

ZBA October 18, 2018

Sheffield Lake Zoning Board of Appeals Minutes Held October 18, 2018

The regular meeting of the Sheffield Lake Zoning Board of Appeals was called to order on Thursday, October 18, 2018 at 7:05 P.M. in Council Chambers with Chairperson Jancura presiding.

ROLL CALL:

Present: Jancura, Reilly, Harper, Wright, Radeff, Mayor Bring, Law Director Graves
Absent: Tatter (excused)
Attending: Applicant

APPROVAL OF MINUTES: September 18, 2018 - *Motion by Harper/Second by Wright to approve the minutes as presented. Yeas All.

Council Representative Radeff report: Councilman Radeff advised since the last time that we met, there have been multiple appointments for the Building Department that we are going to have in-house now. That is moving along quite nicely and if there are any questions about that, I am sure the Mayor would have a better answer than I would have.

Planning Commission Member Wright: Member Wright advised we continue to work on the Master Plan and 3 of the 4 Commission Members who were assigned parts of it are completed, we are just waiting for one last submission. I think we are going to put together a rough draft at the next meeting to have something finished by our January meeting.

OATH ADMINISTERED

As provided in 1353.37 of the Sheffield Lake Building Code, procedure at hearings, an oath was administered by Chairperson Jancura to all members of the audience speaking at this meeting.

CASE#18SFL-VAR006

REQUEST FOR A VARIANCE AT 4713 EAST LAKE ROAD

Mr. Brian Tackett (owner) request for relief from Sheffield Lake from Code sections; 1133.07(a)1 required front yard setback, 1133.07(c) side yard setback, 1133.07(d) space between buildings. Chairperson Jancura explained you would like a couple of things; an attached garage and an addition with a basement which is not part of this application as it does not need a variance. Chairperson Jancura requested clarification from Law Director Graves who advised this property has an existing non-conforming structure which means it does not currently meet the existing zoning regulations because the property predates that zoning code and is more or less grandfathered in that respect. Our code does have under the existing non-conforming a provision that says an existing non-conforming structure may be increased one time up to a 10 percent increase in the cubic footage. The way that that has been interpreted and the way that I would recommend that the city interpret that is that that one-time 10 percent increase to a non-conforming structure is allowable so long as it does not enhance or acerbate the non-conforming aspect of the property. In this case, the non-conforming aspect portion is he doesn't have is that he doesn't have the required side lots. If he were to just build onto the rear of this property, he has plenty of rear yard it would be within that 10 percent increase and wouldn't need a variance. But if he is building into the sides which is already non-conforming and he is making it more non-conforming and that is outside of that 10 percent increase and would require variances from the Board. He reviewed the comments from the prior Residential Building Inspector, first

sentence should read “owner needs a 3-foot, 6-inch front setback” and also a little further down, should read “the new structure will be 8-foot, 3-inches from the property line and the neighboring structure is an additional 2-foot, 5-inches.” He advised it is a total of 10-feet, 8-inches from the neighboring structure. It is still less than the required 12-foot but it is not 8-foot, 3-inches – it is 10-foot, 8-inches.

QUESTION AND ANSWER PERIOD

Chairperson Jancura asked the garage, it is 2-car? Mr. Tackett answered yes, I believe it is 20 X 22. Chairperson Jancura asked how many drivers are in the home. Mr. Tackett answered my wife and I and we have 2 kids, one lives in Texas and one in college in Ashland. Chairperson Jancura asked how many cars do you have? Mr. Tackett answered I have 4 and only 2 parked at the property. Chairperson Jancura requested if you could expound why you want an attached garage. Mr. Tackett advised the one is like a glorified leant, so it is really narrow to the back of the garage, I think I can maybe stand up without hitting the rafters. It is at best 6-foot in the back and it has a lot of damage to it where there was a lot of trees and a lot of debris falling on top of it. The shingles are disarray and the one side of that garage, you can actually see outside where it is rotting from the inside so there are a lot of animals that come in and out. So, it is just getting used for storage right now. If this all takes place then that garage will be dismantled and taken down to utilize the front garage and putting more of a traditional 10 X 12 storage shed for lawn mowers and stuff like that. The garage up front would have no room for storage or anything like that, it would be 2 cars and that is it and maybe some things hanging on the walls. So I would eventually like to conform into a small shed with the main garage being upfront. Chairperson Jancura asked why in particular to have an attached garage? Mr. Tackett answered it has been our dream to buy lakefront property and now, we have a dilapidated garage in the back so get rid of it and look as much at the beautiful lake as we possibly can. Also, it is an eyesore for the neighbors to the east. Chairperson Jancura asked is there any other configuration that you could propose that you would not be required to have a variance? Mr. Tackett answered I don't believe so because of the size of the lot. There isn't anything that I could do that would not require some sort of variance.

