

Regular Meeting  
Thursday, May 23, 2013

Springview Government Center  
3130 E. Main Street  
Springfield, Ohio 45505

Mr. Tim Greenwood, Vice Chairperson of the Board of Zoning Appeals, calls the meeting to order at 2:00 p.m.

Present: Mr. Don Wallace, Mr. Rick Smith, Mr. David Minard, Alternate, and Mr. Greenwood.

Absent: Mr. Jeff Horne and Mr. Jack Spurlock.

Also Present: Mr. Allan Neimayer, Clark County Community Development, Mr. Terry Shaffer, Zoning Inspector and other interested persons.

Chairperson Horne asks if there are any comments regarding the minutes. Hearing none, he asks for a motion to approve the minutes.

**BZA: 5-23-2013: Minutes ~ April 25, 2013**

Motion by Mr. Wallace, seconded by Mr. Minard to approve the minutes as presented.

***VOTE: Motion carries unanimously.***

Vice Chairperson Greenwood explains how the meeting will be held. Everyone will need to sign in that will be speaking. Staff will present the report and the Board will ask questions to the staff. The proponents will be able to speak followed by the opponents. Everyone will be sworn in before they speak. Rebuttal by the Applicant will follow, if desired.

Vice Chairperson Greenwood asks the Board if anyone needs to abstain. Hearing none, he asks the staff to present the case.

Mr. Neimayer states for the record that Mr. Minard will be a full voting member for this meeting.

**BZA-2013-13: Variance Case ~ James Brock ~ Located at 316 Rosewood Road; 34 Hillcrest Drive; 1218 Lakeshore Drive plus Rosewood Road {PIN 010-05-00025-120-005} and Lakeshore Drive {PIN 010-05-00025-120-002; Lakeshore Drive {PIN 010-05-00025-123-003, 004, 005 & 006}; and Queen Road {PIN 010-05-00025-123-013 & 014} ~ Bethel Township**

Mr. Neimayer, Senior Planner, presents the staff report and accompanying maps. The subject properties are zoned R-2B (Medium Density Single-Family Residence District) and located in the Crystal Lakes Subdivision in Bethel Township. The typical lot in Crystal Lakes is 100 feet in depth. For lots served by public sewer only, the required front setback is 35 feet and the rear setback is 50 feet. That leaves 15 feet in depth for a new house. Therefore, the Applicant is requesting variances for the above referenced properties to Chapter 2, Section B, Footnote #2 that requires a 50 feet rear setback for lots served by public sewer only. All of those properties are owned by the Applicant.

The property located at 316 Rosewood Road is a total of 4 lots combined. The parcel is 80 feet by 100 feet, 0.018 acres in size and is currently an undeveloped parcel. The Health District has approved the location of the well that will be located in the lower right hand portion of the property with the sanitary sewer tap-in to the left.

The property located at 34 Hillcrest Drive has an existing building on it. Mr. Neimayer is unaware of the condition of this building, the plans for it being renovated or the parcel being redeveloped. He will defer any questions to the Applicant. This parcel consists of five original lots that have combined and is 0.23 acres in size.

The Applicant will combine the property at 1218 Lakeshore Drive with his abutting properties on Rosewood Road and Lakeshore Drive to create one residential parcel which will total eight combined lots that will be 0.37 acres in size.

The Applicant will combine the other four lots on Lakeshore Drive to create one residential parcel that will be 0.18 acres in size.

The Applicant intends to combine his two lots on Queen Road (PID 010-05-00025-123-013 & -014) to make one single-family residential parcel that will be 0.09 acres. These Queen Road properties are two 20-foot wide lots of the Crystal Lakes Subdivision. Under the R-2B zoning district, the side yard setbacks are 12 feet least width and 30 feet sum of both. Chapter 8, Section F, 1, g & j, allows for a reduction of the side yard requirements as follows:

“ g) The width of one (1) side yard may be reduced when authorized by the Board of Zoning Appeals in the case of a single-family or two-family dwelling, to a width not less than three (3) feet if the sum of the widths of the two (2) side yards is not less than the required minimum, and if the distance between the proposed dwelling and another dwelling, existing or proposed, on an adjacent lot is not less than the required minimum sum of the widths of two (2) side yards. Such reduction may be authorized only when the Board of Zoning Appeals finds it to be warranted by the

location of existing buildings or conducive to the desirable development of two (2) or more lots.”

