

BOARD OF ZONING APPEALS - Minutes of March 23, 2021 via ZOOM

Minutes are posted on the City Website @ www.cityofvermilion.com (meetings tab/city meeting minutes)

Roll Call: Philip Laurien, Dave Chrulski, Guy LeBlanc. Absent: Dan Phillips, Bob Voltz

Attendees: Bill DiFucci, Building Inspector; Steve Holovacs, City Council Representative

Guests: 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.

Guy LeBlanc, Member called the meeting of March 23, 2021 to order.

APPROVAL OF MEETING MINUTES:

G. LeBlanc MOVED, P. Laurien seconded to approve the meeting minutes of February 23, 2021. Roll Call Vote 3 YEAS. **MOTION CARRIED.**

An *Oath* of truthfulness was administered to those in attendance who planned to speak during these proceedings. *Guy LeBlanc* 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.

OLD BUSINESS: None

NEW BUSINESS:

[R-3] Sunnyside Road PP#: 01-00-004-120-061 - Applicant: Steve & Debra Cassell (Detached Garage – Max. Height/Max. Sq. Ft.

Applicable City code section(s) cited:

1272.11(c) – Maximum height not to exceed 15’ – proposed = 17’ – variance request – 2’

1272.11(e) – Maximum square feet = 768 – proposed = 1476 – variance request – 708 sq. ft.

Steve Cassell explained they are building a new home and would like to build a detached garage behind the house, which he will store vehicles and a lawnmower in. They are looking to build an approximate 1,500 sq. ft. building as his truck is 10’ high

so he needs to put a 12' door on the garage. His neighbor Paul Tight of 550 Sunnyside Road will be closest to the garage and he has given his approval along with the other neighbors who he has talked with.

G. LeBlanc asked if the garage will be used for his commercial vehicles/equipment. S. Cassell said it will be for personal use as his construction equipment is stored at another location in his storage building in the Woodlands.

D. Chrulski addressed 750 sq. maximum and asked if there is no consideration for a lot size because this is a fairly large lot. B. DiFucci said there is no consideration for lot size. Some of the parcels in the A-1, R-1, R-2, and R-3 zoning districts are considerable lots, so this building proportionally would work, and they could take this into consideration.

Paul Tight of 550 Sunnyside Road said he owns the lot immediately north of this property and given his location on the lot, he is the closest person and most impacted individual of the project and he is in full approval of his plans and size of the building considering the lot size, so he encouraged the board to approve Cassell's request as written.

Ken Cassell explained these lots are 650' deep and it is wooded behind them. The Baptist church owns the land immediately west of the 650', so this is open and wooded area in between.

S. Cassell noted there is one building done in similar size to the south and that property owner is in approval of his building size as well.

D. Chrulski MOVED, P. Laurien seconded to approve both variances as submitted in the application provided by Steve and Debra Cassell (Sunnyside Road – PP#:01-00-004-120-061). **MOTION CARRIED**.

[R-S] 341 Elberta Road – PP#:01-00-001-106-020 - Applicant: Gary Knott (Allow Shallow Footer/Rear Yard Setback)

Applicable City code section(s) cited:

403.1.4.1 – Frost Protection – Footer must be installed below the frost line – proposed = shallow footer – variance request – Allow Shallow Footer

1272.11 (b) – Rear Yard Setback not less than 10' – proposed = 6' 6" – variance request – 3' 6"

Joe Antonio of Joe Antonio Builders representing Gary Knott said they will remove a dilapidated building and replace it with a building of the same size in the same location, using the same distance from the property lines. The building is 14' w x 16' d which is a small building, and he wants to build it on a slab as drawn in the pictures as presented.

G. LeBlanc said as far as the footer is the goal to go with what they have. J. Antonio said he is going to thicken up the edges of the slab – 8” thick all the way around and he will put rebar in it. The building is a large utility building, which is a little bigger than a large shed. He said they have built a lot of buildings like this. G. LeBlanc asked the building inspector if the thickening of the edges does not put him in compliance with code. B. DiFucci explained there was an exemption in the old code cycle that allowed for detached garages to not have to meet the requirements for frost protection, but this exemption was removed in the new 2019 code the city is currently following.

