

Meeting of the Board of Zoning Appeals
Thursday, May 20, 2021 ~ 6:15 p.m.

Board Members Present: Mr. Thorson, Mr. Hachat, Mr. Anderson, Mr. Chmielowicz,
Mr. Mitchell
Board Members Absent: None
Officials Present: Mr. Bob Heydorn, Solicitor, Mayor Bernie Hovey
Village Staff in Attendance: Suzanne Lipan & Lora Wilmoth
Others in Attendance: See attached sign in sheet

The Board met in Village Hall and the meeting was made available to the public via Zoom.

Call to Order

Mr. Hachat called the meeting to order.

Mr. Hachat asked for a roll call. All members present.

Mr. Hachat asked for a motion to approve the minutes from the May 13, 2021 meeting. Mr. Hachat motioned, and Mr. Thorson seconded to approve the minutes. The minutes were approved.

Mr. Hachat swears in any guests who wish to speak who were not sworn in at the last meeting.
(Doug Nissel and Mike Stone)

Variance Request

MR. DANIEL SAWYER
2805 S PARK DRIVE
SILVER LAKE, OHIO 44224

Mr. Sawyer has made application to rebuild following fire damage. The proposed front porch addition will encroach on the front setback by approximately 20'. Pursuant to Section **1133.03 AREA, YARD AND HEIGHT REQUIREMENTS - MAIN BUILDINGS** (f) Front yard depth 50' minimum.

The proposed addition will encroach on the rear yard setback by approximately 30'. Pursuant to Section **1133.03 AREA, YARD AND HEIGHT REQUIREMENTS - MAIN BUILDINGS** (h) Rear yard depth 40' minimum.

The proposed building footprint is 4,452.3 SF (19.9% of lot area). Pursuant to Section **1133.03 AREA, YARD AND HEIGHT REQUIREMENTS - MAIN BUILDINGS** (e) Coverage by main building - maximum is 18 percent of the lot area.

The proposed 2 car garage and "RV" garage (48'9" by 14'6" and capable of parking two automobiles) together are capable of storing four "private motor cars". Pursuant to Section

Meeting of the Board of Zoning Appeals
Thursday, May 20, 2021 ~ 6:15 p.m.

1133.04 AREA, YARD AND HEIGHT REGULATION; ACCESSORY USES (a) Garages and other Accessory Uses. Each residential building shall have an attached garage, providing a minimum of 240 square feet of area, but providing storage for not more than three private motor cars.

Mr. Sawyer's property lies almost entirely within the 300' deep riparian setback attending the Cuyahoga River. Mr. Sawyer's proposed expansion is 92 percent of the existing footprint of two buildings (the principal building and an accessory building) which will be combined into a single principal building by virtue of the proposed expansion.

Pursuant to Section **1169.07 – NON-CONFORMING STRUCTURES OR USES IN THE RIPARIAN SETBACK.** (c) A residential structure or use within the Riparian Setback existing upon the effective date of these regulations, may be expanded subject to the provisions of subsections (c)(1) through (3) below: (3) The expansion must not exceed an area of fifteen percent (15%) of the footprint of existing structure or use that lies within the Riparian Setback. Expansions exceeding fifteen percent (15%) of the total footprint within the Riparian Setback must be obtained through a variance from the Board of Zoning Appeals.

Pursuant to Village code, Chapter 1109, Appeals and Variances, Section 1109.04 Meetings and Hearings, (d) In the event a request is made for a variance which is greater than fifteen percent (15%) of the required setback, sideline, or rear yard restriction, notice shall be given to all property owners within 600 feet of the applicant's property. The Board shall be required to hold at least two meetings, at least three days apart, before granting such a variance.

Discussion

Mr. Kurt Nissel made the following statement. He believes that the front setback variance that Mr. Sawyer is requesting is excessive. He stated that a 20-foot encroachment on the 50-foot easement is about 40 percent. He added that front set back variances are normally granted for those within a 10 percent value. Mr. Nissel questioned why Mr. Sawyer would need an ADA accessible ramp when he does not have an ADA accessible bathroom on the plan for the house. He stated that they are looking at a total structure square footage of 6,894 on a house that is currently 1,750 square feet. He stated that an almost 7,000 square foot structure far exceeds anything in the neighborhood. Mr. Nissel stated that his issue with it is, if the Board decides to approve these variances, they will have no control over what Mr. Sawyer puts inside of it. Mr. Nissel questioned why an almost 7,000 square foot home only has a 10 foot by 10-foot kitchen.

