

Sheffield Lake Zoning Board of Appeals Special Meeting  
Minutes  
Held June 29, 2021

This special meeting of the Sheffield Lake Zoning Board of Appeals was called to order on Tuesday, June 29, 2021 at 7:00 pm in Council Chambers with Chairwoman Jancura presiding.

ROLL CALL:

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

Absent: Harper.

Attending: Applicants.

APPROVAL OF MINUTES: May 20, 2021. \*Motion by Siebenhar/Second by Tatter to approve the minutes with noted corrections. Yeas All.

Correspondence: None

Council Representative Erdei report: Representative Erdei has no report.

Planning Commission Member Siebenhar report: Member Siebenhar has no report.

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.

Chairwoman Jancura states in order to grant your variances, the board needs to find that there is a practical difficulty. As in you are unable to benefit from the use of your land due to the practical difficulty you are experiencing.

**CASE#21SFL-VAR005**

William and Hilda Frigic requesting multiple variances.

Chairwoman Jancura states this looks like it is for a new build. So, you will demolish the existing building and build from scratch. We are permitted to grant some of the variances and deny some. If your application isn't granted in its entirety, will you proceed with the build? Mrs. Frigic replies we intend on building, yes. We are still in the process of designing. Everything isn't set in stone, but we have a good idea of what we want. Chairwoman Jancura says we have 7 variance requests. For the first one it is proposing a house with a rooftop deck with a railing that may exceed 35ft. Mr. Melbar, is a railing part of the height of a building? Building Inspector Melbar replies it is. Chairwoman Jancura asks do you know how high the railing will be or is this part of a wish list? Mrs. Frigic responds it was a just in case it didn't exceed that limit, that's why we are adding it at this point. Chairwoman Jancura says #2 which

is the required lot area that other family dwelling shall be located on the lot of not less than 9,000 sq. ft. and have a width of not less than 90ft. You are proposing a 70ft. lot. You need a 395sq. ft. variance. Mrs. Frigic says actually this is two lots that were 35ft. by 120ft. It is 70ft. wide along East Lake Rd. and 120ft. along Sunset. It's technically double wide for that area. Chairwoman Jancura asks when you purchased the property what was your intent for it? Mrs. Frigic replies our intent was to knock down and build a new home. The foundation is cracked, the ceiling heights are really low and it's just small. There are 4 different roofs on it, and we had to get special insurance. Law Director Graves states maybe they could just walk through their plan, what they intend to do and why for each of these factors the code should not be applied. Mrs. Frigic says originally, we wanted to build a fence closer to East Lake Rd. and that is when we applied for a permit and were told no, it has to be set back 23ft. We just put one up along the west side and north side and nothing on East Lake Rd. That is why we want to put the garage abutting that location. The first 23ft., we can't build on it. The garage was 25x20 and was just a little too small for what we need. That's why we are proposing demolishing everything and building what we need. Our intent is mostly everything on the first floor, which is probably why it's bigger. Along the west side we propose 10ft. from the property line. Along the east face, we propose 10ft. but we took some measurements from the neighbors, and we think it is her house to the north that is only 7.5ft. We probably could have asked to go more to the house closer on Sunset, but we didn't. I think the back property line setback, the ordinance is 30ft., but a lot size like this, it's not feasible at all. We are still designing and are flexible, but these are the things we want. Chairwoman Jancura asks will your structure be two stories? Mrs. Frigic replies yes, we don't want the whole top, third area open. We just want somewhere to put chairs; it won't cover the whole second floor space. Chairwoman Jancura asks will it be enclosed? Mrs. Frigic responds no. Member Siebenhar states I don't think it was an approved build prior to you purchasing it. I agree it needs torn down and rebuilt. (Inaudible, too much sidebar talking). It's not a high traffic road and everything is super tight. Member Tatter asks when did you purchase the house and were you represented by anybody? Mrs. Frigic replies August 2020, and I am a realtor. Chairwoman Jancura asks were you aware of the uniqueness of the small lots or Sheffield Lake building code? Mrs. Frigic replies absolutely not. There were originally 2 houses on the lot, one to the north of the existing house, but got torn down between 2015-2017. Chairwoman Jancura asks are there structures on either side that would impede any EMS, garbage, snow plows etc.? Mrs. Frigic replies no. Unidentified member asks will the garage be attached? Mrs. Frigic replies no. Unidentified member asks if it was attached, what would the setbacks be? Building Inspector Melbar responds 50ft. They are also asking for a variance to have an accessory structure in the front yard. Unidentified member asks what would it be if it was attached? Building Inspector Melbar replies 30. Chairwoman Jancura asks if your application is denied in its' entirety tonight, what would you do? Mrs. Frigic replies we would want to know what part the city doesn't like. Chairwoman Jancura asks you are open to us denying some and granting others, so it's not a package deal? Mrs. Frigic replies if it is reasonable, yes. We are still designing it. Law Director Graves says to clarify variance #6 1133.07(C) is a typo, it should say 30ft. not 35ft. with neither side being less than 10ft. Under the smaller lot section

