

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, June 27, 2019

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Mrs. Jerri Taylor, Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:06 pm. and asked for the Roll Call.

Present For Roll Call: Mrs. Jerri Taylor, Ms. Janie Riggs, Mr. Rick Smith and Ms. Greta Wilt.

Absent For Roll Call: Mr. Paul Hazlett.

Also in Attendance: Mr. Allan Neimayer and Ms. Anette Pequignot Clark County Community and Economic Development.

Approval of the May 23, 2019 Minutes

Motion by Mr. Smith, seconded by Ms. Riggs, to **Approve** the minutes as presented.

VOTE: **Yes:** Mr. Smith, Ms. Riggs and Mrs. Taylor.

No: None.

Abstain: Ms. Wilt.

Motion carried.

Chairperson Taylor explained how the meeting will be conducted. She then asked if any Board members needed to abstain from any of the cases. There was none.

Case #BZA-2019-16 ~ Property Owner: Nicole Buckner ~ Applicant: Ross Buckner ~ Location: 3504 Cambridge Dr.; Moorefield Twp. ~ Request: Variance to Section 802.02.051.1, B) to install a swimming pool that will extend 5 ft. into the front yard (towards Thomaston Trail); and to Section 805.02.012.1 to install a 6 ft. tall privacy fence that will extend 9 ft. into the front yard.

Mr. Allan Neimayer, Senior Planner, explained the subject property is located at 3504 Cambridge Dr. and consists of 0.85 acres. The property is zoned R-1 (Rural Residence District), part of the Terra Cela Subdivision. The Applicant would like to install a 16 ft. by 24 ft. swimming pool that will extend 5 ft. into the front yard (towards Thomaston Trail) and to install a 6 ft. tall privacy fence that will extend 9 ft. into the front yard. Because the location of the swimming pool and height of the privacy fence do not comply with zoning regulations, the Applicant has filed this variance request.

Mr. Neimayer reviewed Zoning Regulations of Section 802.02.051.1, B) (swimming pool) and Section 805.02.012.1 (fences). As the subject property is a corner lot, he then reviewed a slide showing the front yard, corner side and rear yard areas.

Chairperson Taylor asked how far would the fence extend into the front yard? Mr. Neimayer responded approximately nine ft. The pool is around three ft. into the front yard.

Mr. Smith asked about the location of the septic/leach field. Mr. Neimayer passed to the Board communication from the Health District regarding utilities and deferred to the Applicant to better explain and to same time.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 2:13 pm. Chairperson Taylor asked if the Applicant wished to speak at this time.

Ross Buckner, Applicant, was sworn in. Mr. Buckner stated there are challenges to locating the pool due to underground electric lines and the septic and leach field system. He proceeded to identify their location. Mr. Buckner spoke to all of his surrounding neighbors and stated they have no problems with the variance requests. He stated the reason for the 6 ft. fence is due to the elevation drop and to provide privacy.

Ms. Wilt asked where the driveway is. Mr. Buckner responded it is off of Cambridge Dr.

Chairperson Taylor asked about the electrical lines and sewerage tanks. Mr. Buckner identified on the map the location of the electrical lines and the three sewerage tanks. He has a split leach field that limits where the pool can be located.

Mr. Neimayer asked the Applicant to state his name & address for the record: Ross Buckner, 3504 Cambridge Dr.

Chairperson Taylor asked if anyone else wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. Hearing none, she closed the public hearing at 2:17 pm. and asked for Board discussion.

Mr. Smith stated the Applicant has done his homework and he is limited as to where the pool can be located.

Ms. Wilt stated the Applicant's proposal is aesthetically pleasing to the neighborhood.

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

Action on Case #BZA-2019-16 ~ Property Owner: Nicole Buckner ~ Applicant: Ross Buckner ~ Location: 3504 Cambridge Dr.; Moorefield Twp. ~ Request: Variance to Section 802.02.051.1, B) to install a swimming pool that will extend 5 ft. into the front yard (towards Thomaston Trail); and to Section 805.02.012.1 to install a 6 ft. tall privacy fence that will extend 9 ft. into the front yard.

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

VOTE: Yes: Mr. Smith, Ms. Riggs and Ms. Wilt.

No: None.

Motion Carried.

Case #BZA-2019-17 ~ Property Owner/Applicant: Brian Jenks ~ Location: 2995 Arthur Rd.; Mad River Twp. ~ Request: Variance to Section 802.03.01 to reduce the side setback from 15 ft. to 5 ft. to construct a 22 ft. by 36 ft. carport in the side yard.

Mr. Neimayer explained the subject property is located at 2995 Arthur Rd. and consists of 0.73 acres. The property is zoned R-1 (Rural Residence District). The Applicant would like to reduce the side setback from 15 ft. to 5 ft. to construct a 22 ft. by 36 ft. carport in the side yard. Mr. Neimayer also pointed out that the carport would slightly extend into the front yard. Because the location of the carport would not comply with zoning regulations, the Applicant has filed this variance request.

