

**MINUTES OF THE
CITY OF ST. CLAIR SHORES
ZONING BOARD OF APPEALS
FEBRUARY 4, 2021**

Present:

Tony Bellestri, Chairman
Steve Scavone, Vice-Chairman
Duane Michno
Bill Lince
Peter Stellas
Thomas Budnick, Secretary
Lee Bertolo

Alternates:

Thomas McKenney
Mark Moffitt

Absent:

Also, Present:

Eric Shepherd, City Attorney,
Shantelle Hubbard, Recording Secretary
Chris Rayes, Community Director

Note: Meeting was conducted via ZOOM.

Call to Order

Chairman Bellestri called the meeting to order at 7:06 p.m., roll was called and a quorum was present. The Pledge of Allegiance was said by all. Secretary Budnick instructed the petitioner that it is understood by the Zoning Board of Appeals that their presence here tonight constitutes that they are a legal representative of the petitioner and that each statement of intent, promise and/or pledge, made by the petitioner or agent, either orally or in writing, permitted by ordinance shall be binding upon the petitioner and shall be a condition of set variance if approved.

Case No. 07-2021 – Shayne Bailou – 22453 Maple

Re: WEST'S VENETIAN GARDENS SUBDIVISION (L12, P42) LOT 17

Location: North of 10 Mile Rd, East of Jefferson

REQUEST: Request for an 8.5% total lot coverage variance, a 106 square foot rear lot coverage variance, a 3.5-foot total height variance, and a variance to allow a second story in a proposed accessory structure. (*Zoning Ordinance 15.499, Accessory Structure and 15.481, Schedule of Regulations*)

Shayne Ballou, 22453 Maple, he is here they are trying to rebuild the existing garage. The current garage is prone to flooding and the roof is sagging. The structure itself is in poor integrity. The things that they are requesting for the lot variance size some of it comes into play because the current garage was the original garage to the house. So, there is a lot of coverage in the back yard and then at one time the deck was put in. They want to go to the largest footprint for the new garage. The height is so they can have storage space on the top level of the garage. This area is solely for storage. He is a veterinarian and his significant other is a dentist and they have to keep records for a specific number of years. Currently, they cannot store anything in the existing garage because of the flooding. The garage is below grade. Nothing of value can be on the floor. The second floor is strictly for storage only. No plumbing or heating in the garage.

Audience Participation:

Edward Hepburn, 22455 Maple, he is to the east of the resident and he does not object to the new structure. He needs consideration to be taken for the grading and the pitch as the level of the new garage will be 8" plus higher than the existing garage. He has a basement and he needs to make sure that it is protected. He understands that we are talking zoning he does need to know what form to make sure his needs are met.

Mr. Rayes stated that he did speak to that neighbor and we did have our staff go out to the property in question for the variance tonight. His garage right now sits about two to three inches lower than his house. It will need to come up. He may have to put in a drainage system as part of his build and we will need to know this information when he submits his final plans for grading and what not. He will probably have to remove a good portion of his driveway in order to get the water to pitch properly. It all pitches the wrong way right now.

Chairman Bellestri stated that he spoke to Mr. Bailou and he will need some type of drain tile leading back to the seawall to empty all of the water going that way.

Correspondence: In the file

Commissioner Michno there are four variances. Secretary Bellestri stated that they will vote on each variance separately.

Commissioner Michno asked about what is on the west side of the garage? The petitioner stated that there is a little stone walkway and farther west is where the deck begins. Along the west side of the garage towards the canal they have installed under the decking a French drain to stop the water from going off the yard into the garage. The plan is to do one in between the east side of the garage and Mr. Hepburn's house and one along the back of their garage. There is a small space between the garage and the deck and it is a small cobblestone walkway. The deck connects to the back of the property where the dock is.

Commissioner Michno asked if the deck was considered part of the lot coverage.

Mr. Rayes stated that the deck is included in the lot coverage. Petitioner stated that he inquired about it at the city. If they have to, they will remove a portion of the deck.

Chairman Bellestri asked Mr. Rayes if this is existing non-conforming if they allow the deck to stay. Mr. Rayes stated "yes".

Commissioner Stellas asking what kind of access will there be to get to the second story area in the garage. Petitioner stated that it will be a pull-down spring staircase. Commissioner Stellas asked what the center height will be in the second story. Petitioner stated that the height of the walls will be 9'. He believes that it might be just over 6' in the second story.

