

Zoning Board of Appeals
Sheffield Lake, Ohio
March 22, 2018

The meeting of the Zoning Board of Appeals was held Thursday, March 22, 2018. Chairperson Jancura called the meeting to order at 7:05 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Reilly, Wright, Tatter, Radeff

Absent: Members Harper (excused)

Attending: Applicants and/or Representative, Concerned Citizens

Minutes: November 16, 2017 - *Motion by Reilly/Second by Tatter to approve the minutes as presented. Yeas All.

CORRESPONDENCE: **None.**

PRESENTATIONS:

Chairperson Jancura swore in Jim and Oksana Bruce for testimony.

413 Elm, variance as presented – Chairperson Jancura advised you are seeking a variance from compliance from 1133.07(e) requiring a 30-foot rear yard for a structure with an attached garage. This is a new building and they are requesting a 5-foot variance to allow for the building of the new house.

Chairperson Jancura advised in order to allow the granting of the variance in compliance with the standard set forth by the Supreme Court of Ohio in part we need to find a finding of practical difficulty and within your application there was that series of probably odd questions about whether the variance was going to affect government services and a reasonable yield on your return, those are all standards that the State of Ohio Supreme Court has said must be satisfied and must be taken into consideration when determining whether a practical difficulty has been established. So, the questions that we are going to asking are as a Board that we wanted to raise. (Duncan factors are filled out upon applying for variance) We have your written answers in terms of the various questions set forth by the State of Ohio.

Chairperson Jancura asked since this is a new building, is not it not possible to reconfigure the house so that you don't need the 5-feet? Mr. Bruce answered it is possible but the house is only 20 feet wide, kind of like a military barracks. Mrs. Bruce advised it would be very challenging to meet the requirement of 1500 square feet footprint. Chairperson Jancura advised so the minimum square footage. Member Reilly stated it says here that the existing is 1486. Mr. Bruce advised with a second floor. So, the answer is like 2 parts; not having a long, skinny building and then also just meeting that minimum footprint requirement. Chairperson Jancura advised I noticed even the lots themselves are very narrow, they are 40

feet. So, you have 3 parcels, correct? 3 on Elm and then 1 behind. So, you have 008, 009 and 010 on Elm and then 028 behind Elm that is technically on Oak Street. So, you have a big frontage and then part of back yard? Mr. Bruce advised we are not going to build on that though. Representative Radeff asked are you guys planning on living in the house? Mr. Bruce answered with her parents. Member Reilly asked how old are they? Mrs. Bruce answered close to 70. Member Reilly asked do they have any special needs or anything like that? Mr. Bruce answered no. Member Tatter asked on the deed restriction you had put in there to lock those lots together lots together is for 3 of the lots, 008, 009 and 010. But on your application you listed 4 lots, so the rear lot you are not going to put under deed restriction? Mrs. Bruce answered it is not required by the Building Department and my discussion with the Law Director we were okay with just the 3. Chairperson Jancura advised so if they could always sell off the one. Member Tatter asked are you in anyway in the building trades or qualified to build this or are you going to hire someone? Mr. Bruce answered we are going to hire someone. Member Tatter asked have you explored that yet because and I don't mean this to offend you but this is kind of a rough application in the drawing. There is no plot plan, there is no blueprints as such and it is almost to me like an incomplete. I was just wondering the reasons behind that. Mr. Bruce stated so we had to have a builder and we have an architect but we didn't want to pay to have the drawings done without first making sure that we are going to be able to build the house. So, we drew those but our architect is already working on the preliminary stages of the design. Member Tatter asked when you purchase these lots in December, were you represented by anyone or were you aware of the restrictions that you may face? Mrs. Bruce answered when we purchased those lots from sellers we hired realtor to represent us. But as far as restrictions there is certain restrictions that we were aware and certain restrictions that we were not. So, there were certain restrictions that were not disclosed to us. Mr. Bruce advised we thought it was 20, 20, 20 so the side setback requirement 20-feet and the rear, we didn't know that was 30 on the rear. Chairperson Jancura advised our variance differs when you have a garage and a detached garage. So, it is not uncommon for people to not realize that when you have an attached garage it is bigger. Mr. Bruce advised there was even confusion on who to deal with, was it the county or the city because all that was setup as a subdivision initially. What we did in combining these parcels was done like for the very first time apparently, so we were stumbling across things for the first time. Mrs. Bruce stated it sounded like it was the first scenario for the city and even for the county because typically subdivisions are not combined and that is why the Law Director suggested that we have a deed restriction. Mr. Bruce stated we found out a lot of different information and that is one thing we didn't have clear. We thought it was 20, 20, 20 on the setbacks. We didn't know that it was 30 in the back. Chairperson Jancura stated just so you are aware and you probably realize

