

XENIA TOWNSHIP BOARD OF ZONING APPEALS
PUBLIC HEARING

June 1, 2015

THESE MINUTES ARE A SUMMARY OF THE EVENTS OF THE PUBLIC HEARING AND ARE NOT A WORD FOR WORD ACCOUNT OF THE DISCUSSIONS WHICH TOOK PLACE.

Board of Zoning Appeals members present: Ed Jacobson, Charles Bingamon, Joe Mullikin and Ken Penewit. Also present was Alan Stock, Xenia Township Zoning Inspector/Clerk.

Ed Jacobson, Chairman, called the meeting to order at 7:00 p.m. He presided at the Hearing and welcomed the people in attendance. He went over the rules of the meeting. All cell phones must be turned off. Everyone must sign in. The application will be read by Alan Stock, Zoning Inspector/Clerk. Because the Board of Zoning Appeals decisions are quasi-judicial, all testimony has to be sworn. Everyone must come to the podium, state their name and address and state they are under oath. Only facts are to be given, not opinions or emotions. Minutes are being taken manually and electronically. Questions are to be directed to the Board only. The Board of Zoning Appeals will follow Roberts Rules of Order for procedure. The Chair reserves the right to limit public input. The Board of Zoning Appeals may approve in whole or in part, reject in whole or in part, or reschedule to another date. An applicant may also withdraw their request. The decision will become effective five days after date of decision. A decision by this Board is a final order. Under ORC 2506.04, aggrieved individuals may appeal the decision to Common Pleas Court. The audience joined the Board in the Pledge of Allegiance. Mr. Jacobson administered the oath to the audience.

Mr. Jacobson asked Mr. Stock if the application was lawful to be heard by the Board, if the notice had been published in the newspaper and if notices had been mailed to all property owners within 500' of the property. Mr. Stock answered this had been done and a sign was placed on the Vogelsong property. He also read a letter from co-owner, Dannie Lee Vogelsong, stating he is aware of the request of his brother, Gregory Scott Vogelsong, for a variance to divide the land at 682 W. Krepps Road, and he agrees with this request and thinks it will be beneficial for all parties involved. Mr. Jacobson asked the Board members if they had read and considered the application—all answered yes; if they felt they should not be part of the proceeding due to some conflict of interest—all answered no; and if they intend to participate in the entire procedure including voting on the questions asked—all answered yes.

Gregory Scott Vogelsong, 682 W. Krepps, Xenia, Ohio 45385 - Request for Area Variance Agriculture Split, 7 acre parcel into two lots, one at 5 acres with no road frontage, one with two acres, existing road frontage.

Mr. Stock read the application from Gregory Scott Vogelsong, 682 W. Krepps Rd., Parcel ID #M36000200240004100, Xenia Township, Greene County, OH. Their application states "A variance should be allowed in this case to avoid unnecessary hardship because it would economically be better for them if they could sell the five (5) acres to a neighbor farmer who will continue to use it as farmland". The applicant also answered the seven (7) Duncan questions.

Mr. Stock said the Xenia Township Zoning Resolution has a five (5) acre minimum with agriculture parcels. This currently is a seven (7) acre parcel and they would like to split the parcel into two (2) acres in the front and five (5) acres in the rear. The rear parcel would not have any road frontage. Mr. Stock showed many parcels along the road which are also landlocked. He also provided a potential rough separation of the parcel. If this variance is granted the property owner would go to a surveyor for this split.

Greg Vogelsong stated he was still under oath. He said they do not need the expense of the seven (7) acres. He said the back five (5) acres is tillable, could be sold for farming and nothing would change from what it is today as it is already being farmed. Mr. Jacobson asked how the back property is currently being handled Mr. Vogelsong answered it is rented from them and farmed. Mr. Jacobson asked why that would not work going forward. Mr. Vogelsong answered the taxes are so high for the whole seven (7) acres. Mr. Mullikin asked if they have a potential buyer of the property. Mr. Vogelsong said they have spoken to several farmers who have properties that adjoin their land. He also said he would have no problem if his driveway is used as an easement to get to the land. Mr. Jacobson said the records indicate Mr. Vogelsong purchased the property about a month ago and asked how he intended to make it work without approval of a variance. Greg Vogelsong said if the variance does not come through they are going to have to sell the whole seven (7) acres. He owns half of the seven acres and if the variance is approved, he will sell the five (5) acres and buy out the two (2) acres to be sole owner.

