

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm
Thursday, May 28, 2020

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

This BZA Meeting is being held through 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 2:02 pm. and asked for the Roll Call.

Present For Roll Call: Mr. Tom Duffee, Mrs. Jerri Taylor, Mr. Paul Hazlett, Mr. Rick Smith and Ms. Greta Wilt.

Absent For Roll Call: None.

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

Approval of the April 30, 2020 Minutes

Motion by Mr. Smith, seconded by Mr. Hazlett, to Approve as presented

VOTE: **Yes:** Mr. Smith, Mrs. Hazlett, Ms. Wilt and Mr. Duffee.

No: None

Motion Carried.

Chairperson Taylor explained how the meeting would be held.

Chairperson Taylor asked Staff to present the first case

Case #BZA-2020-11 ~ Property Owners/Applicants: Kurt & Judy Seibenick ~ Location 549 Newlove Rd: Harmony Twp. ~ Request: Variance to Chapter 8, Section 802.02.051 to allow an in-ground swimming pool in the side yard instead of the rear yard

Mr. Allan Neimayer, Senior Planner, stated that the subject property is located at 549 Newlove Rd. and consists of 1.57 acres. The property is a cluster lot, created in August 2008* and is zoned A-1 (Agricultural District). In 2019, the Applicants applied for a zoning certificate for the construction of a new dwelling. The front, side and rear yard areas for this property was established to comply with zoning setback requirements. The Applicants have filed this variance request to install an 18 ft. by 28 ft. in-ground swimming pool in the side yard.

* When the cluster lot split was created in August 2008, the front, side and rear yard areas were not identified at the time.

Chairperson Taylor asked Mr. Neimayer, what will the pool be facing. He responded to the south there are existing single family lots. Over to the corner on Newlove and Plattsburgh Rd. are bigger lots of residential/farming activity.

Minutes

Clark County Board of Zoning Appeals

Mr. Smith asked Mr. Neimayer, do we have information on the septic and well. Mr. Neimayer responded to the slide showing that information received from the Health District. The well is located on the north side, and the leach field is to the south.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 2:12 pm. and asked if the Applicant would like to speak at this time.

Kurt & Judy Seibenick, Applicants, 549 Newlove Rd., were sworn in. Mr. Seibenick stated that the house was designed with the swimming pool there from the start. So we got letters from all of our surrounding neighbors. They are all fine with having the swimming pool right outside our back door.

Chairperson Taylor asked the Applicant, why that location. Mr. Seibenick stated that this is the only location that fits. The house was built for the swimming pool to be put there. Mrs. Seibenick added the swimming pool sits in the L-shape of the house. She also stated that is the only access point from their back door to the pool.

With no further questions for the Applicants, Chairperson Taylor then asked if anyone else wished to speak on this case. There were none. Chairperson Taylor closed the public hearing at 2:15 pm. and asked for board discussion.

Mr. Smith stated that this goes along with the problem of side and rear yard on other corner lots. I believe the front of the house is designated by the way the house is set up. I would think the front is on the east. If I was laying this out I would consider that to be the back yard. I have to agree with them and say this is the best place to put it.

Ms. Wilt stated I drove out there and I do not believe this will be a problem for any of the neighbors. It is a beautiful site and it looks like the perfect place to put the swimming pool.

Mr. Hazlett stated I agree with Mr. Smith. This is one of those grey areas where the house is sitting. I just want to assure them they will get asked these things so we can get it on record. But I have no problem with it.

Mr. Duffee stated I support this variance.

Chairperson Taylor stated I am familiar with this area and it is a beautiful location. I do not think this will be a problem.

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

Action on Case #BZA-2020-11 ~ Property Owners/Applicants: Kurt & Judy Seibenick ~ Location 549 Newlove Rd: Harmony Twp. ~ Request: Variance to Chapter 8, Section 802.02.051 to allow an in-ground swimming pool in the side yard instead of the rear yard

Motion by Mr. Smith, seconded by Mr. Hazlett, to **Approve** as presented.

VOTE: **Yes:** Mr. Smith, Mr. Hazlett, Ms. Wilt and Mr. Duffee.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2020-15 ~ Property Owners/Applicants: Seth & Amy Tippie ~ Location: 553 Newlove Rd.; Harmony Twp. ~ Request: Variance to Chapter 8, Section 802.06.03 to allow a detached garage in the side yard at 8 ft. from the north lot line and 2 ft. from the east lot line.

Mr. Neimayer stated that the subject property is located at 553 Newlove Rd. and consists 2.15 acres. The property is a cluster lot, created in August 2008* and is zoned A-1 (Agricultural District). In 2019, the Applicants applied for a zoning certificate for the construction of a new dwelling. The front, side and rear yard areas for this property was established to comply with zoning setback requirements. The Applicants have filed this variance request to construct a 25 ft. by 25 ft. detached garage in the side yard at 8 ft. from the north lot line and 2 ft. from the east lot line.

* When the cluster lot split was created in August 2008, the front, side and rear yard areas were not identified at the time.

Mr. Smith asked, is that an additional shed in the southwest corner? Mr. Neimayer responded yes.

