

**NORTH RIDGEVILLE BOARD OF ZONING & BUILDING APPEALS
MINUTES FOR THE REGULAR MEETING HELD APRIL 27, 2017**

TO ORDER: The meeting was called to order at 7:00 P.M. with the Pledge of Allegiance.

ROLL CALL: Present were members Martin DeVries, Planning Commission Liaison Tim Anderson, and Vice Chairperson Linda Masterson.
Absent were Chairman Shawn Kimble and Member Mario Cipriano.
Also present were Chief Building Official Guy Fursdon, Assistant Law Director Toni Morgan, Council Liaison Bernadine Butkowski, Councilman Ward 3 Bruce Abens and Deputy Clerk Donna Tjotjos.

MINUTES:

Vice Chairperson Masterson asked if there were any corrections to the minutes dated March 23, 2017. Hearing none and with no objection, those minutes are approved as presented and will be placed on file.

REPORTS:

Vice Chairperson Masterson asked if there were any reports.

Member DeVries reported on the Board of Flood and Drainage Control explaining that there has been a lot of dredging going on right now especially on the Highland area and then around Jaycox, as you can see they have made a lot of great improvements. They are clearing out ditches as fast as they can.

Vice Chairperson Masterson asked if there were any reports from Planning Commission.

Member Anderson stated no report.

OTHER REPORTS AND CORRESPONDENCE:

Vice Chairperson Masterson asked if there were any other reports or correspondence.

Deputy Clerk Tjotjos responded that there was correspondence received this evening and copies were placed at the members' desks this evening. This will be read during the respective case.

Vice Chairperson Masterson moved the meeting on to the public hearings. She asked the Clerk to read the first application.

PUBLIC HEARING:

APPLICANT: Matt Zemantauski, 5664 Opal Street
OWNER: Same

REQUEST: A two foot front yard variance and a 1,064 square foot size variance to construct a 30 foot by 48 foot accessory outbuilding.
LOCATION: 5664 Opal Street in an RS-1 District
Permanent Parcel Nos. 07-00-017-120-062 and 07-00-017-120-080

Application was read along with comments received from Chief Building Official Guy Fursdon.

Vice Chairperson Masterson asked if there was a representative. She asked that they state their name and address so they can be sworn in.

Matt Zemantauski, owner of the property located at 5644 Opal Street and applicant was sworn in.

Joseph Mossbrugger, neighbor adjacent to this property was also sworn in.

Vice Chairperson Masterson asked the representative to address the Building Official's comments.

Matt Zementauski stated when he turned in the variance request he was made aware of the deed restriction that would be required. It will be an accessory building for personal vehicles and such. Right now he has some that sit outside and in the winter time, his summer vehicles will be stored in there. It will just be used for overall storage for himself and the porch will be used for recreational use.

Vice Chairperson Masterson asked if he would have any problems, because this is a subdivision that has very tiny lots.

Matt Zementauski stated that he would move the building back so that he didn't need the two foot front yard variance.

Vice Chairperson Masterson stated that the two foot variance is fronting that paper street. She asked the representative if he moved the building back, he wouldn't need that portion of the variance.

Matt Zementauski stated he had no problem moving that building back.

Vice Chairperson Masterson addressed the Chief Building Official and asked if the County will not combine parcels because it is in a subdivision and why that is.

Chief Building Official Fursdon stated that she would have to ask the County that. He doesn't have the answer.

Vice Chairperson Masterson asked if that was standard procedure.

Chief Building Official Fursdon responded yes.

Vice Chairperson Masterson stated technically the house is built on two lots and you are not allowed to combine them.

Chief Building Official Fursdon stated that he has been told that County will not combine them in a subdivision. A deed restriction would serve the same purpose. This would be attached to the house with the lot on it.

Vice Chairperson Masterson stated that she understood the practical difficulty and she understands that he owns the property. The lot doesn't have much use due to the size of it. Then there is that paper street.

Matt Zementauski stated yes the paper street is Birch that runs behind that property. He was informed that because it is a paper street, he could use it for access if needed. The access would most likely come from Forest Street off of Cornell.

Vice Chairperson Masterson stated she was confused by the paper street. She asked if the barn would go behind the house.

Member DeVries asked for the other drawing to be pulled up onto the smart board.

Vice Chairperson Masterson clarified that the two foot variance is from a street that doesn't exist. She asked if it was being placed on the property so that it lines up with the house.

Matt Zementauski stated yes. The deck would line up with the porch that will be on the barn.

Member DeVries stated that the applicant also owns the parcels to the left and right of the property in question. He was out at the property today and it is consistent with the neighborhood and what people have done in that area. The properties south to the power lines are all wooded areas and he asked the applicant to explain what he is doing to control water.

