

Sheffield Lake Zoning Board of Appeals Minutes
Held May 22, 2020

The regular meeting of the Sheffield Lake Zoning Board of Appeals was called to order on Thursday, May 22, 2020 at 7pm in Council Chambers with Chairwoman Jancura presiding.

ROLL CALL:

Present: Jancura, Reilly, Harper, Siebenhar, Tatter, Building Inspector Melbar, Mayor Bring, Law Director Graves, Council Representative Erdei.

Absent: None.

Attending: Superintendent Hastings, Applicants.

APPROVAL OF MINUTES: January 16, 2020. *Motion by Reilly/Second by Harper to approve the minutes with noted corrections.

Correspondence: None

Council Representative Erdei report: Councilman Erdei states the cases that went to planning, then you, then council, were all approved.

Planning Commission Member Siebenhar report: Member Siebenhar states we had a brief meeting yesterday. Mayor Bring updated that the city sidewalk repair/construction is beginning and being handled in house. We reviewed the proposal for a telecommunications facility installation by EBI Consulting on behalf of AT&T. We reviewed it to see if there was any potential effect for historic property. We decided there was not.

*Motion by Harper/Second by Reilly to amend the agenda to hear case 20SFL-VAR004 first.

OATH ADMINISTERED

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

CASE#20SFL-VAR004

Great Lakes Property Development, 4205 E. Lake Rd., proposing side yard of 8.5 ft on eastside of the building.

Chairwoman Jancura states this is a variance seeking relief from ordinance 1133.07 regarding a yard requirement that every building shall have two side yards of which the combined widths shall not be less than 30ft and the lesser of them not less than 10ft. The owner is seeking a 1.5ft. variance. It is my understanding that the reason for this variance is in part an error from our city. Is that correct? Law Director Graves replies there are presently four group homes this applicant is building throughout the city. 3 of the 4 are zoned R-2, which only requires a 5ft. side lot. This particular location is zoned R-1, which requires a 10ft. side yard. The drawings submitted to the city indicated an 8.5ft. side yard on the east side, and those

were approved. They need 10ft., so they need an 18in. side yard variance. Chairwoman Jancura states we have already had lengthy discussions about the application, questions about the home itself, its residents, etc. Member Reilly states I just want to confirm that this is a non-use variance we are considering. Chairwoman Jancura replies correct, it is an area variance. Member Reilly states if it is a non-use variance, then practical difficulty is a standard that must be met. Joe Patton, Representing Great Lakes Property Development, states the problem arises for us because the foundation and utilities were already in. There is really not a good way for us to do this. Unfortunately, this was a mistake. So, our proposal was to put in arborvitae. There is a bit of a swale there and I thought the plants would actually be better than the fence. The house adjacent to our side yard, which is their back yard, is not quite 50ft. away. It's about 37ft. away from the property line. The "L" on there is probably the smallest part of the structure that actually abuts their yard. I think that the screening of those trees, along with the other larger tree that is going to be in the back, will make it so you really can't see this house at all. The use of this has already been approved. We ask that the board approve our variance. Member Tatter asks what is your consideration for practical difficulty? Joe Patton replies we have already begun substantial construction on the site and the economic loss that would be created by this, is too great to stop. The size of the yard, to me, allows this to happen, because we cover such a small amount as it is right now. If this had been caught before utilities were put in, I would say maybe we can get the approval. At this point, we would have to get the approval from the Ohio Department of Health and the group home association. There are about 5 entities involved. It would make this economically non-feasible. We would have to abandon the project. This building has to be built exactly the way it is here on particular a timetable. Any departure from this will actually stop it and kill the project. Chairwoman Jancura states given the undertaking, our city inspectors have been involved to the point of the design of where it's at and literally no one saw this.

CLOSE PRESENTATION:

*Motion by Siebenhar/Second by Tatter to close the presentation.

Chairwoman Jancura states at this time, we will take any questions about the 1.5ft. variance, but not about the group home itself.