Chairperson Taylor states, we need to make sure the Applicant knows there can only be two accessory structures. Mr. Neimayer responded no, that is only on lots less than one acre. Chairperson Taylor stated I stand corrected.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 2:24 pm. and asked if the Applicants wished to speak at this time.

Seth Tippie, Applicant, 553 Newlove Rd was sworn in. Mr. Tippie stated that they just want to put in a detached garage for more storage. It is the most ideal location. These lots slope pretty well so I cannot put it on the other side of the concrete, and it blocks a lot of the view. So for us it is the perfect spot to hide it up in the corner.

Mr. Hazlett asked the Applicant, do you have an issue with sliding that building upward towards the top left corner? That 2.2 ft. clearance is a little concerning. Mr. Tippie responded I would not mind sliding it if I could get clearance to go more north. If we could keep it 25 ft. by 25 ft. but slide it northwest a little bit, I am ok with that. This plan just worked out so I would not have to add any more concrete.

Chairperson Taylor stated that is a good point. She then asked Mr. Neimayer to put the slide back up so we can see where the proposed garage would go.

With no further questions for the Applicant, Chairperson Taylor asked if anyone else wished to speak in favor for the case.

Kurt & Judy Seibenick, 549 Newlove Rd. were sworn in. They stated that they are in favor of this variance.

Chairperson Taylor then asked if anyone wished to speak in opposition of the case. There were none. Chairperson Taylor closed the public hearing at 2:28 pm. and asked for Board discussion.

Mr. Hazlett stated, I have concerns about the 2.2 ft. I want to hear everyone else's input. I am ok with the location but it is the 2.2 ft. If he does not want to give up any sq. ft. then he needs to slide it over.

Chairperson Taylor asked Mr. Hazlett, what do you think would be good. Mr. Hazlett said if he could move it 5 to 6 ft. that would give him 7 or 8 ft. of clearance.

Minutes

Clark County Board of Zoning Appeals

Ms. Wilt stated from reading the other Seibenick case they are related to the Tippies. So it is a family property line. But I would still have it moved a few feet.

Mr. Duffee stated I am concerned about the house at the north east. It looks like a wooded area between the two properties. I would like to swear Mr. Tippie back in and have him explain the site lines between the house to the north east and the garage

Mr. Smith stated I am sure anything that needed to get around it could with a lot size like this. I personally do not see a problem with it. I am not too happy with the 2 ft., but with the neighborhood with the way it is, I do not think it would be a problem

Chairperson Taylor re-opened the public hearing at 2:32 pm.

Mr. Duffee asked Applicant to explain the site line. Mr. Tippie stated if you look behind where I am looking to put the garage, there is a secondary road behind us for the {next set of} cluster lots. It is wooded, but the owner is starting to prep the land to build, so he has bush hogged it and taken down unwanted trees. I spoke to Jim and Cheryl Shaw (the Owners) and asked if they had any concerns, and they did not. I also spoke to Gilbert, he is the land owner of most of these lots, and he does not have any concerns. The distance between where the garage would be and the Shaw's house would be, although I have not measured, it would be about 50 to 75 yards. From that upper road to my driveway, it dips about nine ft. So when I build the garage, the back of it will be buried about six ft. The Shaws may see about three or four ft. and then a roof.

Mr. Duffee asked, is that across the street? Mr. Tippie responded my lot is at the bottom and then there is an access road. Mr. Duffee asked, as far as you know the front will face south? Mr. Tippie responded yes it will face South East.

Chairperson Taylor asked the Applicant it is right up against the property line. Would you be opposed to moving it off the property line? Mr. Tippie responded if that is what it comes to. I would rather do that than take down my sg. ft. Chairperson Taylor added things change, people move, so hearing from Board Members that is something we would want to pursue. Mr. Tippie responded sure; I would need to add more concrete.

With no further questions, Chairperson Taylor closed the public hearing at 2:37 pm.

Mr. Hazlett stated if the Applicant is willing to go along with this then I think we should change it from 2.2 ft. to 7.2 ft.

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

Action on Case #BZA-2020-15 ~ Property Owners/Applicants: Seth & Amy Tippie ~ Location: 553 Newlove Rd.; Harmony Twp. ~ Request: Variance to Chapter 8, Section 802.06.03 to a allow a detached garage in the side yard at 8 ft. from the north lot line and 2 ft. from the east lot line.

Motion by Mr. Hazlett, seconded by Ms. Wilt, to **Approve** with the following amendment: a clearance 7 ft. from the east lot line instead of the proposed 2.2 ft.

VOTE: Yes: Mr. Hazlett, Ms. Wilt, Mr. Smith and Mr. Duffee.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2020-13 ~ Property Owners/Applicants: Rod & Cynthia Batie ~ Location: 2400 Grant Rd.; Moorefield Twp. ~ Request Variance to Chapter 2, Section 201 to reduce the minimum frontage from 150 ft. to 40 ft, and to increase the maximum lot size from 4.99 acres to 7.4 acres to split off the existing house site from the remaining agricultural land.

Mr. Neimayer stated that the subject property is located at 2400 Grant Rd. and consists of 44.62 acres. The property is zoned A-1 (Agricultural District). The Applicant has filed this variance request to split off the house site, approximately 7.4 acres, from the beginning agricultural land.