Matt Zementauski stated that about eight houses to the south of this location is built up. After talking with the engineer he was given the okay to make that ditch existing. The city dug out a ditch that stopped at the parcel to the north. He was just continuing with that grade making sure all the water would flow to the north and he was going to put swales in, in between each parcel to make sure all the drainage runs smoothly. He went on to discuss the direction everyone on Opal should have their gutters.

Member DeVries asked if he had any experience with this.

Matt Zementauski stated he works at the French Creek Wastewater Treatment Plant. He has almost ten years of wastewater experience. He is pretty proficient in making sure the water is going to go the right way.

Vice Chairperson Masterson asked if there were any additional questions from the Board. She asked if there were any questions from the Administration. Hearing none, she asked if there was any one in the audience that would like to make a comment regarding this application.

Joseph Mossbrugger, neighbor of the applicant, stated that he just wanted to note for the record that he is aware of what Matt is trying to do and he has no problem with this project in any way.

Matt Zementauski stated that he does have intentions of selling the one lot to his neighbor. The only reason it hasn't been changed over yet is because he didn't know if he was going to be required to own a certain amount of acreage.

Vice Chairperson Masterson stated that the deed restriction would go with the front parcel if she is correct.

Chief Building Official Fursdon stated that it will go with the house, but the variance has nothing to do with the other lots the applicant owns. It only pertains to that lot and his dwelling.

Vice Chairperson Masterson entertained a motion.

Member DeVries asked if the motion would have to amend the elimination of the two foot variance, since it is no longer being considered.

Vice Chairperson Masterson stated she felt that should be kept included because her concern is that Birch Street is not a real street currently. She stated that the Board may want to add the deed restriction.

Assistant Law Director Morgan felt that would be a good idea that he makes the deed restriction so that it can never be separated from the parcel. It is the only thing that makes this viable under our current ordinances.

It was moved by DeVries and seconded by Anderson to approve the two foot front yard variance and a 1,064 square foot size variance to construct a 30 foot by 48 foot accessory outbuilding adding that a deed restriction is obtained on the property.

Yes, 3 No, 0

Madam Chairman, the motion was approved by a vote of three yes and zero no.

APPLICANT: Chris Blumfeldt, 9385 Reed Road
OWNER: Anthony J. Shuerger, 2459 Washington Avenue, Cleveland, OH
REQUEST: The following variances to obtain Home Occupation Permit:
1). A variance to allow construction of an accessory building not located on the same parcel as the home occupation residential dwelling.
2). A variance to allow a second home-occupation vehicle parked on the premise.
LOCATION: 1.03 Acres on Reed Road in an R-1 District
Permanent Parcel No. 07-00-012-101-132

Application was read along with comments received from Chief Building Official Guy Fursdon. A memorandum from Assistant Law Director Morgan was read.

Vice Chairperson Masterson asked if there was a representative. She asked that they state their name and address so they can be sworn in.

Chris Blumfeldt of 9385 Reed Road was sworn in.

Vice Chairperson Masterson asked the representative to provide a brief explanation of his request.

Chris Blumfeldt stated he was confused by all that was read. He explained that he owns the property that is immediately across the street. He would simply like to build a nice barn across the street from him in a position where no one will see it as it will not be seen from the road. His objective is to make it completely unobtrusive and of no consequence to no one around. He would like to leave the lot wooded. He wanted to construct a barn in the back of those woods. He has two purposes. One, he has five girls and a lot of stuff. Two, he owns two trucks. He owns a small business and parks the two trucks on his lot every day. He would love to get them under cover. The way he planned the design was for future envisions. He envisioned one day of being able to build a house on that lot. He situated the barn in such a way that he is not ruining the lot for a home at any point in the future.

Vice Chairperson Masterson addressed the Chief Building Official Fursdon and asked if someone besides them came and asked to build a barn on that property, the Building Department would tell them no.

Chief Building Official Fursdon stated not necessarily. If they wanted to build a barn that was accessory to the land. In other words you would have farming equipment in that barn or equipment that would be used to only maintain that land. The ordinance says that it has to be accessory to the land or the dwelling. It is an accessory use.

Vice Chairperson Masterson asked if he were taking care of that property by building a barn and storing equipment that takes care of that property, he could do that.

Chief Building Official Fursdon stated yes.

Chris Blumfeldt added or if he built a house. He asked if the point here was because he doesn't have a home on that property, he can't build an outbuilding there.

Chief Building Official Fursdon stated that if he had a dwelling on the lot, then it would be accessory to the dwelling.

Chris Blumfeldt stated that his home is immediately across the street.

Chief Building Official Fursdon stated that is understood, but the home is not on that lot and that is the sticking point.

Chris Blumfeldt asked if this was something that he is not able to do.

