

Hamilton County Board of Zoning Appeals – South District
March 23, 2022

Mr. McMillan called the official meeting of the Hamilton County Board of Zoning Appeals – South District to order at 7:14 p.m.

Roll call: Charlie McMillan Jr., Frank Habig III - alternate, Mike Pugel and Robert McCormack - alternate. Also present: C. J. Taylor, Director; Aaron Culp, Legal counsel; and Linda Burdett, Secretary.

Declaration of Quorum: *Mr. McMillan* declared a quorum with four board members present.

Guests: See sign-in sheet.

Communication / Reports: *Mr. Taylor* stated that everything had been passed out.

Mr. Culp added... for the record... *“We were originally advertised to be across the street in the courthouse but because of the room change we posted signs at all the entrances to the courthouse as well as over here. We also had the BZA secretary stand outside the door and started our meeting 10 minutes late to make certain that anyone who went to the original site had a chance to be directed this way.”*

Approval of Minutes: *Mr. McMillan* identified the minutes of the January 26, 2022 and February 23, 2022 meetings. Do I have a motion to approve those?

Mr. Habig made a motion to approve both of those as they were submitted.
Mr. Pugel seconded.

With no further comments or corrections... *Mr. McMillan* called for the vote. **4 yes votes... 0 no votes.** The minutes are approved.

Mr. Pugel retracted his second.

Mr. McMillan stated that on the February 23, 2022 minutes we wanted to add a word for clarification in the next to the last sentence on page 3... contiguous “**boundary**” in Jackson Township.

Mr. Pugel made a motion to approve the February 23, 2022 minutes as amended.
Mr. Habig seconded.

With no further comments... *Mr. McMillan* called for the vote. **4 yes votes... 0 no votes.** They are amended and approved.

Old Business: Nothing to present.

New Business: Mr. McMillan began with **SBZA-R.V.-0001-01-2022** a Requirement Variance. This was tabled for a legal notice issue in January and in February. *This is concerning reducing the required minimum front yard setback from 110 feet down to 25 feet. Location: 16605 Durbin Road, Noblesville, Indiana.*

Mr. Culp stated that we need to table this again this month. There is a different notice issue that we are trying to address. We are unable to verify that mail was sent to three of the required addresses. That will have to be rectified before we can proceed with a public hearing.

Mr. McMillan stated that would be tabled until Wednesday, April 27, 2022 at 7:00 p.m.

The meeting will be held in the Hamilton County Council Chambers / Commissioners Courtroom on the first floor of the Hamilton County Government and Judicial Center in Noblesville, Indiana.

Mr. Habig made a motion for SBZA-R.V.-0001-01-2022 to table that until next month’s meeting on Wednesday, April 27, 2022.

Mr. Pugel seconded.

With no further comments... Mr. McMillan called for the vote. **4 yes votes... 0 no votes.**

Mr. McMillan continued with **SBZA-L.U.V.-0002-03-2022** a Land Use Variance. This is concerning *allowing the operation of a beauty salon business in an A-4 Agricultural Zone District. Whereas, the operation of a beauty salon business is not a permitted or Special Exception use in an A-4 Agriculture Zone District. Location: 12788 East 191st Street, Noblesville, Indiana.* Could you come up to the podium, state your name and address?

Keeley Kalbaugh stated her name, introduced her husband Broderick Kalbaugh, along with the co-signer – Ed Altvater who is also the attorney to Diane Altvater who couldn’t be with us tonight. We all own 12788 East 191st Street. The variance we are seeking is for a home occupation for a beauty salon. It is just going to be me as a single stylist. I want to move my business home. I need to create an at home atmosphere since the future is looking more and more virtual with the last few years and all the Covid stuff.

Right now I am working four days a week from 8:00 a.m. to 5:00 p.m. and I would like to cut down to three days. There will only be one car present during my client services. No signage by the road; only my logo along with my work hours and “Cosmetology Salon” on the door. The music will be playing but nothing louder than our voices.

I already have a maxed out clientele so I currently cannot take any more clients and I would like to downsize that. Marketing will be very minimal. It’s all by referral.

The building is completely vacant. It used to be my husband's office for his landscaping business. There is a parking lot. There is a dumpster. There is a business account already set up with Duke Energy. There are plumbing hook-ups already in the building. My husband will tell you more about what we have already done to make the changes.