Mr. Hazlett asked Mr. Neimayer is that the drive coming off of Grant Rd., and am I correct that that is 40 ft. in width? Mr. Neimayer responded that is what they are proposing. Mr. Hazlett asked so the original lot would have had the entire ground off of Grant Rd.? Mr. Neimayer answered correct.

Chairperson Taylor asked Mr. Neimayer did you say someone wanted to buy the 37.2 acres? Mr. Neimayer responded when this started yes. That was the purpose of doing this split.

Mr. Smith asked, the existing driveway that is there now, is that the same owner at both houses? Mr. Neimayer responded they are two different owners. Mr. Smith asked, so they had a verbal agreement to share the driveway? Mr. Neimayer responded I am not sure, but I doubt anything is recorded. The frontage along Grant Rd. according to GIS is a little over 1,100 ft.

Mr. Hazlett asked Mr. Neimayer if this drive is being shared, is there a minimum requirement for the easement? Mr. Neimayer responded I can answer that from the old cluster lot rules, that you had each lot of 10 ft.

Mr. Smith asked is the property that is to the south, is that included in the 37 acres? Mr. Neimayer responded the property to the south is 27.6 acres owned by Lorie Miller.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 2:49 pm. and asked if the Applicant wished to speak at this time.

NOTE: The Applicant was on the Zoom call but was unable to be heard.

Chairperson Taylor stated even though the proposed width is only 40 ft., it is preserving farmland and it is the only way to access the property. I do not see a problem with it.

Mr. Smith stated I agree. I have seen 30 ft. access driveways before. I like it the way it is.

Ms. Wilt stated I think 40 ft. would be adequate.

Mr. Hazlett stated I am ok with it if everyone else is. I was worried about setting a precedent and causing turmoil, but if everyone else is ok with it, than I am too.

Mr. Duffee stated I think they currently share the drive space. I see no reason to disapprove this variance.

Chairperson Taylor asked if anyone wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. There were none.

Chairperson Taylor closed the public hearing at 2:57 pm. and asked if the Board had anything to add at this time. There were no further comments from Board Members.

Chairperson Taylor asked for a motion.

Action on Case #BZA-2020-13 ~ Property Owners/Applicants: Rod & Cynthia Batie ~ Location: 2400 Grant Rd.; Moorefield Twp. ~ Request Variance to Chapter 2, Section 201 to reduce the minimum frontage from 150 ft. to 40 ft., and to increase the maximum lot size from 4.99 acres to 7.4 acres to split off the existing house site from the remaining agricultural land

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

VOTE: **Yes:** Mr. Smith, Mr. Duffee, Mr. Hazlett and Ms. Wilt.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2020-14 ~ Property Owners/Applicants: Thomas & Tammy Schliep ~ Location: 1972 Erika Dr.; Moorefield Twp. ~ Request: Variance to Chapter 8, Section 802.03.02 to allow an accessory structure in the front yard instead of the rear yard.

Mr. Allan Neimayer stated that the subject property is located at 1972 Erika Dr. and consists of 0.23 acres. It is Lot #2233 of the Northridge Subdivision No. 30-A, and is zoned PD-M (Planned District-Mixed Use). The Applicants installed a storage shed along the Middle-Urbana Rd. side of the property. A zoning complaint was made regarding the location of this accessory structure. The property is a corner lot. As such, the location of the accessory structure is considered the front yard. Because zoning regulations do not allow accessory structures in the front yard, the Applicants have filed this variance request.

Mr. Hazlett asked are there other outbuildings on this property? Mr. Neimayer responded no.

Chairperson Taylor asked do we know the overall size of this building? Mr. Neimayer replied, I will defer that question to the Applicant.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 3:03 pm. and asked if the Applicants wished to speak at this time.

Tammy Schliep, Applicant, 1972 Erika Dr. was sworn in. Mrs. Schliep stated that they were unaware that this was considered the front yard. We did not have room to put it anywhere else. The only thing we talked to Moorefield Township about was the property line. Nothing was ever said and I was not aware of it. I am begging you to let us leave it there. It has been there for three years and it does not block the traffic view. There is not enough room in the backyard with our children's playset. It seemed like the more convenient place to put it.

Chairperson Taylor asked how long has the structure been there? The Applicant responded 2017, so almost three years.

Mr. Hazlett asked on the side, I assume your lot goes to middle Urbana Rd. The Applicant responded technically not but we maintain it. In order to plant trees they told us we needed to be so many feet from the center line. Mrs. Jennifer Tuttle, Planner, added it is about 4.5 feet.

Ms. Wilt asked is this shed sitting on blocks? The Applicant responded no; it is sitting on a limestone foundation. Ms. Wilt then asked so it is portable? The Applicant responded, it was delivered and put together on that foundation.

Mr. Hazlett asked was this building already in place when you moved in? The Applicant responded no. Mr. Hazlett then asked so you bought it and they assembled it? Applicant responded no; it was already assembled and they delivered it. The fencing has been there since we moved in but not the shed.

With no further questions for the Applicant, Chairperson Taylor asked if anyone wished to speak in favor of this case. There were none. She then asked if anyone is opposed to this case. There were none.

Chairperson Taylor closed the public hearing at 3:10 pm. and asked for Board discussion.

Ms. Wilt asked how did this case come to our attention if the shed has been there for three years? Chairperson answered that this was complaint driven.