Commissioner Stellas asked what is the square footage of the second floor. Dan Williams, contractor, stated that they are looking for 24' x 12' which is 288 square feet for the storage portion.

Vice-Chairman Scavone asked Mr. Rayes if he sees any issues along the back property line. Any easements? Mr. Rayes stated that if there are overhead utilities and the garage is within 6' of the pole they will need DTE permission to build in the easement and clearance for the peak height of that garage.

The petitioner stated that the poles are on the west side of the canal. Mr. Williams stated that they will be bringing the garage forward slightly. The back of the garage will be the same as it is now.

Vice-Chairman Scavone stated that this is on a 40' lot and it is not uncommon. At least the two requests for lot coverage and rear yard coverage most of the houses are the same existing non-conforming. If this was a 50' lot, they would be able to eliminate those two items. The house looks like a 6/12 pitch. Can they make the garage the same as the house? They may not need the height variance. If they subtract out the floor joist for the second-floor attic, they are probably almost 9' in the middle. The issue would be that if they move, the new owners may make it habitable space. If they do a 6/12 pitch on the garage, they will still have plenty of room for storage. Architecturally it would match the existing house. They are asking for 10/12 pitch on the garage. He doesn't think it will match esthetically.

Mr. Williams stated that by the time you get a 6/12 and do collar ties there will only be about 4' clearance up there in head room.

Secretary Budnick said that it is the attic trusses. He asked the builder if he had a truss package. The builder stated not yet. He agrees with Vice-Chairman Scavone to bring the pitch down so in the future someone cannot use it for habitable space.

Mr. Williams stated that it might be a 6' clearance on an 8/12 pitch. He stated 6/12 would not be walkable.

Ms. Ballou stated that they live in a two-bedroom house with two closets. She is a dentist and she has 3500 patient records and they may be taken on another 1500 patients which she has to keep for seven years. She would like to store them in the attic area in the garage or she will have to pay for storage. She said that they need access and the height to be able to get in and out with boxes.

Commissioner Stellas stated that a justified hardship must be demonstrated circumstances that must be related due to the unique circumstances involving the property. This should be unique circumstances to the individuals as far as what they want the property to do for storage and not circumstances that are specific for that property.

Mr. Ballou stated that if the current living residence had the appropriate storage it would not be an issue. So, storage issues would be unique to their property.

Zoning Board of Appeals

February 4, 2021

Page 3 of 15

Edward Hepburn, 22455 Maple, stated that the deck has been there for 25 years. It is the occupancy in the garage where windows have been proposed. If the windows were removed it would be less of an encouragement for occupancy.

Vice-Chairman Scavone asked Mr. Shepherd, city attorney, since they are using this for business storage of records, is this not a legal use for a residential home. Mr. Shepherd said that it is unique to them but not necessarily unique to the property. The board can consider that. But he cautions the board into taking too much interest in why they are doing it.

Vice-Chairman Scavone stated that it is a two-bedroom house without a basement. They do need storage. It is just the height of the garage for the storage.

Commissioner Michno stated that there is no room in the yard. Rather than cut the size down of the garage and maybe making the deck smaller.

It was moved by Vice-Chairman Scavone, supported by Commissioner Stellas, to approve the request for an 8.5% total lot coverage variance and a 106 square foot rear lot coverage variance reason being it is a 40 ft. lot and most of the people on the street and on the 40 ft. lots suffer from the same issues. And going down the canal most of the yards there is a lot of decking and that it is no different than most of the neighbors.

A roll call vote was taken.

Ayes: Scavone, Stellas, Lince, Budnick, Bertolo, Bellestri

Nays: Michno

Absent: None

Motion: Passed

For the third variance Secretary Budnick has a suggestion to the petitioner for them to go through and look at a couple different options. Give us good height and data. Maybe after looking at the collar ties, they can get it down to 8/12 or even 6/12. This is just for consideration. Maybe we can table this until next month.

Chairman Bellestri asked Mr. Shepherd if they can grant the variance for a smaller amount. He suggested that maybe they can table it or if they want, they can grant a lesser amount of the variance.

Dan Williams (builder) stated that if it was 6/12 a variance would not be needed. This falls below allowable height. The 6/12 would only be 14'6". He mentioned an 8/12 pitch would be a 16' 6".

Petitioner stated that before they came to the height they looked into different types of trusses and stick framing and what would be the best option. He stated that they lose a lot of square footage against the sides of the garage attic.

Chairman Bellestri stated that they may go with 7/12 pitch with a one-foot height variance.

