

**VILLAGE OF CHAGRIN FALLS
BOARD OF ZONING APPEALS
May 23, 2017**

Members present: Holdren, Kraemer, Maersch
Also present: Markowitz, Edwards

Moved by Mr. Maersch, seconded by Ms. Kraemer that the Board of Zoning Appeals name Jim Holdren as President Pro-Tem for the purpose of tonight's meeting. Ayes: Maersch, Kraemer, Holdren. Nays: None.

The meeting was called to order at 8:00 p.m. by Mr. Holdren.

APPROVAL OF MINUTES

Moved by Mr. Maersch, seconded by Ms. Kraemer that the minutes of the meeting held May 9, 2017 be approved, as amended. Carried. Ayes: Holdren, Kraemer, Maersch. Nays: None.

SWEARING OF WITNESSES

All were sworn in.

RICK AND DARLENE TICHY (SHEFFIELD MONUMENTS), 45 SOUTH MAIN STREET - REQUEST FOR A VARIANCE TO SECTION 1137.04(b), YARD AND BUFFER REGULATIONS, AND SECTION 1145.02(a), NONCONFORMING BUILDINGS, PERMANENT PARCEL NO. 932-17-23.

Mr. Edwards said this is a retail/business zoning district and the applicants are asking for two variances. The applicants are proposing to rebuild an existing, nonconforming structure in its current foot print. The structure is nonconforming to the 15' buffer requirement on both side and rear. Section 1145.02(a) of the code states that nonconforming buildings may be repaired provided that no structural parts are replaced unless the entire building is made to conform to the zoning code. Section 1137.04(b) requires a 15' buffer to residential district lines on the side and rear of accessory structures in a retail business district. The existing structure is located 3' from the side lot line and 2' from the rear lot line.

Phil Koepf, architect, said this came before the ARB in 2001 with a proposal to demolish this garage and a proposed new garage that was within the setbacks. Between the cost of the demolition and the general business environment then, they never went forward with the project. The garage has been a storage unit for the business since it was built in 1920 something. It is kind of a funky and unique structure that has some interesting details and is far more usable in the location it is in than the one that was proposed because, not only did they have to pull it back and move it over, it got so close

to the existing office structure that you couldn't have gotten in it from that side. It had to be smaller in order to conform to the sides of our accessory structure requirements. They did nothing and it has been slowly kind of decomposing for the last sixteen years and now it is about to fall down.

Mr. Koepf said I love it as an old structure. I know that there is more than 50% of this structure that has to be taken down to the ground. We don't know whether or not we would have to replace footers because we have no idea what the footers are that are there because so much of it is concealed by the ivy that is holding it up. We know that we are going to take the roof off and when we take the roof off the front walls are just going to fall down. But, there is not a lot of wall there; it is four openings. The intention is to replace the front elevation with the four openings but probably not actually put back four openings because the building that it is adjacent to you really can't get a truck in there so we will leave one opening in the front and a man door on the side and two more garage doors in the back where you can get a truck in. They will be able to park their truck inside and they will be able to use the space more efficiently. We are going to save a bearing wall that is in the middle of the building because it is probably in the best shape of anything. We are going to raise the back wall, which is currently at about 9', up to 11' so that we can put a flat plate on and a gable roof. Currently the roof starts at 12' on this end, comes around here and goes around to 12' and then steps down to 11' so at this point from here back we think we can save that wall. Because it is so close to the property line we are going to have to fill in the openings on both those. There is a door and three windows in the side and back that are adjacent to the properties next door. We are going to fire proof them basically so that even though it sits on a property line it's got a three hour fire rating for that wall and a three hour fire rating for the end wall, which is probably not even 3' from the next garage. That next garage was actually their garage when the Sheffields built it because they lived next door so it didn't really bother them. The goal here is that I believe that we can save and duplicate this building for less money than what they were talking about back in 2001, which was over \$100,000.00.

Mr. Koepf said we did these drawings to present to you to get your blessing then I have to go to the state to get their blessing. It is a reconstruction so it shouldn't be as difficult. Mr. Holdren said why do you have to go to the state? Mr. Koepf said because it is considered a commercial property and Harry can't inspect it. Mr. Markowitz said he can inspect but he can't approve.