Dave Musall, 802 Harris Rd., states this property butts up to my backyard. I think it should be 30ft. I don't know how you can call this a side yard. Every house on Robinwood, faces Robinwood. This should be a backyard and 30ft. away from my backyard. Chairwoman Jancura states we are not here for a back yard; we are here for two side yards. Dave Musall replies but it's not a side yard, it's a back yard. Chairwoman Jancura states our city inspector says otherwise and he is the authority in Sheffield Lake as to what is a front yard, side yard and back yard. He has deemed this a side yard under our ordinance. Member Reilly asks am I right in assuming that this building will be facing Ferndale? Chairwoman Jancura replies yes. Member Reilly replies then unless I am mistaken, by definition, whichever street the front of the building faces, is considered the front yard when it pertains to corner lots. If they had faced the building towards Robinwood, then indeed, you would have had justification there. As it is, the front of the building is considered Ferndale.

*Motion by Reilly to CLOSE COMMENTARY.

*Motion by Siebenhar/Second by Harper to APPROVE THE VARIANCE AS REQUESTED.
 ROLL CALL FOR APPROVAL: Reilly, Harper, Siebenhar, Tatter, Jancura. Yeas All.

Case #20SFL-VAR001

Phillip and Maureen Zollos, 3921 E. Lake Rd., request to use pavers for upper part of the driveway abutting the garage.

Chairwoman Jancura swears in applicants and speaking members. Owners seeking relief from compliance with ordinance 1357.01b regarding construction and materials specifications. Section b states all new residential driveways and driveway additions shall be constructed of Portland cement concrete. You are proposing the use of pavers for the upper part of the driveway, abutting the garage. The existing driveway from the road to the pavers will remain. Why do you feel concrete should not be used when that is our standard? Phillip Zollos, 3921 E. Lake Rd. replies we purchased the home in 2017, apparently right when this ordinance went into place. I was completely unaware of it. To me, the pavers are a superior product to concrete. The compressive value is three times that of concrete. You can run a much higher load on pavers. To us, the aesthetics are better than concrete. Member Harper asks are you just doing pavers, sand pavers, or are you doing concrete underneath? Phillip Zollos replies the plan is to do a commercial grade geo textile underneath. A minimum 6in., that's what Belgard recommended. It will likely be pushed to 8 based on the elevation there. Member Harper states it says here you want to use them in the upper part of the driveway. So, not the whole entire driveway? Phillip Zollos replies correct. Member Harper asks what is the area square footage? Phillip Zollos replies right at 2400 sq. ft. I believe it is 40 x 55-60 in total pavers. Our original plan was to relocate the driveway to the center of the home. The home was designed with a whole straight in garage. We added a side load garage, so our driveway is not really ideal. It's 200ft. and we don't have the money to do a 200ft. concrete driveway. We are going to maintain the current driveway as is up to that point and then do pavers. Chairwoman Jancura asks do you know the approximate cost difference between the pavers and concrete? Phillip Zollos replies just in the front of my house, the concrete was quoted close to \$32,000, that doesn't include the driveway. We will be able to do it for \$15-18,000. Chairwoman Jancura asks will you have a professional contractor install it or do it yourself? Phillip Zollos replies do it ourselves. We have done pavers before. Chairwoman Jancura asks did you do them to this magnitude? Phillip Zollos replies not this square footage, but same ideal. We did it at our home in Avon and it lasted over 12 years. No deflection, no sinking, etc. But I didn't do it for a driveway. Member Harper states my only concern is the area we live in, the weather, etc. Member Tatter asks the building inspector if this were to be approved, would it come under your jurisdiction to ensure it is to builder or manufacturer's specifications? Building Inspector Melbar replies yes and he has provided all the information for the install and pavers. Chairwoman Jancura asks Mr. Melbar, in your professional opinion, do you believe pavers can really support the traffic of a driveway, given our clay soil, water, weathering, etc.? There is a reason we require Portland cement. Building Inspector Melbar replies, if done correctly, yes, they can. Chairwoman Jancura asks to what extent will the city oversee what he is doing? Building Inspector Melbar replies he would have to show us the

