

Regular Meeting
Thursday, January 30, 2014

Springview Government Center
3130 E. Main Street
Springfield, Ohio 45505

Mr. Jack Spurlock, Acting Chairperson of the Board of Zoning Appeals, calls the meeting to order at 2:00 p.m.

Present: Mr. Jack Spurlock, Mr. Don Wallace, and Mr. Rick Smith

Absent: Mr. Jeff Horne, Mr. Tim Greenwood and Mr. David Minard, Alternate

Also Present: Mr. Allan Neimayer, Clark County Community Development, and other interested persons.

Acting Chairperson Spurlock asks if there are any comments regarding the minutes. Hearing none, he asks for a motion to approve the minutes.

BZA: 1-01-2014: Minutes ~ November 21, 2013

Motion by Mr. Wallace, seconded by Mr. Smith, to approve the minutes as presented.

VOTE: Yes: Mr. Wallace, Mr. Smith, and Mr. Spurlock

No: None

Motion carries.

Acting Chairperson Spurlock explains how the meeting will be held. Everyone will need to sign in that will be speaking. Staff will present the report and the Board will ask questions to the staff. The proponents will be able to speak followed by the opponents. Everyone will be sworn in before they speak. Rebuttal by the Applicant will follow, if desired.

Acting Chairperson Spurlock asks the Board if anyone needs to abstain. There were none.

Acting Chairperson Spurlock asks the Staff to present the first case.

BZA-2014-01: Variance Case ~ David Leapley & Susan Buckles ~ Located at 9250 New Carlisle Pike ~ Bethel Township

Mr. Neimayer explains that the Applicants are requesting a variance to reduce the setback of an existing accessory structure from 10 ft. to 7 ft. to allow for a lotsplit/attachment. The Applicants are proposing to split 0.764 acres from the Parcel #010-05-00017-000-076, a 42+ acre farm parcel, and combine it with the adjacent Parcel #010-05-00017-000-78, currently a 2.329 acre residential lot. These two parcels are zoned A-1 (Agricultural District) and located in Bethel Township. There are existing accessory structures on the 0.764 acres to be split.

CLARK COUNTY ZONING REGULATIONS

Chapter 8, Section B, 6:

TABLE 8.1 – Accessory Building Development Standards [eff: 11-6-08] [rev: 12-13-2013]

Lot Size	Maximum Size of Accessory Building(s) (in square feet)	Maximum Height (in feet)	Set-Back From Side or Rear Property Lines (When located in rear yard) (in feet)
Under one (1) acre	1,500	18	5
Equal to or greater than one (1) acre but less than two (2) acres	3,000	20	5
Equal to or greater than two (2) acres but less than three (3) acres	4,500	25	10
Equal to or greater than three (3) acres but less than four (4) acres	6,000	25	10
Equal to or greater than four (4) acres but less than five (5) acres	6,000	25	10
Five (5) or more acres (non-agricultural)	6,000	25	10



The survey prepared for this proposal lotsplit/attachment has identified an existing “devil strip” between the parent parcel (-076) and the subject property (-078). The lotsplit/attachment will eliminate this devil strip. In continuing with the current bearing of the lot lines (to keep the same alignment), the existing shed/accessory structure would have a setback of 7 feet; zoning regulations call for a minimum of 10 feet. Hence, the Applicants are requesting a variance to proceed with the proposed lotsplit/attachment.

Mr. Neimayer pointed out that the Board has a copy of a letter our office received from John Evans, one of the surrounding property owners. Mr. Evans was not able to make this meeting but is in support of the requested variance.

Mr. Neimayer asks if there are any questions for Staff.

Acting Chairperson Spurlock asks if the Owner/Applicant falls within the new regulations for square footage of Accessory Structures.

Mr. Neimayer responded Yes.

Acting Chairperson Spurlock points out that in the drawing of the survey it appears that one building is sitting kind of cockeyed and not parallel with property line.

Mr. Neimayer confirmed that the barn is at an angle from that lot line.

Acting Chairperson Spurlock asks if seven feet the shortest distance from the barn to the lot line.

Mr. Neimayer responded yes.

Acting Chairperson Spurlock asks if there are any further questions for Staff. There were none.

Acting Chairperson Spurlock opens this portion of the public hearing at 2:06 pm.

Acting Chairperson Spurlock asks if there are any proponents wishing to speak on behalf of the Applicant. There were none. The Applicant was not present.

