

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm
Thursday, May 27, 2021

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

This Meeting was conducted using Zoom due to the COVID-19 Shelter and Place Order.

Mrs. Jerri Taylor, Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:00 pm. and asked for the Roll Call.

Present For Roll Call: Mrs. Sandy Forstrom, Mr. Rick Smith, Mrs. Jerri Taylor and Mr. Tom Duffee.

Absent For Roll Call: Mr. Paul Hazlett and Ms. Greta Wilt.

Also in Attendance: Mr. Allan Neimayer, Mrs. Jennifer Tuttle, and Ms. Rachel Clime of Clark County Community and Economic Development.

Due to the county's computer server issues, approval of the April 29, 2021 Minutes were deferred to next month's meeting.

Chairperson Taylor explained the procedures for the meeting. She then asked Staff to present the first case.

Case #BZA-2021-12 ~ Property Owners: Ruthanne Darling & Andrew Pittman ~ Applicant: Jonathan Miller ~ Location: 125 Wenova Dr., Moorefield Twp. ~ Request: Variance to Section 201 to reduce the rear setback from 60 ft. to 25 ft. for a room addition.

Mr. Allan Neimayer, Senior Planner, stated the Applicant has withdrawn this application.

Chairperson Taylor asked staff to present the next case.

Case #BZA-2021- 13 ~ Property Owners/Applicants: Paul & Ginger Gerhardt ~ Location: 400 W. Sparrow Rd., Green Twp. ~ Request: Variance to Section 802.06.03 to increase the total of allowable accessory structure square footage to 3,517 square feet.

Mr. Neimayer stated the subject property is located at 400 W. Sparrow Rd. and consists of approximately 1.89 acres. The property is currently zoned A-1 (Agricultural District). The Applicant has filed this variance request to increase the total of allowable accessory structure sq. ft. to 3,517 to build a new 25 ft. by 35 ft. storage shed plus an 18 ft. by 47 ft. carport both in the rear yard. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Chairperson Taylor stated we are looking at a variance request for just over 500 square feet. She asked how many structures they are allowed to have. Mr. Neimayer responded, as many as they would like as long as it does not exceed the maximum square footage.

Mrs. Forstrom asked will they meet side setbacks to the North. Mr. Neimayer responded yes, it would be 5 ft.

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With no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 2:08 pm. and asked if the Applicant would like to speak.

Paul & Ginger Gerhardt, Applicants, stated they have nothing to further to add.

Chairperson Taylor asked if there is anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there is anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 2:09 pm. and asked for Board discussion.

Mr. Smith stated it looks like it would be a good idea to get everything looking a little neater. It is at the back of the property. I have no problem with it.

Mrs. Forstrom added I agree. If it will be used to store all the vehicles, it would look better.

Mr. Duffee added I am in general agreement. The buildings will be built behind the neighbors. This fits in with the neighborhood. This is just a tenth of an acre off or they would not need a variance.

Chairperson Taylor reviewed the findings of facts. She added I do not see anything being a red flag.

Hearing no further discussion, Chairperson Taylor asked for a motion.

Action on Case #BZA-2021- 13 ~ Property Owners/Applicants: Paul & Ginger Gerhardt ~ Location: 400 W. Sparrow Rd., Green Twp. ~ Request: Variance to Section 802.06.03 to increase the total of allowable accessory structure square footage to 3,517 square feet

Motion by Mr. Duffee, seconded by Mr. Smith to **Approve** the variance request as presented.

VOTE: Yes: Mr. Duffee, Mr. Smith and Mrs. Forstrom.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2021-014 ~ Property Owners/ Applicants: Michael & Karen Moore ~ Location: 8895 Clifton Rd., Madison Twp. ~ Request: Variance to Section 201 to reduce the 40 ft. required front setback to 26 ft. to construct a room addition.

Mr. Neimayer stated the subject property is located at 8895 Clifton Rd. and consists of approximately 4.86 acres. The property is currently zoned A-1 (Agricultural District). The Applicant has filed this variance request to reduce the front setback from 40 ft. to 25 ft. to allow for a 14 ft. by 22 ft. room addition on the west side of the home. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Chairperson Taylor asked what is the distance between the accessory structure and where the addition would come out. Mr. Neimayer responded, a rough estimate would be about 10 ft.

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Mrs. Forstrom asked when the original home was built. Mr. Neimayer responded it pre-dates the original zoning.

Hearing no further questions for Staff, Chairperson Taylor opened the Public Portion of the Hearing at 2:17 pm. and asked if the Applicant would like to speak at this time.

