

Zoning Board of Appeals
Sheffield Lake, Ohio
April 19, 2018

The meeting of the Zoning Board of Appeals was held Thursday, April 19, 2018. Chairperson Jancura called the meeting to order at 7:02 PM.

ROLL CALL OF MEMBERS:

Present: Jancura, Reilly, Wright, Tatter, Harper, Radeff
Attending: Applicants and/or Abutting Property Owner, Mayor Bring, Law Director Graves

Minutes: March 22, 2018 - *Motion by Tatter/Second by Reilly to approve the minutes as presented. Yeas All.

CORRESPONDENCE: **None.**

Council Representative Radeff report: **None.**

Planning Commission Member Wright: Mr. Wright advised we recently completed the community survey and got all the results back. We are going to work on tallying them as we divided them up against ourselves to get the tally's going. At our next meeting, we will work on getting a complete tally together so that we can use that data to rework the Master Plan. I was not there last night unfortunately, but I know that there were some storage condominiums being planned north of the old bowling alley that were approved by the Planning Commission and that is my report. Chairperson Jancura asked what is the survey, just briefly what kind of questions were asked? Member Wright advised it was very similar to the one done in 2001 I believe. We basically looked at the Master Plan that was generated from that survey and we updated the information or the questions rather to reflect the items that have already been completed in that older Master Plan. So, it was very similar to the old one just slightly revised to reflect more current needs of the community. I don't recall off of the top of my head how many but around 30, a few pages. Chairperson Jancura asked do you know how they were sent out? Was it per ward because I know that I haven't gotten one? Has anyone gotten a survey? The Commission members advised yes. Member Wright stated honestly, I don't, I know that a good number was sent out and I know it wasn't one to each household. Chairperson Jancura voiced her dismay with not receiving one. Member Tatter advised I got one and my wife got one in the mail. Mayor Bring advised we sent out about 3400 of them and some of the renters I believe did not get some of theirs. We got back 395, that we counted last night. The last one in 2001 we got back 900 I believe but most of the people that responded were my age. Chairperson Jancura stated well, if someone would like to fill it out could we still do it? Mayor Bring advised we still have some of those

sitting around, we could use that for the next meeting. Mayor Bring stated I can have Kay get you one.

PRESENTATIONS:

5029 Lake Rd., variance for generator/to locate on side of the house.

Chairperson Jancura swore in John Bacci and Fran Wesley (owners) and Craig Shepp (installer) for testimony.

Chairperson Jancura asked is there a specific need for a backup generator which she gave examples for, someone is on oxygen, etc?

Ms. Wesley answered because we are on the lake and the wind blows with such force and with the heavy rains, the sump pump runs constantly. Chairperson Jancura stated you are not understanding my question, is there a medical reason or someone living in the house that has a medical need? Ms. Wesley answered no, no medical need. Chairperson Jancura continued you stated in your application that there are frequent outages. How long have you lived at the property? Mr. Bacci answered we purchased in mid-August. Chairperson Jancura asked how many power outages have you experienced? Mr. Bacci answered none. Chairperson Jancura asked so how would you know that there are power outages on the street? Mr. Shepp answered we know that for a fact because just about every house on that street how has a generator, all the way to Bay Village. Chairperson Jancura stated that doesn't answer the question, how do you know as the applicants know that there are frequent power outages? Mr. Shepp answered power outage history with First Energy. Chairperson Jancura asked do you have a report from them? Mr. Shepp answered I can get that but it wasn't a part of this but if you seriously want a report. Chairperson Jancura stated it does help support your statement that there are frequent power outages. I have lived in this city for 18 years and I can count on one hand how many times I have had a power outage. Mr. Shepp stated I guess if you asked all the folks that live on the lake that have generators. Member Tatter stated I live on the lake and have lived here 30 years and I don't have a generator and I can honestly say that I could count on one hand and so, I would love to see the report personally from First Energy. Chairperson Jancura continued you also stated in your application that without a generator you would not be able to protect your home family? Could you particularly articulate that how you would not be able to protect your family and property without a generator? Ms. Wesley answered if we lose power then our sump pumps aren't running and then our whole lower level would flood. Chairperson Jancura stated you could get a backup for your sump pump. Ms. Wesley stated but a battery backup only runs for 5 hours, I am not familiar, but I have been told 5 hours. Mr. Bacci stated I have been told 2 or 3 hours, we have 2 sump pumps. Chairperson Jancura stated we wanted to point out just for clarity that even if the variance is not granted, that you still need to comply with subsection (e) that you are required to have landscaping, buffer or fence that will obscure the unit from public view. Member Wright asked is there