Acting Chairperson Spurlock asks if anyone would like to speak in opposition of this case. There were none.

Acting Chairperson Spurlock closes this portion of the public hearing at 2:07 pm.

Hearing no further questions, Acting Chairperson Spurlock asks the Board for a motion.

BZA: 1-02-2014: BZA-2014-01 ~ Variance Case ~ David Leapley & Susan Buckles ~ Located at 9250 New Carlisle Pike ~ Bethel Township

Motion by Mr. Wallace, seconded by Mr. Smith, to **Approve** the Variance request as presented.

VOTE: Yes: Mr. Wallace, Mr. Smith, and Mr. Spurlock

No: None

Motion carries.

BZA-2014-02: Variance Case ~ Chad & Jennifer Dorrell ~ Located at 3130 Windy Ridge Drive ~ Moorefield Township

Mr. Neimayer, Senior Planner, explains that the Applicants are requesting a Variance to increase the height of a fence in the rear yard from 6 feet to 8 feet {already built} to screen a travel trailer. This case was initiated by a zoning code complaint.

The subject property is located at 3130 Windy Ridge Drive in Moorefield Township. The property is zoned R-1 and is Lot #11 of the Windy Ridge Subdivision, Section 2-A. The Applicants park their travel trailer in the back left (north) corner of their property. To comply with a subdivision plat covenant that states "There shall be inside storage, or screen areas not exposed to public view, for all boats, trailers or other vehicles", the Applicants constructed an eight foot tall fence around the travel trailer.

Mr. Neimayer presented the Board with several photographs that show the fence in regards to lot lines.

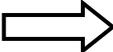
Mr. Neimayer stated there were several letters, copies in Board's packet, received from surrounding property owners. All of those letters are in favor of the requested variance.

Community Development received a complaint about the height of the fence and, upon investigating, notified the Applicants by letter dated November 13, 2013 of the zoning violation (height of the fence). The Applicants are requesting a variance to Chapter 8, Section E, 2, b to increase the height of a fence in the rear yard from 6 feet to 8 feet for screening a travel trailer.

CLARK COUNTY ZONING REGULATIONS

Chapter 8, Section E:

Section E – Required Fencing, Screening, and Landscaping

1. Statement of Intent The intent of this Section is to outline the regulations of fencing, screening, and landscaping which will serve to provide for orderly transition between land uses, to protect and screen private property, to inhibit access to industrial and commercial sites, to give security and privacy to residents, to provide a physical and visual barrier, to reduce wind and modify climate, to define property lines, to identify and emphasize entrances, to create and define outdoor living space, and to generally improve the aesthetic appearance of a site.
2. Design Standards
 - a) No fence, wall, or screen may be located in any front yard except as provided below:
 - 1) Hedges not to exceed six (6) feet in height may be located in any front yard, but shall be subject to any traffic visibility requirements imposed by the Zoning Administrator. [rev: 12-13-2013]
 - 2) A fence or wall may be located in any front yard as follows:
 - a) The height of any fence or wall shall not exceed four (4) feet above the ground at any point, except that in instances where single-family homes front on major or secondary thoroughfares, such ornamental fences or walls shall be not more than six (6) feet in height.
 - b) Such fence or wall shall be subject to any traffic visibility requirements imposed by the Zoning Administrator. [eff: 4-4-96] [rev: 12-13-2013]
 - c) Such fence or wall on a corner lot shall be subject to any traffic visibility requirements imposed by the Zoning Administrator. [rev: 12-13-2013]
 -  b) A fence, wall, or screen may be located in any rear or side yard, provided that:
 - 1) The height of the fence, wall, or screen shall not exceed six (6) feet above the ground.
 - 2) A fence or wall not to exceed ten (10) feet in height shall be permitted surrounding tennis courts in any rear yard.

Mr. Neimayer pointed out that, as shown on the Applicant's plot plan, they intend to add a 10 foot by 12 foot storage shed to complete the screening of the travel trailer. The Combined Health District has identified that this proposed shed would be within the existing leach field area and therefore would not approve it. The proposed shed is not part of the case the Board is acting on today.

Mr. Neimayer asks if there are any other questions for Staff.

Mr. Wallace asks Mr. Neimayer to remind the Board what the setbacks are for the said property.

Mr. Neimayer responded there are no zoning setback requirements for a fence. The fence is allowed to be right along the lot line, obviously on the Owner/Applicant side of the lot line.

Mr. Spurlock asks if the Health Department has any problems with the fence.

