

**BOARD OF ZONING APPEALS - Minutes of January 23, 2018**

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

*Roll Call:* Kevin Sorrell, Jerry Schrenk, Robert Voltz, Guy LeBlanc.

*Attendees:* Bill DiFucci, Building Inspector; Steve Herron, Alt-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.

**Nominations for Chairman/Vice Chairman:**

**B. Voltz MOVED;** J. Schrenk seconded to nominate Kevin Sorrell as Chairman for 2018. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

**K. Sorrell MOVED;** J. Schrenk seconded to nominate Robert Voltz as Vice Chairman for 2018. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

**Approval of Minutes:**

**J. Schrenk MOVED;** B. Voltz seconded to approve the minutes from the meeting held on November 28, 2017. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

An *Oath* of truthfulness was administered to those in attendance who planned to speak during these proceedings. *Jerry Schrenk* 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] 792 Exchange Street – Dennis and Heidi Painter – (Side/rear yard setbacks)

*Applicable City code section(s) cited:*

*1270.09 (e) (2) (C) – Side yard setback not less than 7’; proposed 1’- variance requested 6’*  
*RCO 302.1 – Projections + walls less than 5’ to property line must be fire rated for one hour – variance request – waive requirement.*  
*RCO 302.1 – Openings in walls not allowed when less than 3 feet to property line – variance requested – allow two windows*

Harold Schaffer, father of Heidi Painter was in attendance to represent the homeowners. He explained they have an existing one car garage and patio hooked to their house and they want to build a new two-car garage. He noted the north side of the structure will have two windows. B. DiFucci clarified the windows are on the west. K. Sorrell said if they are discussing waiving the fire rating then they have issues with windows. B. DiFucci said if the board opts to make the homeowners fire rate that wall, the windows cannot exist. Harold Schaffer said they can eliminate the windows and if they need a fire wall then they will do this. K. Sorrell asked if the intent is to have living space above the garage and H. Schaffer said no as it will be used for storage. B. Voltz requested the board to address the first variance request separate from the other two.

**G. LeBlanc MOVED;** B. Voltz seconded to approve the side yard variance of 6' as requested and cited above. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

**G. LeBlanc MOVED;** J. Schrenk seconded to approve the projections and walls less than 5' to property line as they must be fire rated for one hour, and to waive this requirement. Also, the openings in walls not allowed when less than 3 feet to property line and to allow two windows. Roll Call Vote 4 NAYS. **MOTION FAILED.**

[RL-1] 5055 Portage Drive – Tom & Kathy Nieberding – (Rear yard setback)

*Applicable City code section(s) cited:*

*1270.10 (e) Rear yard not less than 30' measured from the bulkhead – proposed = 26' – variance requested 4'.*

Scott Frank of 29341 Lorain Road, North Olmsted, Ohio, was present on behalf of the homeowners. He explained to the board this is a screened in porch with a concrete patio that will be off to one side and a concrete sidewalk will go from the screened in porch down to the bulkhead. K. Sorrell said it appears they are enlarging the porch area to make it a patio. B. DiFucci explained that according to the Flood Plain District it's their duty that any construction within the city meets the requirements of the flood plain, so there are additional hurdles they need to clear in order to be granted a building permit. These requirements are being reviewed to make sure everything is in order. K. Sorrell said regardless of whatever is agreed upon they need to meet the requirements of the flood plain.

B. Voltz said on the topographic survey they note a bulkhead line per the plat versus the actual metal bulkhead and asked if this would influence this discussion. B. DiFucci said the way the code is written the measurement is taken from the bulkhead.

Ray Slyman of 5230 Park Drive was present to represent the Vermilion Lagoons Architectural Committee. He explained the Vermilion Lagoons architectural standards for setbacks match the city 30'. The Lagoons has already denied the property owners request for this setback. The architectural standards are in place to maintain the unique character of the Vermilion Lagoons. Therefore, maintaining property values for all the residents. The adjacent houses; one was built in 1956 and the other in 1954 and those were screened in porches originally. He doesn't know if they have been enclosed and isn't sure it matters since they are reviewing this on its own merit and not what has happened before. G. LeBlanc asked him if the committee denied the homeowners request based on the architectural standards or the setback. R. Slyman said the setback as the architectural standards read the same as Zoning Appeals for the city, and the setback is 30' and they rejected the request to encroach on the setback. K. Sorrell asked if their committee receives these requests frequently and if so how many do they approve. R. Slyman said he didn't have that answer but he has lived in the Lagoons for 20 years and from what he has seen there has been no variance to encroach on the setback.

K. Sorrell said the board has to look at the hardship and asked if there was a certain reason the homeowners have to put this structure where it is or is it size related. S. Frank said it is size related and this is why they need the 4' variance.

Tom Nieberding of 5055 Portage noted they did contact their immediate neighbors and they were all fine with their plans. Their concerns were whether this addition would block their view, but

the next door neighbor said they loved the design and had no issues with it, and the neighbor to the other side of his home said they too were perfectly ok with the design and supported it.

Ray Slyman said the property owner purchased this property with everything in place and the other two porches were encroachments and were in existence at the time the property was purchased, so nothing cut off the view since they have owned the property. As a resident of the Lagoons and not representing the Architectural Committee, he probably has the house smaller than the Nieberding house in the entire Lagoons and he would love another 4 feet, but he knows if they granted him this request, the neighbor to the south of him would pound pylons 10 feet out into the Lagoon to extend his house, so there is some point where they need to enforce the setbacks.

Mark Musial of 5243 Portage Drive said he is a new resident in the Lagoons and from the board side of things they are trying to tighten things up and establish uniformity, so he supports the board in this sense. Also, as a neighbor and resident he likes what the Nieberding's are doing and they have no objections to it. He said the bigger problem is people doing things without permission and enforcement.

**J. Schrenk MOVED**; G. LeBlanc seconded to approve the variance request of 4' as cited above. Roll Call Vote 2 YEAS (LeBlanc, Voltz); 2 NAYS (Schrenk, Sorrell). **MOTION FAILED**.

**Adjournment:**

Chairman K. Sorrell adjourned the meeting after no further business was entertained.

2017 MEETINGS:  
4<sup>th</sup> Tuesday monthly (except December)  
*Next: February 27, 2018 @ 7:00pm*  
*Municipal Complex Courtroom, 687 Decatur, Vermilion*

*Gwen Fisher, Certified Municipal Clerk*