

BOARD OF ZONING APPEALS - Minutes of December 1, 2020

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

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

Attendees: Bill DiFucci, Building Inspector

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.

Bob Voltz, Vice Chairman called the December 1, 2020 meeting to order.

APPROVAL OF MINUTES:

G. LeBlanc MOVED, P. Laurien seconded to approve the meeting minutes of October 27, 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. *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.

OLD BUSINESS: None

NEW BUSINESS:

[B-3] 1863 Liberty Avenue - Applicant: Road to Hope – Jeff Kamms (Allow Permitted Use)

Applicable City code section(s) cited:

1270.13 (B) – permitted use - see list – proposed – Recovery Housing - variance requested – allow use

Jeff Kamms, Executive Director of Road to Hope and Joe Erlandes, Architect on the project were present to discuss this project. J. Erlandes explained that this block is zoned B-3 Highway Commercial, which is on the east side of town and west of Baumhart Road, and south of Liberty Avenue. It is surrounded by I-2 Heavy Industrial zoning. This block is comprised of four parcels and the Road to Hope has acquired two parcels to the east of this block. The remaining two parcels to the west and the one adjacent to the Road to Hope's property is owned by Herk Excavating, and the remaining parcel to the south of Herk Excavating is owned by Walco

Enterprises. Abutting the Road to Hope's property on the east is Brownhelm Cemetery which is a city-owned property. The two parcels owned by Road to Hope will be a mixed-use business and residential. The Road to Hope parcel to the east (L-shaped existing structure) will be for administrative offices and there will be a small space allocated for a daycare. This facility is for women with children and will offer temporary housing. The smaller remaining structures are the residential housing units. They are proposing a future residential unit on the southeast corner as indicated on the site plan. There will be a total of eight two-bedroom and six one-bedroom units. On Road to Hope's parcel to the west, there are two structures. The existing commercial structure to the north which is 2,800 sq. ft. will remain a business and will be maintenance offices for this property. The remaining residences to the south of this property will be used for housing for onsite staff. There will be improvements to the east parcel property with new paving for parking, and the structures will be renovated both interior and exterior. The existing structures on the west are in good condition, so they will remain as is.

G. LeBlanc confirmed if the northwest existing commercial structure will be a combination of business use and maintenance offices for the facility. J. Ernandes said it will remain commercial for onsite maintenance of the property, so strictly a business-type structure. He said in essence they have an existing mixed use on the west parcel, which is commercial and existing residences, which is to the south. He said the goal is to be allowed a non-conforming mixed use of business and residential on the proposed parcels. He said they received approval from the Planning Commission and City Council.

B. Voltz asked if there were setback restrictions or anything other than the permitted use for the mixed-use issue they are dealing with. J. Ernandes said this is correct as he believed all the buildings are within the setback, except for the commercial structure to the north as it has been commercial for years.

Bill DiFucci confirmed the board is only dealing with the permitted use. He explained that all structures on the property are going to be brought current, so no new structures – just remodeling of the existing structures.

Phil Laurien asked the building inspector to clarify if the variance is for mixed use in the B-3 or is it for one or the other uses. B. DiFucci said it is for a permitted use meaning that Recovery Housing is not listed as a permitted use. They went before Planning Commission to request the hardship legislation for a residential use. The city is asking the Board of Zoning Appeals to verify that the use for this Recovery Housing is of a like-nature in the zoning district.

Mayor Forthofer said he hopes there is a lot of development on Liberty Avenue, but he doubts if they can have any project on Liberty that is of higher purpose than what the Road to Hope is bringing to town. He encouraged the board to give them

favorable consideration. P. Laurien concurred and felt this was an appropriate use in an appropriate location.

