

ON MONDAY, JUNE 5, 2017, THE BOARD OF ADJUSTMENT HELD A MEETING IN THE 2ND FLOOR COURTROOM OF THE WOODFORD COUNTY COURTHOUSE AT 6:30 P.M.

PLEDGE OF ALLEGIANCE

MEMBERS PRESENT: Al Schooler, Frank Stark, Tim Turney, Fred Powers

MINUTES: A motion was made by Mr. Stark, as seconded by Mr. Powers, to approve the May 1, 2017 minutes, as submitted. The motion carried with four (4) aye votes.

Application #06-009-2017 – Dimensional Variance Permit – Patrick Shulze -76 Hanover Dr - R-1B District – Article VII, Section 706.6 & Article V, Section 504.2 – Applicant is seeking a 14 foot variance from the required 30 foot minimum front yard setback in order to install a 6 foot fence, which will allow it to be 16 feet from the front property line along Winton Road.

Chairman Turney declared the hearing open and called upon Isaac Hughes, Building Inspector for comments. Mr. Hughes summarized the staff report that was distributed to the board members. Mr. Hughes noted that the owner is seeking a Dimensional Variance of 14' to install a 6' privacy fence inside a 30' front yard setback on a corner lot. Being in an R-1B zone the Ordinance allows it with Board approval. Mr. Hughes noted that there are four criteria that must be met. Number three seemed to be of little doubt. There were numerous like variances approved in the area. Letters were sent to adjoining property owners and one neighbor was at the meeting and applied for a like variance.

All public notifications were met.

Mr. Hughes noted that if the Board were to approve the variance that it should be approved with the conditions listed in the staff report.

Chairman Turney asked if there were any further questions for Mr. Hughes.

Mr. Stark commented that in the staff report it stated that there were four criteria that needed to be met for the variance to be approved and Mr. Hughes stated that there were only 3 of the 4, what is the fourth one missing? Mr. Hughes noted that it was number three and seemed to be of doubt and noted that it said "This request is a result of the applicant's actions. Ordinance has not changed. However the applicant did not own the property when the zoning ordinance was adopted." Chairman Turney clarified that when Mr. Shulze bought the property all of the current ordinances were in place. Mr. Stark noted that what was missing is that it is not unique because they can't get the full use out of their yard. Mr. Hughes noted that with corner lots, most homeowners don't get to use the whole yard because it is a side/front yard with greater setbacks.

Patrick Shulze was present for discussion. Mr. Shulze noted that his truck would stick out farther from the fence. The reason he is requesting the variance is because he has business equipment and can't bring it home because there is not a fence to put it behind and no privacy and has to leave equipment on the jobsite. Two feet from the side of his house is not enough for what he needs. Mr. Shulze noted that people can still see down the street at the 4-way stop. Chairman Turney noted that it did not say anything about equipment on the application. Mr. Shulze noted that he hurriedly filled out the application because he was trying to get to work. Chairman Turney noted that some of those valid

reasons would change the application and that is different than what was published. Chairman Turney asked Mr. Shulze if he realized this issue at the time he purchased the property. Mr. Shulze stated that he did not. Mr. Powers asked if there was a Homeowner's Association involved and Mr. Shulze noted that they don't exist. Mr. Stark noted that the HOA has no bearing on the decision of the Board of Adjustment.

Mr. Hughes noted that staff did receive a letter from the resident at 357 Winton Road in support of the variance.

Chairman Turney asked if anyone from the public wishing to speak, hearing none he closed the hearing and asked for a motion to approve or deny.

A motion was made by Mr. Stark, as seconded by Mr. Schooler, to deny as presented because all criteria was not satisfied, more specifically item #3, Application #06-009-2017 – Dimensional Variance Permit – Patrick Shulze -76 Hanover Dr - R-1B District – Article VII, Section 706.6 & Article V, Section 504.2 – Applicant is seeking a 14 foot variance from the required 30 foot minimum front yard setback in order to install a 6 foot fence, which will allow it to be 16 feet from the front property line along Winton Road. The motion carried with four (4) aye votes.

