

# Minutes

## Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm  
Thursday, June 25, 2020

Springview Government Center  
3130 East Main Street  
Springfield, Ohio 45505

This BZA Meeting is being held through Zoom due to the COVID-10 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 2:05 pm. and asked for the Roll Call.

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

Absent For Roll Call: Ms. Greta Wilt.

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

### **Approval of the May 28, 2020 Minutes**

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

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

**No:** None.

**Abstain:** Mrs. Forstrom.

### ***Motion Carried.***

Chairperson Taylor explained how the meeting would be held.

Chairperson Taylor asked for a motion to remove Case #BZA-2020-18 from the Table.

Motion by Mr. Smith, seconded by Mr. Duffee, to **Untable** Case #BZA-2020-18.

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

**No:** None.

### ***Motion Carried.***

Chairperson Taylor asked Staff to present the 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. Allan Neimayer, Senior Planner, 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 the reduced setback is approximately 13 ft., and not 2 ft.

# Minutes

## Clark County Board of Zoning Appeals

Mr. Neimayer stated that a letter of opposition came in on June 23<sup>rd</sup> 2020 from the neighboring property owner Wilma Van Scoyk. Mr. Neimayer read the letter for the board.

Mrs. Forstrom asked about the storm water runoff, will the rain be kept on his property or how will he handle that? Mr. Neimayer responded storm water run-off is handled by the County Engineers Office. At the last Technical Review Committee meeting they had no concerns regarding this case.

Chairperson Taylor opened the Public Hearing at 2:18 pm. and asked if the Applicant would like to speak at this time.

Mark Parsons, Applicant, 561 N. Dayton Lakeview Rd., was sworn in. Mr. Parsons stated that the purpose of this variance from the 25 feet to the 2 feet is that is the maximum. Mrs. Van Scoyk's concern was when I closed on this house 2½ years ago, part of that closing agreement was that I had 11 feet to the left of the grass, all the way down to the road. I am well within my property. The dump truck did get on her property and the driver was chastised for that. There will be a sharp right left to get into the garage, and that is why I am trying to set it back as far as I can.

Chairperson Taylor asked the Applicant, the grass area in front of the garage is your property? Mr. Parsons responded yes it is.

Mr. Smith asked, do you have an agreement with the homeowner for the shared driveway? Mr. Parsons responded yes we do.

Chairperson Taylor stated, you asked for a pole barn and this is a garage. Mr. Parsons responded yes it is. Chairperson Taylor stated, this looks much more appropriate for your house.

Mrs. Forstrom asked, is this the only accessory structure on the site? Mr. Parsons responded no, I have a shed as well. Chairperson Taylor asked Mr. Neimayer, he can have two accessory structures, correct? Mr. Neimayer responded that is correct.

Mr. Duffee asked the Applicant, 11 feet to the left of the concrete pavement is yours? Mr. Parsons responded yes.

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

David Van Scoyk, 8195 E. New Carlisle Rd., was sworn in. Mr. Van Scoyk asked if the garage exceeds the maximum square footage allowed. Mr. Neimayer responded the Applicant's property is less than one acre which allows the home owner to have two accessory structures. The combined square footage cannot exceed 1,500 sq. ft. The requested 30 ft. by 30 ft. structure is 900 square feet. Including the shed it is safe to say will not exceed the limit allowed.

Chairperson Taylor asked Mr. Van Scoyk if he had any other questions. He stated, I just wish he would push the garage back as far as he can so it will not be a distraction to other houses around here. But I will leave it to the Board to decide at this point.

Chairperson Taylor allowed time for rebuttal from the Applicant.

Mark Parsons asked Mr. Van Scoyk to come over and give him some suggestions if he has any other ideas.

# Minutes

## Clark County Board of Zoning Appeals

Chairperson Taylor closed the Public Hearing at 2:29 pm. and asked for Board discussion.

Chairperson Taylor stated I think most property owners need a garage and I am pleased that the Applicant came back with a garage instead of a pole barn. I am happy he is willing to do his best to keep his property and the surrounding property looking beautiful for him and the neighbors. I am much more pleased with a garage than a pole barn for this location.

Mr. Smith stated I believe the picture were looking at is misleading. Once it is built it will be back further. I see no problem with it. I think the Applicant will try to get it back as far as he can.

Mrs. Forstrom stated I do hope it goes back more. I am concerned about backing out and he stays on his own property.

Mr. Duffee: I have no comment.

Mr. Hazlett stated I believe he is doing everything he can to comply with our requests and the concerns of the neighbor. I see no problem with it.

