

BOARD OF ZONING APPEALS
January 25, 2022

Minutes are posted on the City Website @ www.cityofvermilion.com (meetings tab/city meeting minutes)

Roll Call: Dan Phillips, Ryan Barnes, Guy LeBlanc, Bob Voltz, Lori Barauskas
Attendees: Frank Steigerwald (Property Maintenance Inspector); Greg Drew (Council Representative)
Guests: Mayor Forthofer

NOTE: OFFICIAL ACTION REQUIRES 3 AFFIRMATIVE VOTES. See COV 1264.02(b); Therefore, *Motions will be stated in the positive (e.g., To Grant... / To Waive... / To Determine...); and a member=s >Yes= vote means Agree and a >No= vote means Disagree.

Gwen Fisher, Certified Municipal Clerk called the meeting of January 25, 2022 to order.

APPOINTMENT OF CHAIRMAN/VICE CHAIRMAN:

Ryan Barnes MOVED; G. LeBlanc seconded to appoint Dan Phillips as Chairman for 2022. Roll Call Vote 5 YEAS. **MOTION CARRIED.**

G. LeBlanc MOVED; D. Phillips seconded to appoint Bob Voltz as Vice Chairman for 2022. Roll Call Vote 5 YEAS. **MOTION CARRIED.**

APPROVAL OF MEETING MINUTES:

B. Voltz MOVED, G. LeBlanc seconded to approve the meeting minutes of December 7, 2021. Roll Call Vote 5 YEAS. **MOTION CARRIED.**

CORRESPONDENCE:

G. Fisher entered into the record an Affidavit on commencement of service on the Zoning Appeals Board for Lori Barauskas as she is providing notice of her association with Key Bank and her plans to withdraw from all decisions and deliberations related in any manner to matters related to her employer. She noted that Lori signed the Affidavit in her presence which she notarized, and it will be entered into the record as such.

An *Oath* of truthfulness was administered to those in attendance who planned to speak during these proceedings. *Dan Phillips* described how meetings are conducted, explained the avenue of recourse available when a variance request or appeal might be denied, and gave a reminder that it takes 3 affirmative votes for an action (motion*) to pass.

D. Phillips thanked former BZA member David Chrulski who served on the board for the last three years. He wished him well and said he would be missed. He welcomed Lori Barauskas and Ryan Barnes to the board.

NEW BUSINESS:

(A-1) North Ridge Road – PP#: 01-00-052-000-036 – Applicant: Richard Aufdenkampe (Lot Frontage)

Applicable City code section(s) cited:

1270.01 (e) (2) – Lot Frontage 150' – variance request – 75'

Rick Judge with Russell Realty Services, 201 N. Leavitt Road, Amherst was present to represent Richard Aufdenkampe as he is out of state. He explained he has a piece of his property under contract for sale. He noted a board member visited the property today and he would answer any questions the board may have. D. Phillips said he visited the site as he was uncertain of which house they were talking about whether it was the grey house on the west side or the white house on the east side. R. Judge said back when this was his father's farm – agricultural property is taxed different than residential and when his father lived there, his brother lived next door and they had the parcel to the farmhouse – the one to the far east side so small because they pay residential taxes on that, and everything else is agricultural – being the two-car garage behind it and a century and processing barn. He said Richard's father has passed and he would like to sell this. There is a 75' parcel that gives him access to the back 26 acres and he is not involved in that sale. There is gentleman that has been leasing this land for years and Richard has decided to sell him this land. He said Richard's house is the newer white house to the west and there is a 150' parcel that is also access to the back 26 acres. He explained that Richard wanted to add more land to the farmhouse, which is in combination one of the survey drawing, so they had to add property to that to make it accessible to have a two-car garage, the century barn, and the processing barn that he wanted to see with that parcel. They had a septic system installed on the property which goes onto the 75' right of way to the back property, so he wanted to include that in with the farmhouse. On the 150' access on the far west side of Richard's house he wanted to keep 75' for him, and since they were vacating this 75' that was a right of way and he wanted to give that 75' to the back field for access for that new owner. He said they are vacating one 75' right next to the farmhouse in combination one and then in combination two, they're adding 75' to it, and then the other 75' is going to be tied to what they call the remainder land, which is the 26 acres in the back.

