

WICKLIFFE BOARD OF ZONING APPEALS  
October 22, 2009

Chairman Bennett called the meeting to order at 7:30 P.M.

PRESENT: Bello, Bennett, Guhde, Levar, Building Commissioner Sack.

ABSENT: Nicholas

Chairman Bennett asked if there were any corrections or additions to the minutes of June 25, 2009.

Mr. Guhde made a motion to approve the minutes of October 22, 2009. Mr. Bennett seconded the motion.

ROLL CALL AYES: Bello, Bennett, Guhde

NAYS: None

ABSTAIN: Levar

MOTION CARRIED

Chairman Bennett announced that due to holidays, meetings will be November 19 and December 17, 2009.

Mr Guhde is excused from November meeting.

Chairman Bennett said we are hearing Case No. 2009-105 tonight. This is a hearing we took on several months ago and it was tabled because there was not a good plot map and then it was taken off the table.

Tonight we are starting from scratch. The application reads as follows:

Case No. 2009-105

Section 1309.30 Schedule of Area, Yard and Height Regulations states that in a R1-50 Residential District, width of building line is 50' feet, depth shall be 120' feet.

Paul Hentemann, Attorney for Vittorio Salotto, made application on October 1, 2009, requesting a variance to allow a 39'4" frontage in a R1-50 Residential District located at 1455 East 294 Street.

Front Yard

50' ft. width required

39.4 ft. width requested

10.6 ft. variance requested = 20.6%

Chairman Bennett acknowledged Mr. Robert Gregor, Attorney, standing in for Mr. Hentemann.

Chairman Bennett asked if Mr. Sack had anything to add. Mr. Sack did not.

Chairman Bennett said a legal description and plot map have been provided for us. Currently the property is one parcel that is approximately 75' ft. by 100' ft. They are looking at a lot split and it seems that as we get into discussion, there may be more variances that are required which we will talk about as we get to them. At this time,

Chairman Bennett asked for any questions from the Board members to the Building Commissioner.

Mr. Guhde asked if we ever made an inspection of the property. Mr. Sack said no. Mr. Guhde asked did it not have to be done until they needed an occupancy permit? Mr. Sack said yes.

Chairman Bennett said actually we are not granting a lot split, we are granting a variance. They have to go to Planning Commission for a lot split. The legal description is really talking about two separate parcels. The area of the Code we are talking about is 1309.30, referencing the table on page 33, 1309.32. This is an R-1-50.

Chairman Bennett opened the meeting. Robert Gregor, Attorney, 29944 Euclid Avenue, is representing the applicant tonight.

Mr. Bello questioned the distance between the garage and rear lot. Mr. Guhde said it is not a garage, it is a house at this point. Chairman Bennett said there is no measurement on the drawing. Mr. Sack said it is approximately 2 feet. Mr. Bello asked if there was a fence between the two structures. Chairman Bennett pointed out that this lot is a lawfully, non-conforming lot. That means the property in this R1-50 should have 120' and it is 100' as it stands now. Mr. Guhde commented that is how it was laid out originally. Chairman Bennett said he did not know how it came about but it has to be assumed that it is a lawful situation. Mr. Levar asked from where ingress and egress is gotten. Mr. Guhde referred to the drawing and pointed out the one garage on the drawing is a different property with a driveway from Euclid Avenue. The property in question has ingress and egress from East 294 Street. Additional discussion took place regarding the single occupant structure and number of exits. Chairman Bennett referred to 1309.32 and discussed the calculations regarding square footage of lot size and the proposed measurements. R1-50 asks for 6000 sq. ft. (120 x 50) with 50' frontage. We are allowed to grant variances up to 20% and the proposed variance is over that percentage. Mr. Bello made reference to where the building sits in relation to the end of the lot. Chairman Bennett said right now a variance for the 6,000 sq. ft. plus the 50' ft., it will be well in excess of 24%. Mr. Guhde commented that he calculates the figures to represent a 30% variance. Chairman Bennett added additional comments in regard to the measurements and calculations.