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

Chairperson Jancura advised I believe he has proven practical difficulty due to the very narrow lot. His application, his answers are sufficient evidence for practical difficulty.

*Motion by Reilly/Second by Harper to approve all the variances as presented as clarified by Law Director Graves.

ROLL CALL FOR APPROVAL: Yeas All – Harper, Reilly, Wright, Jancura.

OLD BUSINESS: None.

NEW BUSINESS: Proposed ordinance language; Law Director Graves explained I think it is a good idea to revisit the zoning code from time to time. I will admit that our zoning code can be difficult to navigate if you are not familiar with it. I have had to field the calls through the years from other attorneys who would call and say I have looked all through your code and I can't find where it says that my client can't do this and I have to point them in the direction of well, you have to look at this one and this one and this one and they all kind of work together and you read them together. So, I can be rather difficult. To that end though, if you are looking to redo the entire zoning code, that is an overwhelming task. I work for a number of different communities and Avon Lake rewrote theirs about 15-years ago and they are now in the process of doing it again. Now, they are a much bigger department than Sheffield Lake. They have a Building Department, Public Works, Zoning Department, Law Department and even with all of that extra staff, it is too big of a project to be in-house. So, they have an outside service of a consulting

firm and they put together a head-hock committee made up of members of zoning, members of planning, members of Council and members of Administration, other members of the community and they meet. Over the course of maybe a year they come up with a plan and this outside company puts the code together. That is really and for lack of a better way to say it, the way it should be done, if we are talking about redoing the whole code. Now, there is significant cost to doing that and as you know, Sheffield Lake doesn't have a lot of funds to do those kind of projects sometimes; but if that is the direction that we are going then I think that conversation could happen. If you are talking about very specific changes, a couple things here and a couple things there that you think could be clarified. Then I think that recommendation could be made to City Council. But I also think before you get too far down that path, you ought to gage City Council's interest in even entertaining this because I would hate to see this Board go through months and months long process of making all of these recommendations only for City Council to say no, we are not interested. It kind of takes everything that you did and makes it worthless. So, a couple of specific recommendations maybe submit to Council at a Workession and just gage their interest. The other thing is that if you are seeing certain types of cases frequently; over and over again and it kind of just becomes perfunctory to grant these variances then that is the kind of thing that if you are seeing variances granted over and over that perhaps the code needs to be changed. We talked today about it where we had a situation about 10 years ago where there is many places in the city where you have these unbuildable 70-foot lots because most of the city was laid out with 35-foot lots and so what you have on any given street in the city is house, house, house – 70-feet of woods and then house, house, house and 70-feet of woods because those are the left-over 35's from the houses on either side and so that just sits there. Then somebody comes along and says well, I would like to build a house there and I can't make the 90-foot required frontage. So, for a while there we were seeing a lot of those come to Zoning Board and Zoning Board was saying yes, better to have a house there then just woods and so the proposal to City Council was can we change the code to allow property built on a land locked 70-foot parcel and Council's answer was no, we would prefer to have those continue to be reviewed on a case-by-case basis by the Zoning Board and for Zoning Board determine whether the practical difficulties exist for the frontage variance. But that was a response at that time but that was a situation where a certain type of case was coming to Zoning Board very frequently and there really wasn't a lot of discussion. If, those kind of things that are coming before the Board and if you are seeing the same kind of cases over and over again, that would be something that would be very appropriate coming to Council that maybe we need to change in the zoning. Chairperson Jancura stated so right now we are exactly what you are talking about, the area variances/the yard in particular and tonight was typical variances as we can't make all the yard requirements, especially like Mr. Tackett is a really narrow lot. So, the Board was talking about having kind of regular lots and small lots and so if you were less than a 70-foot frontage you could have smaller side yard and you could have more of your property taken up by structures and so everything was just smaller and we would have greater than 70-foot frontages but I think we went by square foot. So, we had kind of two classes of lots; lots that have less than 7000 square feet or frontage of less than 70-feet or less and then the second classification was lots greater than 7000 square feet and/or frontage greater than 70-feet. So, front yards for small lots would have 25-foot front yard and then we really want language, measured from the front wall of a structure to the lot line because the current code doesn't say where is it measured from and so we would really like our residents to know that they are expected to be held to this that they know very clearly where the lines are. Law Director Graves advised it is measured from the road right-of-way. Chairperson Jancura advised we would like to have it in the code literally. Law Director Graves advised I think it is in the code somewhere, it is pretty clear that the front