Phil Laurien asked J. Antonio if this is proposed to be a monolithic concrete pour, and if so, what is the dimension of the thickened edge as it looks like 12” wide, so how deep is it. J. Antonio said it is 8” and this is what they have always done and what he was taught to do. P. Laurien asked the building inspector what the standard was prior to the 2019 code, was there a cross section requirement. B. DiFucci said there was no width or depth given. It is based on the soil type which determines the width of that footing and the load it will carry. P. Laurien asked if the monolithic slab is intended to be reinforced and if so with what. J. Antonio said yes with rebar across the edges and wire mesh across the slab and the main section of the slab will be a standard 4” thick all the way through. G. LeBlanc said he does not have a good understanding of what the insulation would look like and asked if this is something they considered, and if so, why was this ruled out, which would basically make them compliant with code. J. Antonio said the building is not big enough and this is something that has been done around here for a long time. It is basically a large shed and it will be a little more overbuild than a lot of the buildings they have now. P. Laurien thought the footers should be deeper and if they do not have a stamped drawing from an engineer who will attest to the fact that it is appropriate, then he feels it is too shallow. He said he did a lot of building inspections as a former certified building inspector and they built a large garage about 30 years ago in New Hampshire where the frost depth was 4’, so they were allowed to use a thickened slab and they went about 2’ deep and 18” wide and insulated the perimeter and he went back 30 years later and the building was good, so he thinks 8” x 12” is probably not enough in this environment unless an architectural engineer would stamp this because he thinks this is under designed. J. Antonio said they just built one on Sperry Road that is 20’ x 40’ the same exact way, but by the time he gets an engineer he might as well put footers in. P. Laurien said there must have been a reason why the state changed their design philosophy as there must have been some failures. He thought a 4’ footer for a small garage is overkill and he would agree that something less would be appropriate, but he wasn’t sure an 8” x 12” is adequate. G. LeBlanc said he was uncomfortable as well second-guessing the code. B. DiFucci said this was removed from the code for a reason, but the state did not share why they elected to remove this section from the code.

G. Knott said whatever J. Antonio needs to do to meet the code is alright with him. J. Antonio said they will use footers.

P. Laurien MOVED, G. LeBlanc seconded to approve the variance to allow shallow footer. Roll Call Vote 3 NAYS. **MOTION FAILED**.

G. LeBlanc MOVED, D. Chrulski seconded to approve the rear yard setback variance as submitted. Roll Call Vote 3 YEAS. **MOTION CARRIED**.

[R-1] 3640 Jerusalem Road – PP#:01-00-030-000-040 - Applicant: John & Sallie Landoll (Minimum Sq. Ft)

Applicable City code section(s) cited:

1270.02 (i) (1) – Minimum Square Feet = 1200 – proposed = 840 – variance request – 360 sq. ft.

Sallie Landoll of 3406 Edgewater Drive said they are planning to build a new log cabin home at 3640 Jerusalem Road and the property currently has an existing barn and they are looking for a variance requiring homes to have a garage, but they are planning to use the existing barn for the garage. She said the square footage of the home is less than the space that is required. The log cabin home will be 648 sq. ft. with a loft. The intent of the home is for a weekend getaway as they currently live on the shores of Lake Erie and when the northeastern winds hit, they like to get away from the waves crashing on their home.

B. DiFucci clarified that all residents shall include an enclosed garage, either attached or detached, so this is the reason why the board does not see a variance request for a garage because the barn would meet the requirements of a detached garage.

D. Chrulski MOVED, P. Laurien seconded to approve the variance request as submitted. Roll Call Vote 3 YEAS. **MOTION CARRIED**.

[B-3] 4437 Liberty Avenue, Lakeside Plaza - Applicant: Ramesh Patel (Allow Sweepstakes within 1000' of another)

Applicable City code section(s) cited:

878.11 (e) – No sweepstakes located within 1000' of another – Sweepstakes located 725.25' from another – variance request – Allow Sweepstakes within 1000' of another.

Ramesh Patel of 4437 Liberty Avenue explained he submitted his paperwork for his lease in December of 2020 and they called the city and were advised they could have a sweepstakes at this location. In between their process he said somebody opened another sweepstakes. G. LeBlanc confirmed that his plans were already in motion before the other business established themselves. R. Patel said yes. G. LeBlanc asked

what the distance was between the two stores. R. Patel thought it was 750'. G. LeBlanc said according to the application it is 725.25'. B. DiFucci explained they measured the distance from door to door using the auditor's site as a reference tool. He said Mr. Patel was correct as they inquired about the possibility of opening the business and the building department told them yes as there was nothing within the footage, so he signed the lease and started his remodel process but did not make application for the sweepstakes. In the meantime, another person made application for a sweepstakes and they could not deny that license because there was not another license within 1000', so the establishment on Liberty received their sweepstakes license, but when Mr. Patel inquired about his, he advised him that he did not make application so his would be denied, so he is before the Zoning Board to request a variance to allow his sweepstakes within 1000' of another. He said somebody else swooped in while he was preparing his location without an approved sweepstakes license being issued.

P. Laurien said this is a local zoning requirement because the state would allow a second sweepstakes at this location without a problem. B. DiFucci said as far as he knows this is correct. P. Laurien said going back in the past the 1000' was used for adult bookstores and adult entertainment as a separation between schools, churches, etc. He asked what the thinking was behind the city separating sweepstake sales. B. DiFucci said not being part of that committee he was uncertain of the rationale behind it. However, they still have the requirement for churches, parks, and schools for sweepstakes as well. S. Holovacs thought the law department drafted the sweepstakes legislation and City Council approved it.

P. Laurien said this sweepstakes location is 725.25' from the other sweepstakes business that is on the opposite side of Liberty Avenue.

Mayor Forthofer said a similar issue came up some time ago in the Crystal Plaza and the complaint was from the fellow retailers on shortage of parking. He said sweepstakes businesses attract a lot of people because they are popular and having two close together maxes out the parking in some cases for the other retailers. He said the board should examine the parking capabilities of this proposed sweepstakes before issuing judgment.