D. Chrulski MOVED, G. LeBlanc seconded to approve the variance request to allow the permitted use for Recovery Housing. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

[RL-1] Stuart & Sheri Glauberman, 5436 Portage Drive (Front & Side Yard Setbacks)

Applicable City code section(s) cited:

1270.10 (e) (2) (A) – Front yards not less than 20 feet/ proposed = 15 feet – variance request – 5 feet

1272.10 (e) (2) (C) – Side yards not less than 4.4 feet/10% of lot width – proposed = 2' 6" – variance request – 1.8 feet

Neil Akers of 14807 Kneisel Road said he will be the general contractor for this project, and they are looking for a variance to add to the left side of the house for a storage area. They are adding roughly 5' to the side and it will leave approximately 2' 6" to the property line on the south side. He said it is roughly 17' 9" deep and it's 5' wide. In the front they will be adding a porch which will come out 10' and above the porch they will put in two bedrooms. They will still show the porch as a porch. The porch is in line with the other houses that are on the street.

Phil Laurien said if the porch is in line with the other neighbors, do they need the other front variance. B. DiFucci said this zoning district does not allow for the match of the existing. He also noted that the applicant is not seeking a variance for the fire-rated assembly on the proposed storage room addition on the side. Therefore, he was under the impression they are going to fire-rate this wall because it is less than 5' to the property line. N. Akers said this is correct.

B. Voltz asked if the storage is exterior or interior accessible. N. Akers responded that it is exterior accessible as it will be for boat storage. B. Voltz asked if this would affect the fire-rating concern with having double doors. B. DiFucci said it does not because it is connected to the structure, so it makes it a component of the structure, which requires it to be fire-rated. B. Voltz asked if the doors must be of some type of fire-rated construction. B. DiFucci responded yes. B. Voltz said according to the code requirement the side yard is not allowed to be 10% of the lot width. B. DiFucci said this is correct because in the Lagoons the side yard dimension is established by the lot width and this lot is 44', so they are at 4.4' per side. Therefore, the variance is required for the balance.

Deanne Sprenger, Chairperson of the Lagoons Association said their biggest reason for denying this proposed project was due to the setbacks. The biggest thing is that if a variance is granted in this aspect then it takes away their ability to enforce any of the setbacks in their community. Their setbacks match the city's, and the front and

side setbacks are their biggest issue for this project. B. LeBlanc said the front setback will end up matching the adjacent properties from what he understood. D. Sprenger said there are only four properties in this area and that setback – the porch does not come up to the road. She was not aware of the other two properties, so she will need to get more information on this.

Gretchen Loper of 5400 Anchorage Way said she has not taken her measuring tape out to measure, but she believed it would go out further than the house next door. She went on record by saying the Glauberman's are lovely people and they think highly of them as neighbors and what they bring to their community, but she and Deanne are present to represent the Lagoons and the architectural committee, and their standards. She said she cannot stress enough to the board on how important their architectural standards are to them in their unique neighborhood. Not too long ago, the board denied a variance on Portage to not have them build beyond the setbacks, and really their setbacks are one of their core standards - probably up there with the white houses and the black and green roofs. Their setbacks have matched the city's setbacks since the building codes were put into place. They are here to preserve the character of the Lagoons. She said people are building bigger houses in the Lagoons, but when you buy a house already set in the limits that are already there, sometimes you cannot have more living space. Other residents are planning projects and they want to expand their living space, so if they grant one variance – "I know you say it's on individual merit, but then you have to grant it to everyone". She said they are asking the board to preserve their neighborhood and the setbacks they have.

Stuart Glauberman of 5436 Portage Drive said they measured some of the other houses and they all know that one of the four houses on the street probably did not meet the architectural committee's requirements for the Lagoons. He said he is unsettled because all he received is a letter from the Lagoons Association that said their request was denied without any reason why it was denied. He thought it would have been helpful if they knew it was setback issue. This was troubling to him. He knows the other homes, at least one for sure is probably approaching 16', and a little over 4' to 5' into the area. They are at the end of the street and they do not impact any homes that are across the street from them. The bulk of the project with the addition of the two bedrooms is within the setback. It is just the front porch that is going to encroach. He knows the city allows in some cases for projects to go into the setback area for steps, entrances, bay windows, etc. He said they are taking down an existing storage closet, so when you measure from that corner it is 14', but from the front of the house they are coming out 10' from the rest of the house. He said he has spoke with Lee Howley who is in support of their project and said he would be happy to speak on his behalf, and maybe he should have had him present at the meeting. They realize the Lagoons is a unique neighborhood, but recognizing they are really adding a porch that is going to be into the setback area. He thinks it would be a benefit for them because they do not have storage for trash cans. They take their trash offsite, so having storage for bicycles, trash cans and other things would

