

BOARD OF ZONING APPEALS - Minutes of July 28, 2020

7:00 p.m.

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

Roll Call: Dan Phillips, Guy LeBlanc, Philip Laurien, Bob Voltz. Not Present: Dave Chrulski

Attendees: Bill DiFucci, Building Inspector; Steve Holovacs, Council Rep., Guest: 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.

Dan Phillips, Chairman called the July 28, 2020 meeting to order.

APPROVAL OF MINUTES:

G. LeBlanc MOVED; D. Phillips seconded to approve the meeting minutes of June 23, 2020. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

An *Oath* of truthfulness was administered to those in attendance who planned to speak during these proceedings. *Dan Phillips* 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:

[RS] Lot 10 - Linden; Applicant: Paul Prete (Rear/Side Yard Setbacks)

Applicable City code section(s) cited:

1270.09 (e) (2) B – Rear Yards not less than 30’ – proposed = 7’ – variance requested – 23’

1270.09 (e) (2) C – Side Yards not less than 7’ – proposed = 4’ – variance requested – 3’

Paul Prete explained they have an opportunity to build a house in Linwood on a blank lot and the Linwood Company has approved it, and the Association Architectural President is present if something needs to be addressed. He said they are requesting rear and side yard variances.

D. Phillips noted the application states the rear yard (east) proposed is 7’ from the 30’ requirement and the south side yard to 3’ to match the existing cottage. Directly to

the east the north wall is 4' off the property line. B. Voltz asked if the two front yards with the 5' are okay as is. B. DiFucci said this is correct. G. LeBlanc addressed fire codes and B. DiFucci said they would need to abide by all the requirements. P. Prete said they are aware of the fire code requirements. P. Laurien asked what the exterior material would be and P. Prete said vinyl siding. P. Laurien personally noted that vinyl siding is flammable and with these buildings being so close together he could just see a fire started with outside grills. B. DiFucci said the board cannot specify those materials but both sides must be fire rated and they can achieve this with different material choices, but this is the builder and homeowner's choice. D. Phillips did not believe they had a say in the material choice since this is not a part of the variance. He said it is something they have discussed and have been concerned about as a board when they deal with Linwood. G. LeBlanc thought maybe they should make a recommendation for a code change about adding non-flammable materials. B. DiFucci said the state code does address the fire rated walls. G. Fisher said this would not be part of the codified ordinances of the city but would fall under state code.

G. LeBlanc MOVED, D. Phillips seconded to approve the variance requests as cited above. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

[R-4] 595 Dogwood; Applicant: Craig Snyder (Allow Home Occupation)

Applicable City code section(s) cited:

1271.00 – Home Occupation – Boat & vinyl related items – variance requested – Allow Home Occupation

Craig Snyder said he was advised he needed a variance for his home occupation. He explained he started doing upholstery out of his garage, which started as a necessity because he is a boater. However, it turned into a hobby and he is starting to get some steam and people are liking his work. He had posted everything on Social Media, and several years ago he put up a C.J. Marine sign on the side of his barn and it became an issue. He explained that his initials are C.J. (Craig Joseph) and he has always adored this sign every time he passed it on Sunnyside Road since he was a little kid. He said he loves boating and some people acquired the building a few years ago because the actual business went out of business 10 or 15 years ago and it was sitting propped up on the side of the building getting ready to go in their burn pile, so he got in touch with the people and asked if he could have this sign. He said he is all about boating and the lake and once he built his barn; naturally like the old coke signs, he threw this sign on the side of his barn, which stirred things up. He explained to people that he was not advertising for a business, but he just adored the sign. He started doing this upholstery business in his garage and started a Facebook page, and at the time he only did a handful of things. He put a picture of his barn on the page because it is his pride and joy, and someone accused him of advertising a commercial business again and it snowballed from there.

