

**CITY OF ST. CLAIR
ZONING BOARD OF APPEALS
WEDNESDAY, JANUARY 17, 2024
ST. CLAIR CITY HALL
547 N. CARNEY, ST. CLAIR**

CALL TO ORDER: Chair Bier called the meeting to order at 7:00 pm

ROLL CALL: Chairman: Jim Bier Vice Chair: Doug Glassford
Secretary: Joann Westrick Member: Doug Vernier
Member: Ralph Gizowski Member: Diane Ives
Member: Burton Brooks

ABSENT: Doug Glassford, Doug Vernier, Ralph Gizowski

Jim Bier made a motion to excuse Dough Glassford, Doug Vernier and Ralph Gizowski.

AUDIENCE: Frank Kliest

APPROVAL OF AGENDA: *Joann Westrick made a motion to approve the agenda as presented, supported by Diane Ives. All in favor, none opposed.*

APPROVAL OF MINUTES: *Joann Westrick made a motion to approve the minutes as presented, supported by Burton Brooks. All in favor, none opposed.*

ELECTION OF OFFICERS: Jim Bier explained the process of electing officers for the Zoning Board of Appeals Commissions. Jim made a motion to open up the nomination.

- *Joann Westrick made a motion to nominate Jim Bier as ZBA Chair. Supported by Diane Ives. All in favor, none opposed.*
- *Burton Brooks made a motion to nominate Doug Glassford as ZBA Co-Chair. Supported by Joann Westrick. All in favor, none opposed*
- *Diane Ives made a motion to nominate Joann Westrick ZBA Secretary. Supported by Burton Brooks. All in favor, none opposed.*

CORRESPONDENCE: None

PUBLIC HEARING: None

NEW BUSINESS: None

OLD BUSINESS: 1104 Clinton Avenue
74-07-053-0227-000
Section 5.33 – Schedule of Accessory Structures

Jim Bier explained that we would proceed with the old business the same as we would if it were a public hearing because the petitioner was unable to be at the meeting in September of 2023. After we hear the petitioner, the ZBA members will talk amongst themselves and/or ask the petitioner for more information. After that there will be a Finding of Facts and then the members will make their ruling.

With that being said, I would like to ask the petitioner to come up to the podium, state your name and address and let us understand.

Frank Kliet – 1104 Clinton Avenue. What I am asking for is a 12 x 16 shed, which is 2 feet wider and 4 feet longer than what is allowed. The reasoning is that the back of our property, I put up a 6' vinyl fence thinking that would help. When we are sitting in our yard or on our back deck that 6' tall fence is to the bottom of the doors of the apartments because of the way the pitch of the property goes down. The fence doesn't help us with privacy at all.

Also, the lighting back there is pretty bright, even though it passed your testing as acceptable on the side of the property. What I want to do is build a shed in the back corner of the property. With the height of the shed and the shed in place, it would block out a lot of the apartments from direct sight in to our back yard. It would look nicer and it would help to block some of the light as well.

I didn't know that there was a 120-foot shed size limit until I read through the zone ordinance. When I came in and talked to Dee, he said that the city doesn't really like to go any bigger than that because it sets a precedence. I explained that I had already talked to my neighbors and I don't think there is an issue with it. My property is 100 x 200 foot so this will sit all the way in the back so you would really notice a size difference. The shed will look like my garage but just in smaller form. It will look nice. I am not going to put up anything that looks like an eyesore in the back of my property.

With that, I am asking for the variance to put up a 12 x 16 shed in the back corner of my property. I also have pictures from the site plan that was submitted in September 2019 before they started building on the property. At the bottom of the right corner of the site plan, it states save and utilize existing trees. They also so a 10' BSL going around the property. They should have left at least 10' of trees going around the property line.

Unfortunately, this was done when the covid pandemic hit and everything was shut down. When they came back to continue work, they just went crazy with the machine. They took out too many trees in my opinion. They company claims they were unhealthy and had to tear them out. Even in 2020, you can see by my photos they had a nice buffer of trees, not as full but still a buffer.