any reason that it could not be installed in the rear of the property where there is plenty of room? Ms. Wesley answered yes, it cannot be installed near any window and our entire backyard is all class. Member Wright asked didn't it say it has to be at least 60 inches away. Ms. Wesley stated from a window, that is why it can't be back there. Mr. Shepp stated it has to be against a wall, a solid wall. Member Reilly stated extending at least 3-feet on either side from any window. So, apparently if the thing blows up, it will take some time to get to the siding. Member Wright asked is it not possible to install it further away rather than 5-feet from the home. Mr. Shepp answered it is possible, sure. It creates a number of installation issues; one is natural gas where 5-feet away is not practical to run a gas line above grade and going under grade for a few feet, it is ridiculous and expensive and is best protected close to the house. It is similar to an air conditioner that is also on the same side, not next to the house within a foot or two and putting it out 5-feet into the yard. You like to keep it in an area that is protected and at the same time it has to comply with clearances for shrubbery, air conditioners is 3-feet and house 18 to 20 inches and windows no less than 5. So, that is NFPA compliance so anything can be done, you have a lot of variables that can get expensive. Member Tatter stated regarding your glass wall, I looked at the pictures when you purchased the property and that was an open porch at the time. Did you take out permits to install the open walls and is it considered to be living area? Mr. Bacci answered it is an enclosed patio. Member Tatter stated we would have to find out if the rule would apply because the windows on a porch being living area may not apply. I am assuming that you have to be within 5-feet or more or from a operating window in the rear yard because of any fumes that may be coming in. But if the fumes go into a non-living area it would be a mute point. Ms. Wesley answered it is a totally enclosed porch. Member Tatter stated yes but you are not living there is what I am saying. Your family would not be put in jeopardy because the porch has doors between the house and the porch right, it is sealed? Ms. Wesley answered yes. Member Reilly stated it also says the clearance needs to be from any structure, overhang or projected from the wall. So, anything even on an enclosed porch would be a violation, in that area. It says here that the clearance of a generator should be considered a minimum. Member Tatter stated if that were applicable, are you putting it 5-foot off of the house on the side? Mr. Shepp answered no sir because the area of potentially placing it has no windows on the right side of the home by the garage area there are no areas of penetration. Whereas farther back, there are upper windows. Member Tatter stated I am a little confused because Terry is mentioning that anything attached to the house, it has to be a minimum of 5-feet from that so Terry is alluding to the idea that the porch will prohibit the generator from going into the back but again the porch is not a living area and it is going to be within 4-foot of the structure of the footprint of the house so it almost sounds contradictory to the code. Member Reilly stated I believe I may

