

**ZONING BOARD OF APPEALS
MEETING MINUTES
Mayfield Village
Sept 18, 2018**

The Board of Appeals met in regular session on Tues, Sept 18, 2018 at 7:30 p.m. at the Mayfield Village Civic Center Conference Room. Chairman Pro Tem Syracuse presided.

ROLL CALL

Present: Mr. Vetus Syracuse Chairman Pro Tem
Mr. Stivo DiFranco
Ms. Alexandra Jeanblanc
Mr. John Michalko

Also Present: Ms. Kathryn Weber Law Department
Mr. John Marrelli Building Commissioner
Ms. Deborah Garbo Secretary

Absent: Mr. Joseph Prcela Chairman

CONSIDERATION OF MEETING MINUTES: **June 19, 2018**

Mr. Michalko, seconded by Ms. Jeanblanc made a motion to approve the minutes of June 19, 2018.

ROLL CALL

Ayes: All **Motion Carried**
Nays: None **Minutes Approved As Written**

CONSIDERATION OF CASE NUMBER #2018-02

Applicant: Dan Keenan
1061 Lander Rd.
PP # 831-32-016

1. A request for a 25' front yard setback variance from Section 1181.07 (e) to allow for construction of a Detached Garage.

Abutting Property Owners:

Lander Rd: 1085, 1091, 1093, 1095, 1097, 1049, 1037, 1031, 1027

CONSIDERATION OF CASE NUMBER #2018-03

Applicant: Danny Tohme
6677 Bramblewood Ln
PP # 831-18-058

1. A request for a variance from Section 1157.08 to allow for construction of a Full Privacy Fence in rear yard.

Abutting Property Owners:

Bramblewood Ln: 6682, 6688, 6687
Wildwood Trl: 6698

OPEN PORTION

Chairman Pro Tem Syracuse called the meeting to order. This is a meeting of the Mayfield Village Zoning Board of Appeals Tues, Sept 18, 2018.

Case # 2018-02

Dan Keenan

1061 Lander Rd.

OATH

Chairman Pro Tem Syracuse stated that anyone wishing to speak must be sworn in. Chairman Pro Tem Syracuse administered the oath to Mr. Keenan and asked anyone wishing to speak, to state their name and address for the record.

Dan Keenan explains proposal. My reason for this is I do not currently have a garage on my property. The previous owners converted the garage so it is no longer accessible for a car. I brought plans in a few months ago for an attached garage and I was told that I was too far on the side setback and that was not going to work. Being that the guy right across the street has a garage in front (I know that's a different city), it gave me the idea that we could come in and go right into the garage just like he does and I have all this space here. I saw the houses in line with where I want to put the garage, it didn't occur to me that there was a setback code for that. It was Mr. Marrelli that told me the code requires me to be so far back from the street. That's why I'm applying for a variance. I own a landscape & construction business, I have commercial vehicles and lots of tools. I'm an avid motorcyclist, so I have one of those. I really could use a place to put it all. Right now I currently do not have a place. All these trees here would stay, just these 3 small trees would go.

Chairman Pro Tem Syracuse asked, how many vehicles do you currently have at the property?

Dan Keenan replied, my truck, my wife's car, my work vehicle, a trailer and my daughter lives with us half the week so her car is there during her stay. The trailer I try to keep at jobs whenever the space is available so I rarely have the trailer there. I talked to Mr. Marrelli about hiding my box truck on the side in between the garage and the house so it's not visible from the street.

Chairman Pro Tem Syracuse asked Mr. Keenan how long he's owned the property.

Dan Keenan replied, 5 years.

Chairman Pro Tem Syracuse asked, do you have any idea when the previous owner converted the existing garage?

Dan Keenan replied, no.

Ms. Jeanblanc asked, wouldn't that require a permit?

Mr. Marrelli said, it would have, but there wasn't one on the record.

Dan Keenan said, ½ of the space is a Master Closet, other ½ is a Laundry Room.

Chairman Pro Tem Syracuse said, it looks like there's ample space in the back, but seeing where the driveway currently exists there's really no way to put the garage in the back.

Mr. Marrelli said, correct. Our code requires driveways to be 3 feet off the property line, if you go north it wouldn't meet it and to go south it wouldn't meet it. There's no room to go around the house.

Mr. DiFranco asked, why can't you attach it to the front of the existing garage?

Dan Keenan replied, it would be an issue with the truss on the house.

Mr. Michalko asked, you say you store your landscape equipment and stuff there?

Dan Keenan replied, I store my landscaping stuff at an elderly customers house in So. Euclid that does not drive anymore. So. Euclid is not the greatest area for me to keep my landscaping equipment.