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

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

**No:** None.

***Motion Carried.***

Chairperson Taylor asked for a motion to remove Case #BZA-2020-19 from the Table.

Motion by Mr. Smith, seconded by Mr. Duffee to **Untable** Case #BZA-2020-19.

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

**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 Applicants would like to construct a

# Minutes

## Clark County Board of Zoning Appeals

pond on the property that is 0.14 acres from the minimum 5.0 acres required. Mr. Neimayer showed the Board letters and pictures from surrounding neighbors in opposition to this variance.

Jeremy Best, Clark Soil & Water Conservation District, stated after review of the plans, everything looks like its meeting setbacks. As far as spill way goes, it more than exceeds what would need to be there for rain events. You cannot engineer for every weather event. But that is why you have the emergency spillway in there to rout the storm around the pond. Taking into consideration the amount of watershed entering the pond is only about two acres, I do not see the spillway needing to operate to their capacity on a regular basis, if at all, due to the amount of water going into pond.

Chairperson Taylor asked, you do not see this pond affecting any surrounding areas or neighbors with drainage? Mr. Best responded no as far as setbacks go and contour done by his engineer, the emergency spill way would come into effect before water would meet neighboring properties. The toe of the dam is within the 25 foot pond regulations setback.

Mr. Smith asked, do you feel there is enough acreage there to help supply that pond with water. Will that soil type be able to sustain that water? Mr. Best responded that is a hard question to answer because of so many variables that come into play. The water shed itself that is noted on the plan should be recommended for every acre of surface water. There should be six acres of drainage coming into the pond, and it is below that. So I think water is going to be an issue when trying to keep the pond full. But it is not up to me or anyone else to require him to supplement a water supply into that pond.

Chairperson Taylor asked, as this is constructed, who oversees that this is done correctly? Mr. Neimayer responded that is one of the issues the Technical Review Committee has been discussing lately. There is no one under the county with proper credentials to do that. Mr. Best added, Soil and Water Staff is there to only advise; we are not engineers ourselves. That is why we ask the property owner to follow the NRCS (National Resource Conservation Service) standards. Soil and Water Staff is available for technical assistance to county land owners. Typically, our background is working with agriculture in regards to drainage. I have the ability to design ponds. But when it comes down to this size of a pond, that is beyond my range of engineer authority.

Mrs. Forstrom asked, would we be able to require a letter from the engineer that designed this plan stating that this pond is being built to plan? Chairperson Taylor asked Mr. Neimayer, would that become an enforcement issue? Mr. Neimayer responded depending on how it is approved, it could potentially. At this stage we are more at the use of the land, setbacks and safety issue, not the design.

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

Josh Blake, Applicant, 3716 Fowler Rd., was sworn in. Mr. Blake stated he was trying to honor my neighbor's concerns since the last meeting. I installed a fence and the only place opened is the front. I also got engineer plans drawn out.

Maria Blake, Applicant, 3716 Fowler Rd. was sworn in. Mrs. Blake added in regards to the fence in the back, we put a new fence up just to put her at ease. We did not tear that fence down. They took that fence down when they cleared out that tree line. Her fear is for her grandchildren, but if you see where her house sits compared to where our pond is going, she is a substantial distance

# Minutes

## Clark County Board of Zoning Appeals

away from it. Chairperson Taylor asked, you have three sides covered in fence? Mr. Blake responded yes that is correct.

Mr. Neimayer noted for the record that Ryan Hillard, the Applicant's engineer, has signed in to the meeting.

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

Ryan Hillard, 3701 Johnson Rd., was sworn in. Mr. Hillard stated that his responsibility with this project is to create the design plans and the design specifications so that a contractor or Mr. Blake can construct it to NCRS standards. The NCRS standards are the governing body that gives us a set of standards that most people use when constructing ponds. A contractor can take these plans and build this pond to the correct standards. It will not negatively impact the surrounding properties.

Chairperson Taylor asked, do you see any reason this pond could not be built on this property? Mr. Hillard responded no. There will be a surplus of soil from this pond. There is some excess area to use additional soils in the dams around this pond and stay within the setbacks. There will be a general surplus in soil and Mr. Blake will have to do something with that. Chairperson Taylor then asked, do you have the ability to oversee if there are any compliance issues with this being done correctly. Mr. Hillard responded I am not sure. I do not have the insurance to be held liable.

Chairperson Taylor asked if anyone would like to speak in opposition of this case.