have misspoke. I believe what I referred to was the definition of structure. I think the reason that the generator is to be placed against the blank wall away from windows is because of safety reasons. One – you have greater access of fire because if anything goes wrong, fire going in through the window and blocking an exit. So, even if the back porch, if you could put it there that would still be an increased hazard according to the code. At least, as far as I see it. Law Director Graves noted you are talking about the height right, 60 inches to the roof? It is 36 from the structure and 60-foot clearance above. Member Tatter stated I guess what I am asking is, are they prohibited from putting because of the glass porch, enclosed glass porch which is not living area. Are they now prohibited because of that structure from putting the generator behind the house? Law Director Graves answered regardless of the variance, they are going to have to meet the narrow of the variance here is do you want to give them 3-foot on the side of the house? Regardless of that, they still have to comply with all other regulations. Chairperson Jancura stated so if we deny the 3-feet, can they put it in their rear yard? Member Tatter stated that is what the issue is. If they can't put it in the rear yard by the glass porch then the only option would be to put it on the other side of the house or have a variance on this side. So, to me the issue comes down to if the back yard is not an option then that makes a stronger case for the other one for the variance. Mr. Shepp stated just a thought, NFPA and Generac will not officially allow a generator within 5-feet of an opening to a house, it doesn't matter if it is a porch, a kitchen, anything. Officially I would be breaking installation rules if I put it next to a window or a door that could open. Now, my question then would be let's say the door is closed or open but even in the summer time and you also have an opening from there to the interior of your house. That becomes a violation, hands down. So, I cannot legally even if it is approved by the Board here, still can't put it in because now I am accountable by the NFPA and Generac. Chairperson Jancura stated so Mr. Shepp, how far back would the generator have to be from the rear yard? If you have to put it in the rear yard, how far back would it have to be and approximately how much would it cost to have to run a gas line that far from the house? Mr. Shepp answered I don't know what all is back there but it can go approximately 5-feet from that. Chairperson Jancura asked what is the cost ball park? Mr. Shepp answered ball park, approximately \$1200.00. Member Wright stated in are saying in addition, so you are saying \$1200.00 additional installation dollars? Mr. Shepp answered yes because now it involves direct burial. Chairperson Jancura asked about how much is the current cost? Mr. Shepp answered it is right around \$8,000.00. Member Tatter stated I noticed that you do have an existing air conditioner unit and when you purchased the house originally and then went for various permits for the porch or for this, was there any mention of an existing variance for that air compressor? Mr. Bacci answered no. Member Tatter stated nobody knows if there is an existing variance? Mr. Bacci answered I don't know, I

just talked to Jeff and he didn't mention anything for that side. Member Tatter stated it was either put in illegally or it predates the code and that is why I am asking. Law Director Graves stated this is a really recent code, we just adopted it. Chairperson Jancura advised this is the first time we have dealt with this newly written code. Law Director Graves advised this particular property is non-conforming and that air conditioning unit would predate the ordinance. Chairperson Jancura stated it was just passed a year ago in July 2017. Law Director Graves stated to the applicant and going to your responses, to the practical difficulty factors, for one reason or another I think a lot of applicants misunderstand the second question. That question is whether or not you believe that this request is substantial and you said yes it is substantial. But I don't think that is what you meant because the more substantial the variance request, the less likely it is to be granted. You want to say it is not substantial, it is a minimal variation from the zoning code if you are advocating for it. You said that it was substantial, is that what you meant to say and if not, can you clarify that response. Mr. Bacci stated like you say it is a little misleading. Chairperson Jancura stated for example, we would say that a 10-foot variance for a side yard is required. You are asking for 9-feet of a variance, so you have 1-foot. A non-substantial variance would be in this work would be 1, 2 or maybe 3 feet so giving the whole pie, the 10-foot that you are required, what relationship do you think 3-feet is in relation to the 10-feet that is required. Do you think that is substantial? Ms. Wesley answered no. Law Director Graves asked can you explain that a little bit? Ms. Wesley advised there are already some shrubbery on the side going down that side of the house. That is where the air conditioner is already. Mr. Bacci stated it is a convenience more than anything else with the gas heater there to make the hookup and stuff and to do it where we are asking would be cost effective for us. We know it is not in compliance, so we are coming and asking if we could get it changed if we can. Chairperson Jancura continued a question that I do have regarding your application which, is government services; that is EMS, Fire. Given the fact that you will have a very small side yard, is there a structure that your neighbor Mr. Gall to your east, is there a structure that is going to be close to yours? Is this unit going to impede something in between your yards? Mr. Bacci advised he has a driveway that comes down the side of our house. Ms. Wesley stated he also has shrubs down the east side of his driveway, so there is a line of shrubbery. The 10-foot of our property has no shrubbery at all. Chairperson Jancura stated so I guess if someone was in your back yard on a wonderful sunny day and has a massive heart attack and the ambulance needs to get into your back yard or there is a fire and they need to get into your back yard, can they access the back of your property? Mr. Bacci stated it would have to be on the west side of the property but the east side there is no room. Member Tatter stated in Mr. Gall's letter he has stated the side yard that it would be less than 10-feet and you have a survey here

