

Sheffield Lake Zoning Board of Appeals Minutes  
Held January 16, 2020

The regular meeting of the Sheffield Lake Zoning Board of Appeals was called to order on Thursday, January 16, 2020 in Council Chambers with Chairwoman Jancura presiding.

ROLL CALL:

Present: Roll call not on the record.

Absent:

Attending: Applicants.

APPROVAL OF MINUTES: November 21, 2019 – Not on the record.

Member Tatter asks the seven parcels in front of us, are they currently R-1, R-2? Law Director Graves replies it is currently B-2. The request is to rezone it to R-2. Planning Commission approved it and it will now go to city council for final consideration. Chairwoman Jancura states we are not considering a use variance.

Correspondence: None

Council Representative Radeff report: Councilman Radeff states we are continuing with updating our zoning code. Chairwoman Jancura asks once it is finished, will we have an opportunity to review it and have any input? Law Director Graves replies this will be a year long process. We will be looking for input from Planning Commission, Zoning Board of Appeals and Council.

Planning Commission Member Siebenhar report: None.

OATH ADMINISTERED

As provided in 1353.37 of the Sheffield Lake Building Code, procedure at hearings, an oath was administered by Law Director Graves to all members of the audience who would be speaking at this meeting.

**CASE#19SFL-VAR013**

Great Lakes Property Development, 4205 E. Lake Rd., request for a variance of 17'.

Mike Cloud, managing developer of Great Lakes Property Development acknowledges he was sworn in. Chairwoman Jancura states you are requesting a variance from code section 1135.07a regarding front yards with a depth of 35 ft. You have a proposed side yard of 18 ft. Is it front or side yard? Mr. Cloud replies there are technically three front yards. Law Director Graves states it is a combination of through lots and corner lots. The property actually fronts on three streets. Member Reilly states, by definition, the front yard is wherever the front of the building faces. Mr. Cloud states we are proposing to build a licensed intermediate care facility for adult individuals with developmental and intellectual disabilities. They want these individuals to live in as close to a home environment as possible. The building will look very

much like a ranch house from the outside. From a building code standpoint, it is an I-2 structure. It is built like a nursing home, fire suppression, fire alarms, wide doors, etc. These are permitted use as R-1 classifications, which the State of Ohio would like them all to be that. The problem is, they don't always fit very well in R-1 classification. One reason is it's a 3700 sq. ft. ranch with a small parking area for staff. That doesn't fit well in a lot of sites. We want to build in Sheffield Lake, but a lot of the R-1 properties are too small. Additionally, we would like the homes to be on fairly major thoroughfares in case the patients need transferred in a wheelchair accessible van. The state must also approve all the sites, which they have with these. There cannot be two of the homes on adjacent parcels, there cannot be more than two on one street, etc. The property in question is comprised of seven original sub-division lots currently zoned B-2. The lots are not buildable as they sit, they are very narrow and small. You have to combine them. In order to meet the setbacks, two of the lots you buy are essentially unbuildable because they are on a paper street and you need a 35ft. setback. So, combining the seven lots makes them buildable. If the street was installed, we could turn the floorplan and face it the other way, but it's not. The variance is insubstantial for various reasons compared to a typical property. If the street were installed, a user could build in a different direction. There is a large right of way plus an 18 ft. setback which would allow the sidewalks to be installed. We would also do fencing or screening if the street ever got put in for privacy of the residents. Without the road installed, there is 68 ft. between the building and the neighboring property line to the south. The essential character of the neighborhood would not be changed. This is a business district. With asking for limited use rezoning, we are subject to more stringent setback rules than would otherwise be required. Someone else could buy this property and build a bowling alley and only be subject to B-2 setbacks. Our request in no way impacts delivery of governmental services. In limited use R-2 there will be conditions if granted, that say this can only be used for this type of home. If it ever stops being used for this, it reverts to the previous classification. R-2 is multi-family. Meaning side yards are required to be 5 ft. It's apparent from this requirement that the districts are intended to allow for density. This issue arises because the area originally laid out for single family residential homes a long time ago, got rezoned for business. So, the side yard/front yard issues on these paper streets had some unintended consequences. I think for any other user, if you want to put a business in there, you will come against the same issue. For these reasons stated, I respectfully request the board grant our variance for a reduced side yard setback, contingent on limited use rezoning being approved. Chairwoman Jancura asks your company merely holds the option to purchase, you haven't purchased the property? Mr. Cloud replies we hold the option to purchase. Chairwoman Jancura asks if the variance is not granted, will you complete the transaction? Mr. Cloud replies no. Member Tatter states R-2, in the information you submitted, requires a 5 ft. side yard setback and a minimum 15 ft. setback for both side yards. Mr. Reilly is correct in that the front of the building, the way the building faces, determines where the front yard would be. So, you have 17 ft. then. If the building is facing Abbe Rd., that then changes by definition. I don't see where you need a variance. Law Director Graves states on corner lots, where the property fronts on two streets, you are considered to have two fronts. These are a front and a secondary front. Our code 1171.02 talks