setback goes from the road right-of-way to the front of the structure. Member Harper asked what is that exactly, the road right-of-way? Law Director Graves answered the edge of the road right-of-way, not to the center of the street but the edge/the actual paved portion of the street might only be 18-feet or 20-feet. The city right-of-way most of the time is 40-foot to 50-foot and that includes things like that ditch or tree lawn, etc. That is clear when you look at the auditor GIS where that right-of-way is and where the private property line is. Chairperson Jancura advised so it wouldn't be correct to say to the lot line because the lot line goes into the street? Law Director Graves answered no, you do not own the street. Chairperson Jancura confirmed so it should be the road right-of-way for terminology. Member Wright asked the setback begins from the inside of the tree lawn? Law Director Graves answered yes. Member Wright asked or the inside of the sidewalk towards the house? Law Director Graves stated it is the road right-of-way and that probably encompasses a lot of sidewalks too. Member Wright stated that is probably a lot more than we were talking about at the last meeting, a lot more, that is huge. Chairperson Jancura advised what we wanted to make, especially the Building code and what we deal with much more user friendly and very clear so that residents didn't have to go oh, you have to go to this section to know where to start measuring from. This way they could just come to this and we were looking to do a chart of side yard would be this, front yards and rear yards would be this and this and would be easy reference of clear language and very builder friendly/resident friendly. So, when somebody needs to do building, it is really clear what they need to do.

Representative Radeff advised I can definitely gage that, we have a meeting on Tuesday and I would be able to report back. Chairperson Jancura advised we are trying to make the law clearer and not have to have Law Director instruct take this and this and this, so just to make things clearer and update things. Law Director Graves request discussion on non-conforming uses, just a little bit of information I could provide. The Board has to understand that these properties that are existing non-conforming. When the zoning code changes, that is an expression that that is the direction that the city wants to go in terms of the kind of lots that we want to consider buildable on the properties that we want to be built and basically the law on non-conforming uses is that they are supposed to be phased out. If you abandon a non-conforming use for I think a period of one year it loses its non-conforming status and now has to be brought up to code. So, the idea is that these things are phased out over time. It is not that there is a presumption that they should be enhanced or made worse or that kind of thing. Also, in terms of granting area variances, you have to understand that there is a lot of people that build within the code because they think that is what they have to do. They say well, I would like to do this but the code doesn't allow it so I will build within the code. They don't have the understanding to even ask for a variance and if it gets to the point where anybody that ask for a variance gets one, it is really not fair because just someone says I know I have an avenue to get a variance and these people may have done the same thing but they didn't know that was available. So, there is a lot of people that may want the same thing but just do not know to even as for a variance. If it gets to the point that anybody who asks for a variance just gets one, it is really not fair because just that somebody says I know I have an avenue to get a variance, these people may have done the same thing but they didn't know that was available. So, there is a lot of people that may want the same thing but they just don't ask for it because they don't know. So, they should be difficult to get and they should really have to establish practical difficulty based on the Duncan factors. I think tonight there were some factors, I think the irregularly of the lot and the fact it was not substantial request and it would not be out of character for the neighborhood. But I think these are the kind of points that could be made in supporting the granting of an area variance. Mayor Bring concurred with Law Director Graves and added if you get into the Lake Road situation, just all those lots are non-conforming. My lot is 66-foot and my neighbor's is 64-foot and the neighbor next to that is 120

