

BOARD OF ZONING APPEALS - Minutes of August 28, 2018

7:00 pm ★ Municipal Complex (687 Decatur) *Courtroom* ★ Vermilion, Ohio

Roll Call: Kevin Sorrell, Jerry Schrenk, Bob Voltz, Guy LeBlanc. Absent: Dan Phillips

Attendees: Bill DiFucci, Building Inspector; Barb Brady, Council Representative

NOTE: OFFICIAL ACTION REQUIRES 3 AFFIRMATIVE VOTES, See COV 1264.02(b);
Therefore, *Motions will be stated in the positive (eg., To Grant... / To Waive... / To Determine...); and a
member=s >Yes= vote means Agree and a >No= vote means Disagree.

Approval of Minutes:

G. LeBlanc MOVED; B. Voltz seconded to approve the minutes from the meeting held on July 24, 2018. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

An **Oath** of truthfulness was administered to those in attendance who planned to speak during these proceedings. *Kevin Sorrell* described how meetings are conducted, explained the avenue of recourse available when a variance request or appeal might be denied, and gave a reminder that it takes 3 affirmative votes for an action (motion*) to pass.

New Business:

[R-S] 5119 7th Avenue – Steven & Katherine Mohr – (Front, Rear, & Side Yard Setbacks; RC 302.1 Variance Request)

Applicable City code section(s) cited:

1270.09 (e) (2) (A) Front yards not less than 30'; proposed North = 2' 3" – variance requested – 27' 9"; East = 1' 8" – variance requested – 28' 4"

1270.09 (e) (2) (B) Rear yards not less than 30'; proposed South = 2' 10" – variance requested – 27' 2"

1270.09 (e) (2) (C) Side yards not less than 7'; proposed = 1' 8½" - variance requested 5' 3½" (as amended from the submitted application)

RCO 302.1 - Windows not permitted in walls less than 3' to property line – variance requested – allow windows. (Submitted application amended to include this additional variance request)

Jill Brandt, of Brandt Architecture, LLC of 19440 Riverwood Avenue, Rocky River, and Jess Oster of Oster Services, 29495 Wolf Road, Bay Village were present to explain they are tearing down an existing cottage in Linwood Park and putting up a new cottage in the same footprint. They are holding the east and south footprint of the property, which is currently 1' 8" off the property line to the east and its 2' 10" and 5' 8" off the property line to the south, so there is no change to that condition from the existing. On the west side they are proposing 1' 8½" off the property line and the existing structure is 1' 2½", so they are actually moving that side in 6", and then the front bottom step of their entry stoop is 2' 3" off the front yard, which is in the existing footprint at the edge of the existing cottage. There is formally a full wall porch there, so they are actually setting the cottage back about 4' from where it is existing on the north side. The walls to the south and west will be fire rated and she believed the windows were within the allowed allotment for that. B. DiFucci pointed out that openings in walls are not permitted in walls less

than 3' to the property line. J. Brandt was of the understanding that if they were under 25% of the open area they were okay. Therefore, the board allowed an additional variance request pursuant to RCO 302.1 as clarified above.

Sharon Sneller of 5125 7th Street; adjoining property owner to the west of the property wanted to clarify that the setback on the west side is 20.5"; right now it is 14.5" from their property line. They had requested a typographical study and they were expecting to have survey corner pins in place, so that the foundation line could be set appropriately before they dig, so she wanted to clarify that this has been done. Jill Brandt said this is a requirement by the City before construction begins. G. LeBlanc verified the modified plans note the 20.5" setback on the west side.

K. Sorrell pointed out in this particular case when you move in a fire rated wall variance at time of meeting; he was not so sure they shouldn't give the neighbors the opportunity to voice their opinion. B. DiFucci noted public notice is given through the newspaper and posting on site, which lets the public know that variances are being requested, so if they want to come and listen to learn about the project and ask questions, then they have the right to attend the meeting and listen to all discussions and not what is just listed in the paper.

J. Schrenk MOVED; G. LeBlanc seconded to approve the variance requests for the front, side, and rear yard setbacks as requested and noted above in the *applicable city code sections cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

K. Sorrell MOVED; B. Voltz seconded to approve the additional variance request to allow windows to be installed in the fire rated west and south walls (RCO 302.1). Roll Call Vote 3 YEAS; 1 NAY (LeBlanc). **MOTION CARRIED.**

[R-5] Liberty & Pebbleshores; Permanent Parcel # 01000005102030 – Shoreline Village Apartments, LLC (Waive Sidewalk)

Applicable City code section(s) cited:

1024.01 – Sidewalks required – proposed = no sidewalks along Liberty Avenue – variance requested – no sidewalks

Jim Coggins of 3365 Cooper Foster Park Road, Vermilion, said he is the project manager on this project. He thought the variance request was for the private walk on Pebbleshores and B. DiFucci clarified the sidewalk going up Pebbleshores proposed on the west side that will be moved to the east side is considered a private walk, so it can be moved over with no issues. However, the variance request is for no sidewalks along Liberty Avenue; along the whole frontage of the development.

