

**VILLAGE OF MILLSTADT  
ZONING BOARD MEETING  
JUNE 23, 2020  
7:30 P.M.**

The meeting was called to order by Chairman Mike Wegescheide, with the following board members answering to roll call: Mike Wegescheide, Ron Krick, Wayne Muskopf, Mark Germann, Dave Graf, Charlie Butzinger and Michael Mueth. Adam Romero, the Zoning Administrator, was present.

A motion was made by Wayne Muskopf and seconded by Dave Graf to approve the February 25<sup>th</sup> minutes. The motion carried unanimously.

Mike Wegescheide announced that there were five hearings on the agenda.

Hearing V-179 for a nine-foot rear setback variance and a two-foot side setback variance at 418 West Van Buren Street

Hearing V-177 for an exemption from required landscaping at 117 West White Street

Hearing V-178 for a five-foot rear setback variance and a five-foot side setback variance at 503 East Washington Street

Hearing SU-47 for a special use permit to operate an automotive repair business at 5954 Saxtown Road

Hearing SU-48 for a special use permit to operate a business in an R1 district at 319 West Laurel Street

Crissy Pipik swore in all citizens wishing to speak.

VOGEL HEARING: Mike Wegescheide stated the owner of the property is II Progressive Properties. The applicant's name is Lee Vogel. The property is located at 418 West Van Buren and is in an R1 district. Lee Vogel stated he purchased the dilapidated home that had been unoccupied for at least 3 years. He would like to turn it into a home for his daughter and remodel the inside, put new siding on, and add a new garage. There was a garage when he purchased the property but it has since been removed. The new proposed garage would be in the same space as the previous one. He would like it to be two feet from the property line on the east and nine feet from the property line on the south. Mr. Vogel stated he met with the neighbors as well as had the property surveyed and had the property lines staked off. He has also met with the neighbors and they are all working together to improve their properties as well. Dave Graf asked if he was asking for the side setback variance because the existing foundation is already there. Mr. Vogel

answered yes as well as to align the garage with the driveway. He would like to have garage doors on both sides so an entrance from the alley would also be feasible. Charlie Butzinger asked if the garage could be placed closer to the deck. Mr. Vogel answered he could possibly do that but his intention was to make it wide enough for a zero-turn mower. He added that there are existing garages that are closer to the alley way than the garage he is proposing. Ron Krick stated he lives in that neighborhood and thinks it will be a good addition. Resident Raymond Zawodniak agreed. Michael Mueth asked if Mr. Zawodniak had garage access from the alley. Mr. Zawodniak answered yes. Wayne Muskopf made a motion to recommend approval of a nine-foot rear setback and a two-foot side setback. Charlie Butzinger seconded the motion. The motion carried with Muskopf, Germann, Wegescheide, Graf, Butzinger, and Mueth voting in favor and Krick recusing himself. Mike Wegescheide stated the final decision would be made at the Village Board meeting held at 7pm at Village Hall on Monday, July 13<sup>th</sup>.

ZION CHURCH HEARING: Mike Wegescheide stated the owner of the property is Zion Evangelical Church. The applicant's name is Earl Doerr. The property is located at 117 West White Street and is in an R1 district. Earl Doerr stated that they would like to change the surface of the church parking lot. The lot is used every Sunday as well as for multiple events. They would like to maximize the space by having marked parking spaces. They would replace the rock with asphalt and would use a local contractor. It would improve the look and eliminate obstacles. They are asking for an exemption from the landscape requirement as stated in Ordinance 152.117. Adam Romero stated he talked with Village Maintenance Supervisor Scott Baltz and he did not see that it would cause a problem with water runoff. Wayne Muskopf stated there is a lot of greenspace there already. Dave Graf asked if they would remove the tree in the middle of the lot. Mr. Doerr answered yes because they've been told the tree would not stay alive much longer. Dave asked what the motivating factor was behind the landscaping clause. Adam answered it was created for beautification of the Village for new businesses to make sure they had sufficient lighting as well as having more than just asphalt. He added this would be a big improvement over what is currently there. Mr. Doerr added that they have already added more lighting. Ron Krick asked about curbing. Mr. Doerr answered that the curb along West Madison Street is raised. They will be putting parking blocks along South Main Street. Ron Krick made a motion to recommend approval of granting an exemption from the landscape requirement as stated in Ordinance 152.117 with the requirement of parking blocks along South Main Street. Mark Germann seconded the motion. The motion carried unanimously. Mike Wegescheide stated the final decision would be made at the Village Board meeting held at 7pm at Village Hall on Monday, July 13<sup>th</sup>.