Commissioner Bertolo asked if they can vote on not going any higher than 8/12 pitch.

Dan Williams stated if they go 16 ½' they will be close to the 8/12 it would give him close to 6' in the height for the collar ties which is walkable for most people. Petitioner stated that he agrees.

Vice-Chairman Scavone stated that the board may want to put it in the language that they cannot convert this into living space.

Vice-Chairman Scavone asked Mr. Rayes about the second story. Mr. Rayes stated that it is more than an attic space. Vice-Chairman Scavone if they deny the second story it is just an attic space. Mr. Rayes stated that he would deny the second story.

Dan Williams stated that it can be called a story and a half. Commissioner Michno asked Mr. Rayes if they determine it to be a second story. Mr. Rayes stated that anything that can be occupied is considered a second story. If they deny the second story then it will be an attic space.

It was moved by Commissioner Bertolo, supported by Vice-Chairman Scavone, to approve the total height variance cannot exceed 16'6", the attic cannot be converted into any type of living space and it cannot be heated.

A roll call vote was taken.

Ayes: Bertolo, Scavone, Lince, Bertolo, Budnick, Bellestri

Nays: Stellas

Absent: None

Motion: Passed

It was moved by Commissioner Lince, supported by Commissioner Stellas, to deny the variance to allow a second story in a proposed accessory structure.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Case No. 08-2021 – Annemarie Switchulis – 22588 Ardmore

Re: ARDMORE PARK SUBDIVISION (L22, P38) LOT 58

Location: South of 11 Mile Rd, East of Jefferson

REQUEST: Request for a variance to allow separate living space above garage, request for variance to allow separate 2nd story living space above primary living space, request for 28-foot variance to allow a garage to be built forward of the front porch, request for 4-foot side yard

Zoning Board of Appeals

February 4, 2021

Page 5 of 15

setback variance for an egress window, request for 5-foot total height total height variance for a new house. (Zoning Ordinance 15.481, Schedule of Regulations and 15.050 RA-1 Single Family Residential District)

Annemarie Switchulis, 22588 Ardmore Park, she currently lives on LaVon Street during the construction. They like the Ardmore Park property. She is asking for the variances as stated. The hardship they are building a new construction and they are asking for variance for esthetic reasons and to maximize the view of the lake. Some of the stairwell variances she is requesting is due to her age and this will be their forever home. They will not rent out that area. It is a single-family home.

Audience Participation:

Shawn Lilly, 22609 Ardmore Park, he has actually seen the plans and this structure is going to be 116' long. The garage will be stretching from the front of the house which does not include the porch of 41'. This home will be stretching back to the limit which would be to the power lines in the back. This will block the views of the neighbors on the east side and the west side. The garage will extend much farther than any of the houses on the street. He made a comment that he has the neighbor directly next to him on the east side. The board approved the house which is the tallest one on the street. Now because they were approved, he has continuous shading on the west side of his roof and it is deteriorating with mold and a form of algae. These huge houses in this neighborhood have no place here.

Sandra Skinner, 23012 Ardmore Park, she likes the fact that the petitioner stated that the second story will not be a separate living space. She wanted to note that they have two separate entrances. It may not be their intent. Upon resale that could ultimately become a multi-family home. It has three living spaces. The central lakefront district are houses that are detached single family residential. Most of these homes are bungalows, colonials and ranches which are near in size to the traditional homes throughout the city. Most of the homes do not exceed 30' in height. She has a concern about the surface material on the exterior of the home. There is an ordinance 22.012 regarding brick. More than two-thirds of the homes on Ardmore Park are brick. The setbacks and this home will be five feet taller than the restrictions. When constructing their home, they followed the building codes and restrictions.

The other concern if a home is built that impact lake view and the value could result in re-evaluation and reduction of property taxes. Another concern is with the garage. She said that this is not typical for the master plan of 2016 for St. Clair Shores about the characterization of these neighborhoods.

Sam Gizzi, 22578 Ardmore, he was one of the first of the new construction houses on this street. He took his plans and discuss them with all of the neighbors and he had them sign off on all of the plans. He just received their plans. If they approve the living space there will be three different entrances. They have a 10' basement with big windows which could be another living area. And about the 28' the fact that this house goes about 117' because of the big garage space will block a lot of views of the lake. He stated that they may have to build in line with the rest of the homes. This house goes back 60' pass his house. They could put a big house in a small area. This house will block every one's view and part of the reason is the 28' variance. He asked that this should not be allowed. It looks like the third floor could be another unit in the future. There is a 10' basement and 10' level one and 9' on level two and this is in disproportion for this street. The height of his house is 32' with an 8' basement which is more than adequate. Moving the house back 117' they are getting pretty close to the lake. He heard that they want to have a big boat well 40' wide and 40' deep into the lot. The basement has the potential for becoming a molded mildew infested disaster area.