Mr. Kalbaugh stated that when they purchased the property five or six years ago it was a nursery and it had sat vacant for two years. Things were run down and starting to grow into the foundation. We did a lot of ground clearing. We put a new roof on the building three years ago. We redid parts of the siding. I have redone all of the electrical inside the building. We have redone the plumbing, the well pump, the softener inside there, redid the bathroom, redid the trusses that were leaking and rotting, put a new gutter system on, and enhanced the landscaping as best we could. We have repaired the driveway and cleared the access to the road so the turn-in is wider. And, we cleaned out the ditch.

Mrs. Kalbaugh stated that she hopes this will bring new investments and opportunities out into this area. It is very beautiful.

Mr. McMillan asked if the board of health will have to come in and approve this as well.
(2) So the septic in the barn uses the same one as in the home?

Mrs. Kalbaugh stated that she has spoken with Larry Beard and with Brian Baker. The system was put in in 1997 so it is a septic for a three bedroom house. (2) Yes. Even our water is connected to the house.

Mr. McMillan asked Mr. Taylor if he was aware of any other beauty salons in the area.

Mr. Taylor answered, not that he was aware of.

Mr. Pugel asked Mr. Taylor about the other business activity in the area. Are those zoned outside of agricultural or were they pre-existing?

Mr. Taylor stated that they were pre-existing, so they would be grandfathered. They would be legal, non-conforming.

With no further questions from the board... *Mr. McMillan* opened the hearing to the public at 7:27 p.m. and invited anyone who wished to speak for or against this petition to come forward and state their name and address.

Casey Clutch-Creakbaum, of 11614 Casco Court, Fishers, Indiana, stated her name and address for the record. My husband and I just purchased a neighboring property at 19292 Victory Chapel Road. I am in support not only as a neighbor but also as a mother. I would love to see the existing building renewed and cared for. Anything that can continue to approve the aesthetics of our little country corner is a positive and any traffic would only be single family vehicles. I would like to also bring to your attention that if a building doesn't have a purpose or an identity then no one is going to put money or time

into it. And then that building will continue to deteriorate and become more and more of an eyesore which would create an unnecessary hardship for all of us surrounding property owners. I am asking for you to grant this variance so that Mrs. Kalbaugh can continue to provide for her family. Please continue to let them bring the whole property back to life.

With no one else stepping forward to address the board... *Mr. McMillan* closed the public portion of the hearing at 7:29 p.m. Can I get a motion?

Mr. Culp advised the board that this was before the plan commission last week and they did vote to give it a favorable recommendation.

Mr. Pugel made a motion to approve SBZA-L.U.V.-0002-03-2022 and amended the motion to include the condition that the variance would be solely for the petitioner. Mr. Habig seconded.

Mr. Habig stated that this would have such a low impact on that neighbor and being able to repurpose that facility is a great opportunity.

Mr. McCormack stated that he lives just down the road from here. I have seen the improvements they have made to the property already, so it gives me a lot of comfort.

Mr. Pugel stated that the building had a previous use as a business, and it seems like a business of any type is a positive thing rather than having the building sit empty.

With no further comments... *Mr. McMillan* called for the vote. **4 yes votes... 0 no votes.** Congratulations.

Mr. McMillan continued with **SBZA-L.U.V.-0003-03-2022** a Land Use Variance. It is concerning *allowing the operation of a softball coaching business in an A-2 Agricultural Zoning District, whereas the operation of a softball coaching business is not a permitted or Special Exception use in an A-2 Agricultural Zoning District. Location: 19292 Victory Chapel Road, Noblesville, Indiana.* Who do we have here tonight?

Casey Clutch-Creakbaum, of 11614 Casco Court, Fishers, Indiana, stated her name and address for the record. We had a positive motion from last week with the plan commission. My husband and I purchased the property at 19292 Victory Chapel back in December of 2021 with the intent to move my family of four to this home to utilize the existing accessory building to teach softball pitching lessons. The 3.11 acre property is currently zoned A-2. I am requesting that you grant a Land Use Variance for the operation of a home-based occupation in the existing 56 by 64 ft. building that was built in 2018. I am the sole instructor. The barn is located towards the rear of the property. The building is already climate controlled with some spray insulation and LED lighting both interior and exterior. The interior of the building will be further finished and both sports netting and turf will be installed for four pitching lanes.

A Chapter 34 will be submitted for a Change of Use from a residential building to a minor commercial building.