Karen Moore, Applicant, 8895 Clifton Rd., was sworn in. Mrs. Moore stated we bought this home a year ago and had a misunderstanding of the house frontage. We thought we would be able to add on, and hoping we can because we want to increase the floorplan of the home. We would improve the aesthetic of the house for all surrounding property values.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time.

Angela Miller, 8896 Clifton Rd., was sworn in. Mrs. Miller stated I live at the property across the street and we do not see a problem with it.

Chairperson Taylor then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 2:20 pm. and asked for Board discussion.

Chairperson stated that this old home could have been grandfathered in. I think they made the very best use of this space, although not in compliance it is at the furthest point back. Looking at the Findings of Facts, I do not see anything adversely affects the neighborhood.

Mr. Duffee stated I agree completely. Mr. Smith added I agree, I do not see anything wrong with it. Mrs. Forstrom stated the house is non-conforming now. I think it is fine.

Hearing no further discussion, Chairperson Taylor asked for a motion.

Action on Case #BZA-2021-014 ~ Property Owners/ Applicants: Michael & Karen Moore ~ Location: 8895 Clifton Rd., Madison Twp. ~ Request: Variance to Section 201 to reduce the 40 ft. required front setback to 26 ft. to construct a room addition.

Motion by Mr. Smith, seconded by Mrs. Forstrom, to **Approve** the variance request as presented.

VOTE: Yes: Mr. Smith, Mrs. Forstrom and Mr. Duffee.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2021-15 ~ Property Owner/ Applicant: Young's Jersey Dairy Inc. ~ Agent: Jim Jackson ~ Location: 6880 Springfield-Xenia Rd., Mad River Twp. ~ Request: Variance to Section 602.03.03 to allow more than 300 square foot of signage.

Mr. Neimayer stated the subject property is located at 6880 Springfield-Xenia Rd. and consists of approximately 93 acres. The property currently has mixed zoning: B-3 (General Business District) east side of SR 68 and A-1 (Agricultural District) west side of SR 68. The Applicant has

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filed this variance request to increase the overall sq. ft. of signage on a parcel. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Chairperson Taylor asked how many other signs are on this property. Mr. Neimayer responded I do not have that information and will defer to the Agent.

Mrs. Forstrom asked, how is going to be lit? Mr. Neimayer deferred to the Agent.

Mr. Duffee asked do you know how much over the square footage limit are they? Mr. Neimayer responded I do not have that information.

With no further questions for Staff, Chairperson Taylor opened the Public Portion of the Hearing at 2:28 pm. and asked if the Applicant would like to speak at this time.

Dan Young, Applicant, 2869 W. Jackson Rd., was sworn in. Mr. Young stated that there are two existing road signs on the property. The other 2 are small directional signs/pedestrian signs. This new sign will be lit from the porch light that shines onto the silo.

Mr. Duffee asked, do you know the square footage of the other signs? The Applicant responded I do not. Jim Jackson, Agent, 5454 Creek Bend Dr. West Chester, Ohio, was sworn in. Mr. Jackson stated that both signs are 64 sq. ft.

Mr. Duffee asked a variance is not needed then, correct? Mr. Neimayer responded 300 sq. ft. is the maximum allowed and they are requesting more than. Chairperson Taylor estimated about 363 sq. ft. total.

Mr. Smith asked how far off the road is the new sign. The Applicant responded about 400 ft.

Mrs. Forstrom asked if the sign will be lit 24 hours a day. The Applicant responded it will vary during the year but no earlier than 6:00 am. and not after 11:00 pm.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 2:37 pm. and asked for Board discussion.

Mrs. Forstrom stated I think the sign will look great. The structure is far away from the road.

Mr. Smith agreed with Mrs. Forstrom. Dan's place always looks great out there.

Mr. Duffee stated the event building is far enough away it does not add to any distraction. Typically I am not in favor of signage but this could be historic. I will be in favor.

Chairperson Taylor stated I am looking at the Findings of Facts and I do not see anything drawing a negative.

Hearing no further discussion, Chairperson Taylor asked for a motion.

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Action on Case #BZA-2021-15 ~ Property Owner/ Applicant: Young's Jersey Dairy Inc ~ Agent: Jim Jackson ~ Location: 6880 Springfield-Xenia Rd., Mad River Twp. ~ Request: Variance to Section 602.03.03 to allow more than 300 square foot of signage

Motion by Mrs. Forstrom, seconded by Mr. Duffee, to **Approve** the variance request as presented.

VOTE: Yes: Mrs. Forstrom, Mr. Duffee and Mr. Smith.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2021-16 ~ Property Owners/Applicants: Randy & Kristi Ison ~ Location: 4007 Dolly Varden Rd., Madison Twp. ~ Request: Variance to Section 802.03.02 to allow a new barn 22 ft. from right-of-way in the front yard.

