

# ***Minutes***

## ***Clark County Board of Zoning Appeals***

Regular Meeting ~ 2:00 pm.  
Thursday, June 23, 2022

Springview Government Center  
3130 East Main Street  
Springfield, Ohio 45503

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. Jerri Taylor, Mr. Rick Smith, Mr. Paul Hazlett, Mr. Tom Duffee and Mrs. Sandy Forstrom.

Absent For Roll Call: None.

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

Chairperson Taylor explained how the meeting will be conducted.

### **Approval of the April 28, 2022 Minutes**

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

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

**No:** None.

**Abstain:** Mrs. Forstrom.

***Motion carried.***

### **Approval of the May 26, 2022 Minutes**

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

**VOTE: Yes:** Mr. Hazlett, Mr. Smith, Mrs. Taylor, Mrs. Forstrom and Mr. Duffee.

**No:** None.

***Motion carried.***

Chairperson Taylor stated the Board will be hearing Case #BZA-2022-17 first.

**Case #BZA-2022-17 ~ Property Owners/Applicants: Tim & Danielle Holzmann ~ Location: 9278 Lower Valley Pike, Bethel Twp. ~ Amended Request: Variances to Section 802.02.063 to increase the size of an accessory dwelling unit from 600 sq. ft. to 1,060 sq. ft.**

Mr. Allan Neimayer, Senior Planner, stated that the subject property is located at 9278 Lower Valley Pike and consists of 23+ acres. The property is currently zoned A-1 (Agricultural District). The Applicants would like to build an accessory dwelling unit with a full kitchen, two bedrooms and 1½ baths over a basement. Hence, the Applicants have filed this variance request to increase the size of an accessory dwelling unit from 600 sq. ft. to 1,060 sq. ft. Mr. Neimayer stated that public notices included the Applicant's original request for 1,008 sq. ft.

Mrs. Forstrom clarified this cannot be used as a rental. Mr. Neimayer responded that is correct.

Mr. Smith asked if they would have independent utilities. Mr. Neimayer deferred to the Applicant, but stated the Health District has final approval. Mr. Hazlett asked if the property is on public utilities. Mr. Neimayer responded it is not.

Chairperson Taylor stated when we put this guideline together the 600 sq. ft. for the accessory dwelling units were not typically on lots this large. Mr. Neimayer added the 600 sq. ft. is a carryover from what was already in the zoning regulations. Chairperson Taylor asked is that something we should we look at in the future, the size of the lot as it relates to the size of the request for the accessory dwelling unit. Perhaps the size of the lot should be taken into consideration.

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 2:10 pm. and asked if the Applicant would like to speak

Tim Holzmann, Applicant, 9278 Lower Valley Pike, and James Kent, Agent, were both sworn in. Mr. Kent stated he is an architectural designer with Greater Dayton Building and Remodeling. Mr. Kent explained this is becoming more prevalent in our industry where they are encouraging multi-generational houses. And what we are seeing is that it is a better holistic approach than putting in-laws in a home. We understand the 600 sq. ft., but it is smaller than what we anticipated for what we are trying to accomplish which is the size of a two-bedroom apartment. Mr. Kent explained zoning also has amplifications that only allow you to build out a certain percentage of your lot. Depending on the size of your lot, you could use that justification.

Chairperson Taylor asked if utilities will be separate. Mr. Kent replied no. They are upgrading the well and septic to all on one.

Mrs. Forstrom asked if there is a basement. Mr. Kent explained with our sanitary proposal we are doing water calculations and a soil analysis to make sure that is viable and will not be a flood zone. It is intended for storage and a non-habitable.

Chairperson Taylor asked if there will be a garage. Mr. Kent responded no.

Chairperson Taylor asked the Applicant if there was anything he would like to add. Mr. Holzmann responded no.

Chairperson Taylor asked if anyone is in favor of the variance request that would like to speak. Hearing none she then asked if anyone wanted to speak in opposition to the request. Hearing none, Chairperson Taylor closed the public portion of the hearing at 2:15 pm. and asked for Board discussion.

Mr. Smith asked if he could re-open the public hearing to ask the Applicant some questions.

Chairperson Taylor re-opened the public portion of the meeting at 2:15 pm. and reminded the Applicant and Agent that they are still under oath.

Mr. Smith asked the Applicant what he would do with the building when his parents died. Mr. Holzmann responded we would eventually move to the smaller house and allow our children and their family live in the main house. Mr. Smith asked you have no plans of renting this out. Mr. Holzmann responded no.