some feet and then another one that is 100 some feet but unfortunately way back when those parcels were put up for sale and people bought them and built on them, they always have a large narrow lot which is just what this gentleman has too. If you go throughout the city, we have numerous 35-foot and way back when people built on those. I actually, when I was on Council I suggested the 70-foot lot to just be approved and one of the other Council members said they wanted to at least take it to the Zoning Board to at least look at it just in case. So, I was actually over-ruled on that. Chairperson Jancura recalled I was actually on the Board when we made that recommendation to Council and I was quite disappointed because so many variances are 70-foot. Mayor Bring advised Mr. Graves and I sat down today and talked about it but we haven't had the numbers that we had way back then. I have to agree with them and if we were coming to monthly meetings and 2 or 3 of these things I would probably look for a change but it is difficult to just make the square footage assumption. It is just like this, he only needed a little bit of a variance but still I think it was worthwhile for the Board to meet. It is a very tough situation on our city because it is old established pieces of property and if you go way back there was all the cottages and people with houses on them. Chairperson Jancura answered oh yes, Mr. Harper polled the average lot size that they were and it was plotted 35er's and that is how we arrived at 70-foot. Mayor Bring advised people enhance those cottages and build them up, so it is not an easy situation and I don't have an answer for you because we sat there and had the same thing when I was on Council and thought all of this. I was also on Planning too way back when and we went through this extensively with Mr. Bontempo, we went through all of this and thought about how we were going to change it but I don't think any of us could come up with an exact agreement. It is worthwhile looking at and seeing what you guys can come up with. Chairperson Jancura stated I think we just came up with let's start with the yards which are the most frequent request is for the yards. Law Director Graves advised also, keep in mind the work that the Planning Commission is doing with the Master Plan and what comes from that and is the recommendation on the Master Plan to encourage development on the larger lots or smaller lots and what direction are they going with that. You don't want to be proposing a zoning change that is not consistent with what is the recommendation for the Master Plan. Member Wright stated I can speak to that and we did not address that specifically, really what we talk about is that considering the community survey that we recently did, there is a call from the community for residential development. We strongly recommend looking in the city where we could do HOA, PUD or something to that effect but residential and single family development was something that everybody was very high on. We actually talked about making it more friendly to build in the city. I have only been on for a couple of months but we have approved every single variance that has come in front of us because every single variance I think has been a significant improvement to each property which is something that we want to see. He advised I think rewriting the ordinances is a massive undertaking but obviously, they need some attention. Chairperson Jancura advised for the record, in the past few months we have denied 2 applications, we really make them reconfigure and why do you want it – well because I have 5 cars and I am a car guy, there was one that wanted to build this huge garage and he already had a garage. Law Director Graves concurred and advised it is no supposed to be a self-created hardship, it is to deal with the irregularities of the land. Mayor Bring advised with the economy on the upswing, we probably are going to have more people and builders looking at doing bigger projects and/or other thing's so this Board is going to be used a little more. We are starting to be looked as a for different situations and there are different applicants looking at things but nothing has happened yet but it is coming. Law Director Graves advised we do have for this coming Council meeting for a third reading a complete revision of our subdivision regulations which is a long time overdue. We do have a serious proposal on the table right now to have a new

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subdivision in Sheffield Lake. You also have to keep in mind when we talk about Sheffield Lake, it is the most densely populated community in Lorain County. We have 9500 people in 2.5 square miles and so there is not a lot of land in Sheffield Lake for development but there is some and I think as the Mayor pointed out it is becoming more attractive to builders. Chairperson Jancura stated in speaking of these 70-foot lots, with the nuance of tiny houses. Law Director Graves stated the Mayor pointed out we also have square footages for houses, not just the lot. Also, you want consistencies within the neighborhoods, that is a real goal of Zoning as a whole. You don't want a mesh/mash of homes in a neighborhood, little house/big house. You want consistency, that is like the main goal; standard setbacks, standard side lots. The more densely populated your community is the more those standards have to be there because you are living on top of each other. If you are out in the townships, build whatever you want because there is nobody around. So, you have to keep that in mind as well. Chairperson Jancura advised for our paperwork, each application will get a case number. She referenced full-transcription of minutes, Avon Lake does not do. Law Director Graves reviewed copy of how it is done in Avon Lake. Chairperson Jancura advised I would like to adopt this now and the reason this is being brought up now is because we are now going back to our own in-house Building Department. Law Director Graves reviewed notification process.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Harper/Second by Reilly 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 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 October 18, 2018.

CHAIRPERSON

Diana Jancura

PRESIDENT OF COUNCIL

Rick Rosso