He said that they don't allow people to rent out boat wells on Ardmore Park. He is with the other two neighbors which he is opposed to the variances.

Carlo Romita, general contractor for 22588 Ardmore Park, the request for variance separate living space above the garage it is now a storage space. The second story primary living space the reason that is there is because it has a living room and a kitchenette for entertainment for the views of the lake it is no different than having a bar in the basement versus a second floor. The entrance is pulled off the print. They have updated their plans. They moved the egress window to the back of the home. McDonald came out and they did an engineer survey. They did two 20' drill holes and they determine that they have to do pylons along the footings. Between 9' and 13' is bad soil after 13' the soil is amazing.

Mr. Rayes stated that this meeting is for the board not a debate this is for the board to ask the questions.

Carlos Romita stated that between the feet of 9' and 13' it is very unacceptable soil and dirt conditions. After 13' it is clay. They were advised to put pylons around the footings reason being the soil is soft there. If they decide to do the 10' basement that footing sits in that soft area. They are prepared for the structure and foundation of the house. In regards to the 28' garage they have seen garages that are over what is allowed. They determine that they maximize the lot with all of the setbacks to what the city allows them to do. They are asking for the variance because they have a three car garages. They will have two electric cars and the third will be for the battery packs.

The other request is the 5' height. As for the City of St. Clair Shores, they go from the brick ledge or grade to the top of the roof. Most cities go from the second floor to the top of the roof and take the average. They are over the 30'. The five extra feet is non-living space. It is strictly architecture design. This will not be multi-family living space. This house is extremely inside and outside. With the garage they thought of putting the garage in the front of the house. The neighbor to the east will not have any problems with the view. The west side neighbor still has a clear view of the east side lake. They maximum the lot size of what they are allowed to do. Living space above the garage is storage with pull-down stairs. This is safe for the petitioners.

Sandra Skinner, 23012 Ardmore Park, we are also on the same side street they have only 8' basement and their pylons are 22' under the basement and 30' under the rest of the house. She said that he needs to get educated on construction at least on Ardmore Park. They have had neighbors that had to go back and add additional support under their homes and foundation. The battery packs stated that they can be stored without having a second bay.

Mario Como, 22576 Ardmore, they are on the south side three doors to the west of the proposed home. The issue is with the garage. He and Mr. Gizzi have court side garages. They changed the ordinance a few months ago, in regards to the garages which he is not in favor of it. He is against the 35'. They can build a house at 30'. He had to sacrifice the attic storage because he had to change the garage roof to compliment the house roof. He doesn't want to see the other homes that are existing start to become alienated.

Mr. Debates on Ardmore Park, they have a subdivision association and a canal association. This project was brought onto the neighbors. He believes that this should be adjourned tonight to give everyone a chance to talk amongst the neighbors. We should work together with the community.

Gerry Warnack, 22530 Ardmore Park, he is the regulations officer for the Ardmore Park Association acting as the trustee for the association. The concerns they have in relations to the building use restrictions is the five-foot setbacks and the building lines. They are requesting for a 4-foot setback and they strongly object to that. They have the building use restrictions recorded with the register of deeds liber 2569, page 4463 which is recorded at the register of deeds. The comments are from the individual lot owners not the homeowner's association.

Sam Gizzi is objecting to the frontage of the garage this is pushing the house back so far. This house is blocking the lake views of other neighbors. Blocks the view of the house to the east and he will have to look at a brick wall with glass windows. Giving this exemption comes at the expense of the neighbors. There are a lot of issues coming at the expense of the neighbors. Maybe they can cut off 28' of the back of the house. Building on Ardmore Park is not like building on most lake front properties. They need an engineer plan it will make the whole determination of the project.

Shawn Lilly, 22609 Ardmore, he wants to share with the builder when they had to put in helical piers. They do not live from far away from the property they live diagonal across the street. When they contracted with Calculus to put in helical piers and as they are putting in the helical piers there was a point when the torque dropped to zero when they broke through the landfill. What was under the landfill was the old swamp. He is not sure that the core samples have clay. One of his helical piers went down about 100' and the others 60' and 70' feet.