Vice Chairperson Masterson explained the difference between this application and the last application where the parcels were adjacent to each other and both were owned by the applicant. She stated that the applicant is being made to do a deed restriction which would bound those two pieces together. The concept with home occupation and the direction from the Law Department is that the applicant is asking to build a barn and store commercial trucks and running a business. That is changing the zoning of that property from residential to commercial and this Board doesn't have the authority to change the zoning.

Chris Blumfeldt asked that the property not be changed from residential to commercial. He has no desire to run a business out of that location. He simply parks two trucks there. No business is conducted there. No office is there and no one works there. He just parks the vehicles the trucks there. They are picked up each morning and taken to work. He wants that property to be residential because he hopes one day to build a house there. He has five daughters and he hopes that one will live there or that one buys his property and he moves to that location. He is not looking for commercial property. The barn he is looking to build is 30 x 50 and that is 1500 square feet. His two trucks that he wanted to store there would take up 300 square feet and so he is not looking to just park those trucks there, he is also looking to use it for personal storage.

Vice Chairperson Masterson asked if the Board members had any comments.

Member DeVries stated he was out there today and the applicant's wife told him all about the plans and he is very supportive of business. From his understanding the trucks leave in the morning and they come back at the end of the day so there isn't constant traffic. The concern he has, if the property is zoned commercial is, what if the property is sold and the applicant leaves,

then the city is dealing with someone who would want to open up a restaurant in the middle of a residential district.

Chris Blumfeldt stated that if it was zoned commercial, yes, but he is not looking to rezone it to commercial. He spoke with the neighbors on each side of it and they are actually happy that all of those woods aren't going to be cut down and turned into a lot. They like a whole acre of woods and so, he is trying to do this so it doesn't cause any harm to anyone. Right now with the foliage in you wouldn't even be able to see where he wants to put this.

Member DeVries stated that it was explained that it would be a winding road to just behind the wooded area and then that would be where the barn is located.

Chris Blumfeldt stated yes, just like his driveway is now. It winds back. He showed pictures of it and some of the pictures from the air to see what he is up against. It is not out of place in his neighborhood because most of the homes south of him all have acres and they all seem to have outbuildings. So, if this lot ever got sold, it would just have a beautiful outbuilding for the next owner to take it.

Member DeVries addressed the Chief Building Official and Assistant Law Director and asked if there was any zoning that would just allow him to build a storage facility without rezoning it to commercial.

Chief Building Official Fursdon stated he could build a storage building there if there was a dwelling there. He could be a storage building there if it was accessory to the land.

Assistant Law Director Morgan stated that this application does not qualify as a home occupation. There is no scenario where this would fit.

Member DeVries stated that as a Board, they try to say yes and they try to help out businesses and residents in the town, but if it does get zoned differently, he is afraid of what the outcome may be in the end.

Chris Blumfeldt asked if it was zoned commercial could it resort back to residential any time it would sell.

Chief Building Official Fursdon stated he would have a tough time rezoning that commercial with no commercial zoning around this parcel. It would be considered spot zoning, which is frowned upon.

Vice Chairperson Masterson asked if there were any comments from the Administration.

Council Liaison Butkowski asked if the applicant stores his trucks at his house.

Chris Blumfeldt stated yes, he does.

Council Liaison Butkowski asked if he had a home occupation permit.

Chris Blumfeldt stated no, he didn't know about it until he came in to discuss this property. He stated the Chief Building Official recommended that he come here to this Board first. He stated he kept those two trucks in his driveway for the past seven years. He has never had a complaint from anyone and he makes sure that no one sees it. He is in a seven acre lot and they are parked way in the back. That is just how he runs his business for the past seven years.

Council Liaison Butkowski stated she thought she read in the application where the trucks weighed 8,000 lbs.

Chris Blumfeldt stated yes.

Council Liaison Butkowski stated that the city doesn't allow trucks on that road.

Chris Blumfeldt stated he showed pictures of them so that everyone could see.

Council Liaison Butkowski stated that the city doesn't allow anything more than a pickup truck on that road and so, if they are down there coming and going that means four trips for those trucks on that road every day. That again, is one more thing. The applicant is going to have to find someplace else to keep those trucks. She stated you can't have those things down there, they are too big.

Chris Blumfeldt spoke but it was inaudible.

Council Liaison Butkowski stated that there is someplace else he will have to rent because they are not supposed to be there. She stated that we just can't sit here and give this applicant permission when can ticket other people. She stated that if we give him permission, we can't ticket anybody else for them.

Vice Chairperson Masterson addressed Chief Building Official Fursdon and asked if Council Liaison Butkowski was correct.

Chief Building Official Fursdon asked regarding what.

Vice Chairperson Masterson stated regarding the weight of the trucks.

Chief Building Official Fursdon stated if this was an approved home occupation, that truck would be allowed to be 11,000 lbs by ordinance.