Loraine Freeze, 5285 Broadway Rd., was sworn in. Mrs. Freeze stated I want to point out at the first meeting Mr. Blake he said there was a fence on the property and there was not. He lied under oath. I am concerned of run off. I did not take down my own fence. I am against it and they are irresponsible.

Mr. Hazlett asked Mrs. Freeze if she is aware of this new fence and is she ok with it. Mrs. Freeze responded yes.

John Kusnierek, 3652 Fowler Rd., was sworn in. Mr. Kusnierek stated he appreciates that Mr. Blake had a drawing made since the last meeting. I have had less than 24 hours to look at this drawing. It is a complicated structure. It appears to be much larger than the previous submittal. I understood this to be level and now it is a six foot high berm to the south of the pond. I want to make sure the Board understands that there are regulations on the height of a damn. Jeremy Best responded when the pond is built, the berm will be level with the ground. It will not appear to be six feet high.

Mr. Kusnierek asked, if the pond goes dry then what? Mr. Neimayer responded there are no zoning regulations regarding that. Mr. Kusnierek asked about a pipe running north to south on the property? Mr. Best responded the pipe he is talking about is the alignment line showing the cross section. Mr. Kusnierek stated, what I am hearing is once this goes in all bets are off. We will have a 6 ft. high berm and I do not understand the impact. This effects property values on at least five houses.

Chairperson Taylor stated, as I am looking at the map, how would that damn effect the neighborhood? It looks like open field in that area. Mr. Kusnierek responded this area is highly visible. I would just ask you to consider the size. Mr. Hillard states, there is seven feet of drop off so, even with the dam at 6 ft., I think it will fit into the terrain here very nicely. We are not building it up. The water needs to be a certain depth to discourage algae growth.

# Minutes

## Clark County Board of Zoning Appeals

Rachel Bachowski, 3590 Fowler Rd., was sworn in. Mrs. Bachowski stated that the previous owners of our property tried to put a pond in and discovered the soil composition is not right. The water would evaporate away. The Applicant would need to find another water source. A question was asked what impact it would have on the neighborhood. There is a possibility for algae and geese to spread out. Geese are not nice creatures. They are going to spend so much money getting it done and I do not think it will end up how they hope.

With no one else to speak in opposition, Chairperson Taylor allowed time for rebuttal from the Applicants.

Mr. Blake stated he can bring in blue clay or I can get a liner if I need to. Mrs. Blake stated, if you look at our house it is the most updated on the street. Our house would sky rocket property values. My husband is a contractor and I am a realtor.

Chairperson Taylor closed the Public Hearing at 3:21 pm. and asked for Board Discussion.

Chairperson Taylor stated there is only one issue and that is their property being slightly under five acres. We always want to know that in a neighborhood we are looking at things that are best for the whole neighborhood, and there concerns do not bring up what we are looking at today.

Mr. Smith stated my main concern is access by the kids. They solved that by putting up a fence. I agree we are here to discuss a pond on five acres or less.

Mr. Hazlett stated I see no problem with it. The Applicant exceeded concerns.

Mrs. Forstrom stated I am glad he has an engineer's plan. And, since Mr. Blake is a contractor, he is going to assure it is built correctly.

Mr. Duffee stated generally I am very much a believer that he has of his property. Technical issues of the pond are out of our hands. But, I think this Board should take into consideration the views of his neighbors. Chairperson Taylor responded I share some of your concerns.

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

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

**No:** Mr. Duffee.

***Motion Carried.***

Chairperson Taylor asked Staff to present the next case

# Minutes

## Clark County Board of Zoning Appeals

**Case #BZA-2020-21 ~ Property Owner/ Applicant: Laura Chaney Waymire ~ Location: Old Springfield Rd., PID #160-13-00017-200-009, Madison Twp. ~ Request: to allow a 2-lot clustered lot split reducing frontage from 150 ft. to 10 ft. and 20 ft. respectively with a common drive.**

Mr. Neimayer stated that the subject property is located south of 9405 Old Springfield Rd., PID #160-00017-200-009, and consists of 73.075 acres. The property is zoned A-1 (Agricultural District). A few years ago the Applicant inquired about a 2-lot clustered lot split. A survey was done, but no further action was taken on the lot split. Now, the Applicant wants to continue with that clustered lot split. Staff informed the Applicant that the rules regarding cluster lot split have been changed and a variance approval is now required. The Applicant has filed this variance request to allow a 2-lot cluster lot split reducing the required frontage from 150 ft. to 10 ft. and 20 ft. respectively.