D. Phillips said the board received some correspondence on this issue. G. Fisher said she is not going to read the letters into the record, but she will address the name and

address of the people who submitted them and whether they were for or against his home occupation. She said all members of the board did receive and read the letters, so they are aware of the content in the letters. They are as follows: Ryan Green, 4130 Woodland Drive (for the variance request); Marge and Mike Mueller, 616 Dogwood Lane (for the variance request); Michael Stark, 4120 Woodland Drive (for the variance request); Donald and Patricia Luchsinger, 625 Dogwood Lane (for the variance request); Gwen Fisher, 680 Foxwood Drive (for the variance request) – D. Phillips pointed out that Gwen is submitting as a private citizen, and Gwen said she is not a voting member of any board. Lastly, Joseph Kinder, 674 Dogwood Lane (addressed concerns about the signage being inappropriate, etc.). All letters are on file in the clerk's office for public inspection upon request.

B. DiFucci explained the sign issue has already been addressed. He said the business C.J. Marine (All Marine Mechanical Repair) Fiberglass Refinishing & Painting does not exist. He went on the state site for registered businesses and it is not even registered anymore. As far as it being an abandoned sign – an abandoned sign applies to businesses that have gone out of business and have left their sign on the abandoned property. Therefore, this is not the case as it is a vintage/relic sign and C.J. Marine is mechanical and repair, and this business is upholstery.

Craig Snyder said he owns his boat and naturally when he works on it, it is in the yard and he knows there are city codes where he can't have the boat in his driveway or pass his frontage. It is usually in the back yard next to his barn. He said when people drive into the development and come down the hill his property is the first thing they see, so he really tries to keep the place picked up and the grass cleaned up. He really tries to take care of his property and with concerns about business traffic, rarely does anybody come to him as 90 percent of the time he is doing the running. Unless it is a big item and he does not have a truck available to get it, occasionally something will get dropped off.

D. Phillips asked how long the sign has been up on his barn. Craig Snyder said he built the barn three or four years ago. D. Phillips said he does not see the relevance of a sign that has been sitting there for three or four years. The board has to deal with what they're voting on with regards to a home occupation, so he doesn't think the sign is an issue here and he would rather just focus on the home occupation and obviously he has all of his neighbors support. C. Snyder thinks the sign is what kicked this off again when they found out what he was doing. He said it is generally a hobby as he enjoys getting people's boats back on the water. If he makes somebody a brand-new seat so they can go fishing again, then he is happy. D. Phillips said he has no further questions as he drove by the house and it is immaculate, and he likes his landscaping with the boat upfront, which is a nice touch. C. Snyder said his barn is his landmark – it is the first thing you see when you come down the hill.

D. Phillips MOVED, G. LeBlanc seconded to approve the variance request as cited above. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

C. Snyder asked from what point do you cross the line from a home business hobby to commercial business, so he is aware in the future if things start taking off. D. Phillips said foot traffic coming to the door and his neighbors getting irritated. G. LeBlanc believed the code talks about the fact that someone can have two cars worth of people. B. DiFucci said the code addresses minor and major home occupations and a lot of it is based on foot traffic and how many people are working at your house. G. LeBlanc said they can have one family member working for him. C. Snyder said he may rope in one person because they are bored, but basically, it is him only.

[R-4] 4944 Pineview Drive - Applicant: John & Suzanne Tobin (Rear/Side Yard Setbacks)

Applicable City code section(s) cited:

1272.12 (c) – Minimum rear yard = 5’ – proposed = 3’ – variance requested – 2’
1270.05 (c) (2) (C) – Side yard = 8’ – proposed = 3’ – variance requested – 5’

John Tobin explained he is replacing his existing barn that was destroyed by the storm on June 10 from 5’ of the rear to 3’ on the north side, and on the east side from 8’ down to 3’. This will be placed in the same position as the original barn.

D. Phillips asked if his intention is to put a concrete pad down and J. Tobin said this is correct and confirmed it is gravel now. B. Voltz asked if the concrete pad is significantly larger than the barn. J. Tobin said yes. D. Phillips felt this was a housekeeping issue as he unfortunately lost his barn to Mother Nature.