TRINITY CHURCH HEARING: Mike Wegescheide stated the owner of the property is Trinity Lutheran Church. The applicant's name is Don Keck. The property is located at 503 East Washington Street and is in an B2 district. Don Keck stated they would like to

put a garage in the northwest corner of their parking lot. They would like for it to be five feet from the rear and side property lines. Mr. Keck stated that Ameren came out to look at the location of the proposed building and it may have to be moved farther off the property lines due to the power lines. Adam Romero stated he did not see a problem with the proposed addition; it would not be adding any space and would be placed on an already existing parking lot. It would have to be constructed according to the local ordinances and would be inspected. Ron Krick asked if there would be a foundation or if it would be a pre-fab building. Mr. Keck answered a local contractor would be building it with a concrete pad with footings. Dave Graf asked why they needed to build it so close to the property lines when they could easily put the garage in a location that would meet the setbacks. Mr. Keck answered that if they moved in farther off the property lines, they would lose more parking spaces. Dave Graf asked what the building would be used for. Mr. Keck answered it would be used for storage. Resident Deanna Behrman asked if the proposed building would have water and electric. Mr. Keck answered there would not be water but possibly electric. Resident Lynette Rienbolt submitted a petition she had that was signed by 13 residents that were opposed to the variance requests. She also submitted three pictures showing the space where the proposed building would be placed. She stated that there is no reasonable problem as to why it couldn't meet the required setbacks. She added there is no hardship that would keep them from meeting the requirements and they have other options. Discussion followed. Mike Wegescheide asked if they could move the shed so that they would meet the setbacks. Mr. Keck answered that it will probably have to be moved anyway due to the power lines. Resident Arlene Scaturro stated she thought the perfect spot for them to build their garage would be directly behind the church and they would not lose any parking spaces. Mr. Keck replied that with the building that close they would have to match the building to the existing building, according to the building code, and they do not have it budgeted to construct a brick building. Mrs. Scaturro stated there is some vinyl siding on the back of the building so they could use that. Michael Mueth stated this is why the architectural code came about; since most of the building is brick the new structure would also need to be brick. Elmer Hettenhausen clarified that there are plans to put a pavilion right behind the church so the proposed building couldn't be built there. Resident Ralph Schneider stated he talked with a former Ameren employee and they are planning to replace the pole that is near the corner of the lot where the proposed building would be located. He hopes that if the building is allowed the pole would be replaced before construction begins. Wayne Muskopf stated if the location of the building was moved the variance request would be moot. Mr. Keck stated he is not sure why the neighbors are upset. Mike Wegescheide answered that the setback variances he is requesting would put a building closer to their properties. According to the zoning code, a hardship created by the applicant is not a reason to approve a variance. Charlie Butzinger asked if it would be better to have the information from Ameren as to their requirements so that the church knew what they needed to ask for. Wayne suggested tabling the hearing since no one knows the exact measurements that are needed. Ron Krick made a motion to table the hearing until Trinity Lutheran Church has more information from Ameren and have the property lines staked. Wayne Muskopf seconded the motion. The motion carried unanimously. Mike Wegescheide stated the hearing would be on the July 28<sup>th</sup> agenda.