Mr. Neimayer responded they have no problem with the fence that has been constructed.

Mr. Wallace asks if the fence that has been constructed is 10 feet high.

Mr. Chad Dorrell, Applicant, stated the fence is actually 9½ feet tall because it sits up off the ground.

Acting Chairperson Spurlock asks if there are any other questions for Staff. There were none.

Acting Chairperson Spurlock opens this portion of the public hearing at 2:16 pm.

Acting Chairperson Spurlock asks if there are any proponents wishing to speak in favor of the case.

Mr. Chad Dorrell, whose address is 3130 Windy Ridge Drive, stated that he is the Applicant. This whole process started in the summer. Something that his family has wanted for years is a trailer. We wanted to make sure that we complied with the requirements of (the Windy Ridge) Subdivision. My wife first emailed Mr. Neimayer in September, before we bought the trailer, and asked the question if they would be able to store the trailer on their property. The answer was yes as long as it is not within 3 feet of the property line. At that point we thought that we had things covered with Clark County. We also wanted to make sure we were doing right by our neighborhood (subdivision) restrictions as well.

Mr. Dorrell stated that he contacted Gary Lookabaugh, who is a real estate agent. Mr. Lookabaugh informed him that the trailer did need to be properly screened. He also suggested that I talk with Mr. Chuck Judy, who is the developer. Mr. Judy's only hesitation was that it is a permanent structure and that it was not too close to the property line. Mr. Judy said that a fence would be his interpretation of what would be appropriate.

Mr. Dorrell stated that they then contacted the four neighbors that live closest to us to let them know that we would be storing the trailer and that we would be putting up a fence. All four neighbors basically gave us a thumbs up. I have been trying to do right by not only our (Windy Ridge) Subdivision requirements, but more importantly our surrounding neighbors. That is why I did spend a little extra money and used 8 foot boards that are 12 to 15 inches up off the ground. That puts the fence height at about 9½ feet. The camper is 10 feet tall, and we felt the fence would properly screen it. That is what has gotten us to this point so far. I felt like we were asking all the right questions. The one question that we did not ask if there was a height requirement on the fence.

Mr. Spurlock asks if there are any questions from the Board. There were none.

Acting Chairperson Spurlock asks if there were any one else that would like to speak in favor. There were none.

Acting Chairperson Spurlock asks if anyone would like to speak in opposition.

Mrs. Terri Alexander, whose address is 3100 Windy Ridge Drive, stated that they purchased their house in 2007. Her issue is the fact that they are going to build a fence that is 6 feet high. When we take our fence down to the end of our property line, our fence will be 6 feet and his fence is 9½ feet and they are not going to meet up. Mrs. Alexander showed photographs to the Board from her property {these photos were not submitted for the Board's record}. Mrs. Alexander stated a screen by definition is something that shelters, protects or hides. When I look out my patio doors when I am eating dinner or when I sit on my patio in the summer I would like you to see what I am looking at. It is definitely not screened around the travel trailer at all.

Mrs. Alexander also stated that they would like to eventually sell their home. Home prices right now are on the decline. I am afraid when we are ready to sell people will look out our back door and that is exactly what they are going to see. The fence is an eyesore to us and I do not feel that we should have to look at that. We built in this neighborhood because it is an upscale neighborhood. We built there to keep our property values up. I am afraid that this is not going to help to keep our values up but deter people from purchasing our home.

Acting Chairperson Spurlock asks if there are any questions from the Board.

Acting Chairperson Spurlock stated that in one of the photos there is a shed and asks Mrs. Alexander if that was her shed.

Mrs. Alexander responded that yes it was.

Acting Chairperson Spurlock asks Mrs. Alexander if her shed is actually taller than the fence.

Mrs. Alexander stated it is not.

Mrs. Alexander stated that as far as the fence screening the travel trailer it is not. We can see the air conditioner on top. There are also gaps in the boards and you can see there is something back there. It is a topic of conversation when we have guests over. They look out and say "oh wow your neighbors really did it to you didn't they".

Mr. Wallace asks Mrs. Alexander if there is anything that she would recommend be done to resolve this situation.

Mrs. Alexander responded that as far as the neighborhood rules we may be going in with a civil suit because if you have anything like that out it has to be stored in a building. Anyone else in the neighborhood that has a trailer or a motor home either has it in a pole barn or in their driveway so it is not obscure to your neighbors. If you drive through our neighborhood you will not see anyone else with things left out. That is part of our deed restrictions.