be important to them. He senses there are a lot of homes that are inside the setback and again they are within the same margin along the street. He asked the board to grant their variance as he feels it will not have impact on the neighborhood. Everything about their design is within the requirements of the Lagoons architectural committee.

G. LeBlanc addressed the front setback as it would not extend past the existing additional properties. B. DiFucci said he believed it was Neil Akers who made this comment and said they are close to the established on that side. He said this zoning district is not like the R-S where it does not allow you to match the established. Other districts allow for this caveat, but this one does not allow you to match. G. LeBlanc said the board has not confirmed that these plans extend past the existing structures on adjacent properties.

D. Chrulski asked if this was presented to the Lagoons Association and questioned if there was a formal vote. D. Sprenger said this was presented as the architectural committee reviews every project and they come up with their decision based on the standards that were put into place, and then this goes to the Board of Director's to agree or disagree with what the architectural committee decides. She said the Director's agreed with the architectural committee's decision to deny this project based on certain standards of this project not being met; the biggest being the setbacks.

B. Voltz said as part of their rule the Board of Zoning Appeals somewhat make decisions based on the presentation of a hardship as to why a variance should be allowed. He knows the applicant mentioned that storage is a hardship. He said this is one of their primary rules when executing their function.

Phil Laurien said if the exterior storage is an issue, could there not be a storage shed be placed in the back yard out of site. N. Akers said there was really no room in the back yard to do something like this. He said they are just asking for a 1' 6" variance for the side yard. P. Laurien thought there may be an area between the back yard and the bulkhead to have a storage shed. N. Akers said it looks like there is but with the dock and everything else that is established back there and making it not look really gaudy then there is really no way in adding something back there to make it work. He said this use of the property is the best solution they could come up with.

D. Sprenger asked about coming out 10' into the roadside yard – what's the hardship on that? N. Akers said it is not a hardship, but it is aesthetically pleasing with everything else that is happening in the Lagoons. P. Laurien said they could construct the bedrooms over the portion of that porch that would not extend into the required setback. N. Akers said there is a possibility that could happen. They would need to make sure they do not protrude past the other houses to make everything line up. S. Glauberman said the architect kept the bedrooms within the setback. The thought was they would have a blank wall across the front, so the

porch was to keep it within the same look and feel of the house charm of the homes in the Lagoons. To speak to a hardship, the house is a two-bedroom house and they have a lot of family along with their kids that come stay with them, and they have four people in each bedroom with kids on air mattresses, so it would make it easier and enjoyable to be in the Lagoons. It is difficult and they bought the house knowing that the upstairs only had two bedrooms, but the bedrooms are within the setback. It is the porch that is coming out and it may be a foot above grade because it will be at the existing height of the step, so it is not like the home is encroaching on the road. He said D. Sprenger had mentioned that the setbacks were one of the key reasons and he would like to know what the other reasons were for denying their request. D. Sprenger said the biggest one was the setback and in their standards it talks about views to the lake, and there were concerns from the neighbors about impairment of their views, but the biggest thing for them was the setbacks because they are going at about a 15' setback from the front and their setback is 25', and she said the city's zoning for RL-1 is 20'. On the side there was also the change in the side setback as well. S. Glauberman did not feel this addition changes anyone's views because there is not going to be a solid wall. It will be an open porch. He said they gave their neighbors a copy of their drawings when they applied for the variance. D. Sprenger said she heard from several of his neighbors who said they looked at these plans, which was great they were having this communication. Gretchen Loper said her understanding is that there was some concern about the bedrooms being built above the porch.