base before the pavers go in, that they dig first and then as the lifts are all done. Member Reilly asks have you purchased materials already? Phillip Zollos replies I did, before I knew of the ordinance. Member Siebenhar states I like pavers. Concrete cracks. Pavers, if they settle or crack, you pull them up, put new compacting gravel down, relevel it, put new polymerics in and it looks brand new. Chairwoman Jancura asks if your variance is denied, can your pavers be returned and what was the cost of the pavers? Phillip Zollos replies they were about \$10,000. I would not have bought them had I been aware of the variance. These are commercial grade pavers.

CLOSE PRESENTATION.

*Motion by Reilly/Second by Tatter to close the presentation.

Internal discussion.

Member Tatter states I am not sure what we are looking for. I know under non-use variance it is practical difficulty. Under use variances, it's unnecessary hardship. What are we looking at here specifically as a criteria? Law Director Graves replies as you know, this is the Zoning and Building Board of Appeals. This particular ordinance he is seeking a variance from is under the building code. Technically, this is a variance to a building code requirement. It is not clear that that request has to meet the same Duncan factors that an area variance would under the zoning code. I think that applying those factors would be prudent. You are looking for the same types of things. That a literal enforcement of the code in this particular case would not be warranted and that the variance would create substantial justice and not be out of character with the community, etc. Chairman Jancura states if he had not bought the pavers already, I would feel very differently. The fact that he bought them in good faith, not realizing we had a newly enacted ordinance that would prevent him from using the pavers, in and of itself is a practical difficulty. He cannot return them. Also, to get that much concrete, if you can find someone even at \$20,000, that's still a lot in concrete cracks. I had new concrete poured and within 6 months it cracked. Pavers are a lot easier to repair. Council Representative Erdei asks will you have a border or something to keep these enclosed? Phillip Zollos replies yes, a commercial grade edge border. There are 10in. galvanized spikes that go around the perimeter of it.

*Motion by Siebenhar/Second by Reilly to CLOSE COMMENTS.

*Motion by Tatter/Second by Reilly to APPROVE THE VARIANCE AS REQUESTED.

ROLL CALL FOR APPROVAL: Reilly, Harper, Siebenhar, Tatter, Jancura. Yeas All.

Donald and Laura Shewalter, 4825 E. Lake Rd., request variance for 24.52% increase to the property cubic footage.

Chairwoman Jancura swears in applicant. Chairwoman Jancura states you are seeking relief from compliance with ordinance 1153.05 regarding enlargement. It states a non-conforming building or use, may be enlarged, extended, reconstructed, or structurally altered to no more than 10% increase in the cubic footage of such non-conforming building and use. Only one 10% expansion shall be allowed. You are requesting a 24.52% increase. Which is 14.52% over the allowable increase, correct. Donald Shewalter replies yes. Building Inspector Melbar states this property is non-conforming because of the side yards. One is 8.5ft. and 10ft. is required. Law Director Graves states so, to clarify, this lot is conforming in all other respects.

He does not have 30 total feet of side yard and one is only 8.5ft. Member Tatter asks if the addition was not put on the house, what is the existing side yard to the west? Building Inspector Melbar states we are not questioning the side yards, it's non-conforming already. The question is, he is going over the 10% cubic foot. Member Tatter replies the point I am trying to make is that as you go towards the lake, the yard becomes more narrow. So, although it is already non-conforming, we will have to approve another side yard, even larger potential variance, correct? Building Inspector Melbar replies I should have noted he is going to keep the current 8.5ft. Donald Shewalter states on the west side of the house, the new addition would not be a continuation. It's not as close as the current home. Half of the addition is underground. Member Reilly states I have been by it and it is a genius use of space. Member Siebenhar states it looks like there is plenty of land. Law Director Graves states just drawing the boards attention to the correspondence in the packet that the neighbor had no objection. Also, the code provides for a one time increase to a non-conforming up to the 10% cubic foot. Any future addition, even if it was in that 10ft., would require a variance. This is a one time shot.