Approval of the variance will not harm the community. Activities are conducted inside the building and neighboring homes are not near this facility. The lessons are by appointment only for 45 minute sessions and I limit it to four pitchers at a time. Typically, parents catch for their daughters or a sibling, a friend or even a teammate will ride with them to catch. I currently work two days a week for a maximum of 10 ½ hours a week in Madison County at my parents' property.

There is an existing gravel parking lot area that is slightly expanded in the southwest corner. Landscaping will be added around the parking area.

The Hamilton County Highway Department has already reviewed the driveway entrance and was satisfied that it meets the requirements for a minor commercial driveway. Paving the full driveway and parking lot is planned to be completed within 24 months of opening for lessons.

Since no additional building is required there is no change to the existing character of the area and adjacent properties will not be adversely affected.

Added vehicle traffic will be minimal for the area and will only occur a couple days a week and will consist of single family vehicles.

The adjacent area properties are already varied. Nearby properties include the Lion's Club, a landscaping business, an auto-tow company with salvaged vehicles that are stored outside, a 78 acre farm with a new home across the road and several residences with acreage, and some horses and other animals. Also, three properties north on Victory Chapel Road is a horse riding stable that provides riding lessons and other events.

I am a teacher, but I don't tutor a school subject where students can sit at a desk or teach piano that can be conducted inside a home. Pitching is a physical art and teaching pitching can only be done in person.

This building can become a place to make a positive difference in the lives of young females thus making a positive impact on the community. I am asking for your approval of this Land Use Variance so I can have the same opportunity for a home based business as many other people do. My profession just requires a larger, safer space.

Not many properties in Hamilton County have a building suitable for teaching softball pitchers without being an expensive commercial building. My part-time business cannot support the cost of a commercial location just like many other home based businesses cannot.

If the variance request is denied, we would have to sell the home. If I cannot coach at the Victory Chapel property, I may have to stop doing what I love – coaching and mentoring girls.

If the variance is denied I worry that many of my girls would then suffer unnecessary mental and emotional hardships as they may lose a mentor that helps them through life's challenges using the language and experiences of softball.

The Hamilton County Comprehensive Plan proposes that this property will be a rural residence category. The property will still be used at the primary residence so teaching pitching lessons inside the existing structure a few nights a week will not interfere with the comprehensive plan.

I stand before you with all my years of integrity and 20 years of coaching asking you for this variance, so I do not have to choose between being a mom and being a coach.

We have already been working on the property doing land and garage clean-up, and wood fence repair. We planted nine Norway Spruces and have ordered materials to remodel the home. We will continue to care for and love this property once the approval is granted.

By granting this variance you and the neighbors know what you're getting. We have already shown that we will care for the property. You will also get someone who invests in the youth of today. They are our future. While this is just a part-time business it means the world to me. Thank you for your time and consideration.

Mr. McMillan asked about the no running water or bathroom. How will you deal with restrooms?

Mrs. Clutch-Creakbaum stated that with the lessons only being 45 minutes that doesn't happen very often. But it does happen and at that point I would open up my home.

Mr. Habig asked *Mrs. Clutch-Creakbaum* what type of credentials she had to teach people softball pitching.

Mrs. Clutch-Creakbaum stated that she was a four-star NFCA Master Coach (which stands for National Fastpitch Coaching Association). I have a Bachelor's Degree in Exercise Science from the University of Evansville. I have a Master's Degree from Texas Women's University in Kinesiology with emphasis in coaching. I was a four-year varsity pitcher at Frankton High School. I was a four-year Division 1 pitcher for the University of Evansville – the Purple Aces. In my sophomore year of college, I was selected to be a participant in the U.S.A. National Team Training Camp out in Chula Vista, California as the pitcher. The camp was part of the selection process for the next Olympic Team. If you have ever heard of Jennie Finch, Lisa Fernandez, or Cat Osterman - that's who I was trying out with and playing against during that time. I was also a player and a coach for

a semi-pro team for 11 seasons - college and post-college - that was the Indiana Slammers. They were also named into the Hall of Honor and then the following year I was named into the Hall of Fame for the IL USSSA. I started teaching pitching lessons back in high school and then the fall after I graduated college I said this is what I would do full-time.

Mr. Pugel asked if she knew what the use of the accessory building was before she moved there.