Mr. Neimayer presented some photos submitted by the Applicant showing the proposed location of the carport. He then reviewed Zoning Regulations of Section 802.03.01 pointing out that accessory structures in the side yard are to follow the side setback of the principal structure, in this case 15 ft. He referenced comments provided by the Clark County Engineer's Office.

Mr. Smith asked to see the aerial slide of the subject area. Mr. Neimayer reviewed the surrounding land uses.

With no questions for Staff, Chairperson Taylor opened the public hearing at 2:23 pm. Chairperson Taylor asked if the Applicant wished to speak at this time.

Brian Jenks, Applicant, 2995 Arthur Rd., was sworn in. Mr. Jenks stated his leach field is in the back yard and the well is located in the front yard.

Mr. Smith asked about water runoff, a concern raised in the County Engineer's Office. Mr. Jenks stated the carport will have gutters to direct water away from the neighbor. He went on to say that storm water in the immediate area drains from the southwest to northeast into drainage ditch along Arthur Rd. Mr. Jenks stated his south neighbor is ok with his variance request and that he has a letter stating as such.

Chairperson Taylor asked if the carport will be enclosed. Mr. Jenks responded yes it will be enclosed, it will have side walls.

Chairperson Taylor then asked why the carport will stick out in front of the house. Mr. Jenks explained the alignment of the existing driveway and his need for the length (to double stack) of the carport results in it sticking out in front of the house., about 30 inches in front of the gutter.

Mr. Smith asked the Applicant if he could access his rear yard from the north side of the property. Mr. Jenks responded he could but it is wet and he would run into the leach field.

Ms. Wilt asked the Applicant about the neighbor's letter. Mr. Jenks presented the letter to the Board.

Ms. Wilt questioned the setback being requested as the staff report indicates 2 ft. while the County Engineer's Office comment letter indicates 5 ft. Mr. Neimayer responded the original request was 2 ft. and later changed to 5 ft. Mr. Jenks confirmed the 5 ft.

Ms. Riggs asked about the front setback, will the carport be off the road far enough. Mr. Neimayer responded the front setback requirement is 40 ft. Mr. Jenks stated the house is more than 40 ft., maybe 60 ft. from the road.

Chairperson Taylor asked for clarification that there are two issues. Mr. Neimayer confirmed there are two variance requests: 1) to reduce the side setback requirement, and 2) for the carport extending into the front yard.

With no further questions for the Applicant, Chairperson Taylor asked if anyone else wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. Hearing none, she closed the public hearing at 2:31 pm. and asked for Board discussion.

Mr. Smith stated his biggest concern is with water runoff and the Applicant has responded to that concern with the elevation change.

Chairperson Taylor stated she is concerned with reducing the side setback from 15 ft. to 5 ft. Mr. Smith stated the Applicant still has access to his rear yard from the north side of the house.

Ms. Riggs is concerned with possible encroachments; none of the existing structures seems to be in conformance.

Ms. Wilt stated the water runoff concerns of the County Engineer's Office are not a problem as the Applicant has testified the property to the south is at a higher elevation. The Applicant has access around the north side to the rear yard. The neighbor does not object to the location of the proposed structure.

Chairperson Taylor expressed concern of property owners trying to put too many accessory structures on small sized lots.

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

Action on Case #BZA-2019-17 ~ Property Owner/Applicant: Brian Jenks ~ Location: 2995 Arthur Rd.; Mad River Twp. ~ Request: Variance to Section 802.03.01 to reduce the side setback from 15 ft. to 5 ft. to construct a 22 ft. by 36 ft. carport in the side yard.

Motion by Mr. Smith, seconded by Ms. Wilt, to **Approve** both variance requests as presented as long as storm drainage is addressed as recommended by the County Engineer's Office.

VOTE: Yes: Mr. Smith, Ms. Wilt and Ms. Riggs.

No: None.

Motion Carried.

Case #BZA-2019-18 ~ Property Owner: Shelby Mershon ~ Applicants: Andrew and Kelsee Seaman ~ Location: 235 S. Buena Vista Rd.; Harmony Twp. ~ Request: Variance to Section 201 to reduce the minimum frontage from 150 ft. to 140± ft.; and to Section 201 Footnote #6 to increase the lot depth to width ratio from 4:1 to 9.2:1 to allow for a lot split for construction of a new single-family home and to preserve farm land.

