Harper, Reilly, Tatter, Jancura.**

Chairperson Jancura stated this does not mean that you cannot build your garage, it means you cannot build it based upon what you have proposed this evening. Mr. Stricher stated I don't understand what you just said. Chairperson Jancura advised basically we have denied your request for the variance. Mr. Stricher stated so I can't build? Chairperson Jancura answered we are not permitting you to build a

garage as you have proposed in this schematic. If you want to try and get a different schematic that will comply more with the ordinances completely. Mr. Stricher stated what do you want me to do with the schematic, shorten it up? Law Director Graves advised the Board has denied your variance which means that you did not prove by practical difficulties why the code of Sheffield Lake should apply to you. You have 30 days to appeal that decision to the Common Pleas Court of Lorain County or you can submit a new application that complies with our code. Member Reilly stated or you can submit a new application that doesn't comply with the code. Mr. Stricher stated it cost me \$100.00 every time. Law Director Graves stated if you do submit a new application that doesn't comply with the code, it better be substantially different from what this Board already just denied. Mr. Stricher stated putting a for sale in the yard will be easier.

OLD BUSINESS: None.

NEW BUSINESS: BZA Training – The Board will discuss this at June 2017 meeting with Law Director Graves on the preponderance of evidence and exactly that means and the questions that we should ask to the applicant and also practical difficulty. We can even get into the other standard of an undue hardship for a use variance which we don't get very often. So, we can just be a little bit more efficient Board. She advised Member Reilly I know tonight was rough because I know you wanted to give it to him but you have to remember they are asking us to not comply with the law. We haven't written the law, we haven't written the ordinances, somebody else did. Law Director Graves stated you have to keep in mind there is a lot of people in Sheffield Lake are trying to decide whether to build something and they read the code and they say oh, I can't do this because that is not within the law and just because someone pays an application fee and comes in here and ask doesn't mean that they should get to do what a lot of people follow the law and don't do. They really have to show that they have a difficulty/a hardship that requires the code not apply to them. Typically, that is when there is some anomaly with the land, the irregular shaped lot or something of that nature. It really should not be based on any kind of a self-created hardship. Such as I want to have 6 cars, the code shouldn't apply to me so I need a much larger garage. That is a life choice that doesn't exempt you from the code.

Chairperson Jancura requested Law Director Graves to explain what Planning Commission is doing with driveways. What the city is doing is good stuff but again it will not be popular. Law Director Graves advised I am going to try to give you a quick summary for something that I could probably talk about for an hour. Law Director Graves advised driveways; back in the 70's Sheffield Lake passed an ordinance that said all parking areas, drives, etc., shall be hard surface; concrete, asphalt or 4 inches of #57 limestone or greater. Then in the 90's they passed an ordinance that said for residential driveways, it has to be Portland cement; concrete. So, all new construction in the city is required to have a concrete drive

for residential. Commercial buildings can still have asphalt drives or even a gravel drive. Where this really came to a head is about 3 years ago when the city passed the overnight parking ban, about 3 years ago Sheffield Lake passed an ordinance which most communities around us have that says you cannot park on the street between the hours of 2 am and 6 am. There were a lot of people in the city that were used to being able to park on the street. Member Harper asked I thought the ordinance was already in place, they just started enforcing it. Law Director Graves advised no, the overnight parking ban was passed in November of 2013. So, it was no longer possible to park vehicles on the street overnight, a lot of people were faced with trying to figure out where to park these cars. So, what they did was rather than pay money to put a concrete driveway extension/addition on they just through down gravel and starting parking cars on gravel. None of those gravel driveway additions in the city are legal because they have not received a permit, they have just done this and they are very prevalent across the city. So, the questions is how does the city move forward on that. Member Reilly asked define again gravel driveway addition. Law Director Graves answered where you have a concrete drive and you put a gravel addition. So, that would be considered new construction and that is required to be a concrete addition to a concrete drive but they are so prevalent throughout the city. There is a number of issues that we have to deal with; how do we enforce the existing code on those who already have existing gravel driveway additions. Do we put a moratorium on that, do we give them time. One of the discussions has been, make it like the sidewalks where when a property transfers they have to put the concrete in or remove the gravel. Or do we simply exempt all of the existing ones because there is a lot of people in town that are going to say I don't have the money to do this. Now some do, some people put a gravel driveway addition on so that they can park their RV's and boats and everything like that. So, they have money for that but they don't have the money for the concrete drive. So, this is a question of how we are going to go forward, one of the proposals is do we just make everybody register now and then put standards on it; gravel has to be 4 inches and it has to have barriers on it so that it doesn't expand and thin out and over time those will go away. So, that is the first issue, these driveway additions that are gravel. Some people have them in the city and they look great and then there are others that are mostly just mud and look really bad. So, we are trying to figure that out. The other issue that they are looking at is where you can park a vehicle. Are we limiting to the front yards, side yard, there is people that are parking their cars in the rear yard. So, we are dealing with that issue as well. So, that is it in a nut shell and it is in a much larger discussion, there are a lot of different ordinances that come into play and a lot of history. They have had several very good discussions and we are hoping after one or two more that they will come up with a recommendation and then that will go on to city council for their consideration. Chairperson Jancura stated but being that we will

be the Board that has to grant variances for these applicants that state I can't conform with this. Law Director Graves stated that is another good point that you brought up because current requirement for concrete drives is actually in Chapter 900 of the code which is streets and utilities which means you are not even allowed to give a variance for that. You can only give variances for the zoning and building code which would be Chapters 1100 through 1300. So, where that requirement is, if I came in and said I have a concrete drive but I want a variance to put a gravel addition this Board wouldn't even have jurisdiction to entertain that because you can't give a variance from that section of the code. Chairperson Jancura stated wow, so they would have to go to court and sue. Law Director Graves advised yes but they probably wouldn't win because you have to follow the code but that is another thing that Planning Commission is looking at. I think that that will happen, that requirement should be moved to the Zoning code so that if someone came in and was able to establish practical difficulty that they could at least apply for a variance. Chairperson Jancura advised well basically if any of you have input of well this would be a good idea. Chairman of Planning and I are close so I could relay information or messages because I have a couple of ideas too. Law Director Graves advised well come to the Planning Commission. Member Tatter asked so Planning is not considering asphalt going forward. Law Director Graves asked for residential? Law Director Graves answered no, all new driveways must be concrete and that is the current law. Member Harper stated that is new driveways, what about current driveways. Law Director Graves answered if you have a current asphalt drive then I think the direction would be that you could an asphalt addition. I don't know that is a good discussion too. The question would be can you expand on what is basically a non-conforming use. Current law says you have to have a concrete drive but you are non-conforming because you are grandfathered because you bought an older home that had asphalt or a gravel drive. So, can you add onto that with the existing or would you say no, that you have to bring the whole thing up to concrete. But I think the goal is going forward and really it has been the goal since the 90's that all new driveways in Sheffield Lake should be concrete driveways for residential. Businesses can still have asphalt or gravel driveways. Member Reilly stated of course it also throws into play the amount of rain water wash-off, I mean can our pipes take it if we start converting everybody over to that. Law Director Graves stated your right, the one plus for gravel is a permeable surface for storm water but we do charge everyone a Stormwater Utility fee and it is a standard based on the average of square feet of impervious surface.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Tatter/Second by Harper to adjourn at 7:55 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

| *Zoning of Appeals 02162017*

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 February 16, 2017.

PRESIDENT OF COUNCIL

Rick Rosso