

BOARD OF ZONING APPEALS - Minutes of November 27, 2018

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

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

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

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

Vice Chair, B. Voltz called the meeting to order.

Approval of Minutes:

J. Schrenk MOVED; G. LeBlanc seconded to approve the minutes from the meeting held on October 23, 2018. Roll Call Vote 3 YEAS. **MOTION CARRIED.**

An ***Oath*** of truthfulness was administered to those in attendance who planned to speak during these proceedings. *Bob Voltz* 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] 417 Woodside Avenue – Josie Woodall (Side Yard Setback & Allow Openings in Wall)

Applicable City code section(s) cited:

1272.09(e) (2) (c) - Side yard not less than 6' – proposed = 15" - variance requested – 4' 9"

RCO 302.1 - Openings in walls less than three feet from property line are not allowed – variance requested – allow openings

Josie Woodall of 417 Woodside Avenue and Kevin McClain of 10057 Avon Belden, Grafton were present to explain they started out with a carport and they wanted to change it to a garage, but it puts it too close to the property line. To have adequate space to put a car in the garage they need at least a 10' opening and a couple feet on each side, so they made the sides as small as they could to fit the door in there adequately. They both have health issues, so they try to stay out of the cold as much as possible. J. Woodall noted they have spoken with their neighbor who is fine with this. K. McClain said the windows are double paned tempered glass which they thought would be a great light source, so they don't need to run lights. G. LeBlanc asked if their neighbor is on the north side of the property and J. Woodall confirmed. G. LeBlanc asked which direction the windows face and J. Woodall said north. They were also told they needed to install fire rated products for the interior/exterior walls which they have no problem with. B. Voltz asked if a building permit has already been issued and B. DiFucci said there is now as the project was started prior to BZA approval. They were in the construction process and were told they need to go through the required BZA process. J. Schrenk mentioned the windows aren't made fire-rated. G. LeBlanc asked if there were additional requirements due to the allowance of the windows if they allow them. B. DiFucci said no because openings are not allowed less than three feet. The wall needs to be fire-rated regardless of the windows. K. McClain said there is about 10' between two houses so he thinks this is adequate. G. LeBlanc asked the property owner if there would be any consideration to putting the windows on the east side and K. McClain said they have been

already installed and they would need to redo the wall. B. Voltz said the concern is that the windows don't meet the fire code and asked them what the hardship would be in relocating them to east wall and K. McClain said they wouldn't be able to use them and J. Woodall said they would have to take them out because there is not enough wall space anywhere else.

G. LeBlanc MOVED; J. Schrenk seconded to approve the side yard variance request of 4' 9" as cited per the *applicable city code section*. Roll Call Vote 3 YEAS. **MOTION CARRIED.**

J. Schrenk MOVED; G. LeBlanc seconded to approve the variance to allow openings for the windows. Roll Call Vote 1 YEAS (Schrenk); 2 NAYS (Voltz, LeBlanc). **MOTION FAILED, and VARIANCE DENIED.**

[B-2] 5680 Liberty Avenue – Ritter Public Library (Parking)

Applicable City code section(s) cited:

1276.02 (k) – Educational (5) Additional Parking Required 28 places – proposed 27 - variance requested – one less parking space

F. Ostrander representing the Ritter Public Library as Facility Manager explained at the east entrance there is three handicap parking spaces and it was brought to their attention that one was marked for a handicap van or vehicle and it's undersized. Therefore, they found out that somebody must take two spaces, or they must go to the other side of the building and park where there is additional room. Apparently in 2008 this met the code, but today it doesn't fit so they want to change the three spaces into two, so one will be van accessible and the other will be handicap. On the other side of the building they are going to add two handicap spaces; one van accessible and one as a regular space. They would have put it on the east side, but handicap requires a slope of less than 2% and they are at about 2 1/2% and there are no other flat spaces in the east lot. Their request is for one less parking space overall. B. DiFucci said based on the BZA meeting when there was an existing variance the parking space count was 62 and they are required to have 90, and they proposed 28, so they got a variance on 62 spaces, so now they would be reducing that count by one more.

G. LeBlanc MOVED; J. Schrenk seconded to approve the variance request of one less parking space overall. Roll Call Vote 3 YEAS. **MOTION CARRIED.**

[B-3] 4542 Liberty Avenue – Mercedes Mitchell (Permitted Use)

Applicable City code section(s) cited:

1270.13 (6) (1) – Permitted Uses – see list proposed – Psychic - variance requested – allow use

Mercedes Mitchell of 4542 Liberty Avenue and Danny Marks of 3601 Milan Road, Sandusky, Ohio were present on behalf of this variance request. D. Marks said they have been in Sandusky for over 12 years as his other daughter has the same business which is in good standing. They are active in festivals and the 'Girls Night Out' at Kalahari every year. M. Mitchell said she likes Vermilion because it's very homey and very family. She said this is a small business which is mostly conducted online (75%) and she barely has a lot of foot traffic.

B. Voltz asked if this business is not listed in the permitted uses. B. DiFucci said it isn't but referred to Chapter 1270.13 B-3 Highway Commercial District (b) Permitted and Conditional Uses. (1) Permitted uses where it says any other retail business or service establishment or use

which is determined by the Board of Zoning Appeals to be of the same general character as the above permitted uses.

G. LeBlanc asked if there are any further requirements they must meet for a new business. B. DiFucci said the Zoning Board is the final hurdle as she will register with the city as a business. Her location has been picked out in the Brad Schwab building (three-unit building) where she will occupy one of the units. She will possibly come back to the city for signage and if the signage exceeds the requirements then she will need to come back to the ZBA for a variance. If she is approved by the BZA then she will fill out the business application with the building department and then she can open shop. B. Voltz asked if there are any restrictions or limitations on business hours, etc., and B. DiFucci replied no.

J. Schrenk MOVED; J. Schrenk seconded to approve the variance request to allow the permitted use “Psychic business”. Roll Call Vote 3 YEAS. **MOTION CARRIED.**

[R-S] 5119 Fifth Avenue (Linwood Park) – Prete Builders, Inc. (Front Yard Setback)

Applicable City code section(s) cited:

1270.09 (e) (2) (A) – Front yards not less than 30’ – south yard = 11’ 1” - variance requested – 18’ 11”

Paul Prete of Prete Builders, 1605 St. Rt. 60, Ste 6 explained two months ago he came before the BZA and made a mistake in reading a current survey that he put together for a topo and in between those two surveys the first one was done by the owner when she bought her house, and the second one he ordered to meet the topo with the City. He said Linwood had replatted the development, so instead of the owner having the combination of the 11’ 1” and the 18’ of the 30’ they took away about 12’, so he had previously asked for a variance of about 7’, when in fact he should have asked for 18’. G. LeBlanc asked if the Linwood Association had any problem with this and P. Prete said they approved it, but no one was able to represent them at the meeting. He said nothing changed on the north side, but the owner had less ground to claim on the south side of the house. The house sits in the exact same spot as it did two months ago.

J. Schrenk MOVED; G. LeBlanc seconded to approve the variance request of 18’ 11” as cited per the applicable city code section. Roll Call Vote 3 YEAS. **MOTION CARRIED.**

Adjournment:

B. Voltz adjourned the meeting after no further business was entertained.

2018 MEETINGS:

4th Tuesday monthly (except December) - Next: **January 22, 2019 @ 7:00pm**
Municipal Complex Courtroom, 687 Decatur, Vermilion

Gwen Fisher, Certified Municipal Clerk