Marcus, 22456 Benjamin, suggestion to table this variance request. Who can make the motion? Mr. Shepherd stated that a board member would have to make that motion.

Mike, 22516 Ardmore, the space above the garage being separate for a reason but looking at the drawings it is less than 5' between it and a third bedroom on the second floor why not connect. There is power lines that run through the back yard and this house will be extremely close. There are people on the street that have pylons over 100 ft. He was wondering about the brick veneer he thought there was a new rule on brick veneer. And why is there a second-floor laundry.

Mr. McKelvey, 22582 Ardmore Park, when they bought this 1947 home it was their forever home. And now looking at the plans and knowing that this is not the actual facts or data. He looked at it knowing that their view will be fully compromised and sitting in his back room that he has enjoyed for the last eight years living on this street to something that he will not see when sitting out there. At this point they are not going to be adding on or able to expand to move past to see that view. This has been emotionally challenging. Pushing the house back farther is a major issue. Worried about the foundation issues. Down the center of his house is a large crack. When they were demolishing the old house, things were falling off the wall and more cracks were found throughout the house. Digging this deep and at the base line and foundations that are so uneasy in St. Clair Shores they worry about that. He is hoping that maybe this can be tabled to have more discussions about this project.

Mr. Beaver just wanted to say that living on Ardmore Park is like a wonderful family. And they look forward to Tim and Michelle joining that family. They put 65 pylons in and they went down 95'. And they filled them in with concrete.

Edna Greco, 22581 Ardmore, there is a couple of things of concern. The living spaces, separate entrances and laundry on the second floor. The bedrooms are not on the first floor. If they say they are older then why not put the laundry on the first floor or they may have family living there. When other people build on this street it was discussed amongst the neighbors. These plans were just sprung on

them without any discussion. They are not trying to tell them how to build their house. With the McKelvey's there is no way they would have complete view. She is concerned with the setback. In 2018, she had 11 helical piers put in and they went about 80' and 100' deep. Her concern is that they are on landfill. The pause and not rushing into this would help.

Kristy Ciuchna stated that they were the original home owners and addition to what they were saying they are four houses from the end and 10 down from them. The house to the west that was a complete tear down the basement was dug out and it is so deep that she is concurring that they are now facing foundation issues. So, something this big, wide and deep it really needs to be seriously scaled back and re-address. The integrity of the street cannot handle that. She would like someone to re-assess the property.

Mr. DeBates stated that he heard about the esthetics of the home and it is a dream home but he has not heard anyone talk about hardship from the contractor or the new homeowners. There was other residents that stated that plans were passed out amongst the residents and come to find out that those we're not the plans. He said to be cautious to approve something when the residents haven't had the chance to view the actual plans.

Correspondence: None

Vice-Chairman Scavone that they heard a lot of residents speak on a lot of different items. We are very limited to what the board can do. From reading the requests and listening to the contractor it looks like somethings were removed. The petitioner stated that the plans were amended about three weeks ago and they were turned in with all of the changes. From the seven points of correction, they eliminated 4 of those concerns. Leaving the height variance and the variance for the garage. They did submit revised plot plans putting the egress in the back of the house rather than the side.

Vice-Chairman Scavone would it be proper to only consider the two items or do we have to consider the partial kitchen on the second floor.

Mr. Shepherd stated that if proper notice was not sent out to the property owners then he suggested that we table this until the proper notice has gone out.

The petitioner stated that the association did receive a copy of the new plans.

The contractor stated that they corrected the plans and resubmitted them. Mr. Rayes said to Vice-Chairman Scavone that we do not have the current plans that were submitted.

Commissioner Michno asked the petitioner if she submitted the new plans to the association. She said she submitted the plans to the city and the association.

Commissioner Michno is suggesting that they table. He is suggesting to table. Mr. Rayes stated that it would have to be re-advertised if there is something greater.

Vice-Chairman Scavone asked Mr. Rayes the plans that are proposed the foot print is not changing. Is it legally able to build that home in that location on that street. Mr. Rayes stated yes without setbacks they would need a height variance. Vice-Chairman Scavone stated the petitioners are the ones buying this house, investing in this house and designing this house. If they were approved, he does not believe that the neighbors should be designing their house.

Commissioner Michno suggested that we table this. Secretary Budnick stated that there are some changes but he does not think that we should table it the footprint has not changed. He believes that we have enough information to move ahead.