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Mr. Duffee asked how long they have had the property. Mr. Holzmann stated that they purchased the property in 2019.

Mr. Hazlett asked the Applicant if he was from the area. Mr. Holzmann explained I am military so we moved a lot, but I did attend Cedarville University for my undergraduate and my masters at the Air Force.

Chairperson Taylor stated we know what the intent is now. But if we approve the request and the property switches hands, we could put something into motion that was not the original intention.

With no further questions for the Applicant, Chairperson Taylor closed the public portion of meeting at 2:17 pm. and asked for Board discussion.

Chairperson Taylor asked how do we control the intent if the property switches hands in 20 years. Mr. Neimayer stated if it turns into something that was not originally approve then it turns into a code enforcement matter. Mrs. Tuttle added the zoning certificate state what they can and cannot do.

Mrs. Forstrom asked if that will be a recorded document. Mrs. Tuttle responded no but we have it on file at all times. Mr. Hazlett stated I would be comfortable with that.

Mr. Hazlett stated I know we are increasing the size and with the size of the lot they have plenty of room. The extra 400+ sq. ft. would make it comfortable. They are using the same driveway and I think that would be a deterrent for a rental down the road.

Chairperson Taylor stated we look at these cases on case by case basis. The next one may not be approved based on other factors.

Mrs. Forstrom stated I am concerned about later new utilities are put in and it becomes two separate residences. Mrs. Tuttle responded we work close with the Health District, so if another well or septic went in we would get notifications.

Chairperson Taylor stated if you are living that close to the other dwelling you would not want a stranger in there. It would be a deterrent for a rental.

Mr. Duffee stated I think the size of the lot justifies the variance request.

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

**Action on Case #BZA-2022-17 ~ Property Owners/Applicants: Tim & Danielle Holzmann ~ Location: 9278 Lower Valley Pike, Bethel Twp. ~ Request: Variances to Section 802.02.063 to increase the size of an accessory dwelling unit from 600 sq. ft. to 1,060 sq. ft.**

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

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

**No:** None.

***Motion carried.***

Chairperson Taylor asked Staff to present the next case.

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**Case #BZA-2022-15 ~ Property Owners/Applicants: Casey & Sara Leslie ~ Location: 7720 Milton-Carlisle Rd., Bethel Twp. ~ Request: Conditional Use approval under Section 728.04 for a construction services business.**

Mr. Neimayer stated that the subject property is located at 7720 Milton-Carlisle Rd. and consists of 1.92 acres. The property, Lot #8 of Valley View Estates Subdivision, is currently zoned R-1 (Rural Residence District). The Applicants are requesting Conditional Use approval under Section 728.04 (Major Home Occupation use) for a construction services business. Mr. Neimayer reviewed the requirements of a major home occupation use. The Applicant has filed a separate variance application seeking relief from those requirements. Mr. Neimayer then reviewed letters received in opposition to both requests. Mr. Smith asked how many variances he is applying for. Mr. Neimayer responded variance to the following: to increase the maximum size of an accessory structure; allowing new construction to the premise to accommodate a conditional use; to allow a maximum of four non-residents of the premise employed with the conditional use; to allow a maximum of four light duty commercial vehicles parked or stored on the property for the conditional use; and to allow more than 25% of the accessory structure to be used for the home occupation use.

Chairperson Taylor stated this is all a housing development. Mr. Neimayer added it is part of the Valley View Estates subdivision. Chairperson Taylor asked if a driveway needs to be put in. Mr. Neimayer responded yes.

Chairperson Taylor clarifies the Applicants requests: a conditional use for a major home occupation use; request to allow a structure larger than what is permitted, as well as four nonresidential employees and four commercial vehicles, and future expansion that would require another building. Mr. Neimayer added on the application the Applicant indicated that the additional square footage is for this structure or for another structure if needed. The Applicant can comment further.

Chairperson Taylor asked it is just under two acres is there a maximum number of external structures they can have. Mr. Neimayer responded not on the number of structures just the square footage.

Mrs. Forstrom asked what the coverage limit is. Mr. Neimayer responded it is factored into the size.

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the meeting at 2:31 pm. and asked if the Applicant would like to speak.