D. Phillips confirmed that combination one is the house up front. R. Judge confirmed this is the farmhouse to the far east. B. Voltz thought they were worrying about some things that really are beyond their purview. They are really talking about the lots shown on the map that total 150' frontage currently and they are asking the board for approval to allow only a 75' frontage, so they can have access to the 26 acres of agricultural land space and allow the other 75' to be combined with the adjacent property. D. Phillips said he was confused with combination one as discussed, but really it doesn't have anything to do with this board. G. LeBlanc confirmed the back property currently has the 150'. D. Phillips said the leftover 75' will be access to the back rear acreage. G. Fisher said they need the variance, so they can go back to Planning Commission to get approval on their lot combinations. R. Judge said they went to Planning last month but they were all thrown together so they couldn't approve it until it went before BZA.

B. Voltz MOVED; D. Phillips seconded to grant the variance for 75' as requested and outlined above in the *applicable city code section(s) cited*. Roll Call Vote 5 YEAS. **MOTION CARRIED.**

[RS] 225 Woodside Avenue -Applicant: John Damron (Allow Home Occupation)

Applicable City code section(s) cited:

1271.00 –Variance request to allow home occupation for automotive repair

D. Phillips noted for the record that the applicant was granted a variance for a home occupation in 2019 and it is up for renewal. He noted the board received a complaint from one his neighbors. He said the board received a lot of emails, pictures, and complaints from the neighbor, which is on file in the clerk's office. Upon visiting the site and meeting with the applicant, D. Phillips was advised that the applicant and neighbor had talked, and everything was good. J. Damron said the neighbor told him that he could build a bigger garage because apparently when he is in the garage there is no problem or noise. He said mainly during the spring and summer he is working outside of the garage because it's too hot, but the neighbor said it is too noisy, so he told him to either put up a fence or to build a bigger garage and work inside the garage in the summer. He said he could enclose the gazebo he just put up on two sides and then maybe make a partition wall that he can roll up. He could put metal roofing on one side with 4" foam on the inside, and then he thought he could use like a puzzle foam together as a barrier, which can be put inside to help draw some of the noise from the neighbor's house. He thought the best thing to do is to put a fence up around the entire property with foam in the middle to help deaden the sound. He did not think it was that noisy constantly all day because he only works from 9:00 a.m. to 6:00 p.m. if that. D. Phillips said in one of the neighbor's complaints he states that there are multiple employees, but the applicant said he had one. However, it was noted the son visits and helps out sometimes and tinkers on jobs. J. Damron said the step kids come over and sometimes they park their cars at the park, and he has told them not to. It was noted that in prior conversation with the neighbor about his complaint, he still is completely opposed to this. J. Damron said he signed his variance. G. LeBlanc said the neighbor signed his variance and his petition to keep JD's open, but maybe he didn't know what he was signing. J. Damron thought he did know. He noted he worked for L&M for 17 years and he would come home and do a side job in the garage, so he has been there for 20 years, and the neighbor's house was a rental house that he himself rented for four years prior to buying his house, and he was upset that he moved out. He said he has dumped a lot of money into his house, and he has letters from constituents supporting him, which is on file in the clerk's office.

D. Phillips said all his neighbors seem to be for this and one is a former mayor of Vermilion, and one is a former city councilman, but he has a lot of complaints from the one neighbor, but he signed the petition to keep it open.

J. Damron said if he receives a car on a tow truck he has never unloaded on the neighbor's side and his other neighbor has given permission for the tow truck to pull into his drive to unload so it doesn't block the street.

