

## BOARD OF ZONING APPEALS - Minutes of June 22, 2021

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

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

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

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 meeting of June 22, 2021 to order.

### APPROVAL OF MEETING MINUTES:

**D. Chrulski MOVED**, B. Voltz seconded to approve the meeting minutes of May 25, 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. *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) 4355 Edgewater – Applicant: Donald Oliver, Jr. (Front yard setback/allow no footings)**

*Applicable City code section(s) cited:*

*1270.09 (e) (2) (4) - Front yard setback to match established setbacks – proposed = 12” beyond established – variance request to allow 12’.*

*RCO 403 – Footings required – proposed = no footings – variance request to allow no footings*

Don Oliver and Christina Oliver of 4355 Edgewater Drive stated at a previous meeting they had discussions on the fact that their garage and shed were out too far. B. Voltz said the application notes they modified the variance by moving the shed to the house wall/cut overhang from house and moving garage back approximately by 15”. Variance will be for final placement once garage is moved. Will have final measurements at meeting.

D. Oliver said the firewall has been installed as asked and both buildings were pushed back. He has 9” instead of the 21” he previously had. He said it cost \$5,000 to put in the firewall and cut the eaves, and \$500.00 to have the garage and shed moved. He said he is doing everything he can to make this right.

B. DiFucci said the applicant was going to bring the dimensions tonight. C. Oliver said they went back an entire foot from what he measured last. B. DiFucci said the proposed will then be 12" beyond the established and the variance will be to allow the 12". B. DiFucci said the firewall meets his approval.

P. Laurien said they need to separate the two variance requests and eliminate one and discuss the other. He said this is not a garage; it is a free-standing shed with an overhead garage door and they should describe it as such in the minutes and for the record because it has been pushed back and because it has been fire-rated on the wall. This resolves the issue the board had previously with not having a fire-rated wall less than 3' from the house. This issue has been resolved, but he did not think they could call it a garage. If it is a garage, it has to sit on a foundation. This is not going to sit on a foundation. It has a pressure-treated set of wood sleepers, and it is a free-standing temporary structure; it is a shed with a garage door. They may use it as a garage because they have a small car that fits in it, but it is not going to be attached to the house because if it were attached to the house without a foundation, it will move and heave with the seasons. Therefore, the 9" of separation and a fire-rated wall is okay. The setback issue they can deal with as this is a zoning issue, but as far as the request to have a garage without footings he thinks they should deal with this by simply denying this and saying this is not a garage – it is a shed with a garage door.

C. Oliver said they established what the definition of what a garage was and if it can hold a vehicle....this is what the building inspector cited at the last meeting, and she would not have spent \$5,000... P. Laurien said it has a wood floor – it does not have a cement or concrete floor. C. Oliver said this is not what it says in his description, or she would have not spent another \$5,000 to rectify it. B. DiFucci said the definition of a detached garage means an enclosed building or structure used for the storage of motor vehicles, which is not attached to the main building or structure, so he thought what Phil is saying is there are two avenues to go down. One is defining it as a detached garage, which legally may be placed in a front yard as long as it meets the setback requirements or it is looked at as a shed, which may not be placed in the front yard per the codified ordinances and would have to receive a variance for the location of the unit. He said they can treat it as a detached garage with the overhead door, but it does not have a foundation and it is not connected to the house, which makes it detached. They could go the shed route because it has no foundation and it sits on the property as a shed would be, which is a valid point. P. Laurien said the board received copies of the Ohio Residential Building Code and wood foundations are permitted, but they need to have footers that are at least 12" below grade or in fact below frost level, so they could have the wood floor pressure-treated, but they still need the footings if it is a garage. Therefore, he thinks they need to call it a shed with an overhead garage door. He is not saying it cannot be permitted, but he thinks they need to be clear on what they are saying because he does not want to set a precedence. With this clarification, he said he was prepared to deal with this issue

and then they can move back with the setback issue. He said the 12” front setback is okay in his mind, and he thinks they resolved this issue.