Casey Leslie, Applicant, 7720 Milton-Carlisle Rd. was sworn in. Mr. Leslie explained the picture is drawn to scale so you can see the size of the barn and how much space there is. I do not have plans of expansion or adding more employees or any more vehicles, but instead of parking all the vehicles in the yard or driveway, we can put them in the barn and keep the neighborhood looking less industrialized. The zoning variance application was because we have 1.92 acres so that only allowed us 3,000 sq. ft. At two acres we could have had 4,500 sq. ft. I was told to always go 30% bigger than what you think you need. I am looking down the road and I know zoning laws get stricter with time so I would rather ask for the variance now and maybe not use the whole 4,500 sq. ft., but it at least allows me that coverage in the future. The kit itself is \$60,000 and that is before excavation. It would increase our property value as well as the surrounding neighbors. Every other house on our street has an oversized barn. The other reason for the size increase, is because you can only use 25% of the building for the business. After the original request went out an angry neighbor wrote a letter and sent it out to all the neighbors except for us. So we sent out a letter to all the neighbors to address all of their concerns. Mr. Leslie read a letter to the Board that he and his wife sent out to their neighbors.

Mr. Leslie explained his new driveway he built among other updates he has made to the property. He also explained the drainage issues that run through the property which is the reason for the location of the proposed barn. He explained the driveway would be extended to the barn. The neighbor's driveway is right against my property line. Mr. Leslie spoke of his lot size just under 2.0 acres compared to neighboring lot sizes that are 2+ acres in size. Mr. Leslie explained he runs a residential construction business: we work on residential homes, we do not do commercial work. Clients do not ever come to my home and we do not sell anything. The only noise we make is starting up the trucks between 5 to 7 am., work a 10 hour day, then park the trucks and leave. Mr. Leslie explained there were concerns about our lot looking industrial. I have already spent over \$15,000 in landscaping and things to build up the appearance. There will be noise while working on our own home, but it is not noise from my business.

Mr. Smith asked the Applicant how many employees he has. The Applicant responded four. Mr. Smith then asked where they would park their cars. The Applicant responded next to the barn. Mr. Duffee asked they park next to the barn, not in it. The Applicant responded eventually I would like them to park in there. I would love to use the whole barn for the business. We also have a camper and a boat that we would like to store inside the barn.

Mrs. Forstrom asked, any construction items get delivered to your house? The Applicant explained they are shipped to the job site. I have never had anything delivered to the house unless it was for my own property.

Mrs. Forstrom asked the Applicant if he had any large equipment to store. The Applicant responded I have a 1-ton dump truck, a box van and two Chevy trucks and three of them are logoed with Blue Bird Construction. I also have a 16 ft. enclosed trailer, an equipment trailer and a dump trailer.

Mrs. Forstrom asked about fencing. The Applicant responded there is not a fence around the property except the neighbors in the back. Mrs. Forstrom asked if they have built any trusses. The Applicant responded we will not be working in the barn. We load up and work off site.

Mrs. Forstrom asked about security lighting. The Applicant responded maybe down the road we might run electric to the barn. Mrs. Forstrom asked if there will be a bathroom out there. The Applicant responded no, that would require sanitary system.

Mrs. Forstrom asked about signage. The Applicant responded no, we do not have clients coming to the house.

Mr. Smith stated I am concerned about the parking around the barn. How many trailers do you have? The Applicant responded three. Mr. Smith asked do all of the trailers and trucks leave every day. The Applicant responded not all the trucks and trailers leave. But one truck will always leave with a trailer. Mr. Smith asked so on average you would have about six vehicles out there every day. The Applicant responded four cars and then at least one trailer every day. Mrs. Forstrom asked at the end of the day after all the employees left how many would be parked outside. The Applicant responded my wife and I each have a vehicle, and then the dump truck, the Chevy truck and then my three trailers, but I do not think there is a limit on the amount of trailers. Mr. Smith stated we need to be concerned about the parking spaces and what is going to be sitting out there on a regular basis. The Applicant stated if we got approval to use 100% of the barn, we could park all of the trucks and equipment in the barn.

Mrs. Forstrom asked what will be in that 25%. The Applicant responded it depends on how big we can build. Mrs. Forstrom then asked if you got approved for the 1,100 to 1,200 sq. ft. what you would store in there. The Applicant responded right now it would be the vehicles and equipment in that space and most of the trailers if space allotted. The Ohio weather takes a toll on them. Mrs. Forstrom asked have you thought about putting up a fence or screening. The Applicant responded I would not mind putting up a landscaping fence or a fence to hide everything.

Mr. Hazlett asked you probably do not want this stuff around the house and want to keep it all looking nice. The Applicant responded yes. Mr. Neimayer reviewed the 25% use of the barn. He then asked the Applicant would his preference be to use the whole barn to store all of the equipment in. The Applicant responded yes absolutely. If we got this size approved we could parking everything in there.