B. Voltz said there are two variance requests, and it seems there is a hardship regarding the storage and consideration of the side setback, and allowance maybe being a viable request. From the front setback, the porch would encroach by 5' on the allowable front yard setback of 20', and this may be more of an issue, so they could discuss these individually and vote on them separately or they can determine whether there is some other avenue on which they would like to proceed as a package. P. Laurien concurred that the board should vote on these variances separately. G. LeBlanc agreed.

B. Voltz MOVED, P. Laurien seconded to approve the variance request "RL-1 – 1270.10 (e) (2) (C) side yards not less than 4.4 feet/10% of the lot width – proposed = 2' 6" – variance request of 1.8'. Roll Call Vote 2 YEAS (Laurien, Voltz); 2 NAYS (LeBlanc, Chrulski). Discussion: G. LeBlanc said he likes to consider community input and if it gets into a politics type of situation, he stays out of it, but what he sees is a genuine concern from the community. **MOTION FAILED**.

G. LeBlanc said he understands there are no provisions in this district for meeting existing setbacks, but as a board they do not know if these plans would indeed extend past any existing structures in the adjacent properties. B. Voltz said this is correct from what he understood. B. DiFucci said they need to talk about a uniform setback and proceeded to read section 1270.10 (e) (2) (A) that states: Where a uniform setback exists which is less or greater than twenty feet, any building or

structure hereafter erected, structurally altered or enlarged shall conform to the established minimum front yard. He said they would need to establish on that side of the street what is the uniform setback. He said with regards to N. Akers' comments earlier – if those other structures are at or less than the proposed, then they could meet that minimum established “inaudible”. P. Laurien said they would still be in violation of the Lagoons setback. B. DiFucci said this is correct, but they are here to offer variances on the city code. S. Glauberman said he is aware that his neighbor is at 16' – they are encroaching by 4'. That is where the front step is because they went out and measured. B. DiFucci said city code would allow them to meet the established on that side of the street He said if on that side they can get verification that the setback is at or less than 15', then they would have the ability to meet that 15' setback. D. Sprenger asked if they would meet the 15' or would they meet the neighbor's 16'. B. DiFucci said they would have to meet what is established. Gretchen Loper asked what would happen if the Hille house was not approved and it was not built according to the correct variances or given a variance. B. DiFucci said in his opinion this course of action would be established – there would be no telling them it has to be torn down. It is already in place and it would be an established structure. G. Loper asked if Bettcher's would not count. B. DiFucci said he would have to look at Bettcher's address – if it is on that side of the street, then it would play into that dimension because it has the same street address.

S. Glauberman asked if it would be possible to get a variance if they just changed the porch to 16' and the dimensions were confirmed on the other homes. B. DiFucci said if he and N. Akers brought him documentation that showed his setback at 16', and an established on that side at 16', then he would not need a variance because he would be matching the established already on that side of the street. D. Sprenger asked if this would be using the uniform setback code from the city. B. DiFucci responded this was correct. G. LeBlanc thought they should table this so they can measure it for verification of the established setback. B. Voltz asked the applicants if they agreed to tabling this variance request to proceed in this direction. S. Glauberman asked if they would have to wait a month to reapply. G. Fisher said yes. B. Voltz said they would not because if they match the existing established, they will not have to request a variance. G. Fisher agreed. S. Glauberman said they would need a variance for the side for storage. G. Fisher said that variance was already denied. B. DiFucci explained they would need to come back to the board with a modified proposal on the side because they cannot come back with the same proposal that was denied. N. Akers said they would need to move it over to the 4.4'. B. DiFucci said this is correct and then no variance would be needed – just the front yard. N. Akers asked if he would still need to do a fire-rated wall. B. DiFucci responded yes because they need less than 5' to the property line. S. Glauberman asked if there would be any willingness instead of it being 5' if they split the difference and picked up another 7" or 8" instead of the 1.8' to give them a little more space. G. LeBlanc said he would consider it. B. Voltz thought it would have to be repropose as a variance request which would require another discussion and to give them the opportunity to inform others that may be affected. S. Glauberman said he could check with neighbors that

might be impacted to see if they had concerns as he thought it might be to their benefit. G. LeBlanc said he would think so and B. Voltz felt it was nice to have positive feedback from those most affected.

