

**BOARD OF ZONING APPEALS
MEETING MINUTES
Mayfield Village
Dec 14, 2021**

The Board of Zoning Appeals met in rescheduled meeting session on Tues, Dec 14, 2021 at 6:00 p.m. at the Mayfield Village Civic Center, Conference Room. Chairman Syracuse presided.

ROLL CALL

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

Also Present: Mr. Daniel Russell Building Commissioner
Ms. Deborah Garbo Secretary

Absent: Mr. Joseph Prcela
Ms. Alexandra Jeanblanc
Mr. Anthony Coyne Law Director

CONSIDERATION OF MEETING MINUTES: Nov 16, 2021

Mr. Michalko, seconded by Mr. DiFranco made a motion to approve the minutes of Nov 16, 2021.

ROLL CALL

Ayes: Mr. Syracuse, Mr. DiFranco, Mr. Michalko

Nays: None

Motion Carried

Minutes Approved as Written.

CONSIDERATION OF CASE NUMBER 2021-08

Applicant: Daniel & Shelley Boyle
6750 Thornapple Dr., 44143
PP # 831-24-056

1. A request for an 88 sq. ft. variance from Section 1157.06 (a) (3) to allow for an additional 160 sq. ft rear yard shed/studio structure. Existing 120 sq. ft rear yard shed will remain.

Abutting Property Owners:

Thornapple Dr: 6758, 6766, 6776, 6784, 6742, 6734, 6724, 6716

Walnut Dr: 6751, 6759, 6743, 6735

OPEN PORTION

Chairman Syracuse stated, this is a meeting of the Mayfield Village Board of Zoning Appeals Tues, Dec 14, 2021. We have one case before us tonight, it's consideration of Case #2021-08. The applicants are Daniel and Shelley Boyle at 6750 Thornapple Drive, 44143, PP #831-24-056. They're requesting an 88 sq. ft. variance from Section 1157.06 (a) (3) to allow for an additional 160 sq. ft. rear yard shed/studio structure. The existing 120 sq. ft. rear yard shed will remain. The abutting property owners on Thornapple and Walnut have all been notified.

Whoever is here to make a presentation, if you could please state your name and we'll have to swear you in.

Daniel Boyle introduced himself.

OATH

Chairman Syracuse stated, because we are a Quasi-Judicial Body, anyone wishing to speak must be sworn in. Chairman Syracuse administered the oath to Daniel Boyle.

Chairman Syracuse stated Dan, I'd like to have you clarify provision (a). The way I understand is that the Accessory Uses Section 1157.06 (1) & (2) permit additional square footage if it's for storage of a motor vehicle, recreational vehicle or other vehicle. But your determination was that because this is for a tool shed or other storage building, they're only allowed a total of 192 square feet. Is that correct?

Dan Russell replied, that's correct. Also, we don't have anything in our codes that allows multiple accessory structures, it's not defined. So the only avenue I thought of is the total square footage to go by.

Chairman Syracuse asked, so there's nothing in here excluding multiple buildings, or is there? Because nothing permits it, is it your determination that the second storage building is not permitted at all?

Dan Russell replied, that's a good question. I reviewed this with the Law Department and I gave them my opinion on the sections where I was coming from. They agreed that the allowable square footage is 192 total square feet for accessory structure shed, not being used for a motor vehicle or anything else like that. This is something that eventually we're going to be reviewing because there's a lot of inconsistencies and issue with that code section. It's not reading correctly, it says storage buildings, but what about gazebo's and other accessory structures, it doesn't note anything of that sort. I'm not sure when this came into effect. I talked to the Mayor about this and we're going to revamp that.

Chairman Syracuse asked, so is it your determination that the multiple buildings are permitted as long as they're under 192 total square feet?

Dan Russell replied, I would say that you would have to in that aspect. I would hate to say that each individual building could be 192 sq. ft. and not have a situation where you would have a

limit of accessory structures, ten accessory structures all at 192 sq. ft doesn't make any sense. So I went by the total square footage allowed, it's a fine line.