Vice Chairperson Masterson stated then they are allowed.

Council Liaison Butkowski stated they aren't allowed because he doesn't have a permit.

Chief Building Official Fursdon stated that they aren't allowed to be there because he doesn't have a home occupation permit, but they don't exceed the weight limitation under the home occupation ordinance.

Council Liaison Butkowski stated she didn't realize it was that high.

Chief Building Official Fursdon explained that Council tried to set it in terms of a one ton pickup truck and that number was given to them and that is what they chose to put in the ordinance, which is 11,000 lbs.

Vice Chairperson Masterson stated that they are allowed by weight. She addressed Chief Building Official again and stated that he recommended that this applicant hold off on the home occupation permit until after this meeting. The applicant wasn't aware that he needed a home occupation permit until after he came in to ask for this accessory building.

Chris Blumfeldt stated that is when he learned and it was recommended that he put these two together and come before the Board to explain what he does.

Chief Building Official Fursdon stated this was his first choice to try and get a home occupation for this. A difficult hurdle to surmount and his second choice would be to get a home occupation permit for his existing lot where he has a home to keep his two vehicles there. In that case he would need a separate application to receive a variance for the second vehicle and he is assuming that there are two people driving those vehicles. He asked if any of those employees members of his family.

Chris Blumfeldt stated no.

Chief Building Official Fursdon stated he would need another variance then because you are only allowed one outside employee that is not a family member and you are only allowed one vehicle under the home occupation ordinance.

Vice Chairperson Masterson addressed the applicant and stated he has the option of withdrawing or postponing this application.

Chris Blumfeldt asked what he would benefit from that.

Member DeVries asked why wouldn't we be withdrawing this application and then refile a new application with the two variances the Chief Building Official Fursdon just mentioned.

Vice Chairperson Masterson added that it would be for the home occupation permit.

Chris Blumfeldt asked for clarification.

Vice Chairperson Masterson stated that the applicant can choose whatever he chooses to do. She is giving the applicant the option to withdraw it. She can't guarantee how a vote would ever go. She stated that in her opinion, it doesn't look like this application would be approved.

Chief Building Official Fursdon stated that there is no advantage to withdraw this application. He needs a separate application if he wishes to get the home occupation permit on the lot he resides on.

Vice Chairperson Masterson stated then the Board will take into account the application that is before them which is a variance to allow an accessory building on vacant land.

Chief Building Official Fursdon stated that is all they can do because that is all that was posted.

Member DeVries asked if the Board votes on the current variance, it doesn't restrict him from coming back and applying.

Chief Building Official Fursdon stated he has every right to come back and reapply for another home occupation approval because it is nonconforming to our ordinance for home occupation.

Member Masterson asked if there was any one else in the audience that would like to speak on this matter.

Bruce Abens, Councilman, Ward 3 stated he has to admit that he received quite a few emails pertaining to this application and he has a total of four people who expressed their concerns that they do not want this approved. It is still a commercial business whether it is going to be hidden or not and they don't appreciate the fact that these are trash trucks no matter how they look. Quite frankly there are other issues in that area that are trying to be resolved and they just don't want to add one more item to it. Again, he would have to look into this further, but Root Road is a no truck road and those are definitely trucks whether they are 8,000 lbs or 11,000 lbs. If the Board approves this application, they would be technically approving them to go down that road without any issues.

Vice Chairperson Masterson stated that the Board can only address the variance not what is or isn't allowed on the road.

Bruce Abens stated that he has just gone through this issue with Sugar Ridge and there are no trucks allowed on that road.

Vice Chairperson Masterson stated that the Board has to address what is in front of them. They can't address what is allowed on the city roads as that is a police matter.

Bruce Abens stated being familiar with trash companies, it starts off as being storage and then it just keeps on moving from there.

Chris Blumfeldt stated that they pick up junk and take it to the dump, they don't collect stuff. He stated he is confused with what was stated.

Vice Chairperson Masterson asked if there was anyone else that would like to speak on this matter.

A person in the audience spoke but it was inaudible.

Vice Chairperson Masterson asked if there was anyone else that would like to speak. Hearing none, she entertained a motion.

It was moved by Anderson and seconded by DeVries to deny the application.

Yes, 2 No, 1 (Masterson)

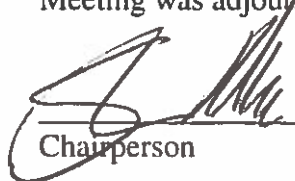
Madam Chairman, the motion to deny the application was approved by a vote of two yes and one no.

OTHER BUSINESS:

ADJOURNMENT:

Vice Chairperson Masterson stated there is no other business to be brought before the Board this evening and therefore, she adjourned the meeting.

Meeting was adjourned at 7:47 P.M.



Chairperson



Secretary Donna Tjotjos

May 25, 2017