D. Chrulski said as part of the parking there are a lot of people who do not stay inside the business and who loiter around having refreshments or having a cigarette. In his opinion, this is not always the most attractive thing to do in front of other businesses trying to do business.

Mayor Forthofer asked what the parking situation is between these two sweepstakes cafes. R. Patel said his sweepstakes is located at the shopping center and parking is not a problem because there are only two business open by him and there is a lot of parking available. B. DiFucci said Mr. Patel is proposing to go into the plaza by Giant Eagle and Marco's between Martino's so there is plenty of parking for his

establishment. The other sweepstakes is across the street in a small plaza, and they met the parking requirements, but they would definitely be more congested. G. LeBlanc thought this sweepstakes was in the Crystal Plaza. B. DiFucci said there is a sweepstakes at that location, but Mr. Patel's location is by Giant Eagle, so he has the entire parking area with more than enough parking for him and everyone else. He said with regards to the loitering, the police department is tasked with monitoring those issues and he believes they have addressed the complaints.

P. Laurien MOVED, G. LeBlanc seconded to approve the variance request as submitted. Roll Call Vote 3 YEAS. **MOTION CARRIED**.

[R-S] 836 Road to Happiness, PP#: 19-00038.000 - Applicant: Maurice Novak (Front Yard Setback)

Applicable City code section(s) cited:

1270.09 – Front yard not less than the established – proposed = 4.61' to required setback – variance request – 10.39' front setback

Maurice Novak of 3297 Robin Lane, Lorain, Ohio explained he purchased this parcel in Bluebird Beach which is on the corner of Blissful and Road to Happiness, and they want to build a home. The footprint of the house does not fit in the pie shaped lot. In looking at the map, the lower corner they go over the setback about 4.5' with one corner of the house. He is looking for approval to continue with their planning and developing the building plans, so they can submit for approval for the building.

G. LeBlanc asked if the established setback was measured from Liberty Avenue. B. DiFucci said he is in a zoning district that allows him to meet the existing, so when this lot was initially listed for sale a surveyor took the time to plot the setbacks matching the existing, which gave them the buildable footprint inside of which they could build. G. LeBlanc asked if the established setback was from the adjacent houses along Liberty. B. DiFucci confirmed and the said the unique situation with this lot is they have three front yards. There are not many like this in the city. They have the ability to build inside this footprint because they are matching existing.

P. Laurien recognized it is a triple frontage lot, but on the other hand he does not see where there is a hardship inherited on this lot. The owner can meet the minimum setbacks which are generously reduced by taking the average setback. He said if the garage was not 30' wide and they twisted and adjusted it slightly to the footprint of the house, then you could easily put this same house footprint with a smaller garage inside the setback lines without needing a variance. He said he is uncomfortable offering a variance in this circumstance because it is a self-imposed hardship, and this is the first subdivision when you enter the city from the west and this structure is large given the neighborhood and for it to stick out any closer towards Liberty Avenue, he thinks would be a visual impairment not necessary. This can be fixed without a variance.

M. Novak said the structure will still be large even if he cuts a few feet off the garage, so he does not understand why this is a problem. P. Laurien said because the idea for a variance is an unnecessary restriction or hardship inherited in the lot that you cannot overcome, but you can overcome this. He noted that M. Novak designed the house that exceeds the setback that he knew was in place when he purchased the lot, and it is within his ability to meet those setbacks without asking for an additional variance.

Charles Scanlin of 875 Blissful Road said he talked with Dave Chrulski today as he did not know this was going on. The tenant was concerned, so he wanted to verify what was going on. He said they are not opposed to the house and confirmed if this was the only setback variance request. M. Novak explained it is from Liberty Avenue towards the property, which is 4.5' over. It is just the corner not the whole house. C. Scanlin asked if it would be the corner next to him and M. Novak confirmed. M. Novak said he had been trying to reach C. Scanlin but could not seem to get the correct phone number.

G. Fisher said with not knowing which way the vote was going on this matter, she wanted to bring it to the attention of M. Novak that if he would prefer to table his variance request and wait for a full quorum of the board next month, he could request the board to table his issue. M. Novak said if they do not approve it tonight, then he would need to come back next month anyway or redesign the house, so he would prefer the board moving forward with their vote. G. LeBlanc asked if the applicant was able to come back to the board next month with the same request. G. Fisher said the variance request would have to be modified. B. DiFucci confirmed her statement by saying the application cannot come back with the same proposal. It would need to be modified from what he currently submitted. M. Novak said he would modify it to fit that skinny end.

G. LeBlanc MOVED, P. Laurien seconded to approve the variance request as submitted. Roll Call Vote 1 YEAS(LeBlanc), 2 NAYS (Laurien, Chrulski). **MOTION FAILED**.

Adjournment:

G. LeBlanc adjourned the meeting after no further business was entertained.

2020 MEETINGS:

Next: Tuesday, April 25, 2021 – 7:00 p.m. @ Vermilion Municipal Complex, 687 Decatur Street, Vermilion, Ohio.

Transcribed by Gwen Fisher, Certified Municipal Clerk