Mr. Neimayer explained the subject property is located at 235 S. Buena Vista Rd. and consists of 47.27 acres. The property is zoned A-1 (Agricultural District). The Applicants would like to reduce the minimum frontage from 150 ft. to 140± ft., and to increase the lot depth-to-width ratio from 4:1 to 9.2:1 to allow for a lot split for construction of a new single-family home and to preserve farm land. Because the proposed lot split would not comply with A-1 zoning requirements, the Applicants has filed this variance request. Mr. Neimayer referenced the County Engineer's Office's comment letter.

Mr. Neimayer reviewed Zoning Regulations of Section 201 regarding minimum lot width and lot depth-to-width ratio. He then reviewed slides to illustrate the zoning requirements, lot depth to width ratio and the Applicants requests.

Chairperson Taylor asked for the significance of the lot depth-to-width. Mr. Neimayer explained the intent is to prevent narrow but deep lots being created in the A-1 District.

Chairperson Taylor, in reference to the County Engineer's Office's comment letter, asked where the driveway is proposed for the new lot. Mr. Neimayer responded the Applicants intend to use the driveway of the abutting owners to the south (family of the Applicants) as a shared driveway and then turn north into their proposed lot. With the lot split review/approval process, written documentation on this shared driveway will be required to be recorded.

With no questions for Staff, Chairperson Taylor opened the public hearing at 2:40 pm. Chairperson Taylor asked if the Applicant wished to speak at this time.

Andrew Seaman, Applicant, 395 S. Buena Vista Rd., was sworn in. Mr. Seaman explained how he and his wife would like to build a single-family home near his in-laws. He has no intention of changing the frontage along S. Buena Vista Rd., hence not affecting current drainage pattern. Mr. Seaman stated he has spoken with the adjacent (east side) owner regarding the proposed lot split and drainage.

Chairperson Taylor asked what is the land use to the north. Mr. Seaman responded a wooded area except for a pasture area in the front used for horses, which is why the request to reduce the lot frontage.

Chairperson Taylor asked why the length (depth) of the proposed. Mr. Seaman responded they were trying to keep with existing lot lines of the abutting properties and not create a flag lot. Also, referencing comments of the County Engineer's Office there is not much he can do with the front of the proposed lot near the road.

Chairperson Taylor referenced the County Engineer's Office's comment on the proposed driveway should be restricted to the northern most portion of the lot. Mr. Seaman responded them not having knowledge of the easement (the shared driveway). Hence, they will not be affecting the drainage along S. Buena Vista Rd.

Ms. Wilt asked the proposed house will comply with the zoning setback requirements. Mr. Seaman responded yes.

With no further questions for the Applicant, Chairperson Taylor asked if anyone else wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. Hearing none, she closed the public hearing at 2:45 pm. and asked for Board discussion.

Ms. Wilt and Chairperson Taylor felt the proposed shared drive addresses the access concern raised by the County Engineer's Office.

Mr. Smith stated it is good to keep lots square and symmetrical. There will be no impact to the frontage along S. Buena Vista by going with the shared driveway.

Ms. Riggs stated the shared drive is a good idea as it would not disrupt the drainage pattern along S. Buena Vista Rd.

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

Action on Case #BZA-2019-18 ~ Property Owner: Shelby Mershon ~ Applicants: Andrew and Kelsee Seaman ~ Location: 235 S. Buena Vista Rd.; Harmony Twp. ~ Request: Variance to Section 201 to reduce the minimum frontage from 150 ft. to 140± ft.; and to Section 201 Footnote #6 to increase the lot depth to width ratio from 4:1 to 9.2:1 to allow for a lot split for construction of a new single-family home and to preserve farm land.

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

VOTE: Yes: Ms. Riggs, Mr. Smith and Ms. Wilt.

No: None.

Motion Carried.

Case #BZA-2019-19 ~ Property Owners/Applicants: Nathan & Karin VanZant ~ Location: 4319 Springfield-Xenia Rd.; Green Twp. ~ Request: Variance to Section 802.03.01 to allow a carport in the side yard with a 5 ft. side setback instead of 15 ft., and to Section 802.06.01 to allow a third accessory structure on a lot under one acre.

Mr. Neimayer explained the subject property is located at 4319 Springfield-Xenia Rd. and consists of 0.68 acres. The property is zoned R-1 (Rural Residence District). The Applicants would like to construct a carport in the side yard. Because the carport would not meet the side setback requirement and be a third accessory structure on a lot less than one acre, the Applicants has filed this variance request.

Mr. Neimayer reviewed slides of current zoning and land uses of the area, and the Applicant's plot plan. He then reviewed Zoning Regulations of Section 802.03.01 requiring an accessory structure in the side yard to follow the side setback of the principal building and Section 802.06.01 that limits accessory structures on a lot less than one acre to two structures.