Application #06-010-2017 – Dimensional Variance Permit – Leonid Voznyuk – 496 Drake Landing - R-1B District – Article VII, Section 706.6 & Article V, Section 504.2 – Applicant is seeking a 14 foot variance from the required 30 foot minimum front yard setback in order to install a 6 foot fence which will allow it to be 16 feet from the front property line along Winton Road.

Chairman Turney declared the hearing open and called upon Mr. Hughes. Mr. Hughes summarized the staff report that was distributed to the board members. Mr. Hughes noted that the owner is seeking a Dimensional Variance of 14' to install a 6' privacy fence inside a 30' front yard setback on a corner lot. Being in an R-1B zone the Ordinance allows it with Board approval. Mr. Hughes noted that there are four criteria that must be met. Number three seemed to be of little doubt. There were numerous like variances approved in the area. Letters were sent to adjoining property owners and one neighbor was at the meeting and applied for a like variance.

All public notifications were met.

Mr. Hughes noted that if the Board were to approve the variance that it should be approved with the conditions listed in the staff report.

Chairman Turney asked if there were any further questions for Mr. Hughes.

Mr. Schooler asked if this had the same issue with criteria number three. Chairman Turney noted that it did.

Leonid Voznyuk was present for discussion. Mr. Voznyuk noted that he would like to fence his yard because he had ten children and seventeen grandchildren and wanted his yard bigger. Chairman Turney

asked Mr. Voznyuk that when he bought the property did he know that everything was the same. Mr. Voznyuk stated yes.

Chairman Turney asked the Board members if they had any questions. Hearing none he closed the hearing and asked for a motion to approve or deny.

A motion was made by Mr. Schooler, as seconded by Mr. Powers, to deny as presented because all criteria was not satisfied, more specifically item #3, Application #06-010-2017 – Dimensional Variance Permit – Leonid Voznyuk – 496 Drake Landing - R-1B District – Article VII, Section 706.6 & Article V, Section 504.2 – Applicant is seeking a 14 foot variance from the required 30 foot minimum front yard setback in order to install a 6 foot fence which will allow it to be 16 feet from the front property line along Winton Road. The motion carried with four (4) aye votes.

Application #06-011-2017 – Conditional Use Permit – Brandi T. Jones – 153 Elm Street – R-1A District – Article VII, Section 705.4 (A) & Article II, Section 260 (1-9). Owner is seeking a Conditional Use Permit for a Home Occupation to operate a Single Physician Chiropractic Office.

Chairman Turney declared the hearing open and called upon Mr. Hughes. Mr. Hughes summarized the staff report that was distributed to the board members. Mr. Hughes noted that Dr. Brandi Jones is requesting a Conditional Use Permit (CUP) for a Home Occupation to operate a Single Physician Chiropractic Office; she is in an R-1A zone which allows her to operate upon Board approval in her primary home. The office will be 255 sq. ft. of the 5,000 sq. ft home. The residence has a side entrance and a long driveway with room to turn around in the rear and wide enough for two cars to pass to allow for off street parking and is shared with the neighbor. The proposed hours of operation were listed in the staff report. The operation will consist of one client at a time with a time interval between clients. The applicant appeared to meet all terms of Home Occupation as defined in the Ordinance Article VII Section 705.4 A. All public notices were met. All conditions recommended in the report were suggested to be required. Chairman Turney noted that the conditions were listed in the staff report.

Chairman Turney called upon the representative for the applicant and noted that the opposition will then be able to speak and then there was rebuttal and then Chairman Turney opened it up to comments from the public.