Commissioner Stellas stated that he is in agreement with Secretary Budnick. The petitioner has indicated that three sections were changed and should be denied and the two that are left can be up to debate and discussed amongst the board.

It was moved by Commissioner Bertolo, supported by Commissioner Stellas, to deny the request for a variance to allow a separate living space above garage.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion: Passed

It was moved by Commissioner Stellas, supported by Commissioner Bertolo, to deny the request to allow separate 2nd story living space above primary living space.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion Passed

Commissioner Michno made a motion on the floor. No one second the motion so it failed.

Vice-Chairman Scavone while someone was designing this house the ordinance changed. We have to give amount of leeway for this to change. Especially on lakefront it's kind of opens up the back more. If you don't, they will lose half of the first floor and the house would get so long to accommodate this.

Commissioner Michno agrees with Vice-Chairman Scavone.

It was moved by Vice-Chairman Scavone, supported by Commissioner Lince, to approve the request for 28-foot variance to allow a garage to be built forward of the front porch because it is conforming to many of the new houses on the street. Looking at the survey the front of the house will be in line with the rest of the houses.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion Passed

It was moved by Commissioner Bertolo, supported by Commissioner Stellas, to deny the request for 4-foot side yard setback for an egress window.

A roll call vote was taken.

Ayes: All

Nays: None

Absent: None

Motion Passed

Mr. Rayes stated the audience participation has now ended until after the vote which they will re-open audience participation.

Secretary Budnick stated that looking at the house architecturally the first floor 10' high ceiling and second floor 9' high and some vaulted ceilings. Will the petitioner be willing to reduce the ceiling height on any of the levels? Maybe standard 9' on the first floor and 8' on the second floor.

Mr. Romita, contractor, stated on that situation it is not so much on the inside more on the outside on the grand entrance as it comes down it flattens out it looks a little stubbier. He said that he will take a look at it. It is more for the architecturally on the outside. They are open with options. Their main goal is to make it look appealing. It is not the entire house just on the front façade. Behind the peak it slants back to a 3/12 pitch.

Mr. Shepherd reminded the board that the standard is a non-use variance so it is practical difficulty. The petitioner needs to show practical difficulty. And the board needs to take them in consideration.

Ms. Switchulis stated that the solar panels are another reason for the peak. The solar panels are to charge the batteries for the electric cars.

Vice-Chairman Scavone made a comment for the neighbors which they did bring up a lot of good points. The Zoning Board is very limited on their scope there are only certain things that they can look at. The builder knew enough to have soil borings for any engineering depth of pylons. This is outside the peruviol of this board. They are strictly looking at setbacks front, back, side and height. So, these items can be brought up elsewhere at another time. This is outside the scope of the board.

Vice-Chairman Scavone asked the contractor looking at the plans the front porch that portion would be the 35'. How large of an area is it going to be. Is it just going to be a truss with webbing? It cannot be converted. Contractor stated that the distance from the second-floor ceiling to the top peak trusses cannot be converted separate living area. The trusses are not even set up for that they are more web trusses. No floor joists. Above the three front windows in the grand entrance are standard trusses and it cannot be converted.

Vice-Chairman Scavone asked about the back of the house. Contractor stated that the back of the house will be 28'. The 35' is only the front and towards the front of the house. On the side view of the print if they are standing on the west end and looking east it shows it on the top of the peak it shows 35' but it drops down to 28' and stays continuously. And it could be 29' or 28'. All the neighbors in the area they have no problem of showing them the products. They are not using brick veneer. They are using a full stone on their house. A lot of the products are up to date and environmentally safe. And show the engineer reports if they like.

Vice-Chairman Scavone stated that it is a unique time to build with COVID people may not want someone to knock on their front door. He believes that it might have been different if there wasn't a pandemic.

Commissioner Stellas asked if the first floor is not level with the grounds. How far up is the first floor above the ground? Contractor stated about a 1 ½' with the basement coming up and TGI for floor joists give another 14". So, it is in the 1 ½' to 2 ½' range up off of the ground. It shows it on the plans on the west side.

Vice-Chairman Scavone asked the contractor since most of the houses looks like they are in conformance, is there anything he can do to still keep the architectural appeal and get it closer to what the ordinance is? One of the neighbors stated his house is 32'. The contractor stated that 32' or 33' he couldn't do it. If he brought the height down it changes and it will flatten it out. It would change the architectural look in the front. He can talk to the architecture. He knows what the option would be.