of the code, if the board were to give them a variance to build on a lot of less than 9,000 sq. ft., then the combined side yards are only required to be 20ft. Being a corner lot, you have the front yard where your house faces and the other street that is considered a secondary front and you have to be 22ft. That would be variance #4. There are two addresses for the property, but when I ran it on the county website, it came up the Sunset address. Mrs. Frigic says the house will be facing Sunset. Chairwoman Jancura says well then this is wrong. This says owner proposes a secondary front yard on Sunset, but you are proposing on Lake. Building Inspector Melbar responds correct, that is how the garage got to be in front of the house. Chairwoman Jancura asks do we know how much closer in #7 (inaudible). It says owner proposes a garage in front yard on Lake Rd. side of the lot and closer to the house than the required 12ft., how much closer? Mrs. Frigic replies we are planning 6.6ft. between the garage and the house. Member Siebenhar says so really the second part of #4 isn't even needed. If the secondary front yard is on Lake, according to the drawing it is 23.6ft off Lake and you are required 22. Building Inspector Melbar states the primary front to me is on Lake Rd. which is why the garage was asked to be in front.

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

#### Internal Discussion

Member Tatter talks but is mostly inaudible due to sidebar talking. Property was purchased less than a year ago and the person is a realtor and says that no considerations were given to any of the zoning codes. Being licensed in the State of Ohio as a realtor, one of the considerations when you think of buying something with the purpose of tearing it down, would be that you understand certain requirements to be met. Creating a 2,300 sq. ft. house out of an 1,100-1,200 sq. ft. house, is creating your own practical difficulty. There are designs that could be made that would meet the requirements. I don't know that the board can grant a variance when the practical difficulty is self-made. If I'm not mistaken, we recently denied the same issue when a 2,000+ house was being considered on three different lots and substantial variances were being requested. The denial was because it was a self-inflicted practical difficulty. Member Siebenhar states I look at the area, guidelines, other houses in the area, etc. and I think it fits right in. I see the size and the original footprint is 1,100 single story. I don't see any problem with it. Chairwoman Jancura states I agree that with a self-imposed practical difficulty we can't grant a variance. For this particular application, I do believe there are a fair amount of practical difficulties due to lot size, etc. I think they could come with what they actually want and pare down some things. Make it as tight as possible and say there is nothing else we can possibly do. In terms of the building itself, say we have to have this square footage for 3 bedrooms, if we go any smaller, we can only have 2 and that doesn't fit our needs. You could really show us you don't have other alternatives. More of a home that will serve your needs as opposed to a wish list. Member Tatter says I would like to see an engineer's opinion that the property as it exists cannot be occupied. Law Director Graves states I don't believe this is necessarily what we would traditionally call a self-created hardship. That would be along the lines of someone saying I need a garage that's much larger than code allows because I have 5 cars. You chose to have 5 cars, that doesn't mean there is an irregularity with the land, etc. This would fall more along the lines of is the variance the

minimum necessary to make possible the reasonable use of the land or whether their predicament can feasibly be obviated through some other mechanism. In other words, are you stretching the limits beyond what would reasonably be necessary? Member Tatter asks how do you feel about hearsay on the condition of the existing property that may or may not be inhabitable? Law Director Graves replies I think that is their prerogative. Even if the house is perfectly inhabitable, they may just want to demolish and build new. I don't know that they need to show a need to tear down the other house. Member Tatter says I am looking at it from a practical difficulty standpoint. If the property is not safe, then exists a practical difficulty. Law Director Graves states we have to limit our consideration to what they have applied for. Chairwoman Jancura asks the applicants if they want to proceed and have a vote tonight or table the matter and come back with an amended application that would be pared down. Mrs. Frigic replies we have put a lot into the planning of this home. This is really what makes sense for us, and we are beautifying the city, we don't want to change it. Unidentified person says I walked the property this morning and the drainage I noticed most of the new houses have storm sewers, am I correct? Building Inspector Melbar says correct. Unidentified person says as far as the new build, are they required to be connected into the storms then? Building Inspector Melbar replies not required. Unidentified person says it's been a problem in Sheffield Lake where one house drains to the yard, yards get flooded and the house getting flooded doesn't have any storm sewers, etc. A big home like that being so tight, one of my things is drainage and how it could affect adjacent owners. Building Inspector Melbar reports that would all be figured out in the topographical that will be required. All that will be engineered before approved. Member Tatter asks the applicants do you have formal plans? Mrs. Frigic replies not with the topography. We are still doing the layout. This was designed to maximize the views of the lake. We would like you to proceed with the application and vote. Chairwoman Jancura says right off the bat with #1, the height of the building, you have said you would like to have a rooftop deck, but it's not necessary. Law Director Graves says there should be a motion to get the discussion started.