MALACARNE HEARING: Mike Wegescheide stated the owner and applicant of the property is Dean Malacarne. The property is located at 5954 Saxtown Road and is in an R2 district. Dean Malacarne stated he is asking for a special use permit. He purchased the property in 2006 and built a pole barn and workshop in 2007. He was injured in 2012 and unable to work. He and his son are diesel mechanics so he has been running his own business from his workshop for the last four years. He was told the property was zoned multipurpose although he now knows that was not true. When he started his business, he wasn't aware that it was not permitted. He has done work for many local people as well as having commercial accounts. They have gotten backed up during the winter but get caught up in the summer. Adam Romero stated he had let Mr. Malacarne know what issues there were with the property. Mr. Malacarne stated he cleaned up the area including getting rid of his project vehicles. He is planning to rock the area around his pole barn. He is asking for the special use permit so that he can keep doing what he has been doing for years because he was not aware he needed a permit. Mike Wegescheide asked Adam if he had been to the property recently. Adam answered yes and that some of the issues have been taken care of. They also discussed issues that needed to still be addressed. Mr. Malacarne stated some of the issues will be taken care of by the end of the month. It is an ongoing process and he is working on the issues Adam brought to his attention. Ron Krick asked who told him the property was zoned multipurpose. Dave Graf asked if there is an easement. Adam stated there was a page in the Board members' packets that detailed the easement; it follows the driveway, past the pole barn on the left, then goes diagonal towards the paintball property. Adam stated that the things that were blocking the easement have been moved. Mike Wegescheide stated that now that Mr. Malacarne knows where the easement is, he needs to keep that space clear. Discussion followed about when the issues needed to be fixed by. Adam stated his recommendation is for it to look nice all around, for the vehicles that are being worked on to be in a screened in area, and for a designated parking area. Wayne Muskopf stated that he will abstain from the vote because he and Mr. Malacarne are in the same type of business. However, Wayne was told that storage containers were not permitted in the Village limits; if Mr. Malacarne is granted permission to keep his storage containers, it may open a can of worms. Dave asked what the hardship would be in removing the storage containers. Mr. Malacarne answered it would force him to build another pole barn or put his equipment in a portable shed that would be as nice. He asked if he could put the containers together and keep them out of the way. Mike Wegescheide reminded the Board that they are to look at each hearing individually, on a case by case basis. Ron asked Mr. Malacarne again who told him the property was zoned multipurpose. Mr. Malacarne answered Steve Muskopf told him that when he was originally at his property to issue a building permit. Dave asked if the special use permit was denied, what would happen. Adam answered his business would have to be shut down. Discussion followed concerning the storage containers. Mr. Malacarne asked if instead of an asphalt parking area if he could have a rock parking area. Discussion followed about the parking area, privacy screens for vehicles not inside the building, and locations of the storage containers. Ron Krick stated he would like a clearer detailed picture of what Mr. Malacarne is proposing. Mike Wegescheide stated he thought tabling the hearing would give Mr. Malacarne time to come up with a cleaner concise plan and he could present a

more detailed drawing as to where everything will move. Charlie Butzinger made a motion to table the hearing. Mark Germann seconded the motion. The motion carried with Krick, Germann, Wegescheide, Graf, Butzinger and Mueth voting in favor and Muskopf abstaining. Mike Wegescheide stated the hearing would be on the July 28<sup>th</sup> agenda.