“ j) For 1, 2, or 3 family dwelling units, the minimum side yards (“least width” and “sum of both”) may be modified on an existing lot of record which has less than the minimum frontage of the District in which it is located. Said least width may be modified to not less than 10% of the lot width except as permitted by (g) above and the sum of both side yards may be modified to not less than 30% of the lot width. For 1, 2, or 3 family dwelling units located on existing lots having a lot depth which is less than the lot width, then the rear yard setback need not exceed twenty (20) percent of the depth of the lot, but in no case shall it be less than ten (10) feet.

Both of the reference paragraphs deal with modifications to the side yard setbacks. These regulations in Chapter 8, Section F only deal with front and/or side setbacks and do not address any modifications to the rear yard setbacks. That is why there is a variance request for all of the parcels as presented to the Board.

The Clark County Zoning Regulations state:

Chapter 2, Section B, Footnote 2:

SECTION B [eff. 4-4-96]

SINGLE-FAMILY RESIDENCE DISTRICTS R-1, R-2, R-2A, & R-2B  
*REFERENCES TO FOOTNOTES (Restrictions) [Right Hand Column on Table]*

1. In every case where a lot is not served with public water supply and/or the disposal of sanitary wastes by means of public sewers, the proposed method of water supply and/or disposal of wastes shall have written approval from the Clark County Health Department or from the Ohio E.P.A., as applicable, PRIOR TO ISSUING A ZONING CERTIFICATE. [eff. 4-4-96]
- 1a. Manufactured housing subject to requirements for Manufactured Home specified in Chapter 7, Section 135. [eff. 6-1-2000]
2. All Principal, Conditioned, and Conditionally Permitted Uses not served by public sewer and/or water shall have a minimum frontage, lot size(area), and setbacks as noted below: [eff. 12-1-2005]

UTILITIES SERVING PROPERTY	FRONTAGE	LOT SIZE	SETBACKS			
			Front	Side (Least Width)	Side (Sum of Both)	Rear
No public sewer or water -	150 feet	1 acre	40 feet	15 feet	50 feet	60 feet
Public water only -	125 feet	¾ acre	35 feet	12 feet	30 feet	50 feet
Public sewer only -	100 feet	½ acre	35 feet	12 feet	30 feet	50 feet

Staff received 3 letters in opposition after the agendas were sent out to the Board. He has not received any other communication regarding the request. He states there are a total of five separate sites involved with this application. The Board can choose how they want to proceed: to act as one request or take them individually.

The Clark County Engineer’s Department has reviewed the variance requests and has no objection.

The Clark County Combined Health District has reviewed the variance requests and has approved the plot plan that shows the proposed house site and well including separation distance for the property located at 316 Rosewood Road.

Mr. Neimayer asks if there are any questions from the Board members.

Mr. Wallace expresses concern for the changes to the multiple lots under one request and favors them being looked at as separate requests.

Mr. Neimayer responds that the property at 316 Rosewood is already a buildable lot and the other property on Rosewood and Lakeshore as well as Queen and Lakeshore as indicated by the Applicant that subject to the variance approval the intent is to combine those respective individual lots into one and making them buildable sites.

Mr. Wallace proposes that the Board take each individual property under separate consideration.

**BZA: 5-24-2013: BZA-2013-13 ~ Variance Case ~ James Brock ~ Located at 316 Rosewood Road; 34 Hillcrest Drive; 1218 Lakeshore Drive plus Rosewood Road {PIN 010-05-00025-120-005} and Lakeshore Drive {PIN 010-05-00025-120-002; Lakeshore Drive {PIN 010-05-00025-123-003, 004, 005 & 006}; Queen Road {PIN 010-05-00025-123-013 & 014} ~ Bethel Township**

Motion by Mr. Wallace, seconded by Mr. Smith, to take each site under separate consideration.