Sunny Dhingra stated he wanted to speak in favor of this case but was having some technical difficulties.

Chairperson Taylor re-opened the public hearing at 3:11 pm.

Sunny Dhingra, 2760 Kilkenny Dr., was sworn in. Mr. Dhingra stated that he is in favor of this variance request. He added that he is the owner of this subdivision and has talked to everyone in this subdivision and not a single person has a problem with it. He stated, "You can barely see it from Middle Urbana Road." The backyard does not have enough space to move it there.

Chairperson Taylor closed the public hearing at 3:13 pm. and asked for Board deliberation.

Mrs. Tuttle stated that we would like to get the height issue of fence in compliance. We want to make sure that it is included into a motion.

Mr. Hazlett stated the shed has been there for three years. I am ok with it.

Ms. Wilt stated I went by there and I think it looks fine. It is a nice building.

Mr. Duffee stated I agree it is fine.

Mr. Smith stated I am ok with it because it goes back to these corners lots and what is the front, side and rear yard. As far as the fence issue it looks like the 6 ft. fence breaks the front plane of the house. To have the side yard all the way back, they have done what they can. I am perfectly ok with everything the way it is.

Chairperson Taylor stated my thoughts are all very similar. Ideally, we would like to change the angle, but the property is well maintained it is a nice sight and appealing. It falls in the standards of the rest of the neighborhood and they do not have very many options. It would be a huge hardship to take this fence down, cut it, and put it back. It is just not worth it for what it is. I am in agreement with the rest of the Board.

Mr. Hazlett added the fencing issue I could go either way. But with kids involved and its lower in the front of the house, I am okay with it.

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

Action on Case #BZA-2020-14 ~ Property Owners/Applicants: Thomas & Tammy Schliep ~ Location: 1972 Erika Dr.; Moorefield Twp. ~ Request: Variance to Chapter 8, Section 802.03.02 to allow an accessory structure in the front yard instead of the rear yard.

Motion by Mr. Smith, seconded by Mr. Duffee, to **Approve** as presented including a variance of the height of the fence.

VOTE: **Yes:** Mr. Smith, Mr. Duffee, Mr. Hazlett and Ms. Wilt.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2020-16 ~ Property Owners/Applicants: John & Annette Kohut ~ Location: 855 S. Hampton Rd.; Bethel Twp. ~ Request Variance to Chapter 8, Section 802.02.051 to allow a swimming pool in the side yard instead of the rear yard.

Mr. Neimayer stated the subject property is located at 855 S. Hampton Rd and consists of 5.52 acres. The property is zoned A-1 (Agricultural District). The Applicants have filed this variance request to install an above ground swimming pool in the side yard.

Chairperson Taylor asked do we have a distance between the neighbor and the proposed pool. And is that a wooded area between the proprietaries? Mrs. Tuttle responded yes, it is a heavily dense wooded area. Mr. Neimayer added it is approximately 250 ft. between the neighbors.

Mr. Smith asked where do they propose the swimming pool to be in the side yard? Mr. Neimayer responded they want it out of the floodplain area, so they want it in the side yard.

Chairperson Taylor asked the front of the house is facing S. Hampton Rd.? Mr. Neimayer responded yes. Chairperson Taylor then asked what is on the opposite side of the house? Mr. Neimayer responded it is a dry tank, and added the Health District did not have records.

Mr. Duffee stated I visited this site and this area is very wooded. I do not see how the neighbor could see through this.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 3:30 pm. and asked if the Applicants wished to speak at this time.

John & Annette Kohut, Applicants, 855 S. Hampton Rd were sworn in. Mr. Kohut stated that it is very heavily wooded, all mature trees. I cannot see his house or the neighbor behind us. Our house cannot be seen from his house. If he had such a clear sight he should be able to see that nothing has been constructed. I am a 29-year retired military vet, and we do not party and drink. There has never been an issue here. Mrs. Kohut added the reason there is no other place to put the swimming pool is this is the only level area. I would have

liked to have it in the backyard, but it was not feasible. The drop off to the creek and the floodplain keep us from putting in the rear yard.

Mr. Hazlett asked the Applicants to state for the record that the trees and overgrowth are mature trees. The Applicants responded yes, they are huge Oak and Honey Suckle trees.

Ms. Wilt asked does the {flood} water get to your house? Mrs. Kohut responded only in 2017 did we have an issue with the water. Our front and side yard is built up at least 10 ft. when the creek floods.

With no further questions for the Applicants, Chairperson Taylor asked if anyone wished to speak in favor of this case. There were none. She then asked if anyone wished to speak in opposition of this case. There were none.

Chairperson Taylor closed the public hearing at 3:37 pm. and asked for Board discussion.

Mr. Duffee stated I saw no other place for this swimming pool. The proposed location seems reasonable for me.

Ms. Wilt stated I really do not like to see above ground swimming pools in side yards. But, you cannot see it from the street and its high ground. Chairperson Taylor added if we look at the picture Mrs. Tuttle took, I agree with Ms. Wilt. It is off the street and there is not another location.

Ms. Wilt asked is it going to be behind the front wall of the houses. Mr. Neimayer responded it would be off the corner.