Mr. Sawyer stated that they have three kitchens.

Mr. Nissel stated that the fire was isolated to the two-car garage and did not do any damage to the structure or to the secondary accessory building. He stated that there was \$20,000 worth of damage to the garage and \$50,000 worth of contents damaged including the car. There was no damage to the inside of the house. The smoke alarms did not go off because there was no smoke in the house.

Meeting of the Board of Zoning Appeals
Thursday, May 20, 2021 ~ 6:15 p.m.

The door between the house and the garage was intact. Mr. Nissel passed out flash drives, with photographs from the fire department on the night of the fire, to the Board members. He stated that the flash drive also contains a written report from every individual on site that night. Mr. Nissel stated that rumors were going around the neighborhood about people being bullied and he did not believe it until he experienced it firsthand. He stated that six people approached him following last week's meeting that are afraid of retaliation. He said that there are many people who are too afraid to share their opinions of the plans.

Mr. Sawyer stated that there are two kitchens currently. One in the guest house and one in the main house. There will be a third one in the in-law suite on the back of the house. He said there will be a handicap accessible bathroom and a kitchenette area. Mr. Sawyer stated that he has had many complaints over the years, and he has asked people to tell him to quiet down. He stated that this is not about him building a house rather it is just a bunch of vindictive people with nothing else to do.

Mr. Douglas Nissel made the following statement. Mr. Doug Nissel is an engineer's aide at the City of Cuyahoga Falls. He has seen many projects before. After looking at the plans, he felt that the addition could be put in with the existing setbacks. He does not feel that the building is secure. Mr. Doug Nissel stated that he has been unable to find any records of building permits for construction at Mr. Sawyer's property. He wonders if the proper inspections are being done. Mr. Doug Nissel does not feel that these plans fit the character of the neighborhood. He also stated that he believes it looks like Mr. Sawyer would be running a business out of his home.

Mr. Sawyer stated that Al Klaben can confirm that he rents an office and 4 car-garage from him and that is where he conducts business out of.

Mr. Mike Stone made the following statement. Mr. Stone stated that he moved to Silver Lake 16 years ago. What they liked about Silver Lake was the uniformity of it, especially on Riverview Road. He spoke with Dick Fenwick before moving to see what people could change and what they could not. They felt comfortable that the community would not change much. Mr. Stone went to Summit County's website and pulled all the property numbers for Outlook, Silverview and S Park. There are 50 houses. He compared the numbers for the acreage, square footage, and garage square footage for those 50 houses in the area. The average square footage for a garage compared to the house is 17 percent. For Mr. Sawyer the garage is 42 percent, it is 3,000 feet larger than the average. Mr. Stone stated that if the RV is currently being stored off site, then it can continue to be stored off site. Mr. Stone suggested that Mr. Sawyer build his house back to the way that it was before the fire.

Mr. Bill Myles made the following statement. Mr. Myles asked the Mayor to request of Council to initiate a lawsuit against Mr. Sawyer for defamation of character related to the words painted in orange previously on Mr. Sawyer's house. Mr. Myles also plans to initiate a lawsuit against Mr. Sawyer for a breach of contract related to the sale of Parcel A. He stated that Mr. Sawyer has painted his sprinklers and bushes orange.

Meeting of the Board of Zoning Appeals
Thursday, May 20, 2021 ~ 6:15 p.m.

Mr. Anderson asked if the existing guest house has a second story on part of it or if the second story begins where the guest house ends?

Mr. Sawyer stated that due to the structure of the guest house being 8-inch steel I-beams, he has been told that the guest house is actually older than the original house. He tried to tear it done in 2013 or 2014 when he discovered how it was built. He was instructed to return it to that of a home. It needed to have gutters, walls and since there was plumbing and electric inside of it that need to be maintained and put back the way it was. The guest house has a full kitchen and bathroom and Mr. Sawyer lived in it for 2 years. Mr. Sawyer stated that going over 50 percent to the guest house allows for a more cathedral area. He stated it allows for a better inside and outside flow.

Mr. Anderson clarified that the answer to his question would be that there is a second story over part of it.

Mr. Sawyer said correct.

Mr. Thorson asked if the kitchen and bathroom were original to the guest house.

Mr. Sawyer said that since it had water and electric hook-ups, he decided to install a bathroom. Then he added the kitchen because he was living in it for two years.