Secretary Budnick asked if he were to take a little bit out of the windows and drop the ceiling down a little on the second floor and try to take a little down from that peak. It shouldn't lose the architectural appeal that they are looking for. If that is something that he can review with the architecture to see if there are options. They can table this variance until next month to see if there something they can do. Contractor asked if he could drop the house down what would they allow above grade?

Mr. Rayes stated that he can drop it down but he would want to look in relation to the floodplain at that point.

Contractor stated the floodplain currently on the back side it is 60' to 65' feet. It is on the flood plain. Mr. Rayes stated that it did change back in December.

Vice-Chairman Scavone asked Mr. Shepherd if this is something that would stop them from starting the construction. Can we table this motion? Mr. Shepherd stated that they can table any portion of this project if they like.

Commissioner Stellas stated that he looked at this if we deny this portion of it, it gives the owners to go out to look and find a solution. They can come back next month and take it down 2' or 3'. Right now they are trying to design something and make an adjustment to a home which the petitioner already said that this is her forever home. Within certain perimeters if she follows the guidelines of the city and the codes at least she knows that she has gotten everything out of it. Rather than the board making a designation here of something may or may not be held to.

Mr. Shepherd stated that he can only advise what they can do. They can either table or deny it. He cannot say what would be better.

Vice-Chairman Scavone he would rather see it table and it would save them the \$300. It seems like we are getting revised plans for the next hearing.

It was moved by Commissioner Bertolo, supported by Commissioner Michno, to table the request for 5-foot total height variance for a new house.

A roll call vote was taken.

Ayes: Bertolo, Michno, Budnick, Scavone, Bellestri

Nays: Lince, Stellas

Absent: None

Motion Passed

Vice-Chairman Scavone commented to the petitioners to clarify the height. It looks like a lot of the houses are below our requirement. It is hard with the small prints and we cannot look at full plans on Zoom. This will help us if they can give us some heights and elevations.

Contractor stated that in the city he said that the street has only a 35' restriction. Mr. Rayes stated that they have a deed restriction which is all private. Mr. Shepherd stated that is a total separate issue.

Commission Michno made a comment that he is very aware of the neighbor's concerns. It is not the board business to design or redesign anything they are there to make suggestions. I don't like that everyone commented as to where the laundry room should go or to redesign a house that she doesn't want.

Other Business:

APPROVAL OF THE MINUTES FROM JANUARY 7, 2021 ZBA MEETING

It was moved by Commissioner Michno, supported by Commissioner Bertolo, to approve the January 7, 2021, ZBA meeting minutes, as amended.

Ayes: All

Nays: None

Absent: None

Motion: Passed

Audience participation:

Sam Gizzi, 22578 Ardmore, they given them 28' stated that this house is going back 117'. It is the board's job to protect the houses on the street. Not bringing in new projects. They are not protecting us. Isn't there some kind of ordinance out there? They are going back 60' beyond the established line. Is there not a line for existing houses? They are blocking the view of three houses maybe four or five. He stated that should be tabled. If they are going with 28' why not take off 28' from the back.

Mr. Rayes stated that this is audience participation this is up to the chair person.

Commissioner Michno stated that the sizes are legal and we do have an obligation that is to protect everyone including the person that purchased the lot. If it meets the ordinance it is not for the board to judge.

Mr. Gizzi asking is there not a restriction on the back to not block the lake view based on the existing structures that are already there? Mr. Shepherd stated that there is not an ordinance protecting the view of the lake. No city that has waterfront properties has that kind of ordinance. The residents do not have the right to view the lake from their property. If he feels that he has an issue with that feel free to consult with an attorney. The city adopted an ordinance about putting a garage in front of the porch. By them exempting that they pushed it way back. Now they have to change the rules of Ardmore not to have three car garages in the future.

Mr. DeBates, 22575 Ardmore, stated to the Mr. Shepherd he stated that there was improper notice as to the second set of plans. To the validity to the streets appeal for the variance granted. Mr. Shepherd

stated that the notice is not improper. The properties around the home or the petitioner's property they don't necessarily have the right to see the plans they don't go out with the notices. The notice is just so they can be notified that the board is hearing that petitioner that issue on a certain date and time. There is nothing about building schematics that need to go out with that notice. In this situation the notice that was sent was actually more restricted than what the board voted on tonight. There wasn't any kind of notice issue. If the board wanted to vote on something or another variance that was not on the notice then a new notice will need to go out. He said that there may have been an issue with the board receiving the proper plans. He just cautions the board to proceeding if they didn't receive the plans. The board felt they could proceed with the information that was in the packet. Mr. DeBates stated with the numerous calls and emails passed around with all of the residents on the street there will be an appeal. He asked Mr. Shepherd what is the proper channels for all of the residents to appeal. Mr. Shepherd stated that they would need to consult with an attorney. They would tell them what the proper channels would be and it would be through the circuit court.