Mr. Hazlett stated I agree as far as to the location. They have mature trees and we have taken that into consideration with other cases. And the isolation factor is in play. I do not see a problem with it.

Mr. Smith stated I agree with everyone else. You do not want it in the rear yard because of the floodplain. I think this is the spot for it.

Chairperson Taylor asks the Board what about a fence around the pool so it would not be so unsightly. Mr. Smith asked is a fence not required? Mr. Neimayer responded a fence around pool or that area would be required, a minimum of 4 feet and a maximum of 6 feet. Chairperson Taylor states, I think the fence will look more aesthetically pleasing. Mrs. Tuttle added a fence is not always required with an above ground pool. Per zoning code, as long as you have a safety mechanism in place like locking stairs, there is that way around a fence. Chairperson Taylor asked the Board would you be more inclined to vote for this variance if we require a fence?

Mr. Hazlett states, I think we should ask the Applicants.

Mr. Smith stated I am on the fence if they need to have one. Swimming pools now a days are nice looking. I would not insist on a fence if they have lockable stairs. Ms. Wilt added I am ok; I could go either way. Mr. Duffee added I would leave it up to the owners.

Mrs. Tuttle asks the Applicant, how tall is the pool? Mrs. Kohut responded the pool is 54 inches tall but they do dig down about 6 inches. She stated we do not want a fence because we enjoy the greenery of our yard. We plan to keep our landscaping looking nice.

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

Action on Case #BZA-2020-16 ~ Property Owners/Applicants: John & Annette Kohut ~ Location: 855 S. Hampton Rd.; Bethel Twp. ~ Request Variance to Chapter 8, Section 802.02.051 to allow a swimming pool in the side yard instead of the rear yard.

Motion by Mr. Smith, seconded by Mr. Hazlett, to **Approve** as presented.

VOTE: **Yes:** Mr. Smith, Mr. Hazlett, Ms. Wilt and Mr. Duffee.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2020-17 ~ Owners/Applicants: Tony & Cathleen Entler ~ Location: 6615 N. River Rd; Green Twp. ~ Request: Variance to Chapter 2, Section 201 to reduce the side setback from 25 ft. to 20 ft. to allow for a room addition.

Mr. Neimayer stated that the subject property is located at 6615 N. River Road and consists of 3.04 acres. The property is zoned A-1 (Agricultural District). The Applicants would like to construct a 16 ft. by 16.7 ft. room addition at the front of the house. To keep this room addition in the same building line of the existing house, the Applicants have filed this variance request to reduce the side setback from 25 ft. to 20 ft.

Chairperson Taylor asked the house is only 20 ft. from the property line already? Mr. Neimayer responded that is correct. Chairperson Taylor then asked so they are just going to add the addition where the house comes out already? Mr. Neimayer responded yes, keeping the same build line.

Mr. Neimayer read a letter of support by a surrounding property owner who lives at 6531 North River Road.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 3:50 pm. and asked if the Applicants wished to speak at this time.

Tony Entler, Applicant, 6615 N. River Rd. was sworn in. Mr. Entler stated that they are building a bedroom. It is an existing property line. We are pretty far away from our neighbors, and they are all for it.

With no questions for the Applicant, Chairperson Taylor asked if anyone else wished to speak in favor of this case. There were none. She then asked if anyone is opposed to this and wished to speak. There were none.

Chairperson Taylor closed the public hearing at 3:51 pm. and asked for Board discussion.

Mr. Hazlett stated I am aware of this property. When these lots were developed usually the existing building line they add on to the property. I do not see a problem with it

Mr. Duffee stated I see no problem.

Ms. Wilt stated no problem at all. It is a nice wooded lot.

Mr. Smith stated I am good to go.

Chairperson Taylor stated my thoughts are the same. There was not 25 feet when the house was built and they are not making any changes.

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

Action on Case #BZA-2020-17 ~ Owners/Applicants: Tony & Cathleen Entler ~ Location: 6615 N. River Rd; Green Twp. ~ Request: Variance to Chapter 2, Section 201 to reduce the side setback from 25 ft. to 20 ft. to allow for a room addition.

Motion by Mr. Hazlett, seconded by Ms. Wilt, to **Approve** as presented.

VOTE: **Yes:** Mr. Hazlett, Ms. Wilt, Mr. Smith, and Mr. Duffee.
 No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2020-18 ~ Property Owners/Applicants: Mark Parsons ~ Location: 561 N. Dayton Lakeview Rd., Bethel Twp. ~ Request: Variance to Chapter 2, Section 201 to reduce the side setback from 25 ft. to 2 ft. to allow a pole barn in the side yard.

Mr. Neimayer stated that the subject property is located at 561 N. Dayton Lakeview Rd. and consists of 0.73+ acres. The property is zoned A-1 (Agricultural District). The Applicant filed this variance request to reduce the side setback from 25 ft. to 2 ft. to construct a 16 ft. by 16.7 ft. pole barn in the side yard. Mr. Neimayer added that this setback is more of 13 ft. not 2 ft. Mr. Neimayer reviewed the prior road right-of-way vacation, which results in the setback of approximately 13 ft.

Mr. Hazlett asked Mr. Neimayer are there going to be any issues down the road if we make this approval? Mr. Neimayer responded I do not believe so. The rest of the {adjacent} property I do not think will ever be developed. These residential lots have been there from the beginning.