Gretchen Loper said they would like to go on record as saying it would be nice if the neighbors would say those positive things, but wanted them to remember that the neighbors don't live there all the time – they could be moving in a year or two years. She said they are talking setbacks in their core standards, and she has never heard of this city code he spoke on, so she thinks as a committee and Directors they will be looking into this as well. D. Sprenger said they appreciate all the information, and they must look at the project. She told S. Glauberman that they appreciate what he is doing as they love this community and they want to make it as livable for all of them, but they have the standards for a reason too and they are trying to carry those standards out and enforce them. She said if they go with this uniform setback code then they must review it as well for their organization.

B. DiFucci suggested the board table this variance request and give the applicants the opportunity to get back to him on what they plan to do. If it does need a variance, then they can come back to the committee with a different proposal as modified. If they meet what is established, then the applicant will not need to come back before the BZA.

P. Laurien MOVED, G. LeBlanc seconded to **table** the front yard setback variance request “RL-1 – 1270.10 (e) (2) (A)” as discussed above. Roll Call Vote 4 YEAS.
MOTION CARRIED.

[B-3] Mike Welch: Property Location: Liberty Avenue, PP# 0100003122018 (Front Yard Setback – Allow Permitted Use)

Applicable City code section(s) cited:

1270.13 (e) (2) (A) – Front yards not less than 75 feet - proposed = 41 feet – variance request – 34 feet

1272.13 (b) – Permitted uses = see list – proposed = “workshops” – variance request – allow use

Matt Hasel, Civil Engineer of Adaptive Engineering, 260 South Main, Suite 218, Amherst, Ohio explained the site plan of the Tradesman Park Project. He addressed the front yard setback variance in the B-3 zoning. He noted the requirement is 75' and they are requesting a setback of 41'. The existing building to the east is at 40' and the existing building to the west is at 39', so this will provide a more uniform line across the frontage of Liberty Avenue. The reason for this request is because the grade changes significantly. He said between these two buildings they have about 7'

of fall as currently designed. If they do not receive the front yard variance it pushes the building and the project into the worst part of their parcel. This front yard variance allows them to utilize the best portion of the property and gets two units in this area and keeps the front yard setback in line with some of the existing buildings. The second variance request is to allow their permitted use. These will be workshops for tradesman – there is no specific item within the B-3 zoning that specifically allows this type of use or disallows this type of use, so they are going after the same general character for other B-3 uses.

Phil Laurien addressed the second variance request to allow their permitted use as he feels it is an appropriate use and would support it as such. Moving to the first request, he has serious concerns about doing this. He said there is a four-lane highway with a 50-m.p.h. speed zone and they are proposing parking on both sides of their entrance driveway, and they will also have access to a heavy equipment operation coming through there. He said they will have a situation where somebody will be backing out of one of those parking spaces when somebody is trying to decelerate and enter the Liberty Avenue going 50-m.p.h. and they are going to have a crash occurring at this driveway. He said they need more setback for their parking, if not for the building. He said there is space at a flatter grade they are reserving for future phases, so he would suggest relocating their second building to the west to the flatter section and accomplish both things. He did not think their parking layout on both sides of the entrance drive this close to Liberty Avenue on a 50-m.p.h. four-lane road is safe in any way, shape, or form. Matt Hasel said in response the parking would be allowed per code within 20' in that front yard. There is a 20' front buffer and this is not part of their variance request. The front yard setback has no bearing on the parking as currently designed because city code reads, you are not allowed to park within that first 20' of the front buffer, which is how this project is designed. P. Laurien said they are asking for a variance for a setback of the building and if they push the building back, they could provide parking in front of the building and have a greater decel function in the driveway. He feels they have a serious safety issue. He said for them to say they're going to be compatible with the structures on both sides – one is a house and the other is small contractor's office – they are existing structures and he would say the intensity of this use is much greater. He would approve the use as he feels it is appropriate for the site, but he just does not like the site plan.