Mr. Michalko stated, the ordinance is from 1994.

Dan Russell replied, it's been a while, yes.

Chairman Syracuse stated, Mr. Boyle whenever you're ready, you can present.

Daniel Boyle stated, I assume everyone had a chance to review what I presented. One of my points was that there is allowance for more square footage with section (1) & (2) which means that at some point there has been consideration to being more than the 192 square feet. I think the sense here is not specifically stated that you cannot have more than two structures. There are properties that I'm sure are grandfathered in before, that you have in these neighborhoods that have two structures. That's not that totally uncommon or unreasonable to have more than one structure. Also, at the 192 sq. ft. I don't know what that was based on, but obviously they didn't have the other options as presented on (1) & (2) under section (a) of the Accessory Uses code. These structures have totally two different purposes, one is for storage and the other is for an Artist Studio, that's another factor to consider.

Mr. DiFranco asked, the secondary structure, is it exclusively an Artist Studio?

Daniel Boyle replied, it's not a tool shed.

Mr. DiFranco asked, so the secondary structure is a place to do some sort of work?

Daniel Boyle replied, to paint.

Mr. DiFranco asked, so you're not storing tools?

Daniel Boyle replied, supplies, canvas and things like that.

Mr. DiFranco asked, but you're not using it as storage?

Daniel Boyle replied, no.

Mr. DiFranco asked, are you adding utilities to it?

Daniel Boyle replied, that's the next thing. That's why we wanted to get everything clarified so we can then apply to add electricity so it could be heated.

Mr. Michalko asked, have you applied for a permit to build this?

Daniel Boyle replied, we did not understand that we needed one. When we did find out, we wanted to make things correct.

Mr. Michalko stated, because the structure is already up.

Daniel Boyle stated, it was pre-fabbed.

Mr. Michalko stated, but it's still on site before a permit was granted.

Daniel Boyle replied, yes.

Mr. Michalko stated, I have an issue with coming for a variance after the structure is already up.

Daniel Boyle replied, our mistake, we misunderstood. We thought that if a shed being a movable, nonpermanent structure, it wouldn't require one.

Chairman Syracuse stated John, it shouldn't really factor in whether or not we grant it based on if it's already in. We have to assume whether it was there or not, that it's not there in whether or not we grant the variance request based on what they're proposing. I look at it as if it's not already there and we just have to make a determination from scratch. If you consider the fact that it's already there, that shouldn't really weigh in, that's not one of the factors we have to consider. Are you going to be selling any art work out of that studio?

Daniel Boyle replied, no.

Chairman Syracuse asked, so it's not for business purposes, it's for personal purposes?

Daniel Boyle replied, yes.

Chairman Syracuse asked, so you're not using it for storage?

Daniel Boyle replied, no. That's what the original shed is for.

Mr. DiFranco asked, is there no other code that identifies a structure used for, I mean it's not used as storage, it's not a storage shed, it's just a separate structure on the property.

Dan Russell replied, it's an accessory structure. No, this is the only section we have for accessory structures which like I said, it will be fine-tuned eventually. That's a good question, it doesn't define anything else. It defines basically garages, detached garages is what I would say motor vehicle storage or recreational vehicle storage structure is. The question I have though too for you is, you said you were going to be bringing electrical to it, electric heat, or is there a bathroom going into this?

Daniel Boyle replied, no. It's just a heater.

Dan Russell stated, you do realize it's on a floating structure, so it's going to rise and fall, it's not stationary because there's no foundation underneath that.

Daniel Boyle replied, it has stone all around it.

Dan Russell stated, it doesn't have a foundation though, foundation footer goes down 42" minimal.

Daniel Boyle replied, no it doesn't have that.

Dan Russell stated, take that into consideration because it's going to rise and fall.

Chairman Syracuse asked, do you want to talk a little bit about the actual structure?

Daniel Boyle replied, I submitted photos and a diagram. The structure is metal, it has a wood frame on one side, the doorway is facing to the back of the house. The taller side is facing towards the property line. There's a large door on the end to bring large canvases in and out.