FULTS HEARING: Mike Wegescheide stated the owner and applicant of the property is Kenny Fults Jr. The property is located at 319 West Laurel Street and is in an R1 district. He is asking for a special use permit. Kenny Fults stated he has lived in Millstadt for 50 years and would like to open a steak house and tavern. He would like to fix up the building and make it one of the nicest places in town. Mike Wegescheide stated the Board should all have the submitted drawing. He asked if Mr. Fults was going to repair the existing building. Mr. Fults answered that he planned to add about 15 feet to the rear of the building to replace the kitchen that was burnt. Mike Wegescheide stated he would like to see a more detailed drawing showing that. Charlie Butzinger asked if Mr. Fults was planning to use the outside space. Mr. Fults answered he had no plans for it right away but may later. Mike Wegescheide asked if he planned to use the upstairs of the building. Mr. Fults answered he may use it for storage. Dave Graf stated that he questions the date of when the building became vacant. A property with a non-conforming use ceases to be that if it has been vacant more than 12 months. The business hasn't been in operation since 2017 but he believes the date isn't concrete because the previous owners had full intention of reopening after the fire. When the building no longer functioned as a business isn't as concrete as when the fire occurred because there were plans to reopen. He does not believe the date of the fire should be used but more the date the previous owners abandoned the project which would make it closer to the 12-month window. Dave also stated that he is not sure if a special use permit is the correct usage because according to the zoning code, a restaurant or tavern is not listed as a possibility for a special use permit. These are things he would like the Board to think about because it creates some questions. Mike Wegescheide stated Adam Romero would need to talk to Village Attorney Brian Flynn to make sure this is being done the correct way. Resident Kari Muskopf stated that since the business has been closed, the neighborhood has seen decreased noise, traffic, and pollution. She does not see a reason to grant the permit. The neighborhood has now become a place where people can raise their families and children can play. Resident Deanna Talley stated she purchased her home next to the property 15 years ago. She talked to the employees then and did not expect the level of disrespect that came from the customers. There were children left unattended and customers that loitered past closing time. Customers would block her driveway and then argue with her when asked to move. She dealt with trash, damage, and theft on her property, including human feces. She believes if the permit is granted, these will become issues again. Resident Steve Muskopf submitted a petition from people in the neighborhood who are against granting the special use permit. He stated, in response to Dave's question concerning the date to be used, it is clearly the date the business ceased to operate no matter if there were intentions to reopen it. Mr. Muskopf also stated that the special use section is the most misused section in every municipality. This area is not compatible with the proposed use.

Parking along South Lafayette would be an issue. There are a lot of other things that Mr. Fults wouldn't be able to control once his customers left the building. Resident Marcia Mueller stated that just as people change, the culture of what was West End changed. The building has been an empty shell for the last three years. She detailed her personal relationship and background with the previous tavern, having grown up and raising her own family in the neighborhood. However, she does not miss the vehicles parked in front of her home every weekend, the littering in her yard, nor the people urinating and defecating in her yard. It has become and they would like it to stay a quiet family resident district where children can play and walk down to Elm Street Park. She stated she does not know Mr. Fults but has heard the gossip concerning him. She took it upon herself to research him at the St. Clair County Courthouse. She looked up Kenneth L. Fults along with his brother David Fults and son Kenneth Fults, whom she has seen on the property. She found 65 counts against Kenneth L. Fults, including battery. She found 48 counts against David Fults, including battery and aggravated assault. She found 48 counts against his son Ken Fults, including felonies involving meth and battery. With this background she questions what kind of business owner he would be. She does not support granting the special use permit because the neighborhood has evolved. She hopes the Board will support the wishes of the community. Mrs. Mueller also questioned how the Village Board would handle this issue; Mayor Todd and Trustee Mark Todd are related to Mr. Fults and she believes there would be a conflict of interest. Mr. Fults stated he has zero tickets on his record and is not a felon; he would not be allowed to own his current auto sales business if he had any felonies. He likes living in Millstadt and likes to keep his money here. He would use local businesses in his remodeling of the existing building. He understands the other issues that were brought up and would control the trash and loitering. Resident Stacy Steele stated he does not have a track record for owning a restaurant so she questions how he knows what he would be able to control when the customers left his building. Mike Wegescheide stated the Board needs a more detailed drawing of what Mr. Fults has planned. Adam added more information was needed than what was given. They don't need architectural drawings but need more details and things that would be part of a business plan. Adam offered to help guide him but stated he could not do it for him. Mike Wegescheide added the Village would also check with the attorney to make sure the special use permit is what is needed in this situation. Dave Graf made a motion to table the hearing until a more detailed drawing was made available and the use of the special use permit was correct. Ron Krick seconded the motion. The motion carried unanimously. Mike Wegescheide stated the hearing would be on the agenda for the July 28<sup>th</sup> Zoning Board meeting.

OLD BUSINESS: none

NEW BUSINESS: Mike Wegescheide stated there is the possibility of a villa development south of Kalbfleisch Street. There aren't any plans submitted yet but the development is being talked about.

A motion was made by Wayne Muskopf and seconded by Charlie Butzinger to adjourn the meeting. The motion carried unanimously.

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Crissy Pipik, Clerk

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Mike Wegescheide, President