Mr. Michalko asked, where do your employees park when they come take the trucks?

Dan Keenan replied, they park in the driveway.

Mr. Michalko asked, how does this affect the zoning for businesses being run out of residential?

Mr. Marrelli replied, you're allowed to have a home occupation out of your house, but that's really relegated to an office space. That wouldn't include having your employee's park in your yard or to gather, pick up their saws and go off, that would be a commercial use. The point is, are you going to try to bring all the landscaping equipment and all the guys to your house?

Dan Keenan replied, no. This doesn't change anything that's current other than I'd have somewhere to put things that would be necessary to put in the garage. I don't plan on turning my garage into a commercial building.

Mr. Michalko asked, what happens when you lose that place in So. Euclid?

Dan Keenan replied, my Son just purchased a house this year, he's currently head of the landscaping division, and he wants to keep it at his house.

Chairman Pro Tem Syracuse states, we have to look at if there's anything at all that is unique about this property that would substantiate the granting of a variance based on practical difficulties. If we look at the fact that there's no current garage on the property, the variance will run with the land. If we're not talking about a business being run out of there, which is a separate issue which could be addressed if that becomes an issue down the road by the Building Commissioner. We need to look at the factors that we have to consider which Mr. Keenan attempted to address in his application. Looking at those, if any of the members have any questions for Mr. Keenan regarding any of his responses or how any of these factors could be applied to the residence.

Mr. DiFranco said, about what he said relative to the business, would that not be part of our decision in granting the variance in this case, because that's what the intent is, it's to store business equipment on the property. It's not intended to be used as a garage or home storage.

Dan Keenan replied, you may have misunderstood. Yes, I want to keep tools in it. I have a 20' trailer that goes from job to job, the tools that I need for business are in the trailer at the job.

Ms. Jeanblanc asked, you said this is for personal vehicles plus personal tools?

Dan Keenan replied, yes. I'm going to keep the cars in there, I don't want to use the garage as a woodshop or anything. I may have mislead you there.

Mr. DiFranco said, from my perspective from what I read on the application, it states: "There is no garage currently on the property. I own a contracting/landscaping business and own several commercial vehicles and equipment that I need to store". From my perspective it sounds to me as though you want to store your business equipment there. What's to prevent when we let this gentleman do it, and the next thing you know we've got commercial operations up and down the street. To me, it's a precedence setting.

Chairman Pro Tem Syracuse asked John, how many other properties on this street do not have a current existing garage, do you know?

Mr. Marrelli replied, none that I know of. Let me address your issue. There's a number of people that have commercial vehicles as their primary vehicle because they have a company car or a company truck. Our ordinance says that that car or truck if it has stickers, ladders, pipes or any kind of markings on it, it has to be in the garage. He's been cited a couple times for having the trailer out. The citation was to get it into a garage or out of site. It's not uncommon for people to have their business commercial vehicle in their garage because our code says you have to, you can't leave it out.

Chairman Pro Tem Syracuse said Stivo, if this is the only property without a current garage, you're not setting a precedence if you were to grant this, in that any other applicant who comes through who already has a garage and needs a second garage. In my house, I could park my cars outside of my driveway and store equipment and things in my garage if I prefer to, but to build a second garage it's not going to happen. In this case there is no garage so in my mind there is something unique about the property whatever the intent is, it would run with the

landscape, the future owner of this property would then have a garage. I understand your concern but if we could maybe set aside the issue. Katie, do you have any comments?

Ms. Weber replied, really what he's asking for is a variance in regards to building a garage. Whether or not he's going to be running a commercial business is a completely separate issue. I don't think that his intent is to come in and run his business out of his property. I think the factor of him being able to store his equipment in his garage is one of the reasons that he needs it, he wants a garage, he needs a garage apart from wanting to park his personal vehicles in there. What you're going to be storing in the garage I don't think is necessarily as relevant.

Mr. Michalko said, I've been around the neighborhoods a lot. This would be setting a precedent of having a garage in front of a house. I don't know of any right now.

Mr. Marrelli said, there're a lot of attached garages that are in front of houses.

Mr. Michalko said, but they face the front.

Mr. Marrelli said, over in Aintree Pk all the garages are in front of the houses.

Mr. Michalko said, they face the front.

Mr. Marrelli said no, they face sideways.

Mr. Michalko said, but they're attached.

Mr. Marrelli said, yes they're attached. A detached garage in the front might be out of the ordinary.

Chairman Pro Tem Syracuse asked John, are there any other locations on this property where a garage can be built detached?

Mr. Marrelli replied, you can't get to it. We went through this drill a couple of times.