Randal Strobo, representative for Brandi Jones referred to a letter that he had sent to board members. Mr. Strobo noted that he had a Power Point presentation for the Board to review to show the home and layout of the property. Mr. Strobo distributed letters of support from members of the community and friends of Ms. Jones. Mr. Strobo noted that the room that will be used for the business is in the front of the home and is about 255 sq. ft., which is well below the 300 sq. ft. limit. It has a separate entrance on the side of the home. The home is approximately 6100 sq. ft. Mr. Strobo noted that the property is zoned R-1A, which allows for a Home Occupation. Mr. Strobo noted that the ordinance allows the use like this as long as criteria are met for a Home Occupation. Mr. Strobo reviewed the criteria to be met for compliance with Article VII, Section 705.4 “Home Occupation” as defined and noted that Ms. Jones complies with all criteria. Mr. Strobo noted that the driveway was recently paved and widened to make it easier for the neighbor to get in and out. Mr. Strobo noted that Dr. Jones, her father and mother,

started talking to the neighbors in February 2016 about this and had not heard a word of opposition until approximately two weeks ago. Mr. Strobo noted that the business would have no impact on the neighbors including traffic and parking. Mr. Strobo noted that Dr. Jones stated in a letter with her application, "that if after starting her practice and notices that she is creating a strain on traffic, she is open to changing her operating hours and willing to change hours on the early and late days if it is a nuisance to her neighbors. She has a love of old historic homes and neighborhoods and has no desire to change the look of her home to look commercial. She will do everything possible to maintain the residential and historic integrity of her property. She does not want to become a nuisance or put a strain on her neighbors in any way, and will do everything she can to rectify the situation immediately if something does occur."

Mr. Strobo noted that there was a favorable staff report stating that the application meets all the necessary criteria listed and within the associated ordinances. Mr. Strobo noted that with his research on the Board's action on CUP applications in R-1A zone for Home Occupation, the Board passed both unanimously. Mr. Strobo noted that Dr. Jones cares about her community and wants to be a good community member and is passionate about historic preservation, hardworking and well educated, follows the rules, and has strong family values.

Mr. Strobo respectfully asked for the Board to approve the Conditional Use Permit application as submitted.

Chairman Turney called upon Bill Moore, representative for Read and Nancy Miller of 160 Elm Street. Mr. Moore distributed a letter that outlined their position. Mr. Moore pointed out that the copy of the deed attached to the staff report is a deed from Jacob Schwalbach to Doreen Schwalbach and the Jones name was not mentioned. Mr. Moore noted that he obtained a current deed from the courthouse that lists Brandi Jones as half owner and her father and possibly his wife own the other half interest, but the only applicant is Brandi and the other owners have not made application, so there is a procedural error in the application. Second, Dr. Jones reported that she spoke with all of her adjoining neighbors for over a year and that no one has expressed objection but that is not their recollection of the situation and they were not told that there was an intention to operate a business office in this property. Upon being informed they immediately told Dr. Jones of their opposition and explained why they were opposed. The residents on Elm Street have fought for three decades any intrusion of a non-residential use along Elm Street. Mr. Moore presented a petition that was obtained by the Millers to indicate opposition by nearly every neighbor in the Elm Street area. Mr. Moore noted that additional blacktop was recently added in front of the resident to provide additional parking and makes it look like a commercial enterprise. Mr. Moore noted that in the application Dr. Jones stated she is only going to use one room of the home and it's off the side that has its own entrance. She does not include the square footage of the bathroom and indicated that it would be available for use. Inclusion of the areas would likely exceed the 300 square foot maximum. More use would be made for commercial purposes than for residential purposes with clients coming and going all day. Mr. Moore noted that Dr. Jones will be operating her business in a single room that must house all of her equipment and administrative equipment in the single room. She is the only employee and will have to handle all matters of the business by herself which includes all clerical duties. Mr. Moore noted that the concern by the neighbors is that she is

introducing into the residential area, with homes just as pretty and historic as hers, now putting a commercial/business use in the middle of that and the neighbors don't want that. Mr. Moore noted that the ordinance permits the Board to allow Dr. Jones to have the business but it doesn't compel the Board to do it. The Board can grant, modify or deny the application. In order to grant a conditional use permit, the Board must make a finding that the proposed use is essential or would promote the public health, safety or welfare. There are plenty of places in Versailles to operate a Chiropractic business and Dr. Jones seems to be a wonderful person.