probably completed when you had the proposed new garage put up but I don't see that distance from the easterly wall to your property line. I don't see anything that identifies that distance? Mr. Bacci stated it has to be 10-feet to be able to build the building. Member Tatter stated and you built the building with no variances right? Mr. Bacci answered correct. Member Wright stated then this will be approximately 6-feet from your property line, so does the eastern property line does that include the enclosure for the generator? What are the plans for the enclosure? Mr. Shepp answered the enclosure comes with the generator, it is all aluminum, it is 4-foot wide and 30 inches high and 25 inches deep. It is probably no higher than the air conditioner or 2 air conditioner side by side. It is compact and in fact, if you drive up the road you would see dozens of them. Member Tatter stated you did mention that you had vegetation on the property line which would also act as a fence? Ms. Wesley advised the vegetation is on the east side which is the neighbors property. Mr. Bacci answered ours is just grass now. Chairperson Jancura asked so the vegetation is on Mr. Gall's property? Ms. Wesley answered yes. Chairperson Jancura asked is it thick vegetation? Ms. Wesley answered when there is leaves on it. Member Tatter asked how is the noise level measured? Law Director Graves answered (db) decibel's. Member Wright asked what size unit was that? Mr. Shepp answered 10K and advised 62 or 63, most communities are 70 or less. It is quieter than a lawn mower and quieter than a portable generator and this is just self-contained. If it was running right here we could still talk just like now. Member Harper stated I am doing some figuring in my head and that \$1200.00 mark for what it would cost to put it in the back of the house is way off. I think it is going to be a lot more then that. What I am looking at, you are talking about putting it where the existing garage was and you are taking it all the way around in the back around the new structure and I think he is looking more like \$2000.00 on top of what the original cost is. Mr. Shepp stated I was thinking of going straight back. Chairperson Jancura stated but it is not a few hundred dollars, it is at least a thousand dollars which is not insubstantial. Mr. Bacci stated it just seemed like the place to put it because of all of the existing and where everything is located. If we can't get it then we can't get it then I might have to do something different. We understand and thank you.

Chairperson Jancura stated I know your neighbor to the east, Mr. Gall has submitted a written objection on the application which we will also include and his concern will be that the generator will be seen by the neighbors to the east and from the street and he does not feel that it enhances the view or bolsters the image of our city as vehicles traverse our main thoroughfare of Lake Road which is a valid concern. Mr. Gall had stated that his attorney might be showing up? Mr. Gall stated no, I am Mr. Gall. Chairperson Jancura swore in Mr. Gall for testimony. Mr. Gall stated would it be in a nicely enclosed building of some type. Mr. Shepp answered I am not a contractor, I just work for a construction company. Mr. Gall

stated possibly put it in out front and put it in a nice enclosure to enhance the front of building. Right now, the garage is 10-foot from my property already. The different variations and numbers you have come up with, I thought this had to be 18 from the building and if it is another 48 you are out 6 or 7 foot already which is within 2-foot of my property line. Chairperson Jancura stated we have their drawings. Mr. Gall stated their drawings have 15-foot written down on it and it is not 15-foot from my property line, it is 10-foot from my property line. Law Director Graves stated we have established it is 10-foot, it is 15-foot on the west side. Mr. Gall stated stated the diagram that you people sent to me had a line of 15-foot on it. Now, with a nicely enclosed thing so that the gas lines would have to go much further. Chairperson Jancura stated so you are trying to argue that they could put the generator in their front yard. Mr. Gall stated I am trying to say that looks wise, I think it would be much better up there. Chairperson Jancura asked wouldn't people coming down Lake Road still see a generator? Mr. Gall stated it could still be enclosed in a nice enclosure. Chairperson Jancura stated it is still going to be enclosed in a side yard. So, it would be less obvious being enclosed on the side yard then being enclosed in a front yard where it would be extremely obvious in my opinion. Member Harper advised then you would be putting something permanent in front of the house. Law Director Graves advised it would still require a variance and it has to be in the rear side yard anyway. Chairperson Jancura advised it has to be in the rear or the side. I would not allow it in the front yard unless there was literally absolutely nowhere else it could go and they had a diabetic in the house that had to have insulin or would die especially lakefront property as we are very protective of our lakefront properties front yards because that is the doorway to the lake. But you do have very valid concerns and I don't mean to discount them in any way, shape or form. Mr. Gall stated it will be me working it out with them and making sure the possibly have good shrubs set and somehow them putting it as far onto the property as possible. Once again, if I end up building another house because the one house is 100 years old and needs fixing. Now that they have put a lot of new development along the property line, I will probably build it right down the driveway that I am concerned about. Is that going to make a problem for the generator down the way? Chairperson Jancura answered no, the variance as is is granted, they can't relocate it and get closer to your property but it is granted as is. Mr. Gall stated I have enough property, I will make sure that I make it easier for the neighbors and stuff and for the scenery and view. Mr. Gall stated just voicing my opinion, in less then 1 year they have gone from a patio to a shed to a garage that is on Lake Avenue and it is rather a large garage. Chairperson Jancura stated this house has never asked for a variance before and so everything they have built has been built within code. I have been on the board for 16 years and I have never seen anything for this address. Mr. Gall stated just voicing my opinion and making sure it doesn't become a commercial building with