Mr. Smith asked if the proposed structure was physically attached to the existing garage would it be considered a part of the main structure. Mr. Neimayer responded yes. He stated there would still be an issue with the side setback requirement. Mr. Neimayer noted there is a comment letter on this case from the County Engineer's Office.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 2:51 pm. Chairperson Taylor asked if the Applicant wished to speak at this time.

Nathan Vanzant, Applicant, 4319 Springfield-Xenia Rd., was sworn in. Mr. Vanzant explained off to the right of the driveway there are mature pine trees along the north lot line. They have had substantial damage to their vehicles from the sap from those trees in addition to bird droppings. Hence, he would like to construct the proposed carport.

Ms. Wilt asked if there is a fence there. Mr. Vanzant responded yes and referenced his plot plan to further explain.

Ms. Wilt asked if the carport can be attached to the existing garage. Mr. Vanzant responded that was not his intention because the carport is going to be wider.

Chairperson Taylor reviewed the two variance requests. The Board tries to keep to no more than two accessory structures on lots less than one acre. She would like to see the Applicant come back to the Board with a revised plot plan showing the carport attached to an existing structure thus eliminating the variance request for a third structure. When asked if this was possible, the Applicant responded yes.

Ms. Riggs agreed to Table the case allowing the Applicant to revise his plot plan.

Chairperson Taylor stated she is uncomfortable with having a third accessory structure.

Chairperson Taylor asked do we need to call for a vote on Tabling. Mr. Neimayer stated the public hearing needs to be opened should there be any audience members who want to speak on this case. But before doing that, Mr. Neimayer asked for clarification: the Board has no preference for the proposed carport to be attached to the house or the existing detached garage. The Board confirmed as such. Mr. Neimayer then suggested the Applicant contact Mike Asebrook in the building department to discuss options per building code.

Chairperson Taylor asked if anyone else wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. Hearing none, she closed the public hearing at 2:56 pm. and asked for a motion.

Action on Case #BZA-2019-19 ~ Property Owners/Applicants: Nathan & Karin VanZant ~ Location: 4319 Springfield-Xenia Rd.; Green Twp. ~ Request: Variance to Section 802.03.01 to allow a carport in the side yard with a 5 ft. side setback instead of 15 ft., and to Section 802.06.01 to allow a third accessory structure on a lot under one acre.

Motion by Mr. Smith, seconded by Ms. Wilt, to **Table** to the July Regular Meeting to allow the Applicant to revise the Plot Plan that will eliminate the request for a third accessory structure.

VOTE: Yes: Mr. Smith, Ms. Wilt and Ms. Riggs.

No: None.

Motion Carried.

Mr. Neimayer informed the Applicant that meeting will be on July 25th at 2:00 pm. in this room. The case will be put first on the agenda.

Case #BZA-2019-20 ~ Property Owner/Applicant: Steven Lower ~ Location: 5673 S. Pitchin Rd.; Green Twp. ~ Request: Variance to Section 802.06.03 Table 8.1 to reduce the side setback from 5 ft. to 1 ft. to construct a 24 ft. by 60 ft. detached garage in the rear yard.

Mr. Neimayer explained the subject property is located at 4319 Springfield-Xenia Rd. and consists of 0.79 acres. The property is zoned R-1 (Rural Residence District). The Applicant would like to construct a detached garage in the rear yard. Because the proposed location of the detached garage results in a 1 ft. side setback, which does not meet zoning regulations, the Applicant has filed this variance request.

Mr. Neimayer reviewed slides of current zoning and land uses of the area, and the Applicant's plot plan. He then reviewed Zoning Regulations of Section 802.06.03 – Accessory Building Development Standards. Table 8.1 that requires a minimum 5 ft. side setback for lots less than one acre. Mr. Neimayer also referenced correspondence from the County Engineer's Office and the Combined Health District. He identified the location of the well, septic and leach field.

With no questions for Staff, Chairperson Taylor opened the public hearing at 3:00 pm. Chairperson Taylor asked if the Applicant wished to speak at this time.

Steven Lower, Applicant, 5673 S. Pitchin Rd., was sworn in. Mr. Lower explained his existing garage is too small. He is a mechanic and needs a larger structure. He stated his adjacent neighbor to the north is ok with his variance request. Mr. Lower stated the reason for the one foot setback is to maintain separation from the leach field.

Chairperson Taylor asked for the location of the leach field. Mr. Lower identified its location on the display map. Chairperson Taylor asked what the distance would be from the leach field. Mr. Lower, using the display map, responded about five feet based on where the Health Department probed. Chairperson Taylor asked if the proposed garage was moved up (towards the house) it would still be five feet from the leach field. Mr. Lower responded yes.

Chairperson Taylor asked if it is possible to change the shape of the garage, to reduce the width in order to increase the side setback. A one foot setback is really pushing it, and the County Engineer's Office feels the same way. Mr. Lower responded he wants to put up a steel building on a concrete slab and they sell them in kits. They come in certain dimensions. You can probably special order but it would take time and cost more.