Mr. Wallace asked Mrs. Alexander if she would be happy if the Applicant would build a pole barn.

Mrs. Alexander responded "absolutely". I would like to see something to contain it so that others do not have to look at it. The neighbors that Mr. Dorrell is talking about live across the road. They do not have to look at it. They do not have to look out their back door and this is what they see. If you let Mr. Dorrell keep his fence at 9½ feet what kind of precedent is that setting for people in the neighborhood to do the same thing.

Mr. Wallace asks Mr. Neimayer if there is potential for the Applicant to build a pole barn in place of a fence screen.

Mr. Neimayer stated it would be possible. It depends on the size and location. I believe for the Health Department there is a 10 foot separation from the leach field to a structure like that. You are talking about an accessory structure now verses a fence so you now have to take a setback requirement into account.

Mr. Smith asks Mr. Neimayer what the maximum square footage of a pole barn that could be on this property.

Mr. Neimayer stated that he would have to check with the plat covenants to see if there is anything in that. Per zoning regulations, I believe it would be 3,000 square feet and the setback would be 5 feet from the lot lines.

Mr. Wallace questioned Mrs. Alexander that he noticed several small buildings in area that would be similar to the shed that the Applicant would like to put up. Do those structures bother you?

Mrs. Alexander stated that one of the sheds belonged to her and one belongs to the neighbors. They do not bother her. They also are not 30 feet long.

Acting Chairperson Spurlock asks if anyone else would like to speak.

Mr. Dorrell stated that the Watkins are looking right out their windows as well to our fence. In talking with Mrs. Watkins, she appreciated what we had done to build the fence the way we did. The issue is not whether or not the trailer can be there. We are in compliance with the fence being around it and properly screening it. In order to do so, the fence has to be taller than 6 feet. If we had built the fence 6 feet tall to be in compliance with Clark County, it would only screen part of the trailer. If the fence is an issue, I imagine that looking at the top two-thirds of our trailer would be more of an issue. I have said this numerous times to multiple neighbors that all of my decision making came from protecting our neighbors from the view of our trailer.

Acting Chairperson Spurlock asks if anyone else would like to speak.

Mrs. Alexander stated that the neighbor that Mr. Dorrell was talking about does not look directly at the travel trailer. Because where the trees are out there is where they look out directly from their patio. Not directly at the travel trailer. You see in my photos it is directly in our view.

Acting Chairperson Spurlock asks if there were any other comments.

Mr. Wallace asks Mr. Neimayer if there has to be screening or an enclosed building for the trailer to be there.

Mr. Neimayer responded the screening requirement is a subdivision plat covenant.

Mr. Wallace asks if a pole barn would be acceptable in this situation.

Mr. Neimayer stated that was one possibility.

Mr. Smith asks Mr. Neimayer if there would be anything in zoning that would prohibit a large gate in front of that trailer to shield the trailer itself?

Mr. Neimayer responded no.

Mr. Smith asks Mrs. Alexander if we still have the issue of seeing the trailer and that the fence is too high.

Mrs. Alexander said absolutely.

Mr. Smith asks the Applicant if he would consider covering up the section of the fence that is open possibly with a gate if that would make her happy. He also stated that we (county zoning) have no control over the covenants of the plat.

Mrs. Alexander stated she does not want to see the fence either.

Mr. Smith asks the Applicant about the plat covenants. Do they state it has to be completely screened from view?

Mr. Dorrell believes that it says proper screening but forgets the exact terminology.

Mr. Smith stated that was how he read it also. It is not clear if you can screen something half or screen something whole. There is also nothing designating the height of the screen. The wording seems vague.

Mr. Neimayer reminds the Board that the issue before them is a variance request regarding the height of the fence. The meaning of the term 'screen' or 'screen from view', in my opinion, is that the object in question is not to be seen. A fence is an option. However, there are cases such as this one where a 6 foot fence is not going to screen the object in question. There are some other options. You could enclose the object within a structure such as a pole barn. You could do some combination of landscaping or mounding with a fence.

Mr. Wallace asks Mr. Neimayer to repeat again the requirements for a pole barn for the subject property.

Mr. Neimayer stated that the maximum size is 3,000 square feet and a setback from lot lines of 5 feet. Keep in mind that the Health Department has a requirement of 10 feet from the leach field to the accessory structure.