In the Spring of the following year, they came back and started to cut those trees down. I spoke to Dee about this and he said they were going to be putting in some type of fast-growing pine trees that are supposed to grow fifty to sixty feet. They did plant four or five back there of which only one is still surviving.

With all of that said, I don't think the size request that I am asking for is too great. I am not trying to make an eyesore or something that is a monstrosity back there. That is my request, thank you.

Jim Bier – Thank you, I am sure we will have some more questions. Dee, you have some updates as you have had some discussions with both, Mr. Kliet and the property owner at the apartments.

Dee Boulter – They did make some adjustments to the lighting. I talked to the construction manager, Mike Teeter, for the complex and he is aware of the issues. We also sent him a packet regarding this meeting. When I last talked to him, he said that the spruce trees that died will be replaced. I can ask him to put in 8 footers if it is only three or four that have died. The problem with this is that they don't water them when they first plant them and they die out.

Jim Bier – Regardless, whenever they die, they are supposed to replace them in order to maintain the greenbelt buffer.

Discussions continued regarding the buffer and the light lumens. Although the lumens are bright, they are within the ordinance standards. The apartments are in compliance with the ordinance.

Jim Bier – The question I have on the size of the shed, why does the size of the shed make a difference? You can put a shed there it can be taller. If you read the previous minutes, you saw the comments that were made. Put the shed that requires no variance and put in some additional landscaping of your own along side it to create a buffer. In a few years, the plants would grow in.

Melissa Kliet – 1104 Clinton Avenue. Part of the problem, and Dee has said that the apartment manager has said, that there is maintenance. Even if you plant a couple of trees there, wires are going through there. Utilities come in and chop them down to keep them from interfering with the lines. That is what happened to us. Trees only work to a certain point.

The more people who are living in those apartments, the brighter those lights get. It's like a market place lighting. The lights that shine onto the patios at the apartments aren't being considered in all of this. We get a lot of that lighting. The manager of the complex has been very good to work with, except for this past spring. We were told those trees would be replaced and they haven't yet.

We put a fence in at our cost. Part of the reason was, we don't try to infringe on somebody else, we wanted privacy. We do have a pool. Some of their residence come out on their patios and are right up in the trees and can see down into the pool.

The shed would filter some of the visual.

Dee Boulier – The other thing I forgot to mention, the stairway landings may get motion detectors in the stairwell so the lights aren't shining all of the time, only when needed.

Melissa Kliet – I understand that they are within their means but when it snows, or all of the lights are on, it is like a baseball diamond out there. The privacy is just not there. If the bottom lights could be shielded that would also make a big difference, even if only on the first building.

Jim Bier – Ok, like Diane is asking, what is the significant different between the 120 sq ft shed and the 14x12 foot shed?

Frank Kliet – I have got 30 feet from the corner and the existing tree line. If I put a 16-foot shed there and position it just right, I won't be able to see a lot those buildings and they won't be able to be looking right at me when I am sitting on my deck. We had some kids that lived in the apartments and they were blaring their rap music, with obscenities which was unbelievable. The police did show up, but not because we called, the kids believed it was us because we were out working in the yard. Once the police left, the kids came out and are yelling and swearing at us for calling the police. It's that type of situation, where they see right into our yards, the bigger shed will just block some of this.

The bigger shed will allow for the riding lawn mower, the trailer, the plow along with pool tools yard tools. The smaller shed will not work. I have a smaller shed now, attached to my garage, that is just not big enough. The shed attached to the garage will be coming out once I get the bigger shed built.

Diane Ives – The open area on the apartment side of the fence almost looks like an alley. There is a lot of open area. Can they put trees in there to make it thicker?

Frank Kliet – There were trees in there that they cut down. The buffer should have been put closer to our property line. Every time I tried to question what was happening, they would say, oh you again. I just would tell them that they were not doing what was on the plan.

Discussions continued

Jim Bier – It is helpful for us to see what you are living with on a constant basis. You are trying to make it better.