Josh Frederick of 49963 Greystone, Amherst, Ohio said they have engaged the engineer at this point because of the grade and they are trying to maximize the use of the space because they want to expand this project and have multiple businesses on these parcels. He knows the parking lot is inside city code and knows there are multiple businesses up and down Liberty Avenue that have the same kind of distance from Liberty with their parking lot. He understands they still need to engage the architect for the optimal layout of the parking lot as they build more facilities. He does not think the site plan is in stone yet and does not know that the parking lot would not be any different versus multiple parking lots down the street,

including the bakery they own down the street as well. It has a parking lot literally right next to the road and it is probably closer than what this parking lot would be, and it has a lot of traffic. He thought the Nest Restaurant would be another example where you have cars going in and out all the time that are accelerating and decelerating. He said they will not have nearly as much traffic then what they have at the bakery and Nest. P. Laurien noted that the Nest has a signal light. J. Frederick said if the signal is green there is still going to be cars traveling at 50-m.p.h. through it. P. Laurien said the Nest also has two points of egress. He said it is a different use and they are still going to be bringing in heavy equipment and slow-moving trucks coming out of this site. He said if the architect has not yet laid out the optimal location for the parking and the buildings, then he thinks the request for the front yard setback for this building is premature. He likes the use, but feels they have other land they can locate some of these items to as he does not like this layout. M. Hasel said without knowing the actual use that is being allowed, they do not know what the minimum parking spots is for the site to meet city code for this project. So, on his site plan he showed the maximum amount of parking that they realistically could construct as part of Phase 1. He understands there are other areas that show future phases, but the goal of this ownership group is to maximize the use of the land and try to get two units in this Phase 1 area as shown. They have walked the site and he has tried different variations without having the front yard variance. He said they have the rear yard setback – the building is placed on the rear yard and it pushes these buildings back to back essentially. There is too much grade change to make that up, so you need to have some type of separation from the buildings to help with the grade change. He understands his point to the parking, but he does not know what the minimum amount of parking spaces they are after. He said one of the questions as this project progresses are what the minimum is required for this type of usage according to city code, and what does the ownership group want for their facility. His goal as the engineer is to put as many parking spaces on site that meet city code, but again this layout is contingent upon the approval of this front yard variance, so he doesn't want to do three or four variations. This is where they are starting based on walking the land and seeing how the ownership group wants to see this project. This is their first option they are presenting to the city which relies on the variance. P. Laurien said he is puzzled because he is familiar with this type of use and typically the parking would be located in front of the door – not off to the side, so from a marketing standpoint it doesn't seem like this works as well as if the parking was relocated in front of the doors. M. Hasel said as it is currently laid out there is not enough room for that parking to occur. Shifting a building a foot or two to get their 20' could potentially happen and get that parking in the front area, but one of the goals of the project is curb appeal and there was some thought of leaving this area left for landscaping instead of blocking it off with vehicle parking. P. Laurien thought the front yard variance request was premature until the architect and owners can work out the optimal design plan in terms of traffic flow, marketing, and aesthetics. He supports the use and location.

B. Voltz appreciated P. Laurien's concerns with the parking and accessibility with the additional traffic and such, but he feels they have been asked to review two variance requests, so he feels they should address them separately and determine whether these requests proceed forward.

P. Laurien MOVED, B. Voltz seconded to approve the variance request as submitted "B-3 – 1270.13 (b) – allow use". Roll Call Vote 4 YEAS. **MOTION CARRIED**.