***VOTE: Motion carries unanimously.***

Mr. Wallace comments that maybe there should be a broader look at not just the lots being presented currently but possibly taking a look at all of Crystal Lakes which is affected by the current regulations.

Mr. Neimayer responds that would be a fair statement. He states that the requests for the variances are not the result of something that the applicant/property owner has done to the property. In this case, the zoning of R-2B is with public sewer only and by the zoning table calls for a 50 foot rear setback. When you are trying to layout the setbacks plus working with the size of the house for most of the properties in Crystal Lakes, you cannot comply with the current setback requirements. And like the property on Rosewood that is a corner lot, you have more of an obstacle because the frontage on Rosewood and Lakeshore are considered front yard areas as opposed to one being a side yard. Considering however, that under Chapter 8, Section F it does allow for Staff to modify some of the side yard requirements.

Vice Chairperson Greenwood asks if the Board has any further questions for Staff.

There are none.

Vice Chairperson Greenwood states that in light of the motion, he opens the public hearing at 2:15 p.m. and will address each property individually and asks if there are any proponents wishing to speak in favor of the property located at 316 Rosewood Drive.

Mr. Rick Slyfield, whose address is 336 Rosewood Road, states that he is not in favor or against the case. The only question he has being an adjacent property owner is that it is his understanding that the corner lot has an additional lot next to it that is not attached to the corner parcel and it is not big enough to build on. Will that smaller lot be combined with the corner parcel and become one lot before it is built on?

Mr. Neimayer states that the parcel being referenced is one parcel. There is no adjacent vacant lot. There is a single-family dwelling being proposed on this single lot that was originally four separate lots at one time and were combined into one lot.

Vice Chairperson Greenwood asks if there are any opponents.

Mrs. Janie Riggs, whose address is 815 Lakeshore Drive, states she is speaking on behalf of the Crystal Lakes property owners and she is employed with the Bethel Township Road Department. There has been an unfavorable history of contractors coming into the Crystal Lakes area. However, the quality of Mr. Brock's homes is more than adequate. It was her understanding that to build a home in the Crystal Lakes plat you were required to have a minimum of five lots because of the substandard size of the single lots only being 20 ft. by 100 ft. and the smallness of the plat.

Vice Chairperson Greenwood responds that the Crystal Lakes plat is under county zoning. In 1986 the Crystal Lakes Zoning Board passed a resolution to go under county zoning.

Mrs. Riggs responds that there seems to be an inconsistency of what the property owners have been told in the past compared to what the zoning regulations say. To look at the Crystal Lakes layout and what the current zoning regulations say regarding the setback requirements, they are designed for larger more standardized building lots then what is in the Crystal Lakes plat. If there are not a combined minimum number of lots required to build a dwelling on, then she wants to make sure that multiple dwellings will not be built on Mr. Brock's lots. She also states that the original plat map shows a 40 foot right-of-way for all of the roads but there is not one road that wide in the plat. Some of the roads you can barely pass two cars on. With the small lots, small houses and small yards in the plat, there are a lot of kids playing and people walking in the streets not to mention there are no sidewalks or street lights. When you change the setback requirements you create a lot of concern about the safety and well being of the general public.

Mr. Neimayer responds that except for a few areas in Crystal Lakes that have been zoned for business use, the remainder of the plat is zoned R-2B, which is a medium-high density residential zoning district. Under that district, only single-family dwellings are permitted on the property. As far as a duplex or something more than single-family, that use is not permitted unless the property owner was to file and have approved a rezoning of the property.

Mrs. Riggs states that there is a multi-family dwelling on Sycamore Road that was built in recent years that was trying to be passed through this Variance Board at that time as a multi-family complex.

Mr. Neimayer responds that he is unfamiliar with such a case.

Mrs. Riggs responds that Mr. Neimayer's predecessors were involved with that.