Ms. Jeanblanc asked, is there even enough space in the back?

Mr. Marrelli replied yes, but you can't get to it.

Ms. Weber said, because the drive would be too narrow.

Mr. Marrelli replied, exactly.

Ms. Jeanblanc asked, would he need to get a variance in the back as well?

Mr. Marrelli replied, the property line is way back deep. The problem is there's not enough side yard to get a driveway through.

Chairman Pro Tem Syracuse said, it would be too close to the neighbor's property.

Mr. DiFranco asked, could he go on the other side of his property?

Mr. Marrelli replied, he'd need a variance to do that.

Ms. Weber replied, and that would be a more substantial variance than the variance he's requesting currently by locating the garage in the front yard.

Mr. Marrelli said, I don't know if it would be more substantial or not.

Dan Keenen said, it would incur a much more substantial cost.

Mr. Marrelli said, my thinking was, the three houses that are south are already in that plane. In my mind, bringing this structure up in line with those structures really would be very unobtrusive. It'll match that front line. If you go down even farther north they come back forward again. The majority of the houses on that street are up closer than 60'. It seemed pretty harmless and unobtrusive to me. I agreed with Mr. Keenan that it was probably a good idea.

Chairman Pro Tem Syracuse asked, any other questions or comments?

Mr. Michalko said, I still have a slight concern about storing your landscape equipment and stuff in there. Will maintenance on the equipment be done in there?

Dan Keenan replied, equipment maintenance will be done at my Son's house. He's basically in charge of all that stuff. I'm sure you're aware that if you own a landscape business you have extra stuff. My Father ran a landscape business out of his house in So. Euclid my entire life and it's not like we have lawn mowers sitting out in the back yard. It's nothing new to me to have that stuff in a garage.

Ms. Jeanblanc said, we have other landscaping businesses being run out of resident's homes in the Village and you'd never know.

Mr. Marrelli said, I know there's other guys that do it and they put their equipment in the garage and they keep it out of site.

Dan Keenan said, that's my intent. My intent is to make the property more beautiful, not less.

Chairman Pro Tem Syracuse asked, any additional questions?

Mr. DiFranco asked, are there any conditions that we can add onto the variance that would run with the property?

Chairman Pro Tem Syracuse replied, this is not a USE variance, this is an AREA variance for a 25' front yard setback, that's the only issue. I don't know what conditions you could place on an area variance.

Mr. DiFranco replied, I understand.

Mr. Marrelli asked, a USE variance you could put conditions on, correct?

Ms. Weber replied, correct. To clarify, you're not permitted to run a commercial business out of your property.

Ms. Jeanblanc said, you are, but there are limitations to the square footage.

Chairman Pro Tem Syracuse said, there's nothing on the application that the applicant is seeking that at this time. If there were an issue raised on that, Mr. Marrelli would address that separately.

DECISION

Ms. Jeanblanc, seconded by Mr. DiFranco made a motion to approve the request for a 25' front yard setback variance from Section 1181.07 (e) to allow for construction of a Detached Garage.

Chairman Pro Tem Syracuse asked, any discussion?

There was none.

Chairman Pro Tem Syracuse said, I just want to remind everyone on the Board that again, we're looking at whether or not there's a practical difficulty here and conditions we look at are whether or not;

- a) The conditions upon which an application for a variance is based are particular to the subject property with respect to the physical size, shape or other characteristics of the premises or adjoining premises, differentiating it from other premises in the same district; or
- b) The variance would result in an improvement of the property that is more appropriate and more beneficial to the community than would be the case without granting of the variance.

Chairman states, my view on this is that there is currently no garage on the property. It's set back close enough to the house, it is on the same line with the other adjacent properties on the street and there are trees which also are between where the garage will be built and the street where they're hiding some of the site.

Mr. Marrelli said for the record, the next door neighbor to the south called and questioned the application and I explained it to him thoroughly. He couldn't come tonight but he said to let the Board know that he didn't have any objections to the request.

Mr. Michalko said, it was just the way the application was stated. Just to say I need a garage would have been a lot easier than saying it's for a contracting/landscaping business.

ROLL CALL

Ayes: Mr. Syracuse, Mr. DiFranco, Ms. Jeanblanc, Mr. Michalko
Nays: None

Motion Carried.
Variance Approved.

Case # 2018-03
Danny Tohme
6677 Bramblewood Ln

OATH

Chairman Pro Tem Syracuse stated that anyone wishing to speak must be sworn in. Chairman Pro Tem Syracuse administered the oath to Mr. Tohme and asked anyone wishing to speak, to state their name and address for the record.