Mr. Hazlett asked is it your belief that if we allow this to happen it would improve your relations with your neighbors. The Applicant responded I believe so. They would not look at what they feel is not a pleasant site. It is not their property.

Mr. Hazlett asked Mr. Neimayer can we add into the motion that he can add more equipment into his building. Mr. Neimayer responded yes. In the past the Board has approved larger sq. ft. so that the property owner can park their items inside vs. outside. Mr. Smith stated the Board should consider in this instance full rain on whatever he can park in the new barn and let him have the whole 100% use. Mr. Hazlett stated I think this would help with relations of the neighbors.

The Applicant stated my goal is to be one of nicest homes on the street.

Mrs. Tuttle referenced the section in the regulations about trailers: he can have up to 2 trailers parked outside of the building if they are in the rear yard and three ft. away from the lot line. The Board can note the trailers that are part of the business if you want, but the trailers do not count towards the parking spots.

Mrs. Forstrom asked about a trash dumpster. The Applicant explained when we moved here I reached out to Jennifer Tuttle and to Rhonda Ledford with Bethel Township and asked about restrictions on dumpsters. They informed me there were not any. The dumpster is placed next to the home now and once the new building is built it would be moved out there. Mrs. Tuttle stated if the trash dumpster is for the business it needs to be screened. The Applicant responded would landscape screening work. Mrs. Tuttle responded I will double check.

With no further questions for the Applicant, Chairperson Taylor asked if there was anyone else in favor of the Condition Use that would like to speak. Hearing none she then asked if there was anyone who wanted to speak in opposition to the Conditional Use.

Delores Peck, 7071 Free Rd., was sworn in. Mrs. Peck explained I live behind where the proposed barn will be. I have lived there for 17 years and I purchased it for what I was seeing. I know over time his business will grow. I drove by and saw 12 vehicles the other day. I have two young children that live at my house and I have concerns of the people going in and out. I oppose it. I do not want to see the vehicles going in and out and look at a pole barn. I do not believe those promises. He is talking about the view, I have a view. This is my view now. And I do not want my view to change.

Chairperson Taylor asked if anyone else wished to speak in opposition. There were none. Chairperson Taylor asked if the Applicant would like time for rebuttal. The Applicant declined.

Chairperson Taylor closed the public portion of the meeting at 3:10 pm. and asked for Board Discussion.

Chairperson Taylor stated I am totally opposed. I am not opposed to a pole barn on the property for storage, but I am opposed to the business. I would not want to see the vehicles if I lived there, not the dumpster and not people going in and out at 5 am. It is a disruption of a residential neighborhood.

Mrs. Forstrom stated we do have control because we can add conditions to the use. However, I feel it is quite substantial. The neighborhood will be altered and not getting it back to what a residential neighborhood should be I am opposed to it.

Mr. Duffee stated I admire the Applicant running a small business. However, I think he has outgrown this space for his business. The Applicant is proud of this work with his prior residence but as one goes by the property he needs to see it from another eye. It looks like a construction area. The driveway now is already in violation of section 728.05.07. I think the business has just outgrown a two acre property. I agree with the residents on Free Road and they are the ones that will be seeing it. It would be too imposing. I would be against the Conditional Use for those reasons.

Mr. Hazlett stated I cannot form an opinion.

Mr. Smith stated I look at our existing zoning regulations and in Section 728.05 a major home occupation is a permitted use. He is trying to meet the requirements of the Conditional Use. It sounds to me he is willing to meet those requirements. There would need to be fencing or landscaping along that back property line to shield the neighbors behind him. I tend to lean that way and we can add that in to make sure that landscaping is part of the motion. Along with what I said earlier, everyone's concerns are about the trailers and trucks being parked outside the building. If we give him full access of the barn to park his equipment in and keep it looking as nice as possible, I would be inclined to approve it.

Chairperson Taylor started to review the findings of facts. Mr. Neimayer reminded the Chairperson we do not look at findings of facts on a Conditional Use Application. Chairperson Taylor further explained her concerns. We can put stipulations on the Conditional Use but it would still go back to code enforcement.

Mr. Smites asked if after the fact he did not hold up his end, could a neighbor file a complaint and Staff finds him in violation. Mrs. Tuttle and Mr. Neimayer agreed.