Mr. Neimayer stated the proposed two lots would be 2.2+ acres and 1.1+ acres. Staff was informed by the Applicant's surveyor Ryan Hillard that the common lot line between the two proposed lots needs to be adjusted in order to meet the requirements for the leach field. This was confirmed by Stephanie Johnson at the Health District.

Chairperson Taylor opened the Public Hearing at 3:34 pm. and asked if the Applicant wished to speak at this time.

Laura Cheney Waymire, Applicant, 9405 Old Springfield Rd., was sworn in. Mrs. Waymire stated she would like to have this approved so I can have two house lots for my sons that will be inheriting this land. We started this lot split process back in 2013.

Ryan Hillard, current surveyor for the Applicant, 3701 Johnson Rd., was sworn in. Mr. Hillard stated when this project was brought to me all appropriate things were done and corrected back then but it was not finished. Now zoning for lot splits has changed. We have had soils evaluated for the septic and leach field locations. We believe we have an approvable project.

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 the case.

Greg Rice, 9445 Old Springfield Rd., was sworn in. Mr. Rice stated he is not opposed, just wondering who is going to farm the land.

With no one else to speak in opposition, Chairperson Taylor allowed time for rebuttal from the Applicant.

Mrs. Waymire stated her nephew Jonathan has farmed the 166 acres and will continue to do so.

Chairperson Taylor closed the public hearing at 3:39 pm. and asked for Board discussion.

Chairperson Taylor stated with these cluster lots I do not see any other way to use this property. There will be regulations they will need to adhere to, so I do not see a problem with it.

Mr. Duffee stated I would like to thank the Applicant for using the Tecumseh Land Trust to preserve her land.

Mr. Hazlett stated their family has been around for generations. I have no issues.

# Minutes

## Clark County Board of Zoning Appeals

Mrs. Forstrom stated I have no concerns either.

Mr. Smith stated I believe it has been well thought out. It seems like the best solution to continue on with farming.

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

**Action on Case #BZA-2020-21 ~ Property Owner/ Applicant: Laura Cheney Waymire ~ Location: Old Springfield Rd., PID# 160-13-00017-200-009, Madison Twp. ~ Request: to allow a 2-lot clustered lot split reducing frontage from 150 ft. to 10 ft. and 20 ft. respectively with a common drive.**

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

**Case #BZA-2020-22 ~ Property Owners/Applicants: Roger & Cindy Moulder ~ Location: 5412 Mud Run Rd., Mad River Twp. ~ Request: to allow construction of a 30 ft. by 40 ft. storage barn without a primary structure.**

Mr. Allan Neimayer stated that the subject property is located at 5412 Mud Run Rd. and consists of 9.708 acres. The property is zoned A-1 (Agricultural District). The Applicants plan to build a new single-family home on the property in 2021. They would like to have a storage barn to protect their equipment as they prepare the property for construction. Therefore, they have filed this variance request to construct an accessory structure (a 30 ft. by 40 ft. storage barn) without a primary structure.

With no questions for Staff, Chairperson Taylor opened the public hearing at 3:46 pm. and asked if the Applicants wished to speak at this time.

Ryan and Cindy Moulder, 1009 Meadowlark Drive were sworn in. Mr. Moulder stated, we bought this property last November with the intent to build a home in 2021. What we have been doing is trying to clean up the property. The property has been farmed in the past. We have a lot of clean up to do and we have a tractor now. Chairperson Taylor asked, you are planning to build in 2021? Mr. Moulder responded yes, in May or June of 2021. Chairperson Taylor asked, do you have plans already? Mr. Moulder responded yes. We are meeting with a builder on Monday.

Chairperson Taylor asked if anyone wished to speak in favor of this variance. There were none. She then asked if anyone wished to speak in opposition of the case. There was none. Chairperson Taylor closed the public hearing at 3:49 pm. and asked for Board discussion.

Chairperson Taylor states, we have talked about this before in changing the zoning regulations. People are asking for this variance and we have approved them before. We have asked if they have plans to build. These Applicants look to have plans in place. The storage looks like a good size and they have a 9 acre property.

# Minutes

## Clark County Board of Zoning Appeals

Mr. Smith agrees. I refer back to your comments. Mr. Hazlett also agrees. Mrs. Forstrom agrees with changing the zoning regulations. Mr. Duffee also agrees.