Mr. Bello and Mr. Guhde added their comments that the variance is almost 30% on the width and 40% on the area. Mr. Levar asked Mr. Sack if he is aware of any other situations similar to this in the city. Mr. Sack said no. There was additional discussion regarding other lots in the city and zoning. Mr. Levar said the situation we are dealing with is a legal, non-conforming lot. Do we have any in that category now or in the past similar to this? Chairman Bennett said he is not aware of any, especially that rear lot line. Mr. Levar said he knows we have given large percentages but it was because of the fact of some type of extreme circumstance. Chairman Bennett said that was when we

were looking at one variance and now we are looking at five or 6 extreme variances. Mr. Levar agreed. Mr. Bello asked Mr. Sack if he had walked the garage area. Mr. Sack said no. Mr. Bello asked, hypothetically, if we granted a lot split tonight, would that building, as it sits right now, be safe for an occupant. Mr. Sack said yes. Mr. Levar asked how long the occupant has lived there. Mr. Salotto said six or seven months. Mr. Bello confirmed that we are hear just to grant the variance, not to approve the lot split. Mr. Sack said yes. Mr. Guhde asked why we don't grant lot splits. Chairman Bennett answered that the Planning Commission does that but they won't do it unless we grant a variance allowing the measurements to be considered. Mr. Bello asked if the Planning Commission grants a lot split, do they have the power to put deed restrictions within that lot split?

Mr. Stempuzis said no. Chairman Bennett made additional comments regarding the request, the measurements and the location of the existing building. Mr. Gregor added comments that Mr. Salotto has made a nice improvement to the property.

Chairman Bennett opened the meeting for audience participation and Mr. Stempuzis swore in Mr. Vic Salotto, Maria Salotto and Rhonda Scharf. As an attorney, Mr. Gregor does not have to be sworn in.

Mr. Gregor said he realizes there are a lot of variances involved. He walked the property today and said it is a pretty nice place. The property value has gone up, taxes have gone up since the improvements, the city is getting more money in taxes. It is an improvement for the City of Wickliffe and the area. Even though there are a lot of variances, it would be a good idea for the City. You can't move the building. Mr. Salotto owns a lot of property in Wickliffe and has been in town for a long time. The tenant has been in there for seven months now. He didn't get permits because he's from the old school. That is the way people did things a long time ago. Chairman Bennett added that he's built a lot in the City for which he has gotten permits.

Maria Salotto, daughter, said her Dad does things like her Dad. She respects him a lot and he has done a lot to improve the City. There isn't a property in Wickliffe that he has touched that he hasn't improved immensely. She think that what happened with this is he built that barn as a structure to keep his equipment in during his working years. He is now retired, bored and driving everybody crazy. He sold all the equipment and now this is just an abandoned garage, and starting to look like an eyesore. You can't rent out a garage now like you can't rent a lot of things in Wickliffe right now. The structure just sat there and he started fixing it up and it evolved into really a terrific looking place. I don't think he was consciously trying to avoid permits. He thinks a little differently and she thinks there are still a lot of people left here in the City that think that way. He just does a lot more so it appears like he's constantly a busy beaver. He really didn't mean to cause an issue. He was so proud of the building, he rented it and the woman loves it there. Ms. Salotto said she would move in there herself because it is really a nice place

and she would love for others to see it. He has put a lot of money into it, a lot of hard work, it looks like a house now and she would hate to see it become an abandoned garage again. This is Wickliffe and we have a lot of issues like that now. I think we've upgraded something, made it look nice and made it a nice residential place. She realizes there are tons of issues with variances, but also realize there are a lot of old buildings in Wickliffe, a lot of old, grand fathered-in, cut-up lots and there are variances everywhere. She understands our (BZA) purpose to make sure this kind of thing doesn't happen again and that we do have conformity in the City. She thinks that this is an exception and would hate to see it revert back. He needs to get permits and he needs to pay dearly for what he has done but she would hate to see to see this revert back to a garage.

Chairman Bennett thanked Ms. Salotto for her comments and added that he knows Mr. Salotto is an excellent builder.

Mr. Stempuzis swore in Mrs. Mary Quintillo, 1459 East 294 Street. Mrs. Quintillo said she agrees with Ms. Salotto that Mr. Salotto made it into a beautiful home and it does improve the area. We now have three houses on the street. It would be a shame to take it apart. Mr. Levar asked Mrs. Quintillo if she had any objections to this house being there. She had none.