K. Sorrell said obviously sidewalks are required along Liberty Avenue. J. Schrenk asked if their property line goes all the way to the new crosswalk to the west and J. Coggins clarified their property does go to the corner of the new crosswalk.

Don Neiding of 715 Foxwood Drive asked if they were installing sidewalks within the apartment area and K. Sorrell said the variance request to waive sidewalks before the board is only along Liberty Avenue. B. DiFucci said there are sidewalks already installed inside the development from apartment to apartment and there will also be a sidewalk installed going north and south on Pebbleshores Cove. D. Neiding asked the developer how much money they are saving if they

don't put sidewalks on Liberty Avenue. J. Coggins estimated around \$30,000. D. Neiding said as a resident of Vermilion when he had built a home he was requested to put sidewalks in; especially on Liberty Avenue because it's a main thoroughfare and this is what people see. They've had problems on Liberty Avenue now where there are no sidewalks, but he thinks they need sidewalks. He would be against waiving sidewalks anywhere as they have a code to follow and this is the only way to do it; is to put sidewalks in. He is talking about safety too because they can't have people going up and down Liberty with no sidewalks.

Elaine Carlen of Vermilion Shores stated she has been on the board for five years and has been the President of the Trustees for the last two years. They are very opposed to the Zoning Board telling them that they do not have to follow the code. She said Mr. Giltz is going to leave in three or four years and anything he has to do with the project will be over. There are lots of things he has left undone that they as residents have had to do, repair, and add to meet codes. She didn't think it was fair to let the permanent residents take up the slack for something he didn't want to do. Therefore, she is opposed to waiving sidewalks on Liberty Avenue.

B. Brady stated as an FYI that sidewalks on Liberty Avenue are on Council's agenda as council may push the issue of forcing sidewalks. K. Sorrell asked if this was to the point of assessing and B. Brady said it hasn't been decided on yet, but it is being discussed.

Ken Cassell of 5425 Liberty Avenue said it would appear that the sidewalks should be required there as he just went through this a month ago on Sunnyside Road and the Zoning Board required them there. The potential of traffic on Sunnyside Road is much less than it is on Liberty Avenue and there is certainly a lot more population with the apartments they are building. Therefore, it would appear that it should be absolutely necessary to have sidewalks on Liberty Avenue. He said the board had said a month ago that they want them in the entire area, so he would suggest that if they are going to adhere to that, then they should be required.

G. LeBlanc MOVED; J. Schrenk seconded to approve the variance request to waive sidewalks along Liberty Avenue as requested. Roll Call Vote 4 NAYS. **MOTION FAILED/VARIANCE DENIED**.

[RS] 783 Main Street – Stanley J. Rousonelos (Rear yard setback)

Applicable City code section(s) cited:

1272.12 (c) – Rear yard setback required 5' – proposed = 3' – variance requested – 2'

Stanley Rousonelos said he is proposing to install a storage shed and on the north side of the shed Mike Lindo owns the property and has no objections of him placing the shed. However, it's questionable where his property line is. He has been trying to locate the property pins and he was told the property line is located where the fence is. In the meantime, he has gotten all the property dimensions and has tried to locate that. From the fence line to the edge of the home, it's about 10' and he is saying 3' away on that side now because now it's questionable where the pin is. He found the pin on the south side of the property. He is proposing that this side of the shed be in line with the back side of the house on the north side; then again 3' from Rodney Johnston's property at 716 Exchange Street. He talked with Rodney who also has no problem with this.

B. Voltz said it appears the original drawing they were provided with is different than the drawing they were given today. S. Rousonelos said there is a change on the building. B. DiFucci said the property owner doesn't have a lot line located north and he will need to locate that lot, so they

need to know if he is asking for a variance to the north or not because the one drawing says they are 10'. However, the new drawing is showing 3' to the shed which is aligned with the house, which would mean the house, is 3' from the property line, which they don't have verification that it is. G. LeBlanc said he could ask for a 2' variance there potentially. B. DiFucci said he would be asking for a 3' variance because from the side it's 6'. If they go off the new drawing he would be asking for a 3' variance to the north and a 2' variance to the east. B. Voltz asked if it would be a 3' variance to the east and B. DiFucci stated the rear setback on a shed is 5'. B. Voltz asked how far the back of the house is to the east property line; how much distance does he figure there is going to be from the back of the house to the base of the shed. S. Rousonelos said between the house and shed its about 6', but he didn't get an exact measurement, so he could be wrong. B. DiFucci said the board can table the variance until the property owner gets the lot line located or they can grant a variance of 3' on a side. K. Sorrell asked the property owner if he would like to add the side yard variance request of 3' and S. Rousonelos said yes. B. DiFucci said the additional request is cited as 1272.12(c) - side yard setback required is 6' – and he is requesting a 3' variance.