*Motion by Reilly/second by Tatter to CLOSE THE PRESENTATION.

Internal Discussion

Member Reilly states I do not see a problem. You won't be able to notice anything from the street, you won't impede the neighbors, it's a good use of space and will improve the value of the house. Member Harper has no problem with it.

*Motion by Reilly/Second by Tatter to APPROVE THE VARIANCE AS REQUESTED.

ROLL CALL FOR APPROVAL: Reilly, Harper, Siebenhar, Tatter, Jancura.

Paul and Claudia Morrow, 5065 Cliff Dr., requesting a variance to allow splitting of existing conforming parcel, which contains a house, into one buildable and non-buildable parcels. Chairwoman Jancura swears in applicants and members. Robert Corna, architect involved in the design and project. Chairwoman Jancura states the applicant is seeking relief from compliance with ordinance 167.02, land splits. Paragraph b states the Planning Commission shall not approve any land split which results in either the residue or the new parcel being of a size so as to render that parcel of land a non-buildable parcel of land pursuant to the applicable Zoning and Building Codes of the City. Parcel A is buildable, Parcel B is non-buildable due to frontage requirement and Parcel C is non-buildable. Is that an accurate representation? Robert Corna replies yes. The project is asking for a variance for the front yard. We have 84.4ft. and we need 90ft. The lot itself that is being split off, meets all the criteria of a lot. The present request is for that 5.6ft. variance for the front yard. Member Siebenhar asks you are looking to re-parcel this into three, why three instead of just splitting it into one? Why leave two non-buildable? Member Reilly states I think what he is asking, is what is the purpose of Parcel C? Robert Corna responds that is a lot that we are going to put together into one single lot that's now three. It would then become a single lot. Right now, it's a lot that has an island behind it that is landlocked. We are trying to square the lot off for the development of a house in the future. (inaudible, sidebar talking). The existing lot is currently a non-conforming lot. It goes back into the whole subdivision there. (inaudible, sidebar talking). These are leftover lots from that period. The lots in the front that have houses on them, are also owned by Mr. Morrow. So,

we are asking for a variance that actually abuts property we control and own. Member Reilly asks so, you would be knocking down the structure there and then building up a new one, consolidating lots? Robert Corna responds yes. Chairwoman Jancura asks you stated that the owner is considering building more on these lots in the future? Robert Corna responds yes. Chairwoman Jancura asks how does the size of this house compare to the current house? Robert Corna replies it's about the same size. It's about 2800 sq. ft. Chairwoman Jancura states it looks substantially bigger. Robert Corna replies if you like at the site plan, it shows a comparison of the two houses. Member Siebenhar asks so, you are tearing down a house? Robert Corna replies no. We built this model to dedicate the creek and this is what's called the floodplain for the creek. We aren't building in the floodplain; we are way above it. The house sits in the train of the lot. It's built into the hillside. The best place to put the house is where we positioned it. There is an existing house here. Robert Corna states we are trying to preserve enough distance between the two houses and position the house at an angle to maintain her vista. For us, we have to maintain two things. One, is the distance from here, that's an erosion point. We will have 50ft. from Mr. Morrow's house to the other house, to that point there. Member Siebenhar asks with all the land in the city, the empty parcels, etc., why split this vs. moving down the street and finding an open parcel? Robert Corna replies one thing is if you go to the history of the property, it was a hunting and fishing, they had quite a bit of property in that area. I think a big part of that property is where the high rise is built and what is left over would be smaller lots where the houses are built along the street. As an architect, this lot is an absolutely rare, beautiful lot. It has a creek running through it, it has a break wall already and it has vistas to the west. The way the house is positioned, it's one of a kind. The land has a slope to it, it has the creek and it's a nice piece of property. We are also in the process of taking Mr. Morrow's house and putting in over \$250,000 in improvements into it. We would like to somehow get Buckeye Dr. to become part of this whole idea. Another idea is to create a brick turnaround where it's just kind of a dead end. Member Tatter states Parcel C, which is the one that is being squared off, you are squaring off a non-buildable lot with another non-buildable lot. So, you are having three non-buildable lots there. That creation of that non-buildable lot has nothing to do with the construction of the proposed house. The 5.6ft. that you are splitting into a non-buildable lot, is absolutely necessary to construct the house in the picture. So, all these non-buildable lots are with hopes that someday in the future, you can come to this board and ask for a variance to build another house. Robert Corna replies it is possible to build a house there without a variance. Law Director Graves states that is simply not correct. Chairwoman Jancura states it doesn't have the frontage. Building Inspector Melbar states 90x100 is the minimum size lot. 90ft. is the minimum frontage. Member Tatter states so you will have 3 non-buildable lots adjacent to each other and even if combined, could not be a buildable lot. Robert Corna replies the long narrow lot would become a buildable lot. Chairwoman Jancura replies that is not correct. You are still leaving a non-buildable lot because you can't build on it without a variance. You would have to come back to us for another variance, because you want to build on that lot. You are creating your own problem by asking us to create yet another non-buildable lot. You already have two. In the future, when you want to build and need another variance, knowing you created part of this problem, we