Chairperson Taylor stated it is a business in a residential area, and the trucks going in and out. I live in the county because I do not want to live by a business. Mr. Smith stated you live next door to a farm with farming equipment that goes in and out with large semis taking grain to the grainer. Chairperson Taylor responded they are seasonal. Mr. Smith stated you live next to a driveway of a farmer. Mr. Duffee stated and this is a two acre lot. It is not that big. Mr. Smith responded and that is my argument, he does not have the room to go larger. The barn is to keep everything hidden. Chairperson Taylor stated this could very well grow. I would not want it in my backyard. Mr. Smith stated we could top it at 4,000 sq. ft. so if he does want another building he would have to come back to the BZA.

Mrs. Forstrom stated I am leaning towards the bigger building that he is requesting to keep more equipment hidden. Chairperson Taylor states, I do not know the building would be big enough to

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store all of that equipment in. He would fill up the barn and then put additional equipment outside the building. Then a trash truck coming down the lane to empty the dumpster.

Mr. Duffee stated he needs to find another place to run his business.

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

**Action on Case #BZA-2022-15 ~ Property Owners/Applicants: Casey & Sara Leslie ~ Location: 7720 Milton-Carlisle Rd., Bethel Twp. ~ Request: Conditional Use approval under Section 728.04 for a construction services business.**

Motion by Mr. Smith, seconded by Mr. Duffee, to **Approve** the Conditional Use request.

**VOTE: Yes:** Mr. Smith and Mr. Hazlett.

**No:** Mr. Duffee, Mrs. Forstrom and Mrs. Taylor.

**Motion defeated.** The Conditional Use request is denied.

Mr. Neimayer asked Chairperson Taylor for a short break so that Staff can speak with the Applicant regarding his variance case. Chairperson Taylor replied yes.

Chairperson Taylor asked for a motion to remove case #BZA-2022-11 from the Table.

Motion by Mr. Duffee, seconded by Mr. Hazlett, to **Remove From Table** Case #BZA-2022-11.

**VOTE: Yes:** Mr. Duffee, Mr. Hazlett, Mr. Smith, Mrs. Forstrom.

**No:** None.

**Case #BZA-2022-11 ~ Property Owners/Applicants: Casey & Sara Leslie ~ Location: 7720 Milton-Carlisle Rd., Bethel Twp. ~ Request: Variances to Sections 802.06.03, 728.05.04, 728.05.08 and 728.05.09.**

Section 802.06.03 to increase the total allowable sq. ft. for accessory structures from 3,000 sq. ft. to 4,500 sq. ft.

Section 728.05.04 allowing new construction to the premise to accommodate a conditional use.

Section 728.05.08 to allow a maximum of 4 non-residents of the premise employed, be an independent contractor or volunteer with a conditional use.

Section 728.05.09 to allow a maximum 4 light duty commercial vehicles parked or stored on the property for a conditional use.

Mr. Neimayer stated the Applicant has withdrawn this Case #BZA-2022-11.

Chairperson Taylor asked Staff to present the next case.

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**Case #BZA-2022-16 ~ Property Owner/Applicants: Dustin Futrell & Brandy Arner ~ Location: 507 Carman Ave., Bethel Twp. ~ Request: Variance to Sections 805.02.01 and 805.02.02 to increase the maximum height of a fence in the front and side yard from 4 ft. and 6 ft. respectively to 9 ft.**

Mr. Neimayer stated the subject property is located at 507 Carman Ave. and consists of 0.31± acres. The property, Lot #351 of the Park Layne Manor Subdivision, Section 2, Part 3, is currently zoned R-2A (Medium Density Single-Family Residence District). The Applicant would like to install a 9 ft. tall fence along the west lot line – see Applicant’s narrative for reasoning.

Mr. Neimayer stated that after the notices went out, the neighbor with the security cameras called and claimed that the security cameras have a set range, where after a certain point, the cameras can only capture a blurry image. That, along with the motion sensors on the systems, will not pick up or record anything past that point. The neighbor was to send a letter about this, but no letter was received.

Mr. Smith asked if both cameras operate the same way. Mr. Neimayer responded yes.

Chairperson Taylor asked do we know the length of the fence. Mr. Neimayer responded I do not.

Mrs. Forstrom asked is there a building permit required for that height. Mrs. Tuttle responded anything over eight feet is supposed to have a building permit. Mr. Neimayer added that there is no setback requirement for a fence.

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 3:33 pm. and asked if the Applicant is here and would like to speak.