Dannie Vogelsong stated he was still under oath. He said his uncle is having health issues and he previously owned the property. He said if they can separate the parcel and sell the five (5) acres, his brother can have the money to purchase the house, the land and the barn. He said his uncle has owned the land the entire time his brother has rented from him—eight (8) years.

Mr. Jacobson said he was curious about why they would buy the property and not be able to sustain it without getting a variance. Dannie Vogelsong answered they were going to just keep renting, but Greg would like to own the property himself.

Mr. Mullikin said the property essentially touches three (3) different parcels and asked if there are only two different owners. The answer was yes.

Mr. Jacobson asked who rents the back property at this time. The answer was Mr. Neil Ferguson. Mr. Ferguson owns the property to the east.

Mr. Neil Ferguson stated he was still under oath. He showed his property on the map and said he has the two (2) properties on the east which he runs as one. The Vogelsong property is hemmed in by his property and property owned by the Miracles.

Mr. Jacobson asked for any comments from the audience.

Mr. Ferguson stated he was still under oath. He said he has no problem with the property being split; however he does want the property to stay agricultural. He does not want to see a dwelling built there. He said there is a piece of land that comes along the driveway and, depending on how the parcel is surveyed out, if there is a full five (5) acres that comes up behind the barn he presumes the little strip along the driveway would be consumed and probably maintained as yard. The property would become landlocked. If the land behind the barn does not amount to

five (5) acres, he assumes the land to make up the five (5) acres will come out of that strip beside the driveway. He said neither property owner has a problem with the other one purchasing the five (5) acres. He said the Vogelsongs have been good neighbors and take good care of their property. He said he would like to see it remain tillable. Accessibility to the property would not be a problem. Mr. Jacobson said if the five (5) acre parcel contains that strip of land it will shrink the road frontage which is already shy of the 300’.

Mr. Stock asked Chair Jacobson if he would like the printout of properties along W. Krepps Rd. labeled as “Exhibit A” since he had referred to it several times. Mr. Jacobson concurred.

Duane Miracle stated he was still under oath. He said he is on the west side of the Vogelsong property. He said he has no problem with the lot split. Mr. Bingamon asked if he was also interested in purchasing the five (5) acres. Mr. Miracle answered yes but there has not yet been any discussion about the price yet.

Ken Penewit said to keep the five (5) acres of property from being landlocked the survey could include a narrow strip of land to the road, on the edge of the front two (2) acres. However, he said this could be a road frontage issue. Mr. Stock said the current road frontage is 252.55’. Mr. Bingamon said this would create two parcels with under the minimum road frontage.

Mr. Ferguson said after farming this he believes the areas behind the barn is very close to five (5) acres.

Mr. Bingamon asked the two farmers if they are not able to come to an agreement to purchase the property would they be willing to still rent it. They answered yes.

Otis Shepherd stated he was still under oath. He said he owns property down the road and when Krepps Rd. went through, some of property was taken. He said he used to have five (5) acres but does not have that now. He said his brother previously owned the Vogelsong’s property and there is not quite seven (7) acres there now.

Duane Miracle stated he was still under oath. He understood property goes from the center line and the road is an easement. Mr. Stock said there are certain portions of the Township where owners own to the center line even though there is a right-of-way. The right-of-way rule of thumb is twenty feet from the center line. When this was a smaller road the parcel was five (5) acres with .085 access which was the right-of-way, which then brought what they own and pay taxes on from the center line to the edge of the road.

Mr. Jacobson asked if the bottom line is they can still split land into a two (2) acre plot and a five (5) acre plot. The answer was yes.

Ken Penewit made a motion to enter Executive Session for deliberation, seconded by Charles Bingamon. Executive Session began at 7:37 p.m.

Charles Bingamon made a motion to exit Executive Session, seconded by Ken Penewit. Executive Session ended at 7:52. p.m.

Mr. Jacobson wanted to clarify a comment made in the hearing about keeping the land tillable. He said the property is zoned Agricultural so that is not an issue.

Joe Mullikin made a motion to grant the variance as requested based on two conditions: 1) that the parcel be split with the front being two (2) acres and maintaining all of the existing road frontage and the back being five (5) acres; and 2) the back five (5) acres be surveyed and made part of the contiguous property of the purchasing owner of the five (5) acres, seconded by Charles Bingamon. Roll call vote: Ed Jacobson-Aye, Charles Bingamon-Aye, Joe Mullikin-Aye and Ken Penewit-Aye.

Joe Mullikin made a motion to adjourn the Public Hearing. Ken Penewit seconded. The Public Hearing adjourned at 7:54 p.m.

ATTTEST:

Alan D. Stock, Zoning Clerk