\*Motion by Siebenhar to approve the 7 variances with the caveat of the height being the structure is within 35ft. (inaudible). Law Director Graves says so in other words grant that variance because they are saying the roof is below 35ft. and you are ok with the railing. Member Siebenhar replies yes. Law Director Graves says so your motion would be to grant all variances. Motion dies for lack of second.

Member Tatter asks Mr. Graves mentioned there is a provision in the building code that the 10ft. side yard variances on small lots are allowed, correct? Law Director graves replies in the zoning code under R-1 1133.09 it says minimum floor area and combined side lots for smaller lots. It says if the Zoning Board of Appeals were to grant a variance to allow an applicant to build in an R-1 district on a lot less than 9,000 sq. ft. then the combined width of the side yards need only be 20ft. with neither side less than 10. What they are saying is typically it is 30ft. but if it's less than 9,000 it is 20ft. For example, if you grant #2, you won't need #6.

\*Motion by Tatter/Second by DeBottis to allow a new build on less than a 9,000 sq. ft. lot. (Variance #2) This motion does not consider the other variances required. I feel we must first agree the lot can be built on before considering other variances.

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

\*Motion by Tatter/Second by Siebenhar to approve variance #4 1133.07(b).

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

\*Motion by Siebenhar to approve variance #5 1133.07(e).

Motion not carried.

\*Motion by Tatter to deny variance #3, 45% coverage.

Motion not carried.

\*Motion by Siebenhar/Second by DeBottis to approve lot coverage variance.

ROLL CALL FOR APPROVAL: DeBottis, Siebenhar, Jancura.

Nay: Tatter

\*Motion by Siebenhar/Second by DeBottis to approve variance #1 1133.03.

ROLL CALL FOR APPROVAL: DeBottis, Siebenhar.

Nays: Tatter, Jancura.

No action taken, need a majority of the membership.

\*Motion by Siebenhar/Second by DeBottis to approve variance #7.

ROLL CALL FOR APPROVAL: Siebenhar, DeBottis.

Nays: Tatter, Jancura.

No action taken, need a majority of the membership.

Law Director Graves states by my records #1, no action was taken it was a 2-2 vote, #2 was approved, #3 was approved, #4 was approved, no vote yet on #5, #6 is not necessary and #7 no action taken it was a 2-2 vote.

Member Tatter asks by approval of #3, does that in anyway conflict if #5 is denied? If we approve 45%, they would automatically be allowed the rear setback of 7.8ft. Building Inspector Melbar says there is not a conflict to me.

\*Motion by Tatter/Second by Siebenhar to approve variance #5.

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

Mr. Frigic says the garage is 6ft. exactly away. Chairwoman Jancura replies that is still too close. Law Director Graves states nothing was denied, there was no action. 5 out of 7 variances were granted and 2 variances didn't get a majority of the board so there was no action. You could come back next month on 1 and 7. Mrs. Frigic asks if we did attach the garage to the house? Chairwoman Jancura responds we can not give opinions about that. Law Director Graves says items 1 and 7 will remain on the agenda for the next meeting, unless you can work with the building inspector and get those in code, then you won't need to come back. Member Siebenhar asks on #7, was it split? (Inaudible due to sidebar talking). Chairwoman Jancura says it was because it was 6ft. Member Siebenhar says but it is also in the front yard. (inaudible)

#### Case #SFL-VAR006

Patrick and Katelyn Kinyon requesting a variance from 1153.06 Enlargement. Owner proposes an 18% increase in cubic footage.

Chairwoman Jancura states you have requested a variance from 1153.03, compliance regarding enlargement. You are just building on?

Mr. Kinyon says we needed another bedroom and had a flood this winter, so it was time for us to do it and wanted to do it at the same time. We looked at other options to add a bedroom and looked into moving, but we love our house and neighborhood. We aren't increasing the footprint of the property, just going above (inaudible). If it comes out the way it's supposed to look, I think it will fit in much better. When we bought the house, we knew it was a 2 bedroom, I didn't plan on having another child and now we do. Member Tatter asks why is your property non-conforming? Mr. Kinyon replies I think it's the fact that we are going more than 10% on the addition. Member Tatter responds it is non-conforming as it exists, which I would think is because of lot size. Building Inspector Melbar states lot size. Chairwoman Jancura says it has 35ft. frontage.

\*Motion by Tatter/Second by DeBottis to close the presentation.

Internal Discussion

Chairwoman Jancura says having an unexpected kid is a practical difficulty.

\*Motion by Tatter/Second by DeBottis to approve the variance.

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

**OLD BUSINESS: None.**

**NEW BUSINESS:** Chairwoman Jancura says Mr. Tatter will not be at July's meeting.

**CITIZENS COMMENTARY: None.**

**MEETING ADJOURNED:** With no further business before this board, \*Motion by Tatter/Second by DeBottis to adjourn at 8:15 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.

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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 June 29, 2021.

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CHAIRPERSON

*Diana Jancura*

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PRESIDENT OF COUNCIL

*Rick Rosso*