that the variance that is before us tonight it literally just for the 5 feet for your rear yard setback. If when the blueprints are eventually drawn and you may need another variance, so you would have to come back to us such as if it is too high or something else regarding the particulars of the building. We are just looking that the building that you do build has the 25-foot setback. So, just so you are aware that you may need to come back once the blueprints are completely drawn. If when the blueprints are drawn, it is too high or something else. This is just this variance for your rear yard. Mr. Bruce stated the plans should be very close to that, that was given to the engineer and the architect and he is working off of that. So, they should be the same. Mrs. Bruce stated it was so close that we had to measure the TV. Chairperson Jancura stated right, even with small lots sometimes the overhangs and sometimes people need a foot on each side because the overhang is a little bit too big because the pitch of your roof has to be so much if it is a really narrow roof. So, just to let you know that this is just for your rear yard – 5 feet and that you may need to come back once the actual drawings are finalized. Mr. Bruce stated we don't necessarily need 5 in the back, it could be 2-1/2 and 2-1/2 whatever you would prefer. Member Reilly stated you would still need the 50-feet in the front. You can go less than 5-feet in the back if the design calls for it but you cannot go more. So, you are restricted to staying within this box. Chairperson Jancura stated you have to have at least a 25-foot backyard. Mr. Bruce stated I understand but what I am saying is the house is 25-foot wide so we are just saying that if it is better than we can split the difference. Chairperson Jancura advised you can take that up with the Building Inspector. Member Tatter advised the variance is permanent and it is only for 5-foot so rather than split the difference that would not be allowed. Chairperson Jancura stated no, side yards you can split the difference. Mrs. Bruce stated we had to make a plan going backwards so here is the house that we were able to fit on that lot. So how can we work with that plan, we have to either move the house back or to the front or in the middle. Mr. Bruce stated meaning 2-1/2 variance in the back and 2-1/2 variance in the front. Member Tatter advised that would require 2 separate variances. Mr. Bruce asked would it be easier now that we are here and the process will be done. Chairperson Jancura stated the 5-feet in the back is fine. Member Tatter concurred it is fine but just so you know you cannot vary from that, if we approve it. So, you cannot vary from that. Member Reilly advised so there is no going back moving forward. Chairperson Jancura stated you would have to come back for that and what we would do is alter this variance to say, okay this one will be 2 1/2 and your front one will be 2-1/2. So, this one is 5-feet in your back yard. *Motion by Reilly/Second by Tatter to end the presentation. Yeas All.

DISCUSSION OF THE BOARD:

Member Tatter stated as far as practical difficulty goes, it is stated in anyway on the application but in reviewing online county auditor's records, the depths of

those lots in that development are the smallest depth that I could find with most being 116 foot or more. This one is 100 and their neighbors are also 100 so I can understand a practical difficulty because of the small lot in depth. Chairperson Jancura concurred they are very small and I think they are only 40-foot even in width which is really small. Member Tatter stated they are meeting the 90-foot easily, they have 120 there for width. But the depth is where I feel the practical difficulty comes in. Member Reilly and Chairperson Jancura concurred.

Chairperson Jancura stated I am sure why they allowed 40-foot lots, they are so tiny and this is not an old subdivision. Member Tatter advised this was Gamer wasn't it. Chairperson Jancura answered yes. Member Wright stated I am surprised why they would even have parcels that small.

*Motion by Reilly/Second by Tatter to grant the variance as presented. ROLL CALL TO APPROVE THE VARIANCE: Yeas All – Tatter, Reilly, Wright, Jancura.

Member Tatter advised the applicants, make sure your architect knows the dimensions as he is planning this house. Mr. Bruce commented what you had mentioned on the overhang being included, that is good to know. But if needed, we could come back for another variance? Chairperson Jancura answered absolutely but what I would do is finalize all of your plans because when you come back for a variance you are going to want every little variance you are going to need because \$200.00 a piece, you don't want to have to keep coming back for little things. Member Reilly stated if you have any questions, you can always contact one of us. Chairperson Jancura corrected no, you cannot contact us directly. You would contact the Building Inspector and he will answer all of your questions. We are not able to do that.

OLD BUSINESS: None.

NEW BUSINESS: Role of the Board – Chairperson Jancura advised I wanted to have a brief discussion about the role of the board and exactly what we do here because there has been a little bit of confusion. The Board – think of us as a court and we are judges as opposed to being Police Officers. So, we do not enforce the law, if there is something going on and I know this was brought up the fence on Lake Road and how do those people put the fence in their front yard. It is not within our scope to go around asking or enforcing, even when neighbors come up to us. Such as hey isn't this or that illegal, it is not for us to say whether it is or not. What I do is defer to my local Councilperson and they usually say, well you know what that is an excellent question. You should contact your local Councilperson and ask them because then your local Councilperson can then go make noise. Think of it as if a judge sees somebody speeding down the highway, would they pull them over and say hey your speeding and your breaking the law. So think of us and our role as a Board as judges and we don't enforce the law and that is how it

goes. Also, no applicant can have direct contact with us. Once they make their application, we can then go them and ask questions and do the site review but it is inappropriate for them to have direct contact to us. Member Reilly stated if I have a zoning question, why should I go to the Mayor and not know what the hell he is talking about instead of the people on the Zoning Board which it is their job. Chairperson Jancura stated if it is a general question, like hey I am going to build a deck, how far is the setback supposed to be? General questions are fine but if I am going to make an application and ask what should I put on there – no, that is inappropriate for us to help them fill out an application. But we can direct them to the law of well, this is the code or hey, you are going to have a rear yard issue or here is 1133 and this is your code that you need to comply with. That is what the Building Inspector does or is supposed to do. She advised especially this time of year, fences are a big deal and they need footers. I have been on my walk and seen somebody building a fence and said I am sure that you got a building permit for those footer’s right? They say no and I advise well, you should go to the Service Department and ask and only because I know they need them and I would hate for them to dig the footer and fill them with cement and then they come back and they say we have to be able to measure your footer. Member Tatter stated I agree, defer questions to the Departments. Chairperson Jancura stated agreed, you defer to Council or to the code but not enforcement even if neighbors say hey, what is that going on. Member Tatter stated honestly, I don’t think we are held to a higher level for knowing the code, we are here to make exceptions to the code. Chairperson Jancura stated we should know the generals but we are not allowed to give specific information related to an application. We have to have the appearance of impartiality. We are quasi-judicial, so we don’t run under the Mayor.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Wright/Second by Reilly to adjourn at 7:27 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

CHAIRPERSON
Diana Jancura

I, Kay Fantauzzi, duly appointed Clerk of the Zoning Board 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 March 22, 2018.

PRESIDENT OF COUNCIL
Rick Rosso