Mr. Neimayer stated that the subject property is located at 4007 Dolly Varden Rd. and consists of approximately 2.32 acres. The property is currently zoned A-1 (Agricultural District). The Applicant has filed this variance request to allow a new 24 ft. by 30 ft. barn in the front yard (a corner lot) 22 ft. from the right-of-way instead of the required 300 ft. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Chairperson Taylor stated this looks like one of the older homes that rules were changed after the building was there. She asked where is the front door of the house? Mr. Neimayer responded facing Dolly Varden Rd.

Mrs. Forstrom asked what is directly south of the proposed structure? Mr. Neimayer responded I believe that is the leach field.

Hearing no further questions for Staff, Chairperson Taylor opened the Public Portion of the Hearing at 2:47 pm. and asked if the Applicant would like to speak at this time.

Kristi Ison, Applicant, 4007 Dolly Varden Rd. was sworn in. Mrs. Ison explained why they want the structure in that area and explains that there is a horse pasture in the side yard.

Chairperson Taylor asked you do not want the new structure where the old one is at? The Applicant responded we want it back a little further. We want the new barn in a place that we will not take away land from the pasture and so we will not have to re-do the drive. I also wanted to add that the septic system is to the right of the house right outside of the horse pasture.

Mrs. Forstrom asked is there any way you can push the structure back any further? The Applicant responded if we did that would be in the horse pasture.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the Public Hearing at 2:52 pm. and asked for Board discussion.

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Chairperson Taylor stated I like the fact that this is further back than we initially thought, and how they are using this property and where everything is located. I would say this is a good compromise.

Mr. Duffee stated I tend to agree. On Fact Number 1, this is difficult because they use this area for their horses so I will refer to the economic use.

Mr. Smith stated I agree with Mr. Duffee. I like that this is further away from the ROW line and this would look better and be safer driving in.

Mrs. Forstrom stated I honestly would prefer it be back further, but then it would be affecting the horses.

Chairperson Taylor stated the new structure will look better and more functional.

Hearing no further discussion, Chairperson Taylor asked for a motion.

Action on Case #BZA-2021-16 ~ Property Owners/Applicants: Randy & Kristi Ison ~ Location: 4007 Dolly Varden Rd., Madison Twp. ~ Request: Variance to Section 802.03.02 to allow a new barn 22 ft. from right-of-way in the front yard.

Motion by Mr. Smith, seconded by Mr. Duffee to **Approve** the 22 ft. from the right-of-way in the front yard

VOTE: Yes: Mr. Smith, Mr. Duffee and Mrs. Forstrom.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2021-17 ~ Property Owner/ Applicant: James Kendall ~ 28 Oaklawn Ave., Bethel Twp. ~ Request: Variance to Section 802.02.065 to reduce the rear setback to 6 ft. to allow for a garage in the side yard.

Mr. Neimayer stated that the subject property is located at 28 Oaklawn Ave. and consists of approximately 0.35 acres. The Applicant recently combined his two parcels into one parcel to address a zoning issue. The "new" parcel has split zoning: R-4 (west side) and R-2A (east side). The Applicant has filed this variance request to reduce the rear setback from 25 ft. to 6 ft. to construct a 24 ft. by 30 ft. detached garage in the side yard. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Chairperson Taylor asked why is the yard behind the house not an option? Mr. Neimayer responded I will defer that to the Applicant.

Mrs. Forstrom asked when the current garage was built because that does not meet the 25 ft. setbacks. Mr. Neimayer responded GIS records show it was built in 1966. He explained Bethel Township zoning was originally adopted in 1964 excluding the Crystal Lakes area. Mrs. Forstrom then asked so it is not non-conforming. Mr. Neimayer replied, I would need to do further research.

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Hearing no further questions for Staff, Chairperson Taylor opened the Public Portion of the Hearing at 3:06 pm. and asked if the Applicant would like to speak at this time.

Diane Kendall, Applicant, 28 Oaklawn Ave., was sworn in. Mrs. Kendall stated that between the existing garage and the house there is a large tree there which further complicates getting through the back of the house. We also would not be able to tie the driveway into it. And aesthetically it looks better beside the existing structure. We can also keep the kids in the backyard and away from traffic.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 3:08 pm. and asked for Board discussion.

Chairperson Taylor stated this is a significant request. The side setbacks are even more than I typically like to see. But when you look at the overall lot structure and size, I think functionally and aesthetically that probably is the best place for this garage. She asked Mr. Neimayer if they are only allowed two accessory structures on this property. Mr. Neimayer responded that is correct.