Chairperson Taylor asked Mr. Neimayer about zoning issues with such a building close to the lot line. Mr. Neimayer responded common concerns are drainage, future maintenance of the structure and remaining on the property, and not encroaching onto a neighbor's property. Chairperson Taylor stated that with a one foot setback, the Applicant would have to be on the neighbor's property to construct the garage.

Mr. Lower stated the building he is looking at comes with a life time guarantee on the metal and the painting. So once it is up it is done.

Mr. Smith asked who located the septic/leach field. Mr. Lower responded the Health Department.

Ms. Wilt asked with the future septic system area there is no way to rearrange the proposed garage. Mr. Lower responded no, not really.

Chairperson Taylor stated that in order to build the garage the Applicant would be on the neighbor's property. Are they aware of that? Mr. Lower responded yes. He stated he will be repairing a fence for the neighbor.

Chairperson Taylor asked about the overhang of the garage crossing over the property line. Mr. Lower responded it is a quonset hut that rises up and rounds off. Hence, there is no overhang.

With no further questions for the Applicant, Chairperson Taylor asked if anyone else wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. Hearing none, she closed the public hearing at 3:07 pm. and asked for Board discussion.

Mr. Smith stated he was originally opposed to the request as he was picturing a squared-off, peaked roof structure. But after hearing from the Applicant explain it will be a quonset hut structure, he has no problem.

Ms. Wilt stated she has a problem with the 1 ft. side setback. Chairperson Taylor stated she is bothered by that as well. In addition, she would feel more comfortable having written approval from the neighbor, since she is not present to testify, that there will be construction activity on her property.

There was discussion among the Board over the location of the leach field, reserve leach field area and the usage of the garage.

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

Action on Case #BZA-2019-20 ~ Property Owner/Applicant: Steven Lower ~ Location: 5673 S. Pitchin Rd.; Green Twp. ~ Request: Variance to Section 802.06.03 Table 8.1 to reduce the side setback from 5 ft. to 1 ft. to construct a 24 ft. by 60 ft. detached garage in the rear yard.

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

VOTE: Yes: Mr. Smith and Ms. Riggs.

No: Ms. Wilt.

Motion Carried.

Case #BZA-2019-21 ~ Property Owner/Applicant: Karen King ~ Location: 4345 Old Mill Rd.; Mad River Twp. ~ Request: Variance to Section 802.03.02 to allow a 12 ft. by 25 ft. accessory structure in the front yard at 157± ft. from the road right-of-way instead of the required 300 ft.

Mr. Neimayer explained the subject property is located at 4345 Old Mill Rd. and consists of 1.07 acres. The property is zoned A-1 (Agricultural District). The Applicant would like to construct an accessory structure in the front yard. Because the proposed structure would be less than 300 ft. from the right-of-way, the Applicant has filed this variance request.

Mr. Neimayer reviewed the Zoning Regulations of Section 802.03.02 (accessory structure in the front yard).

Ms. Riggs asked about the location of the well, septic/leach field. Mr. Neimayer responded he did not have that information and deferred to the Applicant.

With no further questions for Mr. Neimayer, Chairperson Taylor opened the public hearing at 3:13 pm. Chairperson Taylor asked if the Applicant wished to speak at this time.

Karen King, Applicant, 4345 Old Mill Rd. was sworn in. Ms. King stated she wants to put up a storage building, they say it is in the front yard but it is more of the side yard to me. Irvin McWhorter, husband, 4345 Old Mill Rd. was sworn in. Mr. Irvin stated the property is heavily wooded and the proposed storage shed would not be visible from the road. It would not be visible from side neighbors.

Ms. Wilt asked where the driveway is. Mr. McWhorter responded it comes almost in the middle of the property. He pointed out the driveway on the display map.

Chairperson Taylor asked where the septic is. Mr. McWhorter pointed out the location on the display map and indicated the well is on the other side of the property.

Chairperson Taylor asked if the front of the house is facing Old Mill Rd. Mr. McWhorter responded that is correct.

Mr. Smith asked if there was a dry well or a leach bed. Mr. McWhorter responded it is a leach bed in the back yard.

Ms. Riggs asked what the other structure is. Mr. McWhorter responded that is a trailer for transporting racing cars. The other structures (NW area of the property) actually belong to his neighbor; they encroach onto our property.

Chairperson Taylor asked except for the racing trailer that is the only accessory structure you have. Mr. McWhorter responded yes. I park the trailer there for safety reason and no one can see it from the road.

Mr. McWhorter stated the property behind (west of) the house slopes to the west.

Mr. Smith asked what is the purpose of the shed. Mr. McWhorter responded for storage. He is an avid collector of vinyl records.