about having multiple frontages on corner lots. Just as with a through lot, where you own parcels back to back, you do not apply rear yard standards, you apply front yard standards off of the back street. Mr. Cloud states this is pretty common in zoning codes. They are trying to guard against being able to say whichever way you face your building is the front yard, then you can put that building 5 ft. off the right of way. The concern is traffic visibility. We do not have this problem because the street does not actually exist. There is no one trying to see around the building to turn. Even if it did exist, we aren't asking to build 5 ft. off, we are staying 18 ft. off the right of way, which is 28 ft. off the pavement. If the street ever was put in then, it would not cause an obstruction. Member Tatter asks what is the rear yard setback now that it may be considered a front yard? Mr. Cloud replies it is 35, which is the same as the front. Chairwoman Jancura asks to the best of your knowledge, would the residents require extra EMS or ambulance services from the city? Mr. Cloud replies due to fair housing standards that is not a question appropriate for me to answer. Member Reilly states occasionally they do need additional services, but not as much as a nursing or retirement home. Chairwoman Jancura states the reason for my question is one of the factors asks will it effect the delivery of government services. With extra calls, it may put a strain on EMS, etc. Mr. Cloud replies I would like to point out this will create 40 jobs and they are three fairly expensive buildings that will increase tax base. Chairman Jancura states I would like to note that Council and Planning have approved this. Deanna Leitner, 467 Abbe Rd. states I was sworn in, my only concern is that it will be for special needs and not a halfway house and who is going to run it. Mr. Cloud replies this facility is licensed by the state. The preference of the state is that every person with a disability is in the most residential setting possible. Meaning if someone is able to live in their own apartment, they want that. If the person can live with family, that is what they want. If they can't do that, they go to a waiver home. The last step is an ICF, that's what this is. The state limits it to individuals with a high degree of medical need who have developmental disabilities. When this goes through and is written into law, it will be explicit that it is for an intermediate care facility. Deanna Leitner asks so you are building it, not renting it? Mr. Cloud replies Res-Care of Ohio is the outfitter, they are the largest in the U.S. When we receive approval, the director will make himself available to the city and neighbors. In terms of longevity, the average stay in one of these is over twenty years. It will not change use. Deanna Leitner states I am for it, just wanted specifics. Donna and Gus Markou, 5348 Lake Rd. states we were sworn in. I would like to know what exactly this means for our property. Law Director Graves states I believe you are talking about the next agenda item. This one does not affect you. This one is on Abbe Rd. Penny Tressler on behalf of my mother-in-law, 450 Abbe Rd. My concern is are you going to put a privacy fence up? Also, is it one building or three? Member Tatter replies there will be three throughout the city, only one on that lot. Mr. Cloud replies it is sited on an (inaudible) wide piece of property with a 60 ft. right of way between the neighboring properties. There will be some landscaping in the backyard, but it is a nice wooded lot. Our intention for this lot is not to put a privacy fence up. Member Siebenhar asks how many neighbors does your mother have now? Penny Tressler replies one neighbor now. Member Siebenhar asks does she have a privacy fence between her and that neighbor? Penny Tressler replies yes. Member Siebenhar asks did she put that up?

Penny Tressler replies yes. Member Siebenhar asks so what would prevent her from putting one up on the other side? Penny Tressler replies nothing, I just wondered if they were putting one up. Is it going to be facing Abbe Rd.? Mr. Cloud replies yes. Jerry Tressler, 3606 Devonshire Ave. I was sworn in, I'm here on behalf of my mother Sandra Tressler, 450 Abbe Rd. Jerry Tressler starts a conversation with Mr. Cloud. Chairwoman Jancura states this portion is just to clarify facts and ask questions, this conversation does not need to be on the record.

CLOSE PRESENTATION:

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

Internal Discussion. Law Director Graves states the rezoning has not gone through Council yet, it has been recommended by Planning Commission. It is set for a public hearing and then ultimately a vote on the legislation by Council. The variance request would be contingent on the rezoning going through. Chairman Jancura states the change in the zoning wouldn't be limited to this building. If this building is ever changed and is not used as an R-2 anymore, it reverts back to B-2. It is a very specific rezoning. The variance requested is not significant, it is a nice use of the land. While Great Lakes Property Development may not have the practical difficulties, the owners do, because no one else wants this property. This is a creative way of using the land, bringing in business, bringing in long-term tenants. It will give our community diversity and character. I have a ward who lives in a home like this in Lagrange and it is wonderful. The residents are wonderful, and it would be nice to have this in Sheffield Lake. Member Tatter states I checked out the zoning, and for B-2 district, if it were to revert back, is actually less. They would still meet those requirements.