Chairperson Taylor asked is the rest of the Applicant's property unsuitable for the pole barn? She stated I will defer my question to the Applicant.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 4:01 pm. and asked if the Applicant wished to speak at this time.

Mark Parsons, Applicant, 561 N Dayton Lakeview Rd. was sworn in. Mr. Parsons stated that with your question, the back yard is the leach bed and septic. The side yard is the only place to build.

Chairperson Taylor stated that usually is the case; there is not another suitable location. We just like to ask that question before we make our decision.

With no further questions for the Applicant, Chairperson Taylor asked if anyone wish to speak in favor of this case. There were none. She then asked if anyone wish to speak in opposition of this case.

Wilma Van Scoyk, 663 N. Dayton-Lakeview Rd. was sworn in. Mrs. Van Scoyk stated that I am the owner of all the property surrounding Mr. Parsons property. I feel that a pole barn is not the way to go.

Mr. Hazlett asked do you live on or near this property? Ms. Van Scoyk responded yes, my property surrounds his; I own all of that land. She added that the Applicant has too many cars outside of his house.

Chairperson Taylor asked if there are a lot of cars out there would it be better if they were enclosed? Ms. Van Scoyk responded the way that it is I do not see how he can park all of those cars. Chairperson Taylor then asked what would you say would be the solution for this? Ms. Van Scoyk responded I do not think the solution to this would make any of us happy. The people living in the house each has a car. I do not see it will alleviate the problem. The pole barn will not be attractive to the surrounding property owners.

David Van Scoyk, 8195 E. New Carlisle Rd., was sworn in. Mr. Van Scoyk stated the pole barn Mr. Parsons would like to build does sit in his front yard, and it would downgrade the whole property. As far as my mother looking out her property, there is a solution and he could slide that barn to the rear of his property and put it out of site.

With no one else to speak in opposition on this case, Chairperson Taylor allow time for rebuttal from the Applicant.

Mr. Parsons stated I have fill dirt put in there, and it is back as far as I can without hitting the pond. This is the only place I can put this pole barn. And, a pole barn and garage is just a play on words. It is the same thing.

Chairperson Taylor asked what is between the proposed location and the side of your house. Mr. Parsons responded it is a hill. Chairperson Taylor then asked is there any way you can build a garage that looks like your house, and either be attached or side by side that would give it a different look and still fulfill your needs. The Applicant responded that is a 20 ft. drop. I would have to fill it up with fill dirt. I know what you are saying that it is unappealing.

Sara Parsons, 561 N. Dayton-Lakeview Rd., was sworn in. Mrs. Parsons stated that we do have a lot of cars, and they do not know our living situations. We need another garage to park our cars in.

Chairperson Taylor asked, what about the height of the pole barn? Mr. Parsons responded it would be 16 ft.

Mr. Hazlett asked, sense there seems to be some controversy, would it be acceptable to Table this case at this time to have you get some plans together and we could find some terms we could all agree on. The Applicant responded so is that going to Carter Lumber and having them draw up what I am going to build? Chairperson Taylor responded yes. It just allows you to get more concrete ideas of what you want so we can all come to a solution; whether you want a pole barn or garage; what would be the most aesthetically pleasing for your location. The Applicant replies, if you are talking about devaluation of our home I would never do something like that. But if this is what it is going to take. I would prefer not to Table it. I would prefer to get an approval and let us move forward and let us do our building permits.

Chairperson Taylor asked Mr. Neimayer if we were to deny this case, he would not be able to build at all correct? Mr. Neimayer responded not necessarily. The Applicant could find a new location with different setbacks. Chairperson Taylor stated I do not want to speak for the rest of the Board, but if it were me I would take every opportunity to present a positive case to the Board. We are all homeowners and live in the county. We want to keep our neighborhoods beautiful. We would like to give you the opportunity to get some information and come back next month.

Mr. Duffee stated I can follow the lead of the Chair.

Mr. Smith added if there is something the Applicant could do for the neighbor, show her aesthetically what it is going to be, it may help the situation.

Ms. Wilt added I am good with that.

Hearing no further comments, Chairperson Taylor closed the public hearing at 4:21 pm. and asked for Board discussion.

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

Action on Case #BZA-2020-18 ~ Property Owners/Applicants: Mark Parsons ~ Location: 561 N. Dayton-Lakeview Rd., Bethel Twp. ~ Request: Variance to Chapter 2, Section 201 to reduce the side setback from 25 ft. to 2 ft. to allow a pole barn in the side yard.

Motion by Mr. Hazlett, seconded by Ms. Wilt, to **Table** this case until the June 25, 2020 meeting.

VOTE: **Yes:** Mr. Hazlett, Ms. Wilt, Mr. Smith, and Mr. Duffee.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case

Case #BZA-2020-19 ~ Property Owners/Applicants: Joshua & Maria Blake ~ Location: 3716 Fowler Rd., Mad River Twp. ~ Request: Variance to Chapter 8, Section 808.06.07 to allow a pond on a parcel less than 5 acres.