Mrs. Clutch-Creakbaum stated that the building was built by the previous owners for a hobby. He rebuilt cars and brought them back to life.

Mr. McCormack asked about the parking. I read here you are planning on paving within the next two years after you get a couple more construction projects done around the house. Is that a firm "I'm going to do this" or is that "we're hoping to pave within the next two years?"

Mrs. Clutch-Creakbaum stated that they already had two quotes and were working on a third. We really want to do this.

With no further questions from the board... *Mr. McMillan* opened the hearing to the public at 7:50 p.m. and invited anyone who wished to speak for or against the petition to please step forward, state your name and address.

Olivia McNall stated her name for the record. I am in my fourth year of going to Mrs. Clutch-Creakbaum. She has been instrumental in my development and she is a part of my development plan throughout high school. It is critical that she operate in an environment that provides the most flexibility. She has not only impacted my development, she helps so many girls and impacts them through mental training, mentoring, and teaching life lessons. Please consider granting her request. Thank you for your time.

Grace Swedarsky stated her name for the record. I have been going to Mrs. Clutch-Creakbaum for almost four years. I really like her coaching style and I never want to have another pitching coach. Mrs. Clutch-Creakbaum has been looking for the perfect place to hold pitching lessons ever since I started coming to her. When she finally find the perfect place, she was really happy. There are many benefits for her to hold pitching lessons at her own house. She won't have to drive back and forth to hold pitching lessons and she could be more flexible with her time as well so it can fit everyone's schedule especially the high schoolers. She shouldn't have to choose between being a mom and a coach. I really hope you consider approving this land variance.

Keeley Kalbaugh stated her name for the record. I think it is really awesome that we have two women owned businesses and we're both moms trying to do the right thing to make everything work for us. The last two years have been mentally draining. The fact

that she is working with kids and giving them this opportunity and also being a mentor is huge because of the hit it has taken on the younger generation let alone moms in general. Mental health is so important. And, to give all these girls a place and the opportunity to be active and get their mind clear - I think it is great for what she is trying to do here.

As far as the traffic... it is so quiet out there. I know some of the traffic is concerning but Russell Farms gets a little noisy now and then.

Michael Thomas, of 11425 Seattle Slew Court, Noblesville, stated his name and address for the record. My daughter has been going to Mrs. Clutch-Creakbaum for over seven years. We have enjoyed it and gotten value out of her teaching and instruction. It is a small gathering situation. The only noise is the balls getting tossed back and forth. No music. No parties. Parking has been limited where she is now. I'm glad to hear she is going to have it paved.

There was a question about the restroom situation. That would be a concern, but we did that for seven years and it is a short enough time that it is pretty much almost never a problem. On those rare occasions and as long as the house would be available then that should work out. It has not been a problem.

I want to pledge my support to Mrs. Clutch-Creakbaum to shift her business closer to the population center of Fishers and Noblesville. Instead of a 40 minute trip it would be a 10 to 15 minute trip for most of her students. Thank you.

Mr. McMillan stated that he had a favorable recommendation from Carol and Kevin Hansen, also a favorable recommendation from Jeanne Flanders, and too many almost to count letters from students with all favorable recommendations as well.

With no one else stepping forward to address the board... *Mr. McMillan* closed the public portion of the hearing at 7:58 p.m. Can I get a motion?

Mr. Habig moved to approve as submitted with the condition that this variance would be attached solely to the petitioner.

Mr. McCormack seconded.

Mr. Pugel stated that this was a wonderful situation. The building has no use for the moment. It's not adding a building. There are clear plans to improve the building and the surrounding area. And, it has a significant benefit for the public.

Mr. McMillan agreed.

Mr. Habig stated that he thought they had a gem.

After minimal comments... *Mr. McMillan* called for the vote. **4 yes votes... 0 no votes.** Congratulations.

Mr. McMillan continued with **SBZA-R.V.-0004-03-2022** a Requirement Variance. This is concerning *allowing the construction of an accessory building on a lot prior to the erection of a principal building in an A-2 Agricultural Zoning District. Location: 16555 State Road 32 East, Noblesville, Indiana.* Who do we have here this evening?

Rebecca Radcliff, of 16437 State Road 32 East, Noblesville, Indiana stated her name and introduced her husband, **James**, and identified their address for the record.