Mr. Wallace stated that it seems there are solutions to be had here that have not been quite worked out yet. I am not sure that we have to push all the neighbors into a big battle by our decision when they might talk among themselves yet and find a better solution that satisfies everyone.

Acting Chairperson Spurlock closes this portion of the public hearing at 2:32 pm.

Acting Chairperson Spurlock asks for a motion.

BZA: 01-03-2014: BZA-2014-02 ~ Motion to Table Case # BZA-2014-02

Motion by Mr. Wallace, seconded by Mr. Smith, to **Table** Case # BZA-2014-02.

VOTE: Yes: Mr. Wallace, Mr. Smith and Mr. Spurlock

No: None.

Motion carries.

Mr. Wallace told the Applicant that the reason the case was tabled was because he is looking for a solution among neighbors to make everyone happy rather than the Board making a decision that draws a line a certain direction that may be the basis for a civil suit later on. One of the questions I had was as I looked at this case earlier and again today was it would have been nice if there were more discussion at the neighborhood level as opposed to bringing it to the Board.

I believe that there is room for discussion that could lead to a mutual agreeable decision that could be brought back to us.

Mr. Dorrell stated that he is open for discussions with the Alexanders. I again thought that I did right by the neighbors. The zoning issue, is the fence too tall, yes it is. Can the fence be approved at a higher height is why this case is on the table in front of you. Mrs. Alexander does not want to see the fence and she does not want to see the trailer. So no matter what I do, before those two things are gone, there will not be much beneficial discussions between us no matter what I say. I am open to trying all different things with landscaping. I do intend to build the shed to further masque the trailer. I have tried to have discussions at the neighborhood level.

Mr. Wallace stated that he has heard possible solutions from Mrs. Alexander that she would not object to a pole barn for example. On the other hand, some landscaping and moving some dirt around might offer another solution for you that would comply with both (the Windy Ridge) Subdivision Requirements and county zoning regulations. Furthermore, the Health Department seems to have information that we do not have at this time as far as what they would allow and what they would not allow. Those are three things that could be explored before we make a final decision.

Mr. Dorrell stated that the pole barn is cost prohibitive to them. That is one reason we did not go that route.

Mrs. Alexander stated that she is not in favor of a 6 foot fence. I just want Mr. Dorrell to be in compliance like anyone else has to be. As far as having the trailer in a pole barn, that would be wonderful. It would be like everyone else is and out of the view of the neighbors.

Acting Chairperson Spurlock reopens this portion of the public hearing at 2:43 pm.

Mr. Wallace asks Mrs. Alexander if she would not have an objection to a 6 foot fence right now.

Mrs. Alexander stated no. As long as the fence is enclosed.

Acting Chairperson Spurlock states that if the variance request (to allow the 9½ foot tall fence) is turned down, the Applicant can only have a 6 foot fence around the trailer.

Acting Chairperson Spurlock closes the public hearing at 2:49 pm.

The Board discussed how they want to proceed with this case.

Acting Chairperson Spurlock asks for a motion to Untable Case # BZA-2014-02.

BZA: 01-04-2014: BZA-2014-02 ~ Variance Case ~ Chad & Jennifer Dorrell ~ Located at 3130 Windy Ridge Drive ~ Moorefield Township

Motion by Mr. Wallace, seconded by Mr. Smith, to **Untable** Variance Case #BZA-2014-02.

VOTE: Yes: Mr. Wallace, Mr. Smith and Mr. Spurlock

No: None.

Motion carries.

Acting Chairperson Spurlock asks for a new motion on Case #BZA-2014-02.

BZA: 01-05-2014: BZA-2014-02 ~ Variance Case ~ Chad & Jennifer Dorrell ~ Located at 3130 Windy Ridge Drive ~ Moorefield Township

Motion by Mr. Smith, seconded by Mr. Wallace, to **Approve** the Variance request as presented.

VOTE: Yes: None

No: Mr. Smith, Mr. Wallace and Mr. Spurlock

Motion denied.

STAFF COMMENTS

Mr. Neimayer stated the next meeting will be February 27, 2014. That meeting will include election of officers for 2014.

ADJOURNMENT

Acting Chairperson Spurlock asks for a motion for adjournment.

BZA: 01-06-2014 ~ Adjournment

Motion by Mr. Smith, seconded by Mr. Wallace, to adjourn the meeting.

VOTE: Motion carries unanimously.

The meeting was adjourned at 3:10 pm.

Jack Spurlock, Acting Chairperson

Mr. Thomas A. Hale, Secretary