\*Motion by Harper/Second by Reilly to grant the variance as stated.

ROLL CALL FOR APPROVAL: Yeas All.

Case #19SFL-VAR014

Dominic Guarino, P.O. Box 147, Avon Lake, request for variance for non-buildable lot split. Chairwoman Jancura states this is for a variance at 185 Abbe Rd. Dominic Guarino states I have been sworn in. Chairwoman Jancura states this is for a lot split. The reason you are before us is because the split, approved by Planning, results in an unbuildable lot. You are here to get a variance for relief from that practical difficulty. Law Director Graves states in 2017, the city entered into an agreement with Mr. Guarino and his company 4PG LLC. to vacate a portion of Hawthorne Rd. that bisected his property. In exchange for that, he was going to grant another piece of property to the city. This would enable the city to perhaps extend Pleasantview. Planning Commission and Council did approve that vacation of Hawthorne. Today we are finally splitting that piece that he granted to the city. He did everything he was supposed to do up to this point. The piece he is going to split and give to the city is going to create a non-buildable lot. Last night Planning Commission approved the split contingent on a variance from the Zoning Board. Chairwoman Jancura states we are creating an unbuildable lot, but the city is going to take the lot and do something constructive with it, so it eventually it will not be an unbuildable lot. Member Tatter asks the land he receives from the city by the abandonment of Hawthorne, is that going to be a buildable lot?

Law Director Graves states when you vacate a street, it automatically reverts to the adjacent property owners, he owned the property on either side it, so it created a complete lot for him. We have easement for utilities, etc. Donna and Gus Markou, 5348 Lake Rd. Donna Markou asks what exactly does it involve for our property? We got a registered letter that said we needed to come. Chairwoman Jancura states you received the notice because we are dealing with a request for a variance and any abetting, abutting property owners are notified. It doesn't mean it affects you directly, but under Ohio law you are entitled to notice that this parcel may have a variance that could affect your parcel. It sounds like it will not directly affect or change your parcel and what you can do with it. Law Director Graves states at this point, it will not affect you at all.

CLOSE PRESENTATION.

Internal discussion. Chairwoman Jancura states while the lot split is creating a non-buildable lot, the fact that the city is going to take immediate ownership of it, there is a finding of practical difficulty. If we don't do it, it just sits there and doesn't do anything. Member Tatter asks what are the requirements of this type of variance? This is not a use or area variance, so what are the requirements per law? Law Director Graves replies I would say it is still a finding of practical difficulties. It is in the ballpark of an area variance, because you are seeking relief from the provision of the code that says you cannot create a non-buildable lot. It would be a variance from the size requirements of a buildable lot.

\*Motion by Tatter/Second by Siebenhar to grant the variance as requested.

ROLL CALL FOR APPROVAL: Yeas All.

**OLD BUSINESS:** Chairwoman Jancura states the proposed ordinance changes which Mr. Graves advised they have a professional doing that now.

**NEW BUSINESS:** Law Director Graves states so the board is aware, today I received news that we did prevail on our appeal of the Ledyard variance. This board granted a variance for her to build a garage and the neighbors submitted an appeal to the Common Pleas Court. We submitted our briefs and Judge Miraldi ruled in our favor. We now wait 30 days to see if they want to appeal to the ninth district court of appeals. Member Tatter asks is there anything being done with training for this board to bring us up to speed with current information available? Chairwoman Jancura replies we could. Maybe in the summer we could have a training session. Law Director Graves states I can provide you with a copy of the brief I filed in the Morrow appeal. It is a step by step application of the Duncan Factors. There were a couple weird issues regarding notice that they raised, you may be interested in hearing how I argued those as well. Chairwoman Jancura states if there are specific issues or terms that we use that you would like clarified, let's address it. We can make a little training manual, etc. Member Tatter states we have a building code that requires Portland concrete for driveways. It is not necessarily a use variance or an area variance, how do we handle that in the future? Law Director Graves replies this is not only the Board of Zoning Appeals, but also the Board of Building Appeals. From time to time, you might be called upon to hear request for a variance from a local building code. In regard to the construction standard for driveway materials, even though it's in the zoning code, it's more along the lines of building code variance. It's not really an area or use variance. The problem with building code variances, is there are no

Duncan Factors to apply. You just have to find that it's warranted and there is some difficulty or hardship by a preponderance of the evidence.

**CITIZENS COMMENTARY: None.**

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

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CLERK OF COUNCIL

*Brandy Randolph*

I, Brandy Randolph, 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 January 16, 2020.

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CHAIRPERSON

*Diana Jancura*

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PRESIDENT OF COUNCIL

*Rick Rosso*