Chairperson Taylor asked if anyone else wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. Hearing none, she closed the public hearing at 3:19 pm. and asked for Board discussion.

Mr. Smith stated he use to work in the area and knows of the wooded area and the elevation changes,

Chairperson Taylor question anywhere they place the structure would still not comply with the min. 300 ft. setback from the right-of-way. Mr. Neimayer responded that is correct.

Ms. Wilt does not see a problem with the request. Ms. Riggs concurs.

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

Action on Case #BZA-2019-21 ~ Property Owner/Applicant: Karen King ~ Location: 4345 Old Mill Rd.; Mad River Twp. ~ Request: Variance to Section 802.03.02 to allow a 12 ft. by 25 ft. accessory structure in the front yard at 157± ft. from the road right-of-way instead of the required 300 ft.

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

VOTE: Yes: Ms. Wilt, Mr. Smith and Ms. Riggs.

No: None.

Motion Carried.

Case #BZA-2019-22 ~ Property Owners/Applicants: Roger Boldman & Pamela Dickerson ~ Location: 10596 Plattsburg Rd.; Harmony Twp. ~ Request: Variance to Section 202 to reduce the front yard setback from 40 ft. to 16 ft. to construct a 30 ft. by 48 ft. pole barn in the side yard.

Mr. Neimayer explained the subject property is located at 10596 Plattsburg Rd. and consists of 3.56 acres. The property is zoned R-2 (Low Density Single-Family Residence District). The Applicant would like to replace an existing pole barn with a new larger pole barn in the side yard. Because the proposed location would not meet the front yard setback requirement, the Applicant has filed this variance request.

Mr. Neimayer presented slides to review existing lot size and land use of the subject area, showing the proposed location of the new pole barn, and Zoning Regulations Section 202 regarding front yard setback requirement. He then presented slides showing the current and future right-of-way lines of Plattsburg Rd. per the county Thoroughfare Plan. Mr. Neimayer explained the front yard setback is defined in the zoning regulations as a distance from the current right-of-way or the future right-of-way identified on the county Thoroughfare Plan, whichever is greater. The current right-of-way is 30 ft. from centerline. The Thoroughfare Plan right-of-way is

40 ft. from centerline. The front yard setback for R-2 zoning is 40 ft. Hence, the proposed structure would need to be 80 ft. from the centerline of Plattsburg Rd.

Mr. Neimayer explained this situation where houses were built close to the road way. For situations like this in the past, Staff has consulted with the County Engineer's Office to determine if the Thoroughfare Plan right-of-way should be enforced or not. Now, there is a difference of opinions within the office and the county prosecutor's office says we are to follow the Thoroughfare Plan because of the wording in the zoning code.

Mr. Smith asked Mr. Neimayer to expand the aerial to show how many properties are in violation of the Thoroughfare Plan. Mr. Neimayer showed the aerial with the current right-of-way identified. Chairperson Taylor asked if those properties are grandfathered in being non-compliance. Mr. Neimayer responded that is a problem with the Thoroughfare Plan in that this situation was not addressed. He said this is not the only area where we have this problem. There are other older communities where we have encroachments with the current right-of-way or with the Thoroughfare Plan right-of-way where we force (property owners) to go thru the variance process. Mr. Neimayer stated he initially informed the Applicant that a variance would not be needed. Prior to that, he spoke with the County Engineer's Office and unofficially they responded they would probably concur – meaning not to enforce the Thoroughfare Plan right-of-way in the Applicant's situation. Chairperson Taylor stated there seems like a lot of homes that would be affected. Mr. Neimayer responded there are a lot and we are discussing how to address this by either amending the Zoning Code or the Thoroughfare Plan so we do not have to have property owners go thru the same process.

Mr. Smith asked about the location of the septic system. Mr. Neimayer responded he assumes it is behind the house, but deferred to the Applicant. He did not have that information.

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

Lawrence Cole, 5045 US 68 N., Urbana, OH 43078, contractor and representative for the Applicants, was sworn in. Mr. Cole said he asked the Applicant about pushing the structure back to the 80 ft. setback. The problem is just to the north of the existing building the land falls off towards the creek and the Applicant says it floods during heavy rains. The new building is going where the existing building is. The existing building is in desperate need of repair. The new building will clean up the property and it is in close proximity to the house. The Applicant feels it (the proposed location) is the best location.

Mr. Smith asked there is no septic or leach field on that side of the driveway or behind where you want to build this. Mr. Cole responded no.

Chairperson Taylor asked about other structures. Mr. Cole responded that is an old barn. The than asked about the number of other accessory structures. Mr. Neimayer responded we are over the (one) acre so the number of structures does not matter, it's the overall square footage.

Mr. Cole stated he is not one hundred percent certain on where the well and leach field location, but does know they are not on the left (west) side of the property.