Dustin Futrell, Applicant, 507 Carman Ave., requested to forgo the process of being sworn in due to personal beliefs that prohibit him from making that oath. He did state that he will answer all questions truthfully and does not intend on deceiving anyone. Chairperson Taylor accepted the Applicant’s request. Mr. Futrell stated that he did not know the neighbor had called and is surprised, as he had attempted to reach her multiple times. She moved in roughly five weeks ago. The length of the proposed fencing section is 80 feet, which covers the rear of her property. Knowing now that the neighbor has called, Mr. Futrell explained the setting options of her cameras can easily be undone on her end. He has identified the cameras she has as ones that report to the internet. They are not closed circuit. They are also voice-capturing cameras. The only reason I need a nine-foot fence is because the property slopes down steeply and she has her cameras mounted up in the eaves of her house. We tend to be very private people and do not try to insinuate ourselves onto anyone. We are not trying to make people change what they do to feel secure on their property, but her cameras are pointed directly into my property. I have also spoken to quite a few of my other neighbors, and they have all indicated that they do not have a problem with us having a taller fence.

Chairperson Taylor asked how long the Applicant has lived there. The Applicant responded 17 years.

Mrs. Forstrom asked what type of material would you use for the fence. The Applicant responded I have spoken to many fencing contractors and they have all stated that at a greater height, it will need to be built with reinforced materials. They stated that they will not work with vinyl at that height because it will become a hazard. They suggested wood or chain-link with a privacy screen on it. They also suggested deeper and thicker poles as well as support beams across the fence.

Mr. Hazlett asked is there a nightlight or something of the same that is causing a problem. The Applicant responded no. The issue is with modern cameras. They are always on and can be on the internet. Though you can change settings so you cannot see things, the data is still presented to the company. Mr. Hazlett stated, I was just concerned if there was a light on that was interrupting your sleep or something. The Applicant responded no. The sense of privacy itself on our property is the concern. I did not consent to it and she did not give me the option to consent to it by not talking with me.

Mr. Duffee asked who owns the wooden fence that is there now. The Applicant explained that the wooden fence is the neighbor's fence and the chain-link fence that is up against it is his fence. Mr. Duffee then asked how did you determine that nine feet would be the appropriate height. The Applicant responded I took some 2 by 8's and held them straight out, with the level, and rested one end on the flat area of her yard. Then I took more material and held it straight up until it could block the camera and measured from there. Chairperson Taylor added that the pink line indicated to be nine feet on the slides appears to be running along the eaves of the neighbor's house.

With no further questions for the Applicant, Chairperson Taylor asked if there was anyone in the audience who is in favor of the variance request who would like to speak. Hearing none she then asked if there was anyone in the audience who is opposed to the variance request who would like to speak. There was none. Chairperson Taylor closed the public portion of the hearing at 3:42 pm. and asked for Board discussion.

Chairperson Taylor asked Mr. Neimayer if the Applicant were to sell his property could we request that the fence to come down. I understand why he is making this request, but I am still concerned for the look of the neighborhood. Mr. Neimayer responded there is no way for us to enforce that.

Mr. Smith stated I can see why he is asking for this, but I cannot picture a nine-foot fence. The only thing I can suggest will remove use of some of the yard, but putting a normal four or six-foot fence at the top of the hill. I am just wondering how far up that slope will he be able to get by with a six-foot fence. Chairperson Taylor added we have allowed some eight-foot fences before. Mr. Smith agreed but stated that six feet is the normal height. I am not that thrilled about having a nine-foot fence starting from the bottom.

Mrs. Forstrom stated that if the fence is built well and has a permit, then it will be fine. I think it is a security issue with people being able to see into your backyard. If he has no privacy, then what is the sense in having a back yard. Chairperson Taylor stated that in these types of residential areas most houses do not have privacy. What changed things were the cameras coming in.

Mr. Duffee stated a nine-foot fence is an extraordinary fence height. I would prefer to table this to allow time for the two neighbors to get together and discuss this. I know the Applicant claims that he attempted to reach her, but maybe things have changed since she was willing to talk to Mr. Neimayer. I also second Chairperson Taylor's point that the house across the street, according to the pictures, has a clear view into the Applicant's back yard. There is no privacy there. Having someone across the street being able to see into the backyard is different from being on camera, potentially recorded and put online

Mr. Hazlett stated that the lot is small. Putting a fence on the embankment would not only shrink the yard quite a bit, but it will be a hassle trying to maintain the other side of the fence as well. I do believe that is an option though, if needed. On the other hand, I am leaning towards Mr. Duffee's suggestion and tabling this for 30 days to give the neighbors time to work it out. Chairperson Taylor added I was thinking the same thing.