Chairman Turney asked if the Board members had any questions for either attorney, hearing none, Chairman Turney asked Mr. Strobo for rebuttal comments.

Mr. Strobo addressed the concern by neighbors to keep the neighborhood residential, it will remain residential. If they want to keep all the uses out, they need to change the ordinance or zoning. Dr. Jones meets all the criteria for a home occupation. The parking spot in front of the home was already there and Dr. Jones just re-paved it and the Millers use that parking spot for construction vehicles working on their home. Dr. Jones doesn't complain about it and she wants to be a good neighbor and let them use it. Mr. Strobo noted that the bathroom is not being contemplated and Mr. Moore doesn't know the square footage of it. It was not added to the application and there was no reason to consider it.

Chairman Turney opened the floor to the public for comments.

Brandi Jones noted that upon her graduation she was contemplating where to live and she wanted to move to Versailles to be close to family and find property that would allow her to practice in her home. Once she found the house on Elm Street, she and her parents spoke to neighbors on either side and both of them said they were fine with her plans. No one had ever expressed opposition to her. Dr. Jones noted that she carries her diagnostic equipment in a bag and has one table. Dr. Jones noted that she wants to make the home look better because it has not been maintained.

Read Miller of 160 Elm Street noted that he has lived there for forty-five years and is aware of the ordinance and that the neighborhood should exist as it is. The noise and traffic will increase. Mr. Miller noted that he watched the paving being done in front of Dr. Jones' house and to his knowledge none of the contractors have parked there. He is aware that commercial intrusion in residential areas diminishes the value of homes and understands that doesn't speak to the ordinance. Mr. Miller checked with all of his neighbors and everyone in the neighborhood is opposed to the project and urged the Board to deny the application.

General Charles Jones, co-owner of 153 Elm Street and father of Dr. Jones. General Jones noted that Ms. Jones has respect and integrity for the community. General Jones noted that some of the driveways on Elm Street need to be looked at and noted that the Reece's joins Dr. Jones and he contacted the Department of Highway and Zoning and they said there were no issues on improving the driveway or the front gravel parking area. Being co-owner of the property, he was concerned about the value and they will be improving and restoring the house.

Jim Navolio of 170 Elm Street has been a resident there for forty years and noted that they have been fighting the battle on Elm Street for forty years. Mr. Navolio noted that twenty years ago St. Leo Church was given Margaret Hall School, they were going to turn it into a high density residential district; they fought it and lost in the zoning commission and in the District Court but won in the Court of Appeals. It was agreed that the property would be used for senior residential community. Mr. Navolio noted that about fifteen years ago a preacher came in wanted to do a commercial enterprise at the same location and they fought that and he doesn't believe that passed the Zoning Commission. He noted that no one has spoken to him or approached him about this request. Property values will be diminished if commercial enterprises are allowed in the R-1 zone. Mr. Navolio noted that there are twenty houses on Elm Street that are designated as Bluegrass Trust houses and this is a treasure of the community. Mr. Navolio noted that it should be denied and he strongly opposed it.

Margaret Reece Newsome represented the Reece family at 151 Elm Street and they live next door to Dr. Jones' property. Ms. Newsome noted that her mother Mary Jean Reece opposes the request. The driveway has been a shared driveway for many years but they oppose any change in the zoning ordinance.

Debbie Devine noted that she met General Jones about fifteen years ago; they are a respected family and have known Dr. Jones really well for two years. Ms. Devine noted that Ms. Jones would not lie on her application and she is a great person and will not do anything to reduce the value of homes. Ms. Devine asked the Board to approve the request.

George Gill of 116 Old Hickory Lane noted that Old Hickory comes out onto Elm Street about where Dr. Jones' driveway is. His concern was that on the left hand side coming out there is a hill and frequently it is difficult to see smaller cars until pulling out and is afraid that this would be creating a dangerous situation for people out.