Danny Tohme introduced himself. I want to thank the Board for taking this under consideration. I've been part of the Village in some form for about 30 years. I've been an owner for about 10 years. Our backyard is facing SOM. Over the years obviously SOM was originally a 2-lane road, pre Progressive, pre the current state of the Village. Certainly it's changed, it's expanded the volume of cars. We have two young kids, a 2 and 3 year old. What's before you is the variance in terms of a full privacy fence but there really is more to it than that. It's really a safety issue. Ultimately if you think about what's on SOM Ctr, we've got a main artery north & south between Hillcrest Hospital, we've got the Fire Station, the Police Station as you head north in Willoughby Hills. The constant noise and traffic is really becoming a nuisance in terms of the enjoyment of the home. It's really hard to open our windows in the summer and maybe take a snooze on the couch, it doesn't work because you get a ton of emergency vehicles. As you know also Highland and SOM is a signalized intersection. Ultimately we'd like to put a fence in there but to maximize the efficiency and the value of that fence, we want that to be a full privacy fence. It's going to be a vinyl white fence, the contractor provides a lifetime warranty. If something doesn't hold up the way it needs to be or it doesn't look right, obviously everybody heading north and south will see that intersection. This is expensive, it's a lot of money. With that, in terms of noise, in terms of privacy, in terms of maximizing, my wife and I felt that we really wanted to have a full privacy fence. It's very similar to the property just south of us, I don't know the address.

Mr. Michalko said, that was George Phillips old house.

Danny Tohme continued, it's going to look very very similar.

Chairman Pro Tem Syracuse said, you're talking about just on the west end of your property?

Danny Tohme replied, here is Aintree North's brick wall, it's going to run north and south on SOM, it's going to butt up just about adjacent to my neighbor's fence.

Chairman Pro Tem Syracuse said, the raised landscaping there, those beds and large trees, are you planning on removing or doing anything with the current landscaping that's there?

Danny Tohme replied, no. The fence will sit just at the bottom edge of that mound. The current landscaping will stay the way it is.

Chairman Pro Tem Syracuse asked, is it going to be a safe distance from the sidewalk, is he going to require any other setbacks?

Mr. Marrelli replied, no. It has to be on his property and we had that property staked, we had our Engineer put pins in.

Danny Tohme said, I think the bike path is coming onto our property, I think that was just inadvertently, we'll stay off of that. But yes, that bike path is on our property.

Mr. Marrelli said, if you keep it in line with the next door neighbor.

Danny Tohme said, you can see it, it's kind of a continuous straight line from their fence. The closest point of where it's going to hit that bike path is right here, you can see that little jet in there.

Mr. Marrelli asked, is that pitch point as close as the pitch point to the next house?

Danny Tohme replied, no. The way they laid this, it jets in right here, I don't know why it does that on our property.

Mr. Marrelli said, if in fact it comes onto your property and if it would require an alteration, then we would end up doing it.

Danny Tohme said, that's not something I'm asking the Committee. The fence will not encroach the path.

Chairman Pro Tem Syracuse asked, will that affect any visibility turning in or out of that neighborhood?

Mr. Marrelli replied, it shouldn't because when you get to the sign you can see around the corner. He's going to end the fence at the south end of the wall.

Mr. Michalko said, to be consistent with the neighborhood, you're not matching with what your neighbor has. You can hardly see through any of that.

Danny Tohme replied, the technology of that fence is outdated. You can see it sloping. The Village actually put that fence in. I think Doug in the Service Dept hired a third party to put that in. That's almost a 20 year old fence, it was done at the time of SOM widening.

Chairman Pro Tem Syracuse states, there is precedent for this type of fence. I know we took a vote a couple years ago for a property by the Dentist office and one by the Wildcat Stadium.

Mr. Marrelli said, that's correct. Same reason, because of the amount of traffic and noise.

Mr. DiFranco asked, what are you going to do with the pole here?

Danny Tohme replied, I'm looking into that. This CEI pole is clearly on our property and I don't think there's an easement for this. From what I can tell, you can see the lines going down in the ground, I think that's powering/feeding all the development. I'm not sure why and I've really not taken the time to figure it out, but if this is feeding everything, we should get paid for the use of our property.

Mr. Marrelli said, that's between you and CEI.

Danny Tohme replied, absolutely.

Mr. Marrelli said, check your Title for a utility easement.

Mr. DiFranco asked, does Aintree North have a Homeowners Association?

Danny Tohme replied, yes.

Mr. DiFranco asked, do they have an issue with this?

Danny Tohme replied, I don't think it's under its jurisdiction.

Mr. Marrelli said, there's other fences like that in the neighborhood, I don't remember if there's any solid ones but they're 6' high vinyl fences.