don't give variances for people who create their own problems. Member Tatter states we are talking about the lot that fronts on Buckeye. You have two adjacent lots that run east to west, they are both non-buildable. Then you want to square the landlocked lot off with a third non-buildable lot that is a right triangle of 15x50. That creates a need for a variance, and we do not grant variances if you create your own problem. There is no purpose at this point to consider this. Law Director Graves states even Parcel B, the larger lot that he is proposing to split, the issue before the board tonight is just to give a variance for the split. This would still have to go to planning. Then when he would propose to build on that lot, he would come back to the zoning board for a variance to build on that lot. You are not considering a variance to allow him to build on this lot, it's just to approve the split. Chairwoman Jancura states but knowing that he intends to build on it... Member Tatter states that's not really part of our discussion. As far as we are concerned, what he does if we approve this, if he wants to take a chance of us turning him down in the future, that's a problem for another day. Robert Corna states there will be ideas coming in the future of how we would handle the other lots together. Member Reilly states as far as what we need to decide today, my main concern is Parcel B and if he wants Parcel C split off into a non-buildable lot, I don't have a problem with that. Peggy Ledyard, 274 Buckeye/Cliff Dr., my house is situated around all these lots. The Morrrows live on the lake and own the property around the northside, the westside and on Lake Rd. I am surrounded by the properties. Chairwoman Jancura asks to refresh our memories, you requested a variance to build a garage last year? Peggy Ledyard replies yes. My concern is that when I had problems in 2014 and now with the street drain outside, I was told after it was clogging up for a year, and ruining my property, Lenny from the street department told me the drain went from the street through the Morrow's property to the lake and drained there. Would this give me any problems with drainage? Also, I know I have no say so about a view of the lake because I do not live on the lake, I realize that. This is the first time I have seen the pictures and I don't really know what to say about that. (Inaudible, multiple sidebars)

Unrecognized person states there is nothing with the drainage I am aware of. We talked to the engineer about it and we think we know the solution. You have to get your drainage to the creek. Peggy Ledyard replies that's not my drainage, it's the streets drainage. Chairwoman Jancura swears in Superintendent Pat Hastings. Mr. Hastings reports I can affirm what she says as far as the catch basin on the public street and right away. It does travel northwest through the Morrow's property. I have physically run the jets through there. I am not aware of an easement for us to go on the property and solve the slow drainage. Chairwoman Jancura asks does Mr. Morrow own that creek? Superintendent Hastings replies yes. It is a federal FEMA flood zone. Based on the category of wetlands, would determine the setback necessary for a structure. Law Director Graves asks the drainage ditch, what properties does that drain? Superintendent Hastings replies that is tens, if not hundreds of acres to the south. Schumaker ditch, which does all of Buckeye, parts of Elm, Sheffield Village, it's substantial. Law Director Graves states I would point out that while this ditch lies on the Morrow property, whether or not there is a recorded easement there, there is almost certainly an easement by implication or an easement by necessity for stormwater drainage that the city would have to make sure that the water continued to adequately drain through that ditch. Member Tatter