**P. Laurien MOVED**, D. Chrulski seconded to allow a 12” extension into the required front setback for this particular property and shed with an overhead garage door. Discussion: Jim Mitiska of 4397 Edgewater questioned if there was a permit issue to put the shed/garage in. B. DiFucci said there was a permit issued for the shed in the rear yard based on the drawing they submitted as it was legally placed. When the shed for the rear yard was delivered, it was dropped in a location that was not per the drawing and it was not allowed. J. Mitiska asked if the size was per the drawing. B. DiFucci said the size was okay and approved. It was simply shifted beyond the front wall of the house, so they made the point at the last meeting that it could not be there. It would either need a variance or it would need to be moved back, so the property owner agreed to move it back and the rear building was okay. J. Mitiska asked if the front building had a permit issued. B. DiFucci said the front building was brought to the city for permitting, but they could not issue a permit because it sits beyond the front setback required and the property owner was told he would need to come before the BZA to ask for their approval to set it closer to the right of way of what is allowed. J. Mitiska said it was set there without a permit. He said the schematics of what it is called bothers him – it is one or the other. There should be a determination of what it really is and the size of it would appear to be a garage. He said there is a percentage of coverage on a lot; maximum percentage of the lot can be covered with buildings. It appears this is far over that limit with all the buildings on this small lot. Was there a request for a variance on that? B. Voltz said there was not a variance brought to the board. B. DiFucci said the percentage of lot coverage only speaks to rear yard. It does not speak to the full coverage of the lot. He said code says that no detached garage in combination with all other accessory buildings shall exceed thirty percent of all rear yard coverage, so it only speaks to the square footage coverage in the rear yard only and not the lot as a whole. P. Laurien said in addition to the shed in the back yard there is now a temporary structure with a frame and tarp over it. D. Oliver said he had to empty both buildings and this will be coming down very soon. P. Laurien said this would exceed the coverage of the back yard. C. Oliver said this was only to protect their property while they were moving the garage/shed. P. Laurien said there is a lot of junk in the yard. D. Oliver said he is getting ready to put it away. P. Laurien said he has a hangman’s noose, skulls, wagons, and all kinds of stuff that are eyesores that their neighbors should not have to look at. C. Oliver said this is correct and it will all go to the garage. P. Laurien said if it all goes to the garage, then how do they put their car in the garage. C. Oliver said they will put it in the shed in the back. This building is specifically for their Halloween stuff, and this is why they bought the shed, and they could not place it in there until this issue was complete. P. Laurien said he would not like the permit to be issued until the yard is cleaned up. J. Mitiski said this issue becomes a hardship case. P. Laurien said it is not a hardship; they did not have enough room to meet the front setback requirement for something they want to use as a garage. B. Voltz said they

heard the description of what a garage is but as discussed there are two paths they can take for this structure. Roll Call Vote 3 YEAS. **MOTION CARRIED.**

P. Laurien said this is a temporary structure and it is not attached to the house, and it is on a pressure-treated floor built to withstand the weight they have, so he did not feel they needed footings for this and as long as it is not a permanent structure garage, he is comfortable with what it is. He thought they could deny the request for footings because they are not needed since they determined it was a shed. B. DiFucci said if they treat this as a shed, then they should add another variance to the component. They would go hand in hand but only because sheds are not permitted to be placed in front yards. P. Laurien agreed. B. Voltz said if they go this route and then have an additional variance request, is it fair to the public to admit it here. P. Laurien said the setback issue was publicly posted and there is nothing that the public does not know about, so he is not uncomfortable voting on it.

Mayor Forthofer said there were only three members in attendance, and it takes three members to approve this. However, if the applicants wish, they can ask for this matter to be tabled until next month, which may increase their percentages. D. Oliver said the board can vote on it. B. Voltz said they could always reapply for the other variance.

**B. Voltz MOVED,** P. Laurien seconded to consider RCO 403 footings required – proposed – no footings – variance request to allow no footings. B. Voltz/P. Laurien rescinded their motion.

**P. Laurien MOVED;** B. Voltz seconded to allow this structure as a shed in the front yard where sheds are not normally allowed in the front yard according to Section 1272.12 (b). Roll Call Vote 1 YEA; 2 NAYS (Chrulski, Voltz). **MOTION FAILED.**

B. Voltz said the option is to come back with an altered variance request.

**[R-S] 4692 Frederick Drive - Applicant: David Poulos (Garage Max. Sq. Footage)**

*Applicable City code section(s) cited:*

*1272.11 (e) – garage max. sq. footage = 768 – proposed = 1080 – variance request of 312 sq. ft.*

David Poulos of 4692 Frederick Drive said he wants to increase the size of a pole/garage from the allowed of 768 sq. ft. to 1080 sq. ft. to fit his camper, etc.

Phil Laurien said this site backs up to the railroad and it is a half-acre lot, so it is a pretty large lot. The driveway is in place, and he does not need to widen his driveway, so this helps clean up his lot. It is a not an excessive size for this neighborhood. He has a lot of separation from the neighbor and there are a lot of trees, so he did not have a problem with this.

**B. Voltz MOVED**; D. Chrulski seconded to approve the variance request of 312 sq. ft. Roll Call Vote 3 YEAS. **MOTION CARRIED**.

**Adjournment:**

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

*Next Meeting: Tuesday, July 27, 2021 – 7:00 p.m. @ Vermilion Municipal Complex, 687 Decatur Street, Vermilion, Ohio.*

Transcribed by Gwen Fisher, Certified Municipal Clerk