There were no further questions for Mr. Cole.

Chairperson Taylor asked if anyone else wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. Hearing none, she closed the public hearing at 3:34 pm. and asked for Board discussion.

Chairperson Taylor felt the pole barn should be moved behind the house. To build something new and be out of compliance when maybe you do not have to does not seem the right thing to do.

Mr. Smith stated he has a drainage ditch in the rear that the Applicant is trying to avoid. The Board discussed alternative locations.

Chairperson Taylor stated there are possibly other options. Until they exhaust those options, I do not think we should entertain a motion of acceptance.

Ms. Wilt did not think we should go against the Thoroughfare Plan. She asked about the use of the Thoroughfare Plan. Mr. Neimayer responded the purpose of the Thoroughfare Plan is to preserve future right-of-way for future road improvements, maintain site distance, address roadside drainage. For this section of Plattsburg Rd., he thinks it is very unlikely that the county would entertain future road improvements. There are some cases, this is one, where it makes no sense to follow the Thoroughfare Plan because we are never going to do any type of road improvement. So, why should have that enforcement in those situations.

Mr. Neimayer referenced the Applicant's comments about the drainage way behind the house and how it has flooded in the past. Due to questions from the Board and because the Applicant is not present, Mr. Neimayer suggested the Board Table this case to allow the Applicant to be present and respond to those questions.

The Board further discussed the situation of existing homes being out of compliance with the Thoroughfare Plan.

Ms. Riggs stated a topo map of the property would help to understand drainage of the property.

Mr. Smith stated he thinks the Applicant has thought it out where to locate the proposed structure.

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

Action on Case #BZA-2019-22 ~ Property Owners/Applicants: Roger Boldman & Pamela Dickerson ~ Location: 10596 Plattsburg Rd.; Harmony Twp. ~ Request: Variance to Section 202 to reduce the front yard setback from 40 ft. to 16 ft. to construct a 30 ft. by 48 ft. pole barn in the side yard.

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

VOTE: Yes: Mr. Smith, Ms. Wilt and Ms. Riggs.

No: None.

Motion Carried.

Chairperson Taylor announced a short recess at 3:41 pm. The meeting resumed at 3:45 pm.

Case #BZA-2019-23 ~ Property Owner/Applicant: Geese Properties of Ohio LLC ~ Location: 111 Tremont City Rd.; Moorefield Twp. ~ Request: Variance to Section 212 to reduce the rear setback from 40 ft. to 30 ft. to construct a new self-storage building.

Mr. Neimayer explained the subject property is located at 111 Tremont City Rd. and consists of 5.92 acres. The property is zoned I-1 (Industrial District). The Applicant would like to construct a new 140 ft. by 30 ft. self-storage building at the rear of the property. The Applicant would like to reduce the rear setback from 40 ft. to 30 ft. and has filed this variance request.

Mr. Neimayer presented slides showing an aerial of the subject area and current zoning. He then reviewed the Applicant's plot plan identifying the proposed new building. Mr. Neimayer referenced a 2017 variance application by the Applicant for a new building in a different location. That project did not go forward. He then reviewed the Zoning Regulations of Section 212 (I-1 District) regarding setback requirements.

Chairperson Taylor asked the reasoning for the setback reduction when there is available land. Mr. Neimayer deferred to the Applicant, although he assumes it is to maximize the land area for future storage building construction.

With no further questions for Mr. Neimayer, Chairperson Taylor opened the public hearing at 3:49 pm. Chairperson Taylor asked if Applicant wished to speak at this time.

Tabb Geese, Applicant, P.O. Box 809 La Porte, IN, 46352, was sworn in. Mr. Geese acknowledged the 2017 variance application saying they decided not to move forward with that project. The reason for the 10 ft. variance request (current variance application) is that he is configuring the property to maximize the space for future buildings. Mr. Geese stated the property is in a low lying area.

Mr. Smith asked what the setback will be on the west side. Mr. Geese responded it will be 30 ft.

With no further questions for the Applicant, Chairperson Taylor asked if anyone else wished to speak for the case. There was none. She then asked if anyone wished to speak against the case. Hearing none, she closed the public hearing at 3:51 pm. and asked for Board discussion.

Mr. Smith stated the Applicant has done better than what we thought he could do. He is trying to do everything right. He sees no problem.

Chairperson Taylor commented it is a good use of the land.

Chairperson Taylor asked for a motion.

Action on Case #BZA-2019-23 ~ Property Owner/Applicant: Geese Properties of Ohio LLC ~ Location: 111 Tremont City Rd.; Moorefield Twp. ~ Request: Variance to Section 212 to reduce the rear setback from 40 ft. to 30 ft. to construct a new self-storage building.

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

VOTE: Yes: Mr. Smith, Ms. Wilt and Ms. Riggs.