Mr. Thorson asked if he got permits for all of that.

Mr. Sawyer said yes. From blueprints all the way to completion, for electrical and plumbing. He stated that they got all the permits for the remodel in 2014 as well. He stated today he dug up a rock. Mr. Sawyer stated that the roof has to come off the house. He said that the roof of the guest house was destroyed due to the flames going up into the eaves. Mr. Sawyer stated that it is almost a \$300,000 insurance claim. He stated that they are the ones who told him when and what he can do. He stated that because he is a preferred contractor, he was able to work on his favorite home.

Mr. Thorson asked if Mr. Sawyer has permits right now for the work that he is doing.

Mr. Sawyer stated that they have not done anything that requires permits. He stated that the only they accomplished was, due to the heat, the clay tiles were collapsing, and the walls were buckling. He stated that because it was an emergency, he called Al Hall at Summit County, and Al told him to save his house. He stated that under those circumstances he did not need a permit. Mr. Sawyer stated that they just added water and they should have sewer in the next day or so.

Mr. Thorson asked if he had a permit, or an inspection done when hooking up the water and sewer.

Mr. Sawyer stated that it requires inspections and when he dug the trench, the Service Director Mark Lipan came out and inspected it and then they were allowed to cover it up. For the sewer they will do the same thing. Mr. Sawyer stated that all they are doing is getting ready because the materials are hard to get. He stated that it is documented that they lost their beds, clothing and

Meeting of the Board of Zoning Appeals
Thursday, May 20, 2021 ~ 6:15 p.m.

shoes. He stated that his custom black bamboo floors that cost him \$18,000 were destroyed from the water that the fire department used. He said that everything other than the main kitchen and the bathroom above that were destroyed. He stated that if you walk in the house, you will see burns and smoke everywhere. Mr. Sawyer stated that he first and foremost had to get the house stable on the foundation again and he did. He stated that he is using licensed contractors, engineers, and draftsman.

Mr. Mitchell asked regarding the guest house did Mr. Sawyer receive a permit from Planning and Zoning or directly from Cuyahoga Falls or Summit County.

Mr. Sawyer stated that in 2014 when the guest house was remodeled, he got it from Summit County. He stated that the Village gave him the ok to reintroduce the water and electricity. Mr. Sawyer stated that at that time he had the full intention of getting rid of the guest house.

Mr. Mitchell asked again whether Silver Lake Planning and Zoning gave him a permit.

Mr. Sawyer said yes, well they gave him permission to add water and electric. He stated that the Planning Commission insisted that he take the building back from its skeleton with I-beams exposed and add walls, gutters and windows. He stated that they tried to get him to attach the guest house to the main house then, but he had no reason to then.

Mr. Hachat asked if any letters had been sent in. (There were none)

The Board entered Executive Session to discuss the request at 7:01 pm.

The Board exited Executive Session at 7:46 pm.

Mr. Hachat called for a roll call on the front porch variance with the condition that it meets all ADA requirements, and that the porch is never enclosed to become an all-season room. All members voted to approve with the condition set forth. The variance was approved.

Mr. Hachat called for a roll call on the variance for the rear yard setback. All members voted no. The variance was denied.

Mr. Hachat stated that the variance for coverage by a main building will be held in abeyance given new plans need to be given to the Planning Commission based on the decisions made here tonight.

Mr. Hachat called for a roll call on the 2-car garage and RV garage variance. All members voted no. The variance was denied.

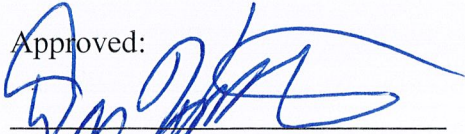
Mr. Hachat stated that the variance for the riparian setback will be held in abeyance since they have not received the report from the Summit County Soil and Water Conservation District.

**Meeting of the Board of Zoning Appeals
Thursday, May 20, 2021 ~ 6:15 p.m.**

Mr. Hachat stated that for those variance requests that were denied, the Board will issue a judgment entry with rationale. If Mr. Sawyer wishes to appeal these denials to the Summit County Common Pleas Court the judgement entry can be used to pursue the appeals. Otherwise, new plans need to be submitted to the Planning Commission.

There being no further discussion the meeting adjourned at 7:49 pm.

Approved:



Doug Hachat
Chairman

Prepared by Lora Wilmoth
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