Chairperson Taylor reopened the public portion of the hearing at 3:50 pm. and asked the Applicant to step up to the podium.

Chairperson Taylor stated that it seems as the Board is in agreement. When you live in a neighborhood like that, the expectation for privacy is limited. Neighbors can see into your yard. On the other hand, we are talking about new technology. People could be filmed and it could be placed on the internet, so we are sympathetic to that as well. What we would like to see is possibly you come up with another solution. Maybe the fence does not need to be that big, maybe it does not need to be that long, maybe you could approach your neighbor about feeling invaded. If we make a decision on this now, then it is done. If we Table this and give you time to talk things out, then you can come back and we will re-discuss the case. Would you like us to Table the case? The Applicant agreed if that is the only option. Chairperson Taylor responded it is not the only option.

The Applicant asked if he could address some concerns. It is true that you can see into the backyard, but the lack of privacy is not the same as active surveillance. As for the potential six-foot fence atop the hill, I have already considered that option. I would lose a great portion of my yard. I also do not plan to build anything that I would not want to look at myself. I can attempt to contact the neighbor again, even though I have tried several times. I have tried flagging her down in the driveway, but I am worried I would look too confrontational. I am trying to avoid that at all costs.

Chairperson Taylor asked the Applicant if a letter to the neighbor addressing his concerns would be a better approach. The Applicant responded I can attempt it.

Chairperson Taylor stated I would like to Table this case for 30 days. We cannot make any promises, but it will at least give us some time to think about it and you some potentially workable solutions. Maybe ask her to drop the cameras down a bit so they are not so offensively looking into your yard. Mr. Smith added if the neighbor would drop the camera angles, then it should not get into your yard.

Chairperson Taylor asked Mr. Neimayer if the Applicant were to drop the case after the neighbor and him spoke, and six months later, he finds out the neighbor did not follow through, could he bring the case back. Mr. Neimayer responded if you act on it now, this case it is done. Chairperson Taylor then asked he could come back with only the cost to refile, correct? Mr. Neimayer responded correct. He suggested another scenario would be for the Board to Table this case for up to a six-month period to see if he can work out a solution with the neighbor.

Mr. Duffee asked if the Applicant could envision a scenario where he would be satisfied, without the removal of the cameras or the nine-foot fence. The Applicant responded the only way I could see that is right now the cameras are in the center facing outward. If they were moved to the outside facing inward, then maybe. But I do not know if she would be willing to relocate her cameras so that they do not pick up the peripheral around her property.

Chairperson Taylor stated that the Board is sympathetic and trying to figure out options. Our suggestion would be to Table it for six months. You do not have to wait for six months to return to the Board. You can come back at any time before that. Contact Staff to bring it back.

Mr. Duffee asked the Staff if there is someone who could act as a facilitator for the neighbors to discuss. Mrs. Tuttle responded that it would be me and Mr. Neimayer. Mr. Neimayer stated Staff does not make recommendations to this Board per direction from the County Prosecutor's Office. Facilitating that conversation might be stepping over the line.

Mr. Duffee confirmed that the neighbor reached out to Mr. Neimayer. Mr. Neimayer added she said she could not attend the meeting. So I advised her to write a letter or send an email so it could be presented to the Board. She said she would do that but I have not received it.

Chairperson Taylor stated if you need Mrs. Tuttle or Mr. Neimayer to reach out to the neighbor, they can help you along the way. Are you okay with us Tabling this for an up to six-month period? The Applicant responded yes.

Hearing no further questions or comments from the Board, Chairperson Taylor closed the public portion of the meeting at 4:04 pm. and asked for a motion.

**Action on Case #BZA-2022-16 ~ Property Owner/Applicants: Dustin Futrell & Brandy Arner ~ Location: 507 Carman Ave. Dr., Bethel Twp. ~ Request: Variance to sections 805.02.01 and 805.02.02 to increase the maximum height of a fence in the front and side yard from 4 ft. and 6 ft. respectively to 9 ft.**

Motion by Mr. Hazlett, seconded by Mrs. Forstrom, to **Table** up to 6 months.

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

**No:** None.

Chairperson Taylor asked Staff to present the next case.