Chairman Syracuse asked, how many square feet is the house?

Daniel Boyle replied, I don't know that.

Chairman Syracuse asked, how many bedrooms does it have?

Daniel Boyle replied, 3.

Chairman Syracuse asked, how many bedrooms are engaged for sleeping in?

Daniel Boyle replied, one.

Chairman Syracuse asked, you have two spare bedrooms in the house?

Daniel Boyle replied, one is the office and the other is the puzzle room.

Chairman Syracuse asked, why can't one of those rooms be used as an Artist Studio?

Daniel Boyle replied, I do abstract, I throw paint, it's very messy.

Chairman Syracuse stated, the factors we have to consider which are contained in the application, the standard is the "practical difficulty standard". I think we've all read through the USE Variance application. In determining a practical difficulty and the 10 factors that we have to consider and the legal standard that we use is;

In granting a Variance, the Board shall determine that one or both of the following factors are met by the request:

- 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 Syracuse stated, I'm just having a little trouble seeing how that really applies to this situation. If we set a precedent permitting this kind of structure then basically anyone in the Village could add additional rooms outside their house as additional structures, rather than adding an addition to your house where you could have something off of the house which would probably be permitted with a permit, you're building an entirely different structure. I'm just having trouble seeing how that meets the legal standard we have to apply.

Chairman Syracuse stated, please state your name and I'll swear you in.

Shelley Boyle introduced herself. I'm Daniel's wife.

OATH

Chairman Syracuse stated, because we are a Quasi-Judicial Body, anyone wishing to speak must be sworn in. Chairman Syracuse administered the oath to Shelley Boyle.

Shelley Boyle stated, the structure does help the look, you can't see it from the outside, you can't see it from the back. Our neighbor's cut down all their trees and all this other stuff where we can look into their backyards and stuff like that. Now this helps us protect our deck from seeing into their yards. My husband had a heart attack two years ago and this helps his mental health. I don't know if that makes a difference, but he needs a place to do his art work. We came from a 4 story house in Cleveland Hts down to a ranch house because we needed to move, we can't do the steps and he needs this for his mental health. I was the one that ordered it and everything else not knowing that we needed this stuff. We brought it in and it was a present to him for his work. He needs it for his mental health. To put in a whole addition, yes we could do that, it's a lot of work, a lot of money, we just bought the house and I thought this was a way to get him so he could do his work that he graduated from and hasn't done for years.

Mr. Michalko asked, when was it determined that you needed a variance, how did that come about?

Shelley Boyle replied, that came about when I looked into electrical for it, I said, oh, we were supposed to get an okay for the second one. When we bought the house, we ended up with water problems, the electrical isn't right for the house and all this other stuff. We did not know about having to come to you guys to get all these different codes because nobody even looked at our house when we bought it. We didn't realize you had all these strict rules. So when I looked at that, I said we should have gotten approval for the shed, at that time.

Chairman Syracuse stated, what stands out to me is the first line of 1157.06 ACCESSORY USES;

(a) "An accessory use customarily incident to a Class U-1, U-2 or U-3 use shall also be permitted in, respectively, a Class U-1, U-2 or U-3 District, provided such accessory use is

located upon” - and it goes on. But customarily incident, it’s not really customary in Mayfield Village that we have Artist Studio’s built separately from the house in the Village, that’s my concern, it’s the legal standard and the precedent we’d be setting if we approve this.

Mr. DiFranco asked Dan, should this be approved and they come in for an electrical permit, is that something that can be permitted?

Dan Russell replied, it can be. The conduit installed has to have a typical expansion on the pipe so the pipe will move up and down, similar to your meter on the side of your house, if it’s underground, it has an expansion so it doesn’t pull the wires out.

Shelley Boyle stated, the electrical guy is certified. He said as soon as it gets approved, he’ll be glad to put it all in.