Mr. Michalko said, that's the point, the solid fence.

Danny Tohme said, we're going to stay at the same height of the current fence.

Chairman Pro Tem Syracuse asked John, do you have any problem with the design that he's proposing?

Mr. Marrelli replied, no.

Mr. Michalko said, I understand your point about the street on that side, but I don't think it's going to do much for sound.

Danny Tohme said, it certainly isn't going to solve the issue, it'll certainly mitigate it as much as we can. I considered an 8' high fence, but we're not going to do that. I think the code allows us to ask for that.

Mr. Marrelli said, you can only put an 8' fence in a commercial property, 6' for residential.

Danny Tohme said, I thought the 8' option was available for rear yards.

Mr. Marrelli replied, only when you abut commercial property.

Mr. DiFranco said, the reason I asked about the Homeowner's Association is because you're going to butt up against the wall here, and whether or not they have an issue with the way that's going to look.

Danny Tohme said, obviously there's an easement for this, this is on our property. I'm not sure I understand the point of the Homeowner's Association. I'll talk to Blasé, the Pres of our Association.

Mr. Marrelli said, it wouldn't hurt to get something from the President of the Association saying that they don't mind that you butt up against their wall on your property.

Ms. Jeanblanc said, our Association dictates the split rail fencing.

Mr. DiFranco said, he's going to have a higher fenced wall coming this way, then brick, then split rail going the other way, you have three different type of looks going there.

Danny Tohme said, just so the Committee knows, we'll come back to you probably next year, this is a \$20,000 job. This was put in by the Village, we'll take this out, we'll put the same thing if the Board approves it, and we'll do the same thing back here. We'll make it look right.

Chairman Pro Tem Syracuse said, I want to point out that Section 1157.08 (b) allows for an open or a closed fence not over eight feet in height placed along the rear or side line which separates residential properties from property used for nonresidential purposes subject to the written approval of the Building Commissioner. The 8' is only if you're abutting property that's nonresidential which is not the case here, so 6' is the maximum.

Chairman Pro Tem Syracuse asked if there are any further questions.

There were none.

DECISION

Mr. DiFranco, seconded by Mr. Michalko made a motion to approve the request for a variance from Section 1157.08 to allow for construction of a full privacy fence in the rear yard.

Chairman Pro Tem Syracuse asked, any discussion?

Mr. Marrelli said, to be clear why the variance is being requested, he's permitted to put that 6' fence out there. The question is whether it can be solid or not. If you say it's a no go, he can still do the board on board fence and it would still have the effect of that high fence next to the wall.

Mr. DiFranco said, relative to that, the board on board fence next door, this gentleman is saying that the Village put that in. Is that right?

Mr. Marrelli replied, I believe it was part of the easement agreement when '91' was widened. When '91' was widened, the Village had to purchase property from the owners. That probably was maybe a tradeoff. I wasn't here when that happened.

Mr. DiFranco said, I just want to make sure the homeowner there didn't ask for a variance of board on board and now we're granting a variance here in this case.

Mr. Marrelli said, I don't even know if they had solid fences in 2002 when they did that.

Chairman Pro Tem Syracuse said, the Planning & Zoning Code does permit split rail, chain link, board on board and picket fences. This whole solid fence is coming before us when it's either abutting a commercial property or in the situation by Mayfield High School. This case here, it's not nonresidential but it is a 4 or 5 lane road. SOM Ctr Rd there is heavy traffic. So if there's something unique about the property and you're worried about setting a precedent in proving this, I think it can be differentiated and distinguished from other properties inside the development or any other developments where people might request this.

Mr. Michalko asked, in other words people can request this on Wilson Mills Rd or any place in the Village that has high traffic/noise.

Chairman Pro Tem Syracuse replied, most of the houses I think on Wilson Mills have their front yard facing Wilson Mills. This is a unique situation where it's the backyard that abuts SOM Ctr. Rd.

Mr. Marrelli said, this would come into play in the Worton Pk area maybe where they abut the High School. It's a unique situation.

ROLL CALL

Ayes: Mr. Syracuse, Mr. DiFranco, Ms. Jeanblanc, Mr. Michalko
Nays: None

Motion Carried.

Variance Approved.

Right to Appeal

Chairman Pro Tem Syracuse stated any interested party has the right to appeal the decision within 10 days.

ADJOURNMENT

Ms. Jeanblanc, seconded by Mr. Michalko made a motion to adjourn the meeting.

ROLL CALL

Ayes: All
Nays: None

Motion Carried

Meeting adjourned at 8:05 p.m.

Chairman

Secretary