Mr. Duffee stated I agree. It is a significant request but because there is an existing garage, and this would be right beside it. It does not oppose into the rear area. I do not see it being a problem. The side setback is permissible so it is just the rear. If we look at the Findings of Facts, I do not see this would add anything more than what is already there.

Chairperson Taylor stated I agree because it will align with the existing.

Mr. Smith stated I see by the drawing, they have a motor home next to the garage. What is the required distance between the new garage and existing? Mr. Neimayer responded we do not have a zoning regulation for that distance. Mr. Smith asked what the setback is for the new garage. Mr. Neimayer responded I will defer to the Applicant.

Chairperson Taylor Re-Opened the public portion of the hearing at 3:13 pm.

Mr. Smith asked the Applicant how much closer to the ROW will the new structure be? The Applicant responded it will be 6 ft. closer to the road. So it will still be 71 ft. off of the road.

Mrs. Forstrom stated I have concerns of the 6 ft. setback. We do not know what the eaves will be of the structure. If they put in 2 ft. eaves that means all the water runoff has only 4 ft. Is it a possibility to move that structure forward to meet the front and rear setbacks? The Applicant responded if we moved it forward, there are only a few feet before its sitting in front of my house.

Chairperson Taylor closed the public portion of the hearing at 3:16 pm.

Chairperson Taylor asked Mrs. Forstrom her concerns. Mrs. Forstrom responded I do not like that 6 ft. It is very narrow on the side and the rear. Is the land sloping? Is it flat? How big are eaves and will it run off onto the neighboring property?

Mr. Duffee stated I think the existing garage would have all the same concerns. I do not see that a new one would add more issue.

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Mr. Smith stated I do not see on the map the distance between the old garage and the new garage. Could it be moved to increase the side setback? Chairperson Taylor stated the structures could go side by side and alleviate that side setback completely.

Chairperson Taylor asked, is this a side setback request as well? Mr. Neimayer explained the zoning code states that in the side yard you have to follow the setback of the underlining zoning district, which is a minimum of 8 ft. The zoning code is silent on what a rear setback for the structure would be. I believe the thought was, in the side yard you would still have all this rear yard area, which is why it is silent. But in this case we do not have that. Something to keep in mind is this was a separate parcel whereby this area would have been the rear yard and we would be talking of a 5 ft. setback for an accessory structure. It is now combined. The Applicant is making it no less than what the current setback is at 6 ft.

Chairperson Taylor asked are we acting on the side setback too? Mr. Neimayer responded you need to act on the side setback and acknowledge what the rear setback should be because the zoning code is silent. I think you need to document for the Applicant, and for future residents benefit, that this was approved by the Board with this setback. That will give it its legal conformance.

Mr. Duffee asked is it your understanding that the side setback is greater than the 8 ft. required. Mr. Neimayer responded I am going by the Applicant's drawing and she indicated 6 ft. from the rear lot line. There is no dimension given to the west lot line. I am assuming the intent was 6 ft. on both sides.

Chairperson Taylor stated I am thinking if we allow the 6 ft. in the back then we need to have at least 8 ft. on the side for water runoff and get it compliant as best as we can. I do not see it is necessary to move the side back from the 8 ft. requirement.

Mr. Smith asked Mr. Neimayer if he had a layout for the proposed new garage. And does it show what the distance will be between the new garage and existing garage? Mr. Neimayer responded I do not have any of those drawings, so I will defer to the Applicant.

Chairperson Taylor Re-Opened the public portion of the hearing at 3:27 pm.

Mr. Smith asked the Applicant if she had the distance between the existing garage and the proposed structure. The Applicant responded the distance is 6 feet.

Chairperson Taylor closed the public portion of the hearing at 3:28 pm.

Hearing no further discussion, Chairperson Taylor asked for a motion.

Action on Case #BZA-2021-17 ~ Property Owner/ Applicant: James Kendall ~ 28 Oaklawn Ave., Bethel Twp. ~ Request: Variance to Section 802.02.065 to reduce the rear setback to 6 ft. to allow for a garage in the side yard

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Motion by Mr. Duffee, seconded by Mr. Smith, to **Approve** the side setback at 6 ft. and recognize the 6 ft. setback to the south lot line.

VOTE: Yes: Mr. Duffee and Mr. Smith.

No: Mrs. Forstrom.

Motion Carried.

Staff Comments

Next Scheduled Meetings: June 24 and July 29, 2021.

Mr. Neimayer asked if the Board was ready to return to in-person meetings. Following discussion, the Board agreed to return to in-person meetings starting in June.

Adjournment

Motion by Mr. Smith, seconded by Mr. Duffee, to **Adjourn.**

VOTE: Motion carried unanimously.

The meeting was adjourned 3:36 pm.

Mrs. Jerri Taylor, Chairperson