Joann – I am having a hard time separating the request from what the hardship is from the apartments. If we were to look at the request without the issues from the apartments, we wouldn't have a hardship. Is there anything you could speak to regarding the hardship? Based on being consistent with in the city I believe we have to show a hardship and I am struggling with that.

Frank Kliet – I would like to invite you in the summertime to come sit on my back deck. I think that is the hardship right there. Having to deal with the people in the apartments. We have granddaughters in the pool. I don't know what your definition of a hardship is.

Jim Bier – To summarize, one of the things we are grappling with all four of us are, not to long ago we had another petitioner who wanted a larger than allowed auxiliary building on their large property. Plenty of room, most neighbors had no issued with it and they couldn't understand why they would be denied. Our position was, why would we approve it? We are a variance board; we do not set the ordinance. The Zoning ordinance is set by other rules and we are here to give an out when there are extraordinary or mitigating circumstances to meet what you are requesting or to find some other way to solve your problem. Part of that is, you have dealt with Dee and I have chatted with Dee about enforcing upon your neighbor that the trees that die need to be replanted and replanted repeatedly until they finally survive.

Listening to you tonight is what makes your lot unique or different from this other lot I just referenced. Do you have other circumstances that are different? I see some things but in listening to your explanations it makes it a little clearer. I know when you purchased your house the apartments were already there but the trees were there too. And then the trees began to disappear. You went through a series of cooperative efforts with your neighbors to try to mitigate it with some success. Ultimately more trees disappeared and trees have not been replaced or replaced slowly. The vision of what you see when you look out back is different than it was when you purchased the home. The circumstances did change. What I am hearing, although it won't solve the problem, it gives you some solace, if not a solution to a problem that will not go away. Conditions have changed.

To my fellow commissioners, I suggest to you, that there are some circumstances that make this different than a similar lot with just typical neighbors. I don't know if that answers the question that Joann had or not.

Melissa Kliet – Also, part of it that changes our lot from others is the over head lines so there will never be anything grown there. The second thing is that we did put a fence up. We wanted to go 8' but we couldn't because it was against ordinance. We did try to go a little higher to get the separation.

It is a privacy factor at this point. I do have granddaughters who are turning in to young women, and it is different because most lots only have one or two neighbors. Yes, we were aware of the apartments but we like the St Clair are so much we were willing to deal with the apartments when we thought there would be a buffer, that has changed. These are the routes we took trying to be good neighbors. With the power line being moved it changed where trees can be planted.

Dee Boulier – This doesn't help you, but in fairness to them, they planted 40 more evergreens than they needed to along tenth street. I can talk to Mike again to see if we can't come up with something to bring that up a little.

Discussions continued about the types of trees that could possibly be planted in that area.

Jim Bier – I am feeling that my mind has changed on how I am looking at this. The problem is that we only have four of us here tonight. We will all have to agree or if one disagrees then it will be denied. I am not trying to pressure you too much. I would respect anybody's opinion in recognizing that we have had issued recently come before us that we might have to defend if we grant a variance tonight. In my point of view, I see that they have mitigating circumstances.

I was skeptical from the first time this was brought to our attention before the petitioners came to us. I went to the office and spoke with Jen. We needed to hear from you and not from Mitch. For future reference, in speaking on your own behalf is always better. It is a matter of taking the step to give the petitioners a tool to give them some solace of a situation that will never go away. Hopefully, either on your property or on their property you can come up with some natural screening that will help. My feeling, after listening to you tonight, granting a variance to go to a larger shed would take a step in solving your problem more quickly. What I am hearing you say that the size of the shed acts more like a barrier than a place to store more stuff. I am inclined to grant this.

Burton Brooks – My only hesitation is this would be the first time to do this and it would fall back on you since you are the newly re-elected chair to defend our past decisions. As long as we are square on that, I wouldn't have a problem. Again, I walked their yard, and as someone who values my own privacy, what happened in their back yard is something I wouldn't wish on anybody.