Mr. Neimayer stated that the subject property is located at 3716 Fowler Rd. and consists of 4.86 acres. The property is zoned A-1 (Agricultural District). The Applicant would like to construct a pond on the property that is 0.14 acres from the minimum 5.0 acres required. Mr. Neimayer showed the Board letters from surrounding neighbors in opposition to this variance.

Mr. Smith asked do you know where the pond will be. Mr. Neimayer responded it would be about 150 ft. from the east property line.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 4:29 pm. and asked if the Applicants wished to speak at this time.

Joshua Blake, Applicant, 3716 Fowler Rd. was sworn in. Mr. Blake stated that Jeremy and Chad (?) with Clark Soil & Water Conservation District were out on our property, and we dug a little test hole. We dug down to the bed rock and it filled up by itself. I have four children and we are back there once to five times a day catching frogs, tad poles and crawl dads. We love the environment. This would be a good place to stock it with fish. It would be a nice gathering spot for us and our family.

Chairperson Taylor asked you have a test dig, not a pond correct? The Applicant responded no, there is no pond; it is a small hole.

Mr. Smith asked is this proposed pond ground water fed or spring fed? The Applicant responded it is not spring fed. It just raises up to 6 to 10 ft. I would assume it is ground water.

Ms. Wilt asked have you had any design work done on this, an exact size or have an engineer look at it? The Applicant responded I was going to have Jeremy and his friend out once I got this approved. This is the first step he told me to do before drawing anything up.

Mr. Duffee asked could you clarify for me your fencing issue on the three sides of your property? The Applicant responded on the north side there is a fence from the street all the way to left rear side of my property. There is also a fence from the left rear to the right rear. And then where Ed {neighbor} lives the fence stops by the barn. Before I bought the house, the prior owner had horses and she had an electric fence. I removed that electric fence because it was just one wire. Mr. Duffee replied, so the property off of Broadway Rd. there is fencing in-between your property and their property? The Applicant responded yes.

Chairperson Taylor asked the Applicant you have quite a bit of concerns from neighbors. What can you do to assure them? The Applicant responded we plan to put a fountain and aerator in the pond once it is built.

Chairperson Taylor asked, did you say part of the property is fenced but not all of it? The Applicant responded from the southeast corner to the west, from the barn to the front of the barn that is all fenced. And, the whole north side of the property is fenced.

Jeremy Best, Clark Soil & Water Conservation District, stated I have talked with the Applicant and Chris Simpson (not Chad) in our office, a drawing would come from him. But there is a lot of liability with this. Could a pond be built on this property? It could, but there are a lot of things to overcome.

The Applicant spoke on the mock up drawing he submitted. I dug six to eight holes around the perimeter and everywhere I got down it hit bedrock eight to nine ft. down. If I need to get an engineer's drawing or add more fencing I can do all that. I will do it the right way.

With no further questions for the Applicant, Chairperson Taylor asked if anyone else wished to speak in favor of this case. There were none. She then asked if anyone wished to speak in opposition of this case.

Lorraine Freeze, 5285 Broadway Rd., was sworn in. Mrs. Freeze stated that when the Blake's moved in, within two years they took down our fence. There is no fence between our farm and their property. I have him on camera trespassing in our yard. My opposition to this pond is my grandbaby falling in the pond.

Chairperson Taylor asked Mrs. Freeze if there was a fence around the pond how would you feel? Ms. Freeze responded I would be opposed to it because I do not trust them and I do not trust their behavior. Chairperson Taylor asked again, if there was a fence around the pond, then what would your concern be? Ms. Freeze responded I would be afraid of a kid drowning.

John Kusnierek, 3652 Fowler Rd., was sworn in. Mr. Kusnierek stated that on the drawing there is a drainage feature that goes north to south with words next to it. If that is a part of the variance, I am opposed to that because that will flood the property to the south. Also, with the depth of the pond, I would like to know where all the dirt is going to go. I do think there needs to be a drawing of the pond as it is planned or intended.

Chairperson Taylor stated we can refer back to the Applicant to see if we can get those questions answered for you.

Steven Bachowski, 3590 Fowler Rd., was sworn in. Mr. Bachowski stated that mainly there is a drainage issue already. To put a pond there will cause even more of a problem. Most the drainage occurs in the spring time. I could see swamp age in the spring. And without seeing an engineer's perspective on this, I do not see how a swamp-age will not occur.

With no one else to speak in opposition to this case, Chairperson Taylor allowed time for rebuttal from the Applicant. The Applicant stated what Mrs. Freeze was trying to get to, which I already addressed, was an

electric fence that I took down. And again I do not trespass. We do have guns but we are not shooting as much as what they say.

Chairperson Taylor asked what can you do to make this a safe environment for your neighborhood? The Applicant responded I will put a fence all the way around this property. And all this dirt I will be taking out will be going to Mad River they are buying the dirt from me.

Mr. Hazlett asked would you be interested in Tabling this until you get drawings from the engineer? The Applicant responded yes.

Hearing no further comments, Chairperson Taylor closed the public hearing at 4:55 pm. and asked for Board discussion.

Mr. Hazlett stated if everyone is fine with it I am ok with Tabling it.

Mr. Smith stated I agree with Mr. Hazlett. If the homeowner could get some drawings and concrete answers on drainage, I think that would help us decide.

Mr. Duffee stated I am in agreement.