states your concern is with the back drainage, to be clear Mr. Hastings, the drainage you are talking about, is that on Buckeye or in her backyard? Superintendent Hastings replies Buckeye. Member Tatter states it is two different entities then. The one that runs through the Morrow property is actually the drainage for Buckeye. Superintendent Hastings replies Buckeye as well as considerable properties south. Her comments are on a catch basin on Buckeye's right of way, the street. Peggy Ledyard states my concern is if there is any problem with the drain, it would ruin my property because I'm the low point of the street. The water settles right in front of my driveway. I just want to make sure my house is protected. Member Tatter asks so, the question is will the new construction of a large house, to the rear or west of you, change the drainage. Peggy Ledyard replies my concern is the drain in the street. Member Tatter states that does not have anything to do with what we are considering. Chairwoman Jancura states we aren't considering the building of the house; we are considering the lot split. That is a different meeting. Member Reilly asks sir, you said you had a solution to the drainage problems? Robert Corna replies yes. Chairwoman Jancura states I will stop this here, we do not care about the drainage right now, this is about the lot split.

CLOSE PRESENTATION

*Motion by Reilly/Second by Tatter to CLOSE PRESENTATION.

Internal Discussion

Member Tatter states I want to point out that creation of a non-buildable lot is against city code and the creation of what is identified as Parcel C, has nothing to do with making Parcel B a buildable lot. However, the variance at Lake Rd. of 5.6ft. is certainly a requirement to go forward to other committees for the building of the lot. I would like to make an amendment to the discussion. I would like my board members to consider approval of 5.6ft. variance and the denial of creation of a lot split that has no purpose. Law Director Graves states we need to be careful about wording it as a 5.6ft. variance because you are not giving them a variance on the frontage build. You are just giving them a variance to create a non-buildable lot. Later, if he decides to build a house on the lot, he will need a variance for the 5.6ft. Planning Commission would then look into all the other issues surrounding whether this split is appropriate. They can't consider it if it's not a buildable lot. Member Tatter states then the creation of Parcel C goes against code and has no purpose.

*Motion by Tatter/Second Siebenhar by to CLOSE THE DISCUSSION.

Chairwoman Jancura asks Mr. Graves this is an application to create these three parcels, so this is all or nothing, correct? Law director Graves replies

*Motion by Reilly to APPROVE THE VARIANCE AS REQUESTED. Not granted.

*Motion by Harper/Second by Siebenhar to DENY THE VARIANCE. Finding there is no practical difficulty.

ROLL CALL TO DENY VARIANCE: Harper, Siebenhar, Tatter, Jancura. No: Reilly

OLD BUSINESS: Law Director Graves states we continue to work with our consultant on the revisions to our zoning code. We hope in the near future to have a combined meeting of the Zoning Board and Planning Commission. As far as revisions to the city master plan, those were in front of council and they had a number of questions. The next step is a meeting between council and planning. Member Tatter states I sent over a Hamilton County training

brochure in trying to have it incorporated into some form of training program for the board members. Now, I am thinking it would greatly enhance the integrity of the board to have that distributed to them.

NEW BUSINESS: None.

CITIZENS COMMENTARY: None.

MEETING ADJOURNED: With no further business before this board, *Motion by Harper/Second by Reilly to adjourn at 8:32pm. 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

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 May 21, 2020.

CHAIRPERSON

Diana Jancura

PRESIDENT OF COUNCIL

Rick Rosso