Kim Coyle, a friend of Dr. Jones noted that she has known the family for about ten to fifteen years and they want their stuff to look nice. She has witnessed trucks parking in front of Dr. Jones's house.

Maria Alves Ratterman of 159 Elm Street noted that the Jones family did speak to her last year but spoke mainly of the detached structure and she told them that they had a big traffic and parking issue and they told her they had a plan and she said she didn't see how that would work. She did not intend to give the impression that she was in favor of the request. She was concerned with property value, historic and integrity character of the Elm Street area.

Ann Sparker of 181 Elm Street noted that her concern was decreased property value because she was very familiar with a community that has no zoning. She asked the Board to deny the request.

Kim Lester noted that she has known the Jones' for over ten years and Dr. Jones is an upstanding citizen and she does not want to do anything to decrease the value of the homes. Ms. Lester noted that the gentleman that is building onto the side of his house would take away from the character of his home building onto the side of it. If there is an issue pulling out of a street because of bushes then the bushes

need to be trimmed. Ms. Lester noted that Ms. Jones wants to raise her child in the home so he can be with family in the community and she will not harm the surrounding community.

Robin Waldron of 124 Elm Street noted that she was in opposition to the variance and commented about Dr. Jones doing her research. Ms. Waldron noted that there is a Chiropractic practice about ½ mile from her house around the corner and another one about a mile away and tended to wonder about the level of research and if there was a need for the health and safety of the people of Versailles to have a solo chiropractic person practicing. Ms. Waldron encouraged the Board to deny the request.

John Miller of 194 Elm Street noted that he grew up on Elm Street and recently moved back a year ago. He specifically moved back to Elm Street because of the environment and wanted a residential neighborhood that did not have businesses like some of other residential neighborhoods. Mr. Miller believes that if the Board allows the variance that it will diminish the values and set precedence for others to get variances. Mr. Miller noted that he could do the same thing for some other business. The intersection at Old Hickory and Elm Street is a dangerous place; poor site distance going down the hill. Mr. Miller addressed criteria #9 and noted that additional pavement and widening had been done prior to submitting application. Mr. Miller asked the Board to deny the request.

Cindy Culver noted that she has known the family for many years and her husband was deployed with General Jones. Ms. Culver noted that the family would not mislead the council, if they said they did something then they did. Dr. Jones is resilient and a go-getter and would not do anything to decrease the value of homes. Ms. Culver asked the Board to approve the request.

Margaret Newsome of 151 Elm Street noted that they are really going to be affected by this request. She noted that she told Dr. Jones that it was nothing personal and they have shared the driveway for years. Ms. Newsome noted that her bathroom window looks out into the side where the proposed entrance is for the office. Ms. Newsome asked the Board to oppose the request.

Debbie Devine noted that she got upset when the woman on the front row said she was a load of crap when she spoke before. Ms. Devine noted that the Jones' can do nothing but better the community.

General Charles Jones noted that when he spoke to Fred Reece regarding the repaving of the driveway, which was expanded on his side and the zoning office said there was no issue and he believes that it goes down the property line. General Jones talked to the State Highway Department regarding the front parking area and said there were no issues nor were there any problems with Mr. Reece.

Mr. Moore noted that the intention is not to cast any disparagement on Ms. Jones or her father or family; she tends to be a good person based on comment. The issue in the case is should a Conditional Use Permit be issued for this use at this property. The people that live in this area don't want and described why they don't want it because it would be detrimental to the values of their properties and have an adverse traffic impact. Mr. Moore noted that Mr. Miller described the paving of the area in front of the house, it's not a violation. The purpose of the Conditional Use is to retain the residential character of the area and that had already been changed some more by a commercial aspect before the

process was started. When you look at the use, is it something that was necessary, and should be approved; is there something that you can add additions on to that will make it so it doesn't have the negative affect that the residents of the area are trying to prohibit. The answer is "no". There are lots of places in Versailles to have a chiropractic office.