Dan Russell stated, I’m just always afraid if they ever sell the house and someone comes in and wants to put a toilet. The same situation, very similar to this type of structure is on the corner of Kenwood and Wilson Mills I just noticed it today, looks very similar to theirs. I looked back on their records and John Marrelli, the past Building Commissioner denied it because they wanted to use it as similar to a studio, a place for the guy to watch TV and stuff, but they wanted to put a bathroom in there and they were not allowed. They turned that down at that time.

Shelley Boyle stated, this would be pretty small for that.

Daniel Boyle stated, I’d like to make a point. In the code it has this cut out here for swimming pools and buildings directly related to the use or operation of swimming pools, that’s a special use. Even though it’s a different special use, it’s something that’s totally exempt from meeting the square footage. That being the case, it’s not inconceivable to think that someone would do a male & female cabana for their pool. So you still have the issue of multiple accessory buildings. For some reason, there’s this section cut out for swimming pools.

Chairman Syracuse stated yes, that’s a customary use, a lot of people have pools. But not everyone has an Artist Studio, in fact, I don’t know of any. Are there any other separate buildings in someone’s yard in Mayfield Village that are used for an Artist Studio?

Daniel Boyle replied, there are potting sheds in addition to having a shed.

Chairman Syracuse stated, but a shed is for storage.

Daniel Boyle stated, but a potting shed is for plants and things like that. Again, it’s another additional axillary building.

Chairman Syracuse asked, anything additional you’d like to add?

Daniel Boyle stated, other than if we had known in advance.

BZA Minutes

Dec 14, 2021

Pg #8

Shelley Boyle stated, my question for you is if this does not get granted, we take out our other shed, so we'll just store everything in the garage and we'll be putting our three cars out on the driveway.

Dan Russell replied, the proposed studio shed is 10' x 16'.

Shelley Boyle stated, the other one is very small compared to this other one. I don't think you guys would want cars on the driveway all the time?

Dan Russell stated, the original structure is 10' x 12'. You'd be under the 192 square feet allowed. The cars in the driveway, that's what the driveway is for. We would never cite you for that unless it's in-mobile and not licensed, and that's a different story. You would be within the allowable 192 square feet.

Shelley Boyle stated, we're hoping you'd grant us this. It looks really nice and we don't have to take our other one out and throw everything in our garage.

Dan Russell asked, you do have a basement, correct?

Shelley Boyle replied, our basement is filled to the hilt. Like I said, we came down from a four story house and we're still trying to get rid of this stuff.

Dan Russell asked, when was the shed installed?

Shelley Boyle replied, we bought it and installed it in the end of August. It's a gorgeous looking shed. It's not just a shed, it looks nice.

Mr. Michalko stated, I looked at it today.

Shelley Boyle asked, did you like it?

Mr. Michalko replied, it's different.

Daniel Boyle stated, it specifically has the tall wall for the canvases.

Mr. Michalko replied, understandable, on that one side. If I was doing it, I would have checked about a permit and then I would have put a gutter on the front because all that water is just going to be running right off that front, because of the way it's sloped.

Shelley Boyle stated, it comes towards the porch.

Mr. Michalko replied, right. So the water will be running right onto your porch.

Dan Russell stated, that's better than running it to the neighbor. As long as it stays on their property, I don't have an issue with that.

Chairman Syracuse asked, does anyone else have anything to add?

There were no comments.

DECISION

Mr. DiFranco, seconded by Mr. Michalko made a motion to approve the request for an 88 sq. ft. variance from Section 1157.06 (a) (3) to allow for an additional 160 sq. ft. rear yard shed/studio structure. Existing 120 sq. ft. rear yard shed will remain.

ROLL CALL

Ayes: Mr. DiFranco

Nays: Mr. Syracuse, Mr. Michalko

**Motion Carried.
Variance Denied.**

Right to Appeal

Chairman Syracuse stated, you or any interested party has the right to appeal the decision within ten (10) days to Council.

ADJOURNMENT

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

ROLL CALL

Ayes: All

Nays: None

**Motion Carried
Meeting adjourned at 6:25 p.m.**

Chairman

Secretary