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

**Action on Case #BZA-2020-22 ~ Property Owners/Applicants: Roger & Cindy Moulder ~ Location: 5412 Mud Run Rd., Mad River Twp. ~ Request: to allow construction of a 30 ft. by 40 ft. storage barn without a primary structure.**

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

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

**No:** None.

***Motion Carried.***

Chairperson Taylor asked staff to present the next case

**Case #BZA-2020-23 ~ Property Owners/Applicants: Mary Ann Perez ~ Location: 106 Sycamore St., Bethel Twp. ~ Request: Variance from Chapter 2, Section 202, Footnote #2 to reduce the front setback from 35 ft. to 12± ft. for a replacement roof/porch project.**

Mr. Neimayer stated the subject property is located at 106 Sycamore St. and consists of 0.23 acres. The property is zoned R-2A (Medium Density Single-Family Residence District). The Applicant would like to add a front porch to the home. The Applicant has filed this variance request as this front porch would encroach further into the front yard setback than what zoning regulations allow.

Mrs. Taylor asked, the existing setback does not meet zoning correct? Mr. Neimayer responded that is correct. Chairperson Taylor asked, is it was grandfathered in? Mr. Neimayer responded the home was probably built before zoning.

With no further questions for Staff, Chairperson Taylor opened the Public Hearing at 3:58 pm. and asked if the Applicant wished to speak at this time.

Mary Ann Perez, Applicant, 106 Sycamore St. was sworn in. Ms. Perez stated that she is replacing an existing porch roof that was on the front of this property. From the records, this was built in 1881. I am modifying it, and making it much bigger than what it was before. It is open, not enclosed. It is just the roof to go over the entryway into the house.

Mr. Duffee asked, the red line on the drawing, your proposal is just the roof line that will reduce that setback? Ms. Perez responded I guess it will go out to the red line. It will be a small deck and then the roof to cover the porch. It will not be any longer than the front of the house.

Chairperson Taylor asked if there was anyone who wished to speak in favor of this case. There were 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 4:01 pm. and asked for Board discussion.

# Minutes

## Clark County Board of Zoning Appeals

Chairperson Taylor stated my thought is if it is two ft. and it will not be any more of a construction for the road or sight, I do not see a problem with it. I am always on board when someone wants to make their homes more presentable.

Mr. Duffee stated I drove by this and this house is very close to the road. But I agree with you.

Mr. Smith agreed; I think it is the best solution.

Mrs. Forstrom stated I think it will increase home value, and I do not see it making much of a difference with setback.

Mr. Hazlett stated I think enhancing the porch is a great idea.

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

**Action on Case #BZA-2020-23 ~ Property Owners/Applicants: Mary Ann Perez ~ Location: 106 Sycamore St., Bethel Twp. ~ Request: Variance from Chapter 2, Section 202, Footnote #2 to reduce the front setback from 35 ft. to 12± ft. for a replacement roof/porch project.**

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

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

**No:** None.

***Motion Carried.***

Chairperson Taylor asked staff to present the next case.

**Case #BZA-2020-24 ~ Property Owner/ Applicant: Ben & Christina Phares ~ Location: 4498 Hollywood Rd., Mad River Twp. ~ Request: Variance from Chapter 8, Section 802.02.051.1, b to allow an inground swimming pool partly in the side yard instead of completely in the rear yard.**

Mr. Neimayer stated that the subject property is located at 4498 Hollywood Rd. and consists of 1.032 acres. The property is zoned R-1 (Rural Residence District). The Applicants would like to install an inground swimming pool partly in the side yard. The Applicants have filed this variance request as zoning regulations require swimming pools to be completely in the rear yard.

Chairperson Taylor asked, does it meet all other regulations. Mr. Neimayer responded yes, once they put fencing in. Chairperson Taylor asked is there a reason it is going there. Mr. Neimayer responded I will defer that to the Applicants.

Mr. Hazlett asked, are there any issues with the property lines; would that be why they want it where it is at? Mr. Neimayer responded you can see the septic tanks on the south side.

Mr. Smith asked, do you know the distance from the house to the rear property line? Mr. Neimayer responded it is about 37 ft. Mr. Smith then asked, and the allowable distance from setback is 10 ft.? Mr. Neimayer responded yes.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 4:11 pm. and asked if the Applicants wished to speak at this time.

# Minutes

## Clark County Board of Zoning Appeals

Ben Phares, Applicant, 4498 Hollwood Rd., was sworn in. Mr. Phares stated that the rear of the house has the septic in it. The only modification I would have would be the north side of the pool would be beginning at that fence line. We have a well we need to stay 10 ft. away from. We want it oriented the same, because we have windows that give us good sight lines of the pool. Mr. Phares stated we will be constructing a fence.

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 to this case. There were none. Chairperson Taylor closed the public hearing at 4:13 pm. and asked for Board discussion.