the garage, it occurs. Chairperson Jancura stated no, when applicants come to us with variances, things for garages and whatnot, we are very careful things such as; how many cars do you have, why do you have so many cars, etc. The Board is quite thorough when exploring large garages. But perhaps the Bacci's will perhaps think to change from red to green to maybe have it blend in a little more or maybe taking the faux camouflage netting and putting it over the metal so that it blends in. It is your yard, I would think that you don't want to see your generator either. Ms. Wesley advised our intention is to absolutely put shrubs around it. Member Tatter stated the variance will not have any restriction on the type of enclosure, that would be with the Building Inspector. So, whether or not you put shrubs in or an enclosure that would be something for the Building Inspector and has nothing to do with the variance. That is a different part of the city building code. Law Director Graves advised their indication on the record is that they intend to enclose it with landscaping would be a consideration whether you want to allow it closer the property. Member Tatter stated correct but it is not a requirement. Member Harper stated what is the size of the generator and I know you said it is a 10 kw but I know I saw here it said 16 but is the actual size. Mr. Shepp answered left to right would be 48/30 inches high and 25 inches deep. Law Director Graves stated so the unit is 48 inches and how far from the house is it going to be? Mr. Shepp answered a minimum of 18. Member Tatter stated that would be 3-1/2, 18 and 24. Law Director Graves asked so is it accurate, the application says that it will encroach into the side lot 4-feet leaving a 6-foot side lot and you need a 4-foot variance, is that accurate? Ms. Wesley answered no it is not because the area that it is going to be placed is where the old garage is and that is 11-feet from the property line. The new garage is 10-feet from the property line. Member Reilly stated so really it is like a 2-1/2 there. Law Director Graves stated so you would leave 7-1/2 feet to the property line. So, Madame Chairperson, so what they are indicating is that they are requesting a 2-1/2 foot variance. Chairperson Jancura stated here is the thing, your application has it as requesting a 4-foot variance? Ms. Wesley reviewed the survey with the board. Chairperson Jancura asked Mr. Shepp, the pad that the unit will sit on, how wide is that? Member Tatter asked east to west? Mr. Shepp answered overhangs by about 6-inches each side. Member Tatter stated so the 6 inches towards the garage will go towards, so then you have 18 and then have 24 for 3-1/2 and then a 6-inch overhang of the pad to the east. So, that would be a 4-foot variance, so they are correct in their request for a 4-foot variance. Law Director Graves stated but you have to understand, they said that where they are building it is actually 11-feet of side yard, so it is only a 3-foot. Chairperson Jancura stated here is my problem, the application is not correct, when you give us spec's and diagram's of this is 10-feet. We take this as this is your truth and if this is not your truth then you are asking for a 4-foot variance and then it is more then substantial. So, we need to know is this 10-feet or is this 11-feet because if it is 10-feet then