G. LeBlanc MOVED; B. Voltz seconded to approve the variance request for a rear yard setback of 2' as cited above. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

J. Schrenk MOVED; G. LeBlanc seconded to approve the variance request for a side yard setback of 3'. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

[R-S] 5119 Fifth Street – Prete Builders Inc. (Front & Side Yard Setbacks)

Applicable City code section(s) cited:

1270.09 (e) (2) (A) – Front yards not less than 30' – proposed North = 5' – variance requested – 25'; East = 3' – variance requested – 27'; South = 23' 6" – variance requested – 6' 6"

1270.09 (e) (2) (C) – Side yards not less than 7' – proposed West = 3' – variance requested – 4'

Kevin Sorrell noted per the application the applicant wants to demo the existing home in Linwood and build a new home. The home has been approved by the Linwood Board.

Paul Prete of Prete Builders was present to represent his application. He said they tried to place the house further away from the west lot line and stay within the guidelines of the RS district, and the request fits Linwood's prototype.

B. Voltz MOVED; J. Schrenk seconded to approve the variance requests as submitted for the front yard setbacks as defined above in the *applicable city code sections as cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

B. Voltz MOVED; J. Schrenk seconded to approve the variance request as submitted for the side yard setback as defined above in the *applicable city code sections as cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

[R-S] 5448 South Street – David Loper (Rear Yard Setback)

Applicable City code section(s) cited:

1270.09 (e) (2) (B) – Rear yards not less than 30’ – proposed North = 9’ 6” – variance requested – 20’ 6”

K. Sorrell explained the nature of the variance being requested is for a rear property line variance for the new addition and garage. David Loper stated they are demolishing the garage and using the same foundation which is the same setback right now. The new addition will be next to that which will set farther back. If the current garage is approved then the other will be approved as well because it’s not as far back as the current setback.

G. LeBlanc MOVED; B. Voltz seconded to approve the variance request as submitted for a rear yard setback as defined above in the *applicable city code section as cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

[B-2] 5691/5693 Liberty Avenue – Dan & Laura Roth (Front & Rear Yard Setbacks)

Applicable City code section(s) cited:

1270.12 (e) (2) (A) – Front yards not less than 75’ – proposed North = 4’ – variance requested – 71’; West = 6’ – variance requested – 69’

1270.12 (e) (2) (B) – Rear yards not less than 50’ – proposed South = 6’ – variance requested – 44’

D. Roth of 330 Yorktown Place (A-2) explained the property is located on the corner of Liberty Avenue and Washington Street and they did receive approval from the Historic Design & Review Board for what they want to do. The building they want to move to the property would be next to the Garden Cove which is to their east and it is set back further. However, the next building (Rudy’s) is 4’ off the sidewalk and he wants to be in line with this building. The Parmer business is next which is right on the sidewalk and going in the other direction is the Gas Company building which also is on the sidewalk. He said the lot would be unbuildable without the variance as its only 59’ deep x 99’ long, so if they would need to have a 75’ front and side yard on that corner, it wouldn’t work.

K. Sorrell asked for explanation on the layout as submitted and D. Roth said he will be attending a work session with the Planning Commission and needs to know if he can get a variance to build within those perimeters before he puts something solid together. This layout is something he would like to propose, but he is open to changes if need be. He wants to move the small building at the location first and would like it up close enough to the sidewalk. He said in the front you can look in the building and see the old historical nature of the scale building with the scale showing, and then the plan is to have hotdog stand and it would strictly have a walk-up window on the west side of the building. If this plan doesn’t materialize then they could turn it into retail; it would always be something within the code that it is zoned for.

J. Schrenk asked if the other structures are plans for down the road and D. Roth said the sooner the better, but he would have other small buildings that would either have artisans in them working or small retail shops to create an old town Vermilion feel.

B. DiFucci said this still has to go before the Planning Commission and depending on the final site plan, D. Roth is aware he may have to come back to the Zoning Board for additional variances. They are giving him a variance based on what he is proposing so he can get to

Planning Commission and say he has received variances placing buildings in these locations, but he may have to come back and modify his proposal depending on what the Planning Commission requires.

G. LeBlanc MOVED; J. Schrenk seconded to approve the variance requests as submitted for front yard setbacks as defined above in the *applicable city code section as cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

B. Voltz MOVED; J. Schrenk seconded to approve the variance request as submitted for a rear yard setback as defined above in the *applicable city code section as cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

[B-2] 666 West River Road – Don Parsons Inc. (Fence)

Applicable City code section(s) cited:

1272.09 (C) – No fences permitted greater than 8' – proposed =10' – variance requested – 2'

Kevin Sorrell explained the nature of the variance request as submitted is to repair an existing retaining wall, finish a portion not completed, install a safety fence, and landscape for proper mowing. Clifford Parsons was present to explain the project as proposed.

J. Schrenk MOVED; B. Voltz seconded to approve the variance request of 2' referenced above in the *applicable city code section cited*. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

Adjournment:

Kevin Sorrell adjourned the meeting after no further business was entertained.

2018 MEETINGS:
4th Tuesday monthly (except December) - Next: **September 25, 2018 @ 7:00pm**
Municipal Complex Courtroom, 687 Decatur, Vermilion

Transcribed:
Gwen Fisher, Certified Municipal Clerk