B. DiFucci thought the applicants were here to know whether they could design something up to the setback they are seeking. They want to utilize this space that would otherwise be for setbacks, so they can go into the design phase and take their proposal to the Planning Commission for site plan approval. At this point, he thinks they are just trying to utilize this space and are asking if the BZA would be willing to allow them to design something into this space that would otherwise be denied per the city standards for setbacks. M. Hasel said this was correct as they are on the agenda for the Planning Commission to see if they can receive preliminary comments that they can take further into their design phase. He said they are looking at the minimum setback they can design into and buildings can be shifted back to accommodate parking. They are looking for approval to encroach on that front yard setback with the basis of trying to get those units in for the grading purposes and to better match the two buildings on the adjacent sides.

B. Voltz asked if Planning would have the opportunity to better define and address the concern that P. Laurien brought up with the drive and parking, more so than the BZA, as it does not really fit a zoning requirement. B. DiFucci explained that Planning will take the proposed site plan and they will have their own discussion about the design. He feels this is just preliminary allowing them to design something in an area that otherwise would not be allowed without the approval of BZA in allowing them to utilize this space.

D. Chrulski MOVED, B. Voltz seconded to approve the variance request as submitted "B-3 - 1270.13 (e) (2) (A)". Discussion: P. Laurien commented by stating that if the motion passes it is to establish the setback line and it is not approving this site plan. G. Fisher confirmed as this would be the function of the Planning Commission. Roll Call Vote 4 YEAS. **MOTION CARRIED**.

S. Glauberman said his goal is not to have the Zoning Commission and the Lagoon Association create a decisiveness between both parties, but he does feel their request for denial says it was declined by the architectural committee because it does not conform with the associations setback requirements as stated in the standards. The next sentence said: It is our suggestion that you request a variance from the City of Vermilion and then present your plan again for approval. Therefore, they invited him to come before the BZA to seek approval with the understanding that they would approve the work they are doing. He wished they would have been

clear in the reason for denial. When she said the setback was one of just a few items – she said it was site impairment to the lake. He said if the board goes down to the end of Portage where they are – they are not impacting any neighbor’s view of the lake. He said you have an architectural committee who historically for a long time has on occasion enforced and not enforced. There are a lot of homes there that have not met the requirements and he does not understand why they are being singled out when they provided them with all the information they asked for. He said in the letter it states that once they seek approval from the City of Vermilion, then they asked that it would be presented back to them, so why have him go through all the effort in completing architectural plans if their intent was to come and speak against the project. It just does not feel right to him. B. Voltz said he is welcome to vent in this regard and said if the need arises to come back before the board and he has correspondence from the association - that it be submitted as part of the request, so the board has the information ahead of time and fully understands some of the dynamics of what is being stated and requested. S. Glauberman said he would send the letter to the clerk. Furthermore, in speaking with Neil Akers he is pulling up the drawings that he has for some of the homes on this street because he is pretty sure that Bettcher’s is inside 15’ and Gerish is inside 16’ off the road.

Correspondence:

Phil Laurien stepped down from the board to talk to the board informally about a potential lot split on the Captain Bell House property. He said after health issues, stairs are hard for him and he has been trying to sell the Bell House as a very successful Bed and Breakfast property. He just has not found the right buyer who is willing to work the way he works. He said he has a strong partnership with local merchants with providing breakfast locally and visiting other establishments for dinner. He said he loves the house and living in Vermilion, but it is time for him to move on. He has been asked many times to sell the cottage and he has not wanted to separately as he wanted to keep the property together. However, at this point, he thinks he needs to consider dividing the property as he has individuals interested in just the cottage, as well as individuals interested in just the house, but not the entire property as a Bed & Breakfast use. His first conversation has been with Bill DiFucci as they reviewed the code. He said the property is zoned B-2 commercial and the current use is the Bed & Breakfast and his residence, so the BZA and the Planning Commission would need to be consulted. He came before BZA to see if there were concerns before he would spend the money to have a survey plot prepared. The proposal for the cottage is to keep the external appearance as is and there would be no change to the setbacks, and the lot would be approximately 4,000 square feet. He provided the board through the clerk with a diagram, along with a spreadsheet. He said there maybe a 8’ x 10’ garden shed that may sit on the brick pad in the back at the buyer’s preference, and there may be a 14’ x 16’ carport at the buyers preference of the cottage which has been previously approved on two occasions but was not built. There were building permits issued and he obtained approval recently by the Historic Design & Review Board. He asked for board comments and thoughts as he

will attend the Planning Commission tomorrow. He said no formal vote is required, just discussion.