Mr. Hazlett stated I do not see any problems with it. It is the only alternative they have.

Mrs. Forstrom stated I also feel it will be fine. Mr. Duffee and Mr. Smith both agreed.

Chairperson Taylor stated I was first thinking we could move it. But after listening, I think having a pool you can visibly see from the house is much safer.

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

**Action on Case #BZA-2020-24 ~ Property Owner/ Applicant: Ben & Christina Phares ~ Location: 4498 Hollwood Rd., Mad River Twp. ~ Request: Variance from Chapter 8, Section 802.02.051.1, b to allow an inground swimming pool partly in the side yard instead of completely in the rear yard.**

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

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

**No:** None.

***Motion Carried.***

Chairperson Taylor asked staff to present the next case.

**Case #BZA-2020-25 ~ Property Owner/ Applicant: Kelley Lewis-Ebert ~ Location: 1026 George Allen Dr., Harmony Twp. ~ Request: Variance from Chapter 2, Section 202, to allow a dwelling with a rear setback less than 60 ft.**

Mr. Neimayer stated that the subject property is located at 1026 George Allen Rd. and consists of 1.32 acres. The property is Lot #26 of the Vienna Woods Subdivision Section 1-B and is zoned R-1 (Rural Residence District). In 2013-14 the Applicant installed a 12 ft. by 16 ft. (192 sq. ft.) tiny house that is used "to occasionally stay in to access the property and lake." There was no zoning certificate issued for this dwelling. The Applicant has filed this variance request to have a rear setback less than 60 ft. as required by R-1 zoning. The Applicant has indicated the dwelling is approximately 8 ft. from the lake. There is a deck at the rear {east side} of the dwelling to the lake.

Chairperson Taylor asked, even though this is a tiny house, this is a dwelling no matter what. Mr. Neimayer responded that is correct. Chairperson Taylor then asked, so this falls under the 60 ft.

# Minutes

## Clark County Board of Zoning Appeals

rear setback requirement? Mrs. Tuttle responded yes. However, if this was on wheels it would be different.

Mr. Smith states, in the pictures you sent us, the house is anchored to the ground with two tubes, do you know what those are? Mr. Neimayer responded I do not and will defer that to the Applicant.

Mrs. Forstrom asked, is this in a flood plain? Mr. Neimayer responded no.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 4:36 pm. and asked if the Applicant wished to speak at this time.

Kelley Ebert, Applicant, 6520 Nature Nook Dr., Lewis Center, OH, was sworn in. Mrs. Ebert stated that she purchased the land from Steve Miller in 2012 in hopes that one day I would build a normal size home. At the time I had three children and I spoke to him if there was a way I could utilize this property until I built my normal size home. There is 25 to 35 homes just on our street and those were not there before. But I had to get his permission to build with the covenants in place, and he made those covenants. He told me to contact the city and I did. They told me as long as it is under 200 sq. ft. I did not need permits. It is 192 square feet. Mrs. Ebert stated she is the one that brought this to the {county's} attention and that was mainly for getting electric service. This was not brought to anyone's attention by a complaint. This is where I take my children.

Mrs. Ebert stated this {tiny home} has been here for seven years with no formal complaints. I have never tried to do anything illegally. I have had a lot of national attention over these small homes. It has been on 10 TV News, in the Columbus Dispatch and in other national publications. Nothing has been tried to be hidden. Also, in part of my design, this was not a random project. This was modeling after other structures that were on the lake. Those lines are an internet line and the black cable is what the kids play with in the lake. I am just trying to do my diligence. I have been there for so long and no one has ever expressed any concern.

Mr. Smith asked, is there a permit for the electric? Mrs. Ebert responded no. Mr. Smith then asked, is there use of a generator? Mrs. Ebert responded yes.

Chairperson Taylor asked, I think the concern is the setback. You need a 60 foot setback. Even though it is a tiny house, it is still considered a dwelling.

Mrs. Forstrom asked, can the structure be moved? Mrs. Ebert responded it is on a platform that is cemented to the ground. I am sure with a team it could be moved if it was necessary.

Mr. Duffee asked, what do you do with waste and grey water? Mrs. Ebert responded I bring in my own water and I take the grey water to a dumping station. The bathroom is also self-contained, and that can be appropriately dumped at a dumping station.

With no further questions for the Applicant, Chairperson Taylor asked if there was anyone who wished 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.

Kyle Michael, 988 George Allen Dr., was sworn in. Mr. Michael stated you have seen the letters, but the issues are deeper than what the zoning can do. When they created the neighborhood the setback was 150 ft.