We live directly west of 16555 State Road 32. We own four adjoining parcels right there. We would like to build a barn at 16555 State Road 32 East without having first built the house. We bought the property in 2015 with the dream of building a house on that parcel but we have spent the last seven years building a family and cleaning up the property. Now we are in the process of building on the other side and we would like to have a barn there to safely store our equipment that is subject to the elements.

Mr. McMillan asked about the flood issue on this property. (2) *Mr. Taylor*, we ran into some issues building accessory structures with concrete floors needing flood relief. Is this what we are going to get into as well? (3) Is this the elevation now or will it have to be built up to that?

Mrs. Radcliff stated that they are building outside the 500 year floodplain. We have managed to meet the setbacks with the floodplain. We are building at the bottom of the hill right outside the floodplain.

(2) *Mr. Taylor* answered, no. They would have to be 2 feet above the base flood elevation. (3) The elevation that shows on the maps show that it should be ok.

Mr. Habig asked the Radcliffs if they had any kind of timeline on when they might start construction on the new home. (2) The barn is not to be used for any kind of commercial activity? (3) The equipment is solely for your use on the property?

Mrs. Radcliff answered, they want to pay off the barn first. (2) No. (3) Yes.

Mr. McMillian asked... no floor drains? No restrooms? (2) Septic or anything?

Mrs. Radcliff answered, not in the barn, no. (2) When we build the house.

Mr. Pugel asked for clarification. You said you own four adjoining properties. Do you reside on one of the other properties? (2) And that has a house on it?

Mrs. Radcliff answered, yes. We reside at 16437 State Road 32. (2) Yes.

Mr. Culp added... you couldn't build on two of these four parcels.

Mrs. Radcliff stated that one is a quarter acre and the other is.... we own part of the

abandoned railroad tracks back there.

Mr. Pugel asked if the barn could be built on their current residential property.

Mrs. Radcliff answered, I don't believe so because of the setbacks.

Mr. Habig asked about the size of the building they want to put up.

Mrs. Radcliff answered, 30 by 72.

Mr. McMillan asked Mr. Taylor if any plans had been submitted.

Mr. Taylor answered, no, not yet.

Mr. Pugel asked if 30 by 72 was within the allowed size. (2) So no additional variance is needed for the size?

Mr. Taylor stated that they could build up to 5,000 sq. ft. (2) Correct. We were worried about the front yard setback off the state highway. The setback is pretty extensive, so they are going to take down a few of the trees to be able to get the building back from the setback. The potential homesite will be ok.

With no further questions from the board... *Mr. McMillan* opened the hearing to the public at 8:10 p.m. and invited anyone who wished to speak for or against the petition to please step forward and state their name and address.

Bill & Sylvia Shepler, of 16378 State Road 32, stated their name and address for the record. We live immediately across the road. We are here to support their petition. The property they have is a pretty unusual shape. It sits on a curve and the creek goes through there so they don't have a whole lot of choices to build other than where they're looking at so we would support that.

And with no one else stepping forward to address the board... *Mr. McMillan* closed the public portion of the hearing at 8:11 p.m. Can I get a motion to approve?

Mr. Habig made a motion to approve this one as its submitted.

Mr. Pugel seconded.

Mr. Habig stated that they've got a good spot and will abide by all the setbacks. It is a pretty divided up piece of property. It is always good to get equipment out of the elements. ***I will amend my motion to add the condition that the building cannot be used for any commercial use.***

Mr. Pugel seconded.

After minimal comments... Mr. McMillan called for the vote on the amendment. 4 yes

votes... 0 no votes.

Mr. McMillan then called for **the vote on SBZA-R.V.-0004-03-2022. 4 yes votes... 0 no votes.** Congratulations.

Director's Report: Mr. Taylor stated that they were still working on the ordinances. They will be forthcoming soon.

Legal Counsel Report: No report.

The next BZA meeting will be Wednesday, April 27, 2022 at 7:00 p.m.

With nothing further to come before the board at this time... **Mr. McMillan asked for a motion to adjourn.**

Mr. Pugel made a motion to adjourn.

Mr. Habig seconded.

With no further comments... *Mr. McMillan* called for the vote. **4 yes votes... 0 no votes.** Meeting adjourned at 8:18 p.m.

Minutes approved April 27, 2022 by a vote of 4 yes votes... 0 no votes.

Adam Zeller

Frank Habig, III

Charlie McMillan, Jr.

Adam Zeller

Linda Burdett, Secretary