you are getting a 4-foot variance. If it is 11-feet then you get a 3-foot variance. Mr. Shepp stated my dimension is the distance from the house. Chairperson Jancura asked so what do you prepare for the applicant in regard to this diagram right here? Member Wright asked then the enclosure, is that not an additional 18-inches away from the unit? Mr. Shepp answered no that is the size of the enclosure. Inaudible review of several voices. Law Director Graves stated I am not sure that the enclosure that he describes would meet our code, the code states that it shall be enclosed with either an approved fence or landscaping buffer to obscure from the public view. So, he described kind of a metallic box. I don't think that constitutes an approved fence and so whatever that is, they are going to have to meet that. Chairperson Jancura stated the fence itself would need a variance because it would be going into the side yard more. Mayor Bring explained the generac, my son has one and the enclosure that they have is what encloses the motor and everything else. So, that is the appearance and it has the name of that onto it. That is not like a fence or whatever, that is just what the unit comes with and it has vents on it so that it vents properly. Chairperson Jancura stated just like a HVAC unit. Mayor Bring answered exactly, now he will still have to put a decorative fence or something like that according to what our code says. Mr. Shepp stated the concrete base pad probably comes out 3 or 4 inches and I am probably wrong. Chairperson Jancura stated I need to know the exact measurement. Law Director Graves stated I think the Board needs you to tell them in some degree of certainty how big of a variance you are asking for. How far is extending out from the side of the house including the pad and what variance are you asking for here? Mr. Shepp stated so we have 11-foot and here is the actual dimension of the system, front to back 25 inches. Chairperson Jancura stated you are saying 11-feet is the distance between the property line and the house. This is the diagram, is this 10-feet or 11-feet, it is really important that you know. Your schematic is saying it is 10-feet but you are saying it is 11-feet. Ms. Wesley advised the new garage is 10 and the old garage is 11 where it kind of slants a little. Chairperson Jancura stated now you are very sure about the 11-feet, only because if we grant it and then it is only 9-feet. Then we would have to come back and have to do this all over again. Ms. Wesley answered no, we had it surveyed. Member Tatter asked for the new garage? Ms. Wesley answered for the new garage, there are 4 pins in there so we would know for sure. Chairperson Jancura stated okay, she has sworn to the board that there is 11-feet between the location, where the unit is going to be placed and the old garage which is the structure upon which it is going to be located next to. Thus, would mean you only need a 3-foot variance. Law Director Graves advised they need a 3-foot variance to a 10-foot requirement. Mr. Gall stated the property goes straight down, where do you pick up the extra foot from? Chairperson Jancura stated because it kind of comes out, it is not absolutely straight, it does kind of jet out. If you look at the schematic, it is very subtle, but it does go out. Member Tatter added and the

survey shows an extra small line there which could easily be the 1-foot difference. Mayor Bring advised just to clarify, most of your properties on the lake are not straight and they are all on an angle because we have had all of our properties surveyed many times and they are all on an angle because the back is different than the front. Why they did that, I don't know but I have been on the lake for 41 years and we have had many structures built and we have had them surveyed 3 times.

*Motion by Reilly/Second by Harper to close the presentation. Yeas All.

DISCUSSION OF THE BOARD: Chairperson Jancura reviewed discussions above as reasoning for practical difficulty, running pipe, electrical and gas line to the back yard would be an added significant expense. The government services would not be impeded. Member Tatter advised the variance will not give them relief from any additional ordinances. Chairperson Jancura stated I do think having a generator whether having need of it once a year or once a decade, I do think it is a good idea. I think it does make the house appealing in general and I think if they are willing to put it in, it is a good thing.

*Motion by Tatter/Second by Reilly to close the discussion. Yeas All.

*Motion by Tatter/Second by Harper to approve the variance of 3-foot. **ROLL CALL FOR APPROVAL OF A 3-FOOT VARIANCE:** Yeas All – Tatter, Reilly, Wright, Harper, Jancura.

Mayor Bring stated I am in total agreement with what you guys did here tonight. It is a new process but it was a lot of work and it is worthwhile.

OLD BUSINESS: None.

NEW BUSINESS: None.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Wright/Second by Reilly to adjourn at 8:02 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 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 April 19, 2018.

CHAIRPERSON

Diana Jancura

PRESIDENT OF COUNCIL

Rick Rosso