B. Voltz said he was not clear on what issue might come before the BZA other than the approval of use, which is essentially what already exists. P. Laurien said there would need to be a formal application for a conditional use permit to convert from commercial to year-round residential. He said the buyer is a single person who grew up in the neighborhood and who would live there year-round. Secondly, under Vermilion zoning code, the BZA determines yard requirements and there is no specific yard requirement in the B-2 for residential use. He said externally the building would be as is and the setbacks would be as is, and the lot size would be as proposed. B. DiFucci said the residential use is a conditional use but it must be presented before the BZA first and then the residential setbacks are not specifically called out. They speak more of business setbacks, so in the method, the board would be approving a residential use, they also would be discussing the setbacks associated with the residential use. B. Voltz said personally he does not know if he has any specific opinion as to any concerns without having a more defined layout of what those yard requirements might be. He did not know if it was necessarily appropriate to guide a discussion prior to a formal application. D. Chrulski agreed with Bob's comments. P. Laurien said if the BZA had specific yard requirements they thought should be stipulated, then he would be glad to know what they are now. He is suggesting that in order to make formal application, the yard requirements would be as how they are today, so when the board drives by and looks to see what is there and if that is appealing to them, then this would be on the plan for formal application. He is not asking for a vote tonight. B. Voltz said driving by and trying to engage where the actual property lines would be along with size specifications, he has no idea and he isn't trying to skirt the issue, but when visually looking at it - there are probably ways he could say yes he would be fine with it, but he doesn't know how they can define what their expectations would be without knowing the potential and receiving more definition. P. Laurien asked if the board received the plot plan based upon the survey. B. Voltz was uncertain if he received the plot and this could be just him. He did receive the table of data which he understands. P. Laurien asked the clerk if she sent the site plan to the board members. G. Fisher confirmed that on November 23, 2020 the site plan and additional information was submitted to the board members via email. B. Voltz said he missed the site plan and apologized for not reviewing it. G. LeBlanc confirmed he received it. P. Laurien said he understands his concern if he did not see the site plan. D. Chrulski said if it was sent by email, he did not have the opportunity to review it. He received the mailing from the clerk and apologized for not reviewing the email. B. Voltz said as a board he does not know how the board can arbitrarily set an expectation for what this residential yard needs to look like. As discussed previously, their role is to hear arguments of hardship and reasoning as to why existing zoning rules might be waived or altered. To try to give him guidance prior to his request, he does not know if this is necessarily appropriate until he submits formal application.

B. DiFucci said this is a unique situation because code yard requirements for residential uses in a B-2 district shall be such as the Board of Zoning Appeals may require. The unique situation they are dealing with here is the building is already established. He is just looking to take this into a residential use, so had this been a new build then the BZA would say, “Well, we are looking for a 30’ front yard or 40’ rear yard, side yards, such and such – this is going to be following the process the code calls for – meaning BZA dictates those yards, but those yards are already established because the structure is already in existence. B. Voltz said essentially, they are asking if he is comfortable in approving this, but he has not had the opportunity to do this.

P. Laurien said he will go before the Planning Commission tomorrow to discuss the potential of a proposed lot split and if they don’t have any reservations, then he will have the actual site plan and proposed lot line drawn up, which will be submitted with a formal application for the conditional use, and to ask for setbacks as they exist per the existing building.

Adjournment:

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

2020 MEETINGS:

Next: Tuesday, January 26, 2021 @ 7:00 p.m. via Zoom

Transcribed by Gwen Fisher, Certified Municipal Clerk