B. Voltz MOVED, D. Phillips seconded to approve the variance request as cited above. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

[A-1] 2225 Claus Road - Applicant: Elaine Reisdorf (No Fence)

Applicable City code section(s) cited:

1030.14 (c) (17) – For all ponds and wet detention basins, the applicant shall erect a six-foot high galvanized chain link fence around the entire perimeter of the detention basin – variance requested – no fence.

Elaine Reisdorf explained she went before the Planning Commission for approval of building a pond for the property she acquired in December. A professional engineer and excavator were hired, and they were approved by the Planning Commission contingent upon addressing comments of the City Engineer. She said she has the EPA permit approved for this project. Part of this project was to put a 6’ cyclone fence around the pond. She is asking the Zoning Board members to use the fence at the existing property line instead of around the pond. She reviewed the documentation as submitted with the board members. She said there is a distance from the house to that property line and then it would be from the property line to the pond of 85’, so it’s quite a distance from the houses and it’s an old farm field. She

conveyed the house to the north is 484'. The fence extends to the right of her drawing all the way behind all the properties on Claus Road, except for the maintenance opening for the field itself. She said there are two gaps in the fence and she did speak to her neighbor immediately to the south of her (Jan Davis, 2227 Claus) and she wanted to make sure when she put a fence there that she didn't misunderstand why she was putting it there because it's been farmland forever. She also spoke to the neighbor to the south of her (Teresa Boneta, 2255 Claus Road) letting her know the same thing. P. Laurien asked if the entire property around the pond currently has fencing to close the gaps. E. Reisdorf said the property at the bottom of her drawing is where houses are. B. Voltz noted the east north would not have fencing. E. Reisdorf said this is correct because to the east there is many acres of farmland. D. Phillips asked if there was a fence around the south side too or is it just the west side. E. Reisdorf said this is correct and noted that around the south side it goes about 200' from the corner of her property to the south edge to the east and then she hasn't discovered anymore fence over there. She conveyed this a really a storm water retention basin. P. Laurien asked if she is saying that it will not retain water and E. Reisdorf said they are afraid it is not – and she is not bringing clay in. D. Phillips asked if she is trying to build a pond that is more of a retention to accumulate the water, so the property is not so wet. E. Reisdorf said this is correct and her neighbor receives a lot of water and has damage to his slab. She said she is not doing this for him, but for herself, but he will benefit greatly from this. She said the pond is very far from the houses and there is a property line fence.

P. Laurien asked if there is an outlet to the pond. E. Reisdorf identified where the overflow would be to the members as identified as a swale. P. Laurien asked if she submitted this to Erie County Soil and Water so they could help her with the design of the pond. It was noted that this is Lorain County, so he asked if she submitted to Lorain County and E. Reisdorf said she spoke with Lorain County Soil and Water and they do not do this anymore. However, she did go to the EPA and received approval.

B. Voltz asked if she had any history of the code as there are code requirements around swimming pools. However, he understands the immediate drop off, discharge, typically more residential areas versus a situation like this where it's well-graded and gradual, and it's not like somebody will immediately fall into 4' of water, so he is just trying to frame some history. B. DiFucci said it is hard to ascertain the intent of the code when it was written long ago. Most of the intent goes to traffic nuisance – kids are lured to water. He said it is the boards discretion of this situation. D. Phillips said when you drive around town there are other ponds that do not have fences. E. Reisdorf said there is residence that abuts her to North Ridge Road that has a pond and there is no fence.

P. Laurien said for drop-off's it was usually suggested to put in a bench (shelf) for safety reasons. D. Phillips said the engineer said this might not even work for her. E. Reisdorf said it might not hold water. D. Phillips said it will drain the field, but it probably will not hold water. G. LeBlanc said she could put a shelf that is like the first foot or so off the grade elevation, but if her water ever comes up that high, they will still have the drop off.

G. Fisher addressed correspondence that was submitted to her on Monday and Tuesday via email. They are listed as follows: William Grozik of 2289 Claus Road (opposed to variance); Fred Flesch (opposed to variance); Franciso Boneta, 2255 Claus Road (opposed to variance); and, Ron Hura, 2211 Claus Road (opposed to variance). All emails are on file in the clerk's office for public inspection upon request.