# Minutes

## Clark County Board of Zoning Appeals

Lawrence Byers, 944 George Allen Dr., was sworn in. Mr. Byers stated anyone that bought land here was made aware of the rules and covenants. We all stayed in compliance. We did not want to spend the big money but we did. We are highly opposed.

Linda Frazer, 1092 George Allen Dr., was sworn in. Mrs. Frazer and her husband bought our property in 2005. We are on the north side of the Applicant's property. We are extremely upset that she is trying to get a variance and make this a permanent structure. We are opposing this variance.

Pat Clouse, 1095 George Allen Dr., was sworn in. Mrs. Clouse stated we have a Sylvan Lake Association and all property owners are part of that. All structures need to be approved by us, and from my knowledge this has not happened. Steve Miller is a developer, but he does not have any say over the Sylvan Lake Association. We are concerned what will happen if she sells the property.

With no one else to speak in opposition, Chairperson Taylor allowed time for rebuttal from the Applicant.

Mrs. Ebert stated I understand and hear my neighbors concerns. I am not trying to diminish them at all. My structure has been there since 2013. There have been no complaints. This has been put together by an architect. I am a member of the Lake Association, and no one has ever said anything to me. There are over 10 other structures on the lake that have ac units and chimneys. I asked for the variance due to the longevity of it being there. As far as for selling, I do not airbnb this. I would welcome a conversation with my neighbors, but I did not know there was an issue. The point for my variance is to bring electric.

Chairperson Taylor closed the public hearing at 5:04 pm. and asked for Board discussion.

Mrs. Tuttle stated I know it was brought up about building permits. If the variance request is approved, it has to go through the building permit process.

Mr. Smith stated I sympathize with the Applicant and the problems. But, I have not nailed down a real reason why the Applicant wants to keep it here.

Chairperson Taylor stated, we have had this in the past where an Applicant has been misled and only to come to think what they did what was right; that nothing that was done was intentional.

Mr. Duffee stated I am sympathetic to the tiny house movement. But the rules here are rather clear. The 60 ft. {rear} setback has to stand.

Mr. Hazlett stated we have had situations like this in the past. Something we have to consider is the terrain and is this the only place they can put it. From what I can tell, that is not the case. With all issues considered, I do not know if I can support this.

Mrs. Forstrom stated, I also sympathize with the Applicant, but unfortunately it does meet setbacks.

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

# Minutes

## Clark County Board of Zoning Appeals

**Action on Case #BZA-2020-25~ Property Owner/ Applicant: Kelley Lewis-Ebert ~ Location: 1026 George Allen Dr.; Harmony Twp. ~ Request: Variance from Chapter 2, Section 202, to allow a dwelling with a rear setback less than 60 ft.**

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

**VOTE: Yes:** None.

**No:** Mr. Hazlett, Mr. Duffee, Mr. Smith and Mrs. Forstrom.

***Motion Carried.***

Chairperson Taylor asked staff to present the next case.

**Case #BZA-2020-26 ~ Property Owner/ Applicant: Shuman Farms Inc.~ Location: Grant Rd., PID# 2200300003000014, Moorefield Twp. ~ Request: Variance from Chapter 2, Section 201 to create a new 17± acre parcel without frontage on a public right-of-way.**

Mr. Neimayer stated that the subject property is located north of 4222 Grant Rd., PID #220-03-0003-000-014, in Moorefield Twp., and consists of 299.04 acres. The property is zoned A-1 (Agricultural District). The Applicant would like to create a new 17± acre parcel with plans to construct a new single-family home. The Applicant has filed this variance request to allow for this parcel with no frontage along a public right-of-way.

Chairperson Taylor asked how they are going to enter this parcel. Mr. Neimayer responded there is an access way that comes around the property. I do not believe there is an approved access point.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 5:15 pm. and asked if the Applicant wished to speak at this time.

Matt Shuman, Applicant, 3617 Heatherwood Ave., was sworn in. Mr. Shuman stated that his purpose of the lot split is to build a new residence and to continuing farming. He really does not want to create a flag lot. Either way, we intend for the existing access to remain.

Mr. Smith asked, you are using the access off of Grant Rd. to get to future properties? Mr. Shuman responded yes. It is the safest place to enter and exit the {overall} property.

Mr. Duffee asked, what do we have to do to make that a legal access? Mr. Neimayer responded nothing that has to be done by zoning. As a township road, access point/driveway is approved by the township road superintendent.