Joann Westrick – Can you humor me? I get what they are saying and I would feel the same way. However, I am looking at the homeowner who got denied and had to tear their shed down. What makes this situation even different from the homeowner who had a pole in their yard? The pole prohibited them from putting a shed there. Those homeowners kept saying I would like to have a pool there, or I would like to have this or that. They had all of their likes, not the need or the hardship.

Jim Bier – That one, with the pole in the yard is very similar to this one. The pole barn one is different because when they bought the house, they knew they wouldn't be able to have a bigger shed and they couldn't understand why. There wasn't a hardship, they had a big yard and plenty of room. The folks who had a pole in the middle of their back yard had more of a standing to have a variance granted for them. The difference here is, this petitioner's circumstance is has evolved over time to become worse than it was originally. The petitioners, with the pole in the back yard, bought the home with the pole there. The only issue with them was they wanted more possessions and wanted more space.

Joann Westrick – If we were to grant this variance, we are really saying that we didn't require the apartment property owner to do what they were supposed to do which would then eliminate the

variance need. Do we have a strong enough case if Grey Apartments did what they were supposed to do and not torn down the trees you wouldn't be here asking for a large shed.

Frank Kliest – I wouldn't be asking for a larger shed. I would just be putting up the normal shed. The people that were doing the work didn't have any care about it. They were getting paid hourly and just doing what they thought they should be. I kept telling them that they couldn't cut those trees based on the approved design. The builder tried to help me but they had already taken down the trees. There wasn't much I could do. We did try to work through it with the contractor but it didn't work out.

Dee Boldier – I can look at the landscape drawing and if the trees that were required aren't there, I will make them put them in.

Jim Bier – But to completely replace the mature trees and the under growth which provided the screening.

Dee Boulier – I don't know if they were required to keep those. I do know that if a tree is deceased tree they are required to take them down. I don't know from way back then what it was. I know they had to keep a buffer along 10th Street and behind the petitioner's yard. I don't know that there was anything on the side yard.

Diane Ives – I looked further down on saw other buildings up near the fence line. It wouldn't be peculiar to have a shed up near the fence line.

Frank Kliest – I have a question about that too. In an R1/R2 zone the set back is 5'. For some reason we are zoned multiple R3. I shouldn't be because I am a single family, not R3. That needs to be fixed at some point.

Dee Boulier – We have given him some options to get a larger shed. He can add onto his existing detached garage and go as large as 200 square feet more. He could attach his existing garage to his home and build the larger accessory structure.

Jim Bier – What I am hearing is that the shed is as much a screen as it is a storage unit. If you wanted this to be 5' from the property line and if we are going to grant a variance then we should deal with that as well right now.

Diane Ives – If you just had the size of a shed that didn't require a variance would that work?

Frank Kliest – It would to an extent. It would be hard to fit everything into it. A smaller one wouldn't cover as much for privacy as I would like. It would be a big difference looking from our back deck.

Jim Bier – Ok, you have heard what I would like to do. I know this is a more difficult one, if we do grant this variance, I don't think any of us will feel 100% good about it but as I stated from my finding of fact:

- Were there circumstances that make this different from a typical request?
 - What I am hearing is yes, because of the things that evolved over time.
- The five-foot set-back
 - If we are going to grant the variance then we should grant the five-foot set-back because although he is zoned R3, his home functions as an R1.

With that being said, and if no one else has anything to add I would entertain a motion.

Burton Brooks made a motion to approve the variance of Section 5.33 – Schedule of Accessory Structure to construct a 12' X 16" accessory structure located at 1104 Clinton Avenue, property #74-07-053-0227-000, and also grant a set-back from an R3 (10') to an R1 (5'). Supported by Joann Westrick.

Roll Call:

Jim Bier – Yes

Burton Brooks – Yes

Joann Westrick – Yes

Diane Ives – Yes

Jim Bier – Motion has been granted; you have 6 months to get started.

Burton Brooks made a motion to adjourn, supported by Diane Ives. All in favor, none opposed.

Meeting Adjourned at 8:15 pm