

**CITY OF CANAL FULTON**  
**BOARD OF ZONING APPEALS**  
**MINUTES OF RECORD OF PROCEEDINGS**

**Held at Council Chambers at City Hall**  
**November 17, 2005 – 6:30 PM**

**CALLING OF THE ROLL**

**Present:** Garnet Thomas, Dennis Mayberry, Joseph Charlton, Wilma Charlton, Dan Losch

**Others in Attendance:** Johnson Belford, Zoning Department

**Legal Notice is Read:** Public Hearing, November 17, 2005 at 6:30 PM -

**Variance Request:** Application for a Zoning Variance has been filed by Fulton Animal Hospital, 812 Cherry St., NE, Canal Fulton, Ohio. The request regards Chapter 1187.04 Corner Lots, Chapter 1187.14 Visibility at Corner Lots, Chapter 1187.22 Fences, Walls and Hedges. They are requesting a Zoning Variance to construct a chain link fenced-in exercise area.

**Swearing In Witness:** Dr. Duane Bricker, 812 Cherry St., NE, Canal Fulton, OH 44614

**Statement of Dr. Duane Bricker:** Mr. Charlton moves that the Board of Zoning Appeals open for discussion the Request for Variance submitted by Dr. Duane Bricker, 812 Cherry Street, for construction of a fence on that property; seconded by Mr. Mayberry.

Dr. Duane Bricker states their location is on Rt. 93 and Centennial (going back to allotment) and the clinic sets up along Cherry Street and illustrated the location of the parking and back lots and where they wanted to fence located on the property. He stated there would be no visibility problems. It is a 5'-high chain link fence to be used as an exercise area that would be 4' to 5' away from the road, so there would still be access still along the road. It would be on "the back lot." Mr. Losch said zoning permits 2-1/2' height in front areas (or corner lots); Mrs. Thomas stated if they have a corner lot, the same setbacks apply for a corner lot on both sides of the lot (any road that it faces), and those setbacks are usually more extreme than they would be if this were a side lot that was just abutting up to another piece of property. She said that here there is a situation of literally having two front yard requirements, so that's part of what Dr. Bricker is requesting. Mr. Losch questioned the need for a 5' fence. Dr. Bricker said it was an exercising area for the hospital there, and if you do much shorter than that they don't want dogs going over it. The dogs would be free inside the fence and supervised. Dr. Bricker said technically you'd probably want to go even higher for certain other dogs, but 5' should be sufficient for their needs. Mr. Belford said he had no comments as far as the code, that he'd reviewed the application and site, and he thought it "was well founded." Mr. Charlton said he and Mrs. Charlton visited the site, and in their opinion construction of the fence would not inhibit the views of motorists or pedestrians on either the side of Cherry Street, as it was too far back. He was concerned about if Dr. Bricker had obtained any testimony from neighbors, as far as if they might voice any objection from the appearance or possible noise. Dr. Bicker said that's why they would be supervised, and the dogs are just there for medical attention or his own dogs would be there, but he did not check with the neighbors. They do have outside kennels on the backside of the hospital that would raise the same question. Mr. Losch said he had no concerns about the fence. The Chair asks if there are any further questions or comments. The members state they have none.

Mrs. Charlton moves to approve the Variance Request; seconded by Mr. Charlton.

**MINUTES OF RECORD OF PROCEEDINGS  
CITY OF CANAL FULTON BOARD OF ZONING APPEALS  
November 17, 2005**

Roll Call: Dennis Mayberry Yes  
Garnet Thomas Yes  
Joseph Charlton Yes  
Wilma Charlton Yes  
Dan Losch Yes

Ayes – 5 Nays – 0

**VARIANCE IS GRANTED**

Mr. Mayberry asks if there is any further business.

Mrs. Thomas requested that everyone review the ordinance and know now that what is required for a variance to be granted have been somewhat reduced. She stated these are the factors that need to be considered that were not in our codes formally. Mrs. Thomas congratulated Mr. Kincaid that he got this into the codes, and it simplified everything. She said the bottom line is that a hardship is not a criteria; difficulty has become the criteria. It has lessened what a property owner would have to present to BZA to grant a variance. She asked the Board members to keep in mind these factors are still important and critical in granting all variances.

Mrs. Thomas asked if there were any questions.

**APPROVAL OF SEPTEMBER 15, 2005 MINUTES**

Mrs. Thomas said unfortunately the tape malfunctioned during the September 15 meeting. She said that if anyone is against whatever their decision may have been, the next step would have been to take the tape to Common Pleas Court, and BZA would be in an awkward situation to be without a tape for them to describe verbatim. Mrs. Thomas and Mr. Mayberry have double-checked what went wrong, so Mrs. Thomas attempted to recall what occurred on September 15, which would also be placed on the Web site.

Mr. Charlton stated when the John Prices were noted that one should be noted John Price, Jr. and one should be John Price III, and he thought they were reversed; all agreed.

Mr. Mayberry made a motion to accept the September 15, 2005 minutes with the correction(s) indicating that Mr. John Price II spoke for his son Mr. John Price III; seconded by Mr. Charlton.

Roll Call: Dennis Mayberry Yes  
Garnet Thomas Yes  
Joseph Charlton Yes  
Wilma Charlton Yes  
Dan Losch Yes

Ayes – 5 Nays – 0

Mr. Belford advised the City of Canal Fulton's Codified Ordinances have been updated and reprinted. He noted there have been substantial changes in the Zoning portion of same, and as soon as Patti Trocceli can get new Zoning booklets made, he will provide same to the BZA. Mr. Belford noted a major change in the R-1 Zoning square footage on a lot goes from 10,000 sq. ft. to 12,000 sq. ft. and

**MINUTES OF RECORD OF PROCEEDINGS  
CITY OF CANAL FULTON BOARD OF ZONING APPEALS  
November 17, 2005**

from 80-ft. frontage to 100-ft. frontage, which is in the R-1 and that carries over into R-2. It now reflects that open spaces fee have been increased from \$200 to \$400. He added the standards for granting a variance are now in the Codified Ordinance, and it "was just housekeeping all the way down the line."

Mr. Charlton said when they had a meeting with the Mayor in August that he'd brought up the point when BZA grants a variance, that's all they ever hear about it. The BZA doesn't know if the applicant takes advantage of their generosity and, if he does, whether he complies with what they've approved. He said he thought it was agreed that when the compliance was met that the applicant would initial their copy and return to the Mrs. Thomas. Mrs. Thomas said they would like written verification that any variance they've granted has been conformed to the variance restrictions they've stated. She said they were getting into granting a variance and "they're conditional." Mr. Belford said he would provide a memo stating the variance granted for fence at Walnut and Poplar has been complied with. Mrs. Charlton suggested a basic form for same. Mr. Belford stated he does check on the variances granted. Mr. Mayberry said the variance they granted for a Zoning Request made by David Smith regarding his Streby Street property - that nothing has ever been done regarding same and is probably moot at this point, and they only have a year to start construction. Mr. Belford said he would have to reapply.

Mr. Mayberry asked Mr. Belford to check and see if the alley between the Blank House and the motorcycle shop is still dedicated.

Mrs. Thomas welcomed Dan Losch as a board member.

Mrs. Charlton made a motion to adjourn; seconded by Mr. Mayberry. **ROLL CALL: Aye - ALL** The meeting adjourned.

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**Garnet R. Thomas, Chair**