D. Phillips asked if he owned the driveway east to the neighbor that is complaining. J. Damron said yes. D. Phillips said the board has different opinions and in his opinion with a home occupation you're not even supposed to know there is a business in the home and he looks to make sure there is no foot traffic and people aren't waking up to noises or traffic coming in. J. Damron said it's pretty quiet and he really didn't understand why the neighbor was complaining because the other neighbor next to him has no complaints. He said he talked with the complaining neighbor, and he was willing to sign the paper as long as he built some kind of sound barrier to deaden the sound. He said he could enclose two sides of the gazebo that he just put up, but they would like to enjoy it, but he would be willing to do it to block the sound. D. Phillips said the board's dilemma is that they take it seriously when somebody complains, especially on a home occupation, and the neighbor has many detailed emails and pictures, but then they have his signature on the support petition for him to allow it. He noted the neighbor is not present, but he noted earlier that he still stands the way he does. G. LeBlanc said he appreciated all the correspondence he received (big stack of letters), but his house is next to Mr. Barkdull's house, and then the source of the letters is getting out in a bigger circle away from the property. He appreciates the other neighbors expressing support, but they're not living next to him – maybe one or two of them are exposed to the situation. J. Damron said this is his only source of income and if he can't do it, then he will lose everything he has just because this neighbor is complaining, and he does not want to lose his home of 20 years that he remodeled and worked his tail off to keep. He said the neighbor is acting two-face because he says one thing to him and then says another behind his back. He noted he has never had any harsh words with Mr. Barkdull and has never ill-spoken of him. He said his business is not going to go much longer as he didn't think he would make it to this past Christmas with his bad health, so it may only be another one or two years and then he will be done for good. However, he does not want to lose everything he has, but if he dies right now everything is covered.

B. Voltz asked if he committed to putting up a fence or had that discussion with the neighbor. J. Damron said he told him that as soon as spring arrives he will make the sound go away because this is his biggest complaint. G. LeBlanc asked if the board has a way to enforce the contingency of a fence. D. Phillips said they can per motion. G. Fisher confirmed the motion can be entertained with a contingency of a fence and the building department will follow that motion. G. LeBlanc asked if the board could put a time limit on it and D. Phillips said yes. The board could table the matter until the fence is up, but Frank said he has to register. D. Phillips said it would have been nice to have the neighbor present to hear directly from him because he is going both ways, but the board wants to respect the neighbors if they have issues, and they have to at least listen to the issues. B. Voltz noted the neighbor submitted in writing to the building department that if J. Damron would either put up a fence or increase his garage size, then he would be good with this.

L. Barauskas asked in the meantime if he could do his work in the garage. J. Damron said it is wintertime, so he is working in the garage. He felt a fence would be the best idea.

The board discussed the type of fence. D. Phillips suggested that J. Damron talk to his neighbor on what type of fence he would like to see. F. Steigerwald explained if he goes completely around his yard then he would need a variance for the fence because there is frontage, and he is allowed to only have a 42" fence. G. LeBlanc noted he would be concerned if he put up a chain link fence as it will not do anything sound wise. J. Damron said it would be solid in order for the sound barrier. D. Phillips advised him that he would need to potentially get another variance for the fence. B. Voltz advised him he would need to get a permit for sure.

D. Phillips MOVED, B. Voltz seconded to grant the variance to allow the home occupation contingent upon the applicant installing a solid fence with a sound barrier by June 1, 2022, and that an agreement is made between him and the adjoining property owner to the north on the fence type. Roll Call Vote 4 YEAS; 1 NAY (LeBlanc). **MOTION CARRIED**.

Adjournment:

D. Phillips adjourned the meeting after no further business was entertained.

Next Meeting: Tuesday, February 22, 2022 – 7:00 p.m. @ Vermilion Municipal Court Complex, 687 Decatur Street, Vermilion, Ohio.

Transcribed by Gwen Fisher, Certified Municipal Clerk