Mr. Maersch said if they demolish this building and build a building that was 15' off the property line, as is required in this commercial district, they wouldn't be able to park the truck in the garage? Mr. Koepf said I don't know exactly where they would put it. Mr. Maersch said there is a truck that backs in, well it is backed in right now, but the truck comes off of May Court and backs straight in. Mr. Koepf said if you move it this way and this way. Mr. Maersch said it is unusable as a garage from that lot line except from Main Street. But as they currently use it with the truck as it is currently configured they wouldn't be able to use it any more? Mr. Koepf said no, right now they can't really get the truck in there but they can get it three quarters of the way in. Ms. Kraemer said can't get it in there because? Mr. Koepf said there is a boom on the truck to lift the monuments and it is just that much higher than the door opening. Ms. Kraemer said that is something that would be required with the construction to make it, the elevation would take care of it. Mr. Koepf said we

talked about possibly eliminating the two openings closest to Main Street on the right hand side because they are the ones that are abutting right up against the office building. They are really cool doors; they fit in the opening and then they turn 90 degrees. I am hoping that if we have five openings with doors in them we are going to get at least three openings worth of usable doors.

Ms. Kraemer said this commercial use abuts a neighborhood and obviously the neighbors were notified. Mr. Edwards said yes, we did send out notices within 300' of the applicant.

Troy Young, 40 May Court, spoke in favor of the variances.

Moved by Mr. Maersch, seconded by Mr. Holdren that we approve the variance request for 45 South Main Street. The applicants are requesting a variance to 1137.04(b), which is an accessory use variance in a retail business district and also to 1145.02(a), which is nonconforming buildings. With respect to 1137.04(b) they need a 12' variance on the south side of the property and a 13' variance on the east side of the property. With respect to the Duncan Factors, the property itself as a whole will yield a reasonable return but there won't be beneficial use of the garage itself without the variances being granted. The variance is substantial; it is 12' out of 15' or 13' out of 15'. The essential character of the neighborhood would be improved by granting this variance. In fact, we had testimony from the neighboring property owner to the east who is arguably the most affected property owner by the variance and he testified in favor of the variance. The adjoining properties thus will not suffer a substantial detriment as a result of the variance. The variance will not adversely affect the delivery of government services. The owner did not purchase the property with knowledge of the variance restrictions. The property owner's predicament can not be feasibly obviated through means other than a variance because the testimony here tonight was that if the building was built without requiring a variance it would not be usable as a garage given the configuration of the lot and the closeness of other structures on the lot. The spirit and intent behind the zoning requirement would be observed and substantial justice would be done by granting a variance. There has been testimony tonight that the property, which does match the character of the neighborhood, is being saved and renovated and improved by the plans that are before us tonight. The variance is not based on circumstances that are self created or exists as a result of the actions of the property owner. For those reasons I move that we approve the variance request for 45 South Main Street.

Kraemer: I would agree. I vote to approve the variance for all of the reasons that Karl has stated. I think in terms of the variance being substantial it is remarkably substantial but it is what its existing footprint is, what was there before, and I think there is being a wonderful effort made to restore an existing structure that has a lot of character and is an integral part of that little corner. I think, in terms of all of the other aspects of the requirements for a variance other than the fact that it is a substantial amount of variance that is requested, it is really allowing the existing commercial use to continue and that has been a commercial enterprise for many decades in the village. In terms of the other factors, adversely affecting governmental services or knowledge of the restrictions, I don't believe that the owner had those. I believe that in terms of

any other solution, obviously in 2001 there was an attempt to create a solution that didn't create a functional use for that garage and so this is the logical alternative to rebuild it in the configuration that currently exists with some improvements. It sounds like they are going to really enhance that corner and I don't think these are self created circumstances and I do believe that given that they are restoring an existing structure and making it less dangerous and more useable that we should approve the variance request.

Holdren: I vote aye. I think this is a great job of making a building that is falling down better, more useable, and updating it without making it bigger. I agree with the points that Karl stated in the motion so I vote aye.

Maersch: Aye.

Mr. Holdren said we approved it but Council has fifteen days within which to act if three of the seven Council members have a problem with it. Then it will go to Council and they will debate it.

The meeting adjourned at 8:24 p.m.

Jim Holdren, Acting President Pro-Tem
lgb