Mr. Strobo commended everyone who spoke and noted that what he heard from the opposition is they just don't like the request for a Conditional Use Permit. Mr. Strobo noted that Dr. Jones complies with each element of Home Occupation and she has the right to operate her chiropractic practice at this location under the ordinance as it exists today. If opposition doesn't like home occupation in R-1A zone then they should ask the Planning Commission to amend the zoning ordinance and get rid of home occupation in R-1A zone. Mr. Strobo noted that no one in opposition spoke to the ordinance with the exception of Mr. Moore who addressed it a few times. Mr. Strobo noted that Ms. Jones has the property right as the homeowner in the City of Versailles to operate a business that occupies less than 5% of her home. That will be operated by her solely, only employee, has plenty of parking and Ms. Jones has the right to operate the business under the ordinance as it exist. Mr. Strobo respectfully requests that the Board grant the Conditional Use Permit for the Home Occupation.

Mr. Stark asked Mr. Hughes when the Conditional Use Permit was advertised publicly. Mr. Hughes stated that it was in the Woodford Sun on the May 25, 2017. Mr. Schooler asked how many homes were on the registry of historical places. Mr. Navolio answered that it was about twenty. Chairman Turney asked Dr. Jones about how many patients she intended seeing on a daily or weekly basis. Dr. Jones noted that at first she will just be starting and would be happy with three to four patients a day, but would like to build up to seeing three to four patients an hour, so that would be about twenty-one patients in a seven hour day. Mr. Powers noted that seeing three patients in an hour with about twenty minutes a patient and with staging the patients so there is not an overlap. Dr. Jones stated that she doesn't need twenty minutes with a patient unless she is doing a physical and would schedule that differently. Mr. Powers asked if there were any other Conditional Use Permits on Elm Street. Mr. Hughes stated that he didn't find any but understands there was one years back at this address. Mr. Stark noted that there was one approved in June 1982, Office of Professional Entertainers in the main residence was unanimously approved. Mr. Stark asked if the application was correct since the deed list other owners. Chairman Turney noted that the permit was applied for correctly since she is part owner of the property. Chairman Turney asked Mr. Hughes if he checked that out. Mr. Hughes noted that the deed that was submitted with the application was incorrect since the correct one had not been filed when the application was submitted.

Chairman Turney asked if there were any further questions, hearing none the hearing was closed.

Mr. Stark asked if they could talk a little more about the request before the hearing was closed. Chairman Turney agreed.

Mr. Stark noted that he believes there are some real legal issues binding on the Board of Adjustment. There is no violation of the ordinance and they comply with all the Conditional Uses, he thinks they have an issue with declining it, even with the disapproval from the people living on the street. Mr. Stark

suggested keeping the meeting open to contact the Commission's attorney, Tim Butler, to get his opinion on how the Board stands legally if the Board decides not to approve the request. Mr. Schooler noted that if they do, they can't deny it just because someone doesn't like something. There has to be reason to deny it and agreed with Mr. Stark to keep the meeting open and contact the Commission's attorney.

Mr. Strobo asked if this was postponed to another meeting would there be opportunity for people to speak again. Chairman Turney noted that yes they could if the hearing remains open it would still be available for public comment at the next meeting. If the meeting is closed and put off a decision after consulting counsel then there would not be. Chairman Turney noted that it would be his opinion if they seek Mr. Butler's opinion that they would leave it open, that would include everybody.

A motion was made by Mr. Stark, as seconded by Mr. Powers, to leave the hearing open until the July 10th meeting and to allow Board members to consult with legal counsel. The motion carried with three (3) aye votes (Stark, Schooler, Powers) and one (1) nay vote (Turney).

A motion was made by Mr. Stark, so moved by Chairman Turney, to adjourn at 7:57 p.m. The motion carried with four (4) aye votes.

Tim Turney, Chairman

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