No: None.

Motion Carried.

Case #BZA-2019-24 ~ Property Owner: James Griffiths, Jr. ~ Applicant: David Ellis of Clayton Homes ~ Location: 13037 E. National Rd.; Harmony Twp. ~ Request: Variance to Section 739.05 to reduce the structure width from 22 ft. to 16 ft. to allow for a new manufactured home.

Mr. Neimayer explained the subject property is located at 13037 E. National Rd. and consists of 0.63 acres. The property is zoned R-2 (Low Density Single-Family Residence District). The Owner would like to replace his existing manufactured home with new single-wide unit. Because the new unit is only 16 ft. in width, the Applicant has filed this variance request on behalf of the Owner.

Mr. Neimayer presented slides showing current zoning of the area plus an aerial. He reviewed Zoning Regulations of Section 739 – manufactured homes on individual lots, not in a manufactured home park. He then showed some photos of the proposed new unit provided by the Applicant.

Chairperson Taylor asked about the variance request, the size of the new unit. Mr. Neimayer responded the current unit is 16 ft. width by 61 ft. length. The new unit will be 16 ft. in width by 76 ft. length.

Chairperson Taylor questioned the thought process of requiring 22 ft. width. Mr. Neimayer responded the 22 ft. requirement, in his opinion, is to protect property values and to give the appearance of a site-built dwelling.

Discussion among Board members – inaudible.

With no further questions for Mr. Neimayer, Chairperson Taylor opened the public hearing at 3:57 pm. Chairperson Taylor asked if the Applicant wished to speak at this time.

James Griffiths, Jr., Owner, 13037 E. National Rd., was sworn in. Mr. Griffiths stated the current unit is from 1972; it is cold, it is old, and it is time to replace it. The new unit will be much more energy efficient.

Chairperson Taylor asked if the new unit will be placed in the same location. Mr. Griffiths responded the basic location but not to cover up the well house. The well house sits over by the garage, on the front side of the trailer. The new unit will be set two feet from the well house.

Ms. Wilt asked the Applicant why he wants a 16 ft. width unit instead of a 22 ft. width. Mr. Griffiths responded I did not know they made a 22 ft. and the 16 ft. is plenty enough room for him.

David Ellis of Clayton Homes, 2720 US 68 S., Bellefontaine, OH 43311. Mr. Ellis stated the size of the home is based on the amount we could get approved for. He could not find a lender to approve for a wider home.

Mr. Ellis was sworn in by Chairperson Taylor.

Mr. Ellis stated we are replacing with a slightly larger but much more energy efficient unit. We could not afford to do something more (size width) than what we did.

With no further questions for Mr. Griffiths or Mr. Ellis, Chairperson Taylor asked if anyone else wished to speak for the case.

Larry and Regina Murray, 13036 E. National Rd., were sworn in. They live across the street from the Applicant and have been there for 40 years. Mr. Griffiths has been at his residence for 31 years. Mr. Griffiths has been a good neighbor. His current unit is in dire need of repair or replacement. Replacing the old unit with the new unit will improve property values. Mrs. Murray agreed with what Mr. Murray said. It does need repaired or replaced.

Randy and Annette McClure, 12978 E. National Rd., was sworn in. They have lived across the street from the Applicant since 1995. Mr. McClure stated it will be an improvement to the neighborhood. Mrs. McClure concurred with what Mr. McClure said.

With no one else to speak on this case, Chairperson Taylor closed the public hearing at 4:04 pm. and asked for Board discussion.

Chairperson Taylor stated the proposed new unit will improve the neighborhood and put the Applicant in a better quality of life.

Ms. Wilt, Mr. Smith and Ms. Riggs do not see a problem. The neighbors support the request.

Chairperson Taylor stated a six foot difference (22 ft. to 16 ft.) does not seem like a big issue when you are looking at the improvement of this property.

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

Minutes

Clark County Board of Zoning Appeals

Action on Case #BZA-2019-24 ~ Property Owner: James Griffitts, Jr. ~ Applicant: Clayton Homes ~ Location: 13037 E. National Rd.; Harmony Twp. ~ Request: Variance to Section 739.05 to reduce the structure width from 22 ft. to 16 ft. to allow for a new manufactured home.

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

VOTE: Yes: Ms. Riggs, Mr. Smith and Ms. Wilt.

No: None.

Motion Carried.

Staff Comments

Mr. Neimayer stated the next scheduled meetings will be on July 25 and August 29, 2019.

Adjournment

Motion by Mr. Smith, seconded by Ms. Wilt, to **Adjourn.**

VOTE: Motion carried unanimously.

The meeting was adjourned at 4:06 p.m.

Mrs. Jerri Taylor, Chairperson

Mrs. Nancy Sowards, Acting Director
Community & Economic Development