Mr. Hazlett stated, I think I have an understanding of what the Applicant is trying to do. Just because we make some legal changes for this deeded property to conform the best we can, it does not mean we have to take the ground out of construction.

Chairperson Taylor stated, I am not opposed to that 40 ft. You would purchase that as part of your property.

Mrs. Forstrom asked, he will still need the 150 ft. frontage? We had a case recently with the same issue.

# Minutes

## Clark County Board of Zoning Appeals

Mr. Duffee stated I would be tempted to throw it back to the Applicant and let him think about options.

Mr. Hazlett stated I think we might have a couple options; might be a case to consider and come back.

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. Hearing none, Chairperson Taylor closed the public hearing at 5:40 pm. and asked for Board discussion.

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

**Action on Case #BZA-2020-26 ~ Property Owner/ Applicant: Shuman Farms Inc.~ Location: Grant Rd., PID# 2200300003000014, Moorefield Twp. ~ Request: Variance from Chapter 2, Section 201 to create a new 17± acre parcel without frontage on a public right-of-way.**

Motion by Mr. Hazlett, seconded by Mr. Smith to Table to the next meeting to allow the Applicant to consider frontage options.

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

**No:** None.

***Motion Carried.***

Chairperson Taylor asked staff to present the next case.

**Case #BZA-2020-27 ~ Property Owners/ Applicants: Kyle & Kelly Bowman ~ Location: 3801 Westcliff Ct., Mad River Twp. ~ Request: Variance from Chapter 8, Section 802.06.03 to increase the maximum height of an accessory structure from 18 ft. to 22 ft.**

Mr. Neimayer stated that the subject property is located at 3801 Westcliff Ct. and consists of 0.99 acres. The property is Lot #30 of the Tiffany Acres Subdivision and is zoned A-1 (Agricultural District). The Applicant would like to construct a 30 ft. by 40 ft. pole barn in the rear yard and has filed this variance request to increase the maximum allowed height from 18 ft. to 22 ft. to accommodate RV storage.

Mr. Hazlett asked, the issue is for height, and is it for setback also? Mr. Neimayer responded it is just for height.

Mr. Smith asked, is that another building on the lot line? Mr. Neimayer responded yes, that is a storage shed. The combined square footage would not exceed the maximum allowed

With no further questions for Staff, Chairperson Taylor opened the public hearing at 5:51 pm and asked if the Applicants wished to speak at this time.

Kyle Bowman, Applicant, 3801 was sworn in. Mr. Bowman stated he owns a semi but I do not work on them. The neighbors never asked me that. This is based on what type of RV we purchase. That is the only reason for height in there. I am planning for the future. When we asked for these dimensions, we were told to always ask for more than what we need. We were looking at around 19 feet for the height. An issue was brought up by a neighbor about the building blocking their

# Minutes

## Clark County Board of Zoning Appeals

garden. There is actually another building blocking that. This building would not block that. We are new to this neighborhood.

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.

Grant Peterson, 3821 Westcliff Ct., was sworn in. Mr. Peterson stated that the Bowman's are great neighbors and they keep the land gorgeous. He added, I am glad they will make their barn look nice and not like it belongs on a farm. This is not to cause a riff, but if the county engineer said it is ok then we are ok with it.

Chairperson Taylor asked if there was anyone else to speak in opposition of this case. There were none. Chairperson Taylor closed the public hearing at 6:00 pm. and asked for Board discussion.

Chairperson Taylor stated how about we split the difference and make it 19 ft. or 20 ft. The Applicant wants to keep the aesthetics nice. Mr. Smith added, I know there are different types of pole barns. I think if the Applicant could check those out he may not need a 22 foot peak. Mr. Hazlett agreed with Mr. Smith. Mr. Duffee added, I agree with changing the request to 20 feet. Mrs. Forstrom also agreed with the 20 ft.

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

**Action on Case #BZA-2020-27 ~ Property Owners/ Applicants: Kyle & Kelly Bowman ~ Location: 3801 Westcliff Ct., Mad River Twp. ~ Request: Variance from Chapter 8, Section 802.06.03 to increase the maximum height of an accessory structure from 18 ft. to 22 ft.**

Motion by Mr. Smith, seconded by Mr. Hazlett, to **Approve** the variance request with an amended maximum height of 20 ft.

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

**No:** None.

***Motion Carried.***

### **Staff Comments**

Next Scheduled Meeting is July 23, 2020.

### **Adjournment**

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

***VOTE: Motion carried unanimously.***

The meeting was adjourned 6:09 pm.

---

Mrs. Jerri Taylor, Chairperson