**Case #BZA-2022-18 ~ Property Owners/Applicants: Mark & Renee Smith ~ Location: 4133 Midfield St., Moorefield Twp. ~ Request: Variance to Section 204 to reduce the front setback from 25 ft. to 20 ft. and the least side setback from 6 ft. to 3 ft.**

Mr. Neimayer stated that the subject property is located at 4133 Midfield St. and consists of 0.22 acres. The property, Lot #824 of Northridge Subdivision No. 29 Replat, is currently zoned R-2A (Medium Density Single-Family Residence District). The Applicants would like to build a new single-family residence with a footprint of 3,208± sq. ft. Due to the shape and slope of the property, the Applicants have filed this variance request to reduce the front setback from 25 ft. to 20 ft., and the least side setback from 6 ft. to 3 ft.

Mr. Neimayer reviewed the drainage area of this portion of the township. Jeremy Best from Clark Soil & Water Conservation District stated in his letter that 350+ acres flow behind the property. The land below this property is owned and maintained by Clark County. Chairperson Taylor asked if the reduced setback will affect the drainage. Mr. Neimayer responded no. We just want to make sure the Applicants are aware of the drainage. Over time, the waterway could lead to erosion, which could affect the rear of the property. Mr. Neimayer pointed out that there are three undeveloped lots beside/south of the Applicant's lot. The adjacent property to the north is owned by the county.

Mr. Duffee stated they are not asking for a rear setback. The county engineer was concerned with the rear setback. They would be okay with the side setback as long as the Applicant works with them.

Mrs. Forstrom asked if the land owned by the county can ever be made into a buildable lot. Mr. Neimayer responded no.

# ***Minutes***

## ***Clark County Board of Zoning Appeals***

Mr. Duffee asked if the structure were moved three feet to the left, would it need a variance on that side. Mr. Neimayer responded that because of the easement (on the south side) it cannot be moved that way. Mr. Hazlett stated then the only other option would be to shrink the house.

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 4:15 pm. and asked if the Applicant is here and would like to speak.

Mark Smith, Applicant, 2632 Middle Urbana Rd., was sworn in. Mr. Smith stated this is going to be your second multi-generational home. Regarding shrinking the house, we do plan to use a portion of the first floor as an in-law suite. They are going to have about 700 square feet. We do like this lot, but it limits us and that pushes the bedrooms upstairs. The parking is recessed back so there is more than ample room to fit cars without overlap. The three feet is not encroaching on any private property. The five feet should not cause any issues aesthetically to the neighborhood.

Chairperson Taylor asked, will they continue the sidewalks up to your property. The Applicant responded yes. The builder is working with the county to complete the sidewalk once the buildings are up.

Mr. Duffee asked if the Applicant is willing to work with the County Engineers Office on grading. The Applicant responded yes.

Hearing no further questions Chairperson Taylor asked if there was anyone in the audience who would like to speak in favor of the variance request.

Mike Stooksberry, 4150 Midfield St., was sworn in. Mr. Stooksberry stated we put up a privacy fence around our house and wound up getting our landed surveyed. There were no metal stakes outlining the property lines. The contractors were about three feet off. They built a concrete pad on the neighbor's property to build a shed on, but it is only about a foot and a half off our property line. Chairperson Taylor asked Mr. Stooksberry are you making a suggestion to the Applicant and the Board in regards to additional surveys. Mr. Stooksberry responded yes.

Chairperson Taylor called the Applicant back up to the podium. The Applicant stated I am taking some of the grading to get some yard. I will follow up and make sure to get the name of who did the survey.

Chairperson Taylor noted there was no one else in the audience, she closed the public portion of the hearing at 4:24 pm. and asked for Board discussion.

Chairperson Taylor stated I think if the Applicant works with the County Engineers Office and the surveying company, I see no problem. The properties in Northridge are sold for homes to be built on.

Mrs. Forstrom stated the neighborhood would not change and it will not affect government services. I also see no problem with it.

Mr. Duffee had no comment.

Mr. Smith stated, no one will build on the north side because it is county owned property.

Mr. Hazlett stated I concur with Mrs. Forstrom.

Hearing no further questions or comments from the Board, Chairperson Taylor asked for a motion.

# **Minutes**

## **Clark County Board of Zoning Appeals**

**Action on Case #BZA-2022-18 ~ Property Owners/Applicants: Mark & Renee Smith ~ Location: 4133 Midfield St., Moorefield Twp. ~ Request: Variance to Section 204 to reduce the front setback from 25 ft. to 20 ft. and the least side setback from 6 ft. to 3 ft.**

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

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

**No:** None.

### **Staff Comments**

Mr. Neimayer stated the next scheduled meetings are July 28 and August 25, 2022.

### **Adjournment**

Motion by Mr. Hazlett, seconded by Mr. Duffee, to Adjourn.

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 4:48 pm.

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Mrs. Jerri Taylor, Chairperson