Ms. Rhonda Scharf said she wanted to add that Mr. Salotto taught her a lot about our responsibilities of keeping Wickliffe a better place. He does things his way but his motives are for the city. He encouraged me to stay here and he has an investment in the restaurant here. He's been asked to go to other cities and won't because they want to stay here because that was their Mom's dream and that is what they do. I'm not saying it was coded the wrong way, but I know his motives were pure. He just wanted to upgrade. She works in Cleveland now and has been in Euclid and knows what happened there. They have a lot of abandoned buildings and she's not afraid to tell you but crack addicts look for a places to go where it is empty. It's dark down that street and with people living there you have more cars coming in and out, neighbors start looking out for each other. Euclid has to raze many buildings because of abandoned garages, houses, this and that. Wickliffe is too much of an awesome City to have that happen. That is why we are still here investing in it.

Chairman Bennett closed the audience participation portion.

Mr. Levar said he hears their points and we take an oath of office to uphold the laws of the City of Wickliffe and statutes. He understands where Mr. Salotto is coming from and have known him for years but there are so many variances and variables he doesn't see how we can possibly approve this. Chairman Bennett added that we are pretty much held to a 20% variance. I am not saying we don't step over that once in awhile but to step over it so many times, he is concerned about the precedent it would set. It is a bad situation that could have been avoided.

Mr. Guhde asked if there was any chance that Mr. Salotto could purchase any property adjacent to his.

There was discussion as to which other property he owns and whether or not other property could be purchased. Mr. Salotto said the other property owner did not want to sell. Chairman Bennett said we have to go with what we know. Mr. Guhde said this is one of the toughest cases he's had on the Board but has to say there are too many things that don't conform to our standards.

Mr. Guhde made a motion that the request for a variance be denied. Mr. Bello seconded.

Discussion followed. Chairman Bennett said we really want to work with the situation but it is just too overwhelming. We are confined to a 20% variance and we are looking at probably seven variances. Mr. Guhde said 40% variance on the lot size and area, 30% on width and possibly 90% on the rear. Mr. Gregor had a question regarding the 20% limitation and asked if it would be legally possible for some of the variances to be granted, taking into consideration that some have been granted over the 20% in the past. Mr. Bello said he did not think it was on a lot. Chairman Bennett, Mr. Levar and Mr. Guhde added additional comments regarding multiple variances, variances in excess of 20% and lot size. Chairman Bennett added that the other fact that we are not even considering, is the fact that the larger lot with the house on it now is going to go to 4400 sq. ft. which results in a 30% variance. There would be two non-conforming lots. There are just too many things.

ROLL CALL AYES: Bello, Bennett, Guhde, Levar

NAYS: None

MOTION CARRIED

Ms. Salotto asked what is a legally, non-conforming lot. Chairman Bennett explained it would be something built before the code was in place. Basically, there is a 75' setback on Euclid Avenue. There are a lot of buildings that are closer than 75'. They were put in before the 75' setback. They can stay but they are legally, non-conforming as opposed to building something that is brand new that is not with the 75' set back, that would be illegal, non-conforming. Ms. Salotto said she understands and now we will have a legal, non-conforming abandoned building. Chairman Bennett said he did not think it would become abandoned; it may not be used as a residence. Ms. Salotto said how do you know it's not going to become abandoned; this is sort of like cut off the nose to spite face kind of idea. She does not understand it. There is so much to do in the city and we can't try and make this huge exception with all these variances for something that has totally improved the City. Instead it is going to revert back to an abandoned structure. Chairman Bennett said he thinks there are laws against abandonment but he really doesn't want to get into that. He knows that she is not satisfied with what happened here tonight. There is a right to appeal through the court system. We are just the starting

point. Ms. Salotto requested a copy of the minutes for this meeting. Chairman Bennett explained that they would be available after they are approved at the November meeting.

Mr. Bello made a motion to adjourn. Mr. Levar seconded the motion. All in favor.  
Motion carried

Meeting adjourned at 8:25 PM

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Mary Ann Boos, Secretary

Keith Bennett, Chairman