Ms. Wilt stated yes, I think we need engineer drawings.

Chairperson Taylor stated I agree. If I were your neighbor, I would be concerned about small children as well. When you come back we would like to see some engineer's drawings. She then asked Mr. Best for his input on whether or not this is something the Board should approve.

Mr. Best responded I think a pond could be placed on the subject property, although it is not the best site for it. As long as it is not causing any drainage problems for the neighbors, it is not for us to say if that is a good pond or a bad pond.

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

Action on Case #BZA-2020-19 ~ Property Owners/Applicants: Joshua & Maria Blake ~ Location: 3716 Fowler Rd., Mad River Twp. ~ Request: Variance to Chapter 8, Section 808.06.07 to allow a pond on a parcel less than 5 acres.

Motion by Mr. Hazlett, seconded by Mr. Smith to ***Table*** this case until the June 25, 2020 meeting and requested an engineering drawing of the proposed pond.

VOTE: Yes: Mr. Hazlett, Mr. Smith, Ms. Wilt and Mr. Duffee.

No: None.

Motion Carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2020-20 ~ Property Owner/Applicant: Jeff McClure ~ Location: 1311 Willow Rd., Moorefield Twp. ~ Request: Variance to Chapter 8, Section 802.03.01 to allow an accessory structure (storage shed) without a primary structure.

Mr. Neimayer stated that the subject property is located at 1311 Willow Rd. and consists of 0.67 acres. The property is zoned R-4S (Multiple-Family Residence District, Specific Use). The Applicant recently bought the property to build a new single-family home. As they continue cleaning up the property, they would like to build a 10 ft. by 20 ft. storage shed to secure their items before constructing the new home.

With no questions for Staff, Chairperson Taylor opened the public hearing at 5:03 pm. and asked if the Applicant wished to speak at this time. The Applicant is not on the Zoom call.

Mr. Smith asked Mr. Neimayer did the Applicant give you a time frame for when they would build? Mr. Neimayer responded not that I recall.

Chairperson Taylor asked if there was anyone who wished to speak in favor of this case.

Dale Rexroth, 1353 Willow Rd., was sworn in. Mr. Rexroth stated he owns the property to the right and he would have no problem with Mr. McClure building that storage shed to store his equipment until his house is ready. Do we know how big it will be? Mr. Neimayer responded 10 ft. by 20 ft. Mr. Rexroth stated he would have no problem with that. It will be nice to have some neighbors other than trees.

Chairperson Taylor asked if there was anyone else to speak in favor of this case. There was none. She then asked if there was anyone who wished to speak in opposition of this case. There were none.

Chairperson Taylor closed the public hearing at 5:07 pm. and asked for Board discussion.

Chairperson Taylor stated we have had this discussion before, and we have approved some of these and homes go up in a reasonable time. What we do not want is approving it and a home never go up. We are looking to make some changes to that regulation.

Mr. Smith added in my experience when I built my house, I had to do the same thing. The only thing I want to add is put a time limit on it like two years to build the new house. That would give anyone enough time to start their new house. I am in favor of it with a time limit.

Ms. Wilt added I like that too, putting a time limit on it.

Chairperson Taylor asks Mr. Neimayer, is that something we can do? Mr. Neimayer responded yes you can put a condition on it. He added, if it comes to the two years and house is not built, then it becomes a code enforcement matter. Mrs. Tuttle added, an example is 122 Slayton St., a previous variance case. The Board put a time limit on the relocation of that temporary car port. That time has expired and is not in the enforcement process. Orders were sent that the car port had to be relocated.

Mr. Neimayer added, in that Slayton St. case, there was already an existing home so we were only talking about location of an accessory structure. In this Willow Rd. case, we are talking about an accessory structure without a primary structure.

Chairperson Taylor asked, say it has been two years and they have already started construction. I would not be opposed to that. Or we Table it and ask the Applicant to give us additional information.

Minutes

Clark County Board of Zoning Appeals

Mr. Smith asked can we put on our stipulations that we approve on getting plans for a new house?

Mr. Hazlett stated I like that. Mrs. Tuttle stated if we had those plans, we would not need the variance.

Mr. Smith stated I think we vote on it and put a time limit on it.

Mr. Duffee stated let's move forward.

Mr. Hazlett responded I am ok with it.

Ms. Wilt stated move forward.

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

Action on Case #BZA-2020-20 ~ Property Owner/Applicant: Jeff McClure ~ Location: 1311 Willow Rd., Moorefield Twp. ~ Request: Variance to Chapter 8, Section 802.03.01 to allow an accessory structure (storage shed) without a primary structure.

Motion by Mr. Smith, seconded by Mr. Hazlett, to **Approve** as presented with the following condition: subject to with a two (2) year time frame to begin construction of the principal structure, otherwise this accessory structure must be removed.

NOTE: Ms. Wilt lost her connection before the vote and therefore emailed Mrs. Tuttle that she voted yes on the motion.

VOTE: Yes: Mr. Smith, Mr. Hazlett, Mr. Duffee and Ms. Wilt.

No: None.

Motion Carried.

Staff Comments

New cases for June and 2 tabled cases. Next meeting will be on June 25, 2020.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 5:20 p.m.

Mrs. Jerri Taylor, Chairperson