Diane Sutorus of 2165 Claus Road explained that when Elaine purchased this property and mentioned putting the pond in she was really happy because they get a tremendous amount of water coming off there, and she has been there 15 years and they have always had a water issue. She thinks the existing fence is a safe situation, so she agrees with Elaine on this.

D. Phillips MOVED, B. Voltz seconded to approve the variance request of no fence. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

[R-S] 350 Berkshire - Applicant: Rodney Rogers Jr. (Fence Height/Allow Pool in Front Yard)

Applicable City code section(s) cited:

1272.09 (9) (1) - Fence in front yard not to exceed 42' in height – proposed = 6' fence – variance requested – 30"

1476.04 – Pools prohibited in front yard – proposed = front yard placement – variance requested to allow pool in front yard.

1476.07 – Rear setback not less than 10" – proposed = 4' – variance requested – 6'

Rodney Rogers Jr. said he is on a corner lot and his fence is on the front yard. D. Phillips said he put a pool up and it appears he needs to replace the fence that is existing. R. Rogers said he has a chain link fence, but since he has the pool he wants to be safe and smart about it and will put the rest of the 6' fence up and make the house look better. D. Phillips said it was mentioned the fence will help with the dogs. He said the fence in the front yard is not to exceed 42", so the applicant is asking for 6', so this is a 30" variance request. He said the pool is prohibited pursuant to code in the front yard, but technically it is really his back yard. G. LeBlanc said if the pool were placed north of the south line of his house would it not be the front yard. B. DiFucci said correct. G. LeBlanc asked if there was a shed there and R. Rogers said yes, and it is behind his house.

D. Phillips said his first concern when he saw this was the safety issue if you're pulling out of Berkshire, as there is a huge tree that blocks the view, but when he made the turn, the house on the next street has the exact same fence, so it is really not that big of a hinderance. R. Rogers said he has lived at this house for 32 years and they have never had an accident at this corner of their street. B. Voltz asked if the setback requirement applies to the above-ground pool as a structure. B. DiFucci said correct, but it is not so much the structure, but the required rear year setback for where swimming pools can be.

D. Phillips MOVED; G. LeBlanc seconded to approve the variance requests as cited above. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

[R-S] 350 Berkshire - Applicant: Rodney Rogers Jr. (Fence Height/Allow Pool in Front Yard)

Applicable City code section(s) cited:

[R-4] 1430 Sanford Street - Applicant: Timothy Gratz. (Side Yard Setback)

Applicable City code section(s) cited:

1272.12 (c) – Side yard not less than 8’ – proposed = 3 ½’ – variance requested - 4 ½’

Timothy Gratz said he is building a new 10’ x 16’ shed and placing it 3 ½’ off the side property line on the northwest corner of the property. He said he has 5 ½’ off the rear and he believed the setback of the rear is 5’ and the side yard is 8’, but it’s too far and he wants space to get behind it. His neighbors have no problem with his request.

G. LeBlanc MOVED, D. Phillips seconded to approve the variance request as cited above. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

[R-S] 1203 State Street - Applicant: Bridget King (Side Yard Setback)

Applicable City code section(s) cited:

1272.12 – Side yard setback = 6’ – proposed = side setback 4’ – variance requested – 2’

Bridget King said they had a shed installed and believed it was 11’ too close to her neighbor’s fence. D. Phillips said 2’ could make a big difference as it could affect someone else’s land or flood their property, so this is the reason they have the variance process. B. Voltz asked if a slab had already been poured. B. King said it was gravel.

B. Voltz MOVED, D. Phillips seconded to approve the variance request as cited above. Roll Call Vote 4 YEAS. **MOTION CARRIED.**

Adjournment:

D. Phillips adjourned the meeting after no further business was entertained.

2020 MEETINGS:

4th Tuesday monthly (except December) - *Next: August 25, 2020 @ 7:00 p.m.* at the Vermilion Municipal Court, 687 Decatur Street, Vermilion, Ohio

Transcribed by Gwen Fisher, Certified Municipal Clerk