In regards to the brick veneer that is a separate board. Mr. Rayes stated to contact Shantelle at CDI as to when the notice will be sent out.

Mario Como stated that the last variance was tabled for the 35'. There are deed restrictions and the 35' has nothing to do with the deed restrictions. The city says that the height allowance is 30' with the exception of the lakefront district. When he built his home in 2012, he thought it was in the Lakefront district. Lakefront District is from Martin Road to the north city limits on the east side of Jefferson. All that was brought up was the height of the house. He hopes before they go to the next meeting that there is clarity that it is building code for St. Clair Shores it has nothing to do with Ardmore Park. The city states that you cannot build a house over 30'. There are a lot of homes that can be built 30' or less. When he built his home, it was a challenge to fit all of the requirements. Mr. Rayes stated that there are two sets of rules. There the rules that the city enforces and the Ardmore deed enforces. We only enforce ours. So, the height is ours and if they have a lower height requirement that would be up to Ardmore to enforce. The height is 30'.

Gerry Warnack, 22530 Ardmore, stated in relation to the deed restrictions and the building use restrictions these single-family dwellings are not to exceed two stories in height. They do not have a definitive definition to how high those stories are. There is a definition of how high a story is. They are mentioning about the laundry on the second floor and they have one on the first floor. That was a concern for him personally.

Kristy Ciuchna stated that she would like to point out as listening to the meeting in regards to the motion for the variance for the garage she would like to contest that and have them look at the minutes because there was a motion on the floor and then Capt. Duane put another motion on the floor and everyone voted on that. She just wants to point out that the motion is null and void.

Chairman Bellestri responded that there was a motion on the floor but no one second it so it failed. Kristy said that the motion was not denied. Mr. Shepherd stated that any kind of disputes with the motion they can consult with an attorney and possibly seek an appeal. He doesn't believe for us to talk back and forth about any issues that were brought up tonight.

Mr. DeBates, 22575 Ardmore, asked how long does the residents have to file an appeal. Mr. Shepherd stated that he believes it is not set-in stone it could be 28 days after the minutes were certified. He would advise him to talk to an attorney about it they would know. Mr. DeBates asked if no permit would

be issued while this appeal is in process. Mr. Shepherd stated that this would stall moving forward on the property. He mentioned there is still one issue that was tabled.

Mr. Romita, contractor, stated that he believes that the gentleman that is the deed enforcer for the street he mentioned that there were no restrictions on what the community has of definition as what the height of each floor are. So, it could mean that it is 9, 10, 11, or 12 or even 14' for each floor. This is for the community deed restriction not the city. Mr. Warnack stated that he can find it in the building and use restriction guide. Overall, it has to be 30' over 30' he needs an exemption from that. Ardmore Park states it is 32'. Mr. Rayes stated that it is 30' for the city which the city rules. Mr. Romita stated that each floor restriction is unknown for the community. Mr. Rayes stated that Mr. Warnack said that there is no definition in the restrictions of a story. The city has definitions for story and overall height and what constitutes a story. So, he couldn't violate those which similar what he would see anywhere else.

Mr. Rayes stated that the city was involved in a federal lawsuit with a development of a house on the lake at the north end for Bobby Nahra. The city won that lawsuit that was thrown out in Federal court. The issues they had on that as the board knows came before them for some variances which caused hard aches for the neighbor who went through all those lawsuits. The city won them all.

Vice-Chairman Scavone asked Mr. Rayes is there a way when they turn in the updated plans can the Zoning Board get a full-size copy. He can't make it out with the plans they are so small. Mr. Rayes stated that he will have copies made for their packets.

Mr. Romita stated he has no problems in making the copies and getting them over to the city.

Adjournment:

It was moved by Commissioner Stellas, supported by Commissioner Michno, to adjourn the meeting at 10:00 p.m.

Ayes: All

Nays: None

Absent: None

Motion: Passed

[THE PRECEDING MINUTES ARE A SYNOPSIS OF A ZONING BOARD MEETING AND DO NOT REPRESENT A VERBATIM RECORD]