Mr. Neimayer responds that in 2010 the County and various Board's were working on some comprehensive zoning that involved Crystal Lakes and that is where the R-2B zoning got established. The emphasis was to get Crystal Lakes into a more appropriate zoning district under the county zoning regulations. Under R-2B zoning, only single-family residential dwellings are permitted. Two separate homes on a lot, duplexes and apartment buildings are not allowed unless a property owner was to go through a rezoning. A use variance would be the type of case that Mrs. Riggs referred to and would not be proper under the zoning regulations by this Board. Mr. Neimayer did research the issue regarding a requirement of having to have a minimum of five lots for a buildable lot and could not find that written requirement. That may have been an original requirement under the Crystal Lakes Zoning. However, the zoning handbook from that time when Crystal Lakes regulated their own zoning does not state that requirement. In 1987 when it was decided to disband the Crystal Lakes Zoning and come under Clark County Zoning, there was a zoning map that was presented and approved. As far as a zoning text, all that was referenced was that the current county zoning regulations (i.e., zoning text) would become effective.

Mrs. Riggs asks what is the least amount of lots you have to have to build on.

Mr. Neimayer responds that will depend on the number of lots the property owner has. By current zoning if where the dwelling is to be placed does not meet the building setback requirements then they must come before this Board for a variance. In addition to that they have to meet the Health Department standards as far as where their well will be located in respect to where they want to build on the site as well as where the sewer connection is located.

Ms. Becky Brittingham, whose address is 1215 Lakeshore Drive, states in reference to the property that is on Rosewood where the property is 80 feet wide and 100 feet deep and having requirements of 30 feet side setbacks, 35 feet front setback and the 50 feet rear setback that would limit the property owner to having a 20 feet x 15 feet house without any variances. She states that is how it is determined as to how many lots are needed by looking at the setback requirements. Looking at the property at 1218

Lakeshore that is currently three parcels that total eight lots, if those are combined into one parcel then there should be enough land to meet the setback requirements without any type of setback variance unless they propose to build a very large house.

Mr. Neimayer responds that a variance may not be required by this Board. There may be other administrative options under Chapter 8 where the side setbacks can be modified.

Mrs. Nancy Brown, whose address is 3805 Tomahawk Drive, states that she is a Bethel Township Trustee and would like to express that the Trustees were not given timely notification. They just received the agenda for this meeting on Tuesday. She cannot come before the Board and give an opinion from the Township Trustees because they did not have a meeting to discuss this case. They did have a work session and discussed it but they were unable to vote for or against this request because it was not a regular meeting of the Trustees.

Mr. Neimayer clarifies that they did receive the agenda however it was not received until Tuesday of this week.

Mrs. Brown responds yes that is correct. As the Trustees were discussing this request at their workshop, Trustee Finrock made a comment after looking at the request and said what is the purpose of zoning if you give people wholesale variances. It looks like with the front and rear setback requirements every lot that is built on will require a variance so it is not something unusual. It is a built-in flaw affecting the plat in which case it seems it is inappropriately zoned if it affects every single lot. She suggests doing a zoning overlay map for Crystal Lakes that would have its own zoning that would appropriately zone that community so they {property owners} do not have to come before this Board every time and so the citizens that live there do not have this ongoing concern. Mrs. Riggs was correct in saying that Mr. Neimayer's predecessor did try to convince her that the current zoning would allow duplexes in Crystal Lakes. Trying to make variances on allowing dwellings on smaller lots, it changes a community. A lot of people think this is a community of tiny houses on tiny lots but it is not. If wholesale variances allow people to put dwellings on sub-standard sized lots that will allow no back yards for children to play in then it will really change that community in a negative way. Because no one is here to explain what is going on with these properties she states that the Bethel Township Trustees have ordered the demolition of the house located at 34 Hillcrest Drive. That property has five lots. You can see that there is no front or back yard so children would have to play in the side yard. If you take 20 feet off of the width of that lot and put a house on four lots or 40 feet off on three lots it does not take very many of these types of variances and you would change the community.

Mr. Neimayer states that he can clear up the issue about the duplex or multi-family situation. Before 2010, when the Crystal Lakes zoning was brought into the County zoning the zoning district at that time was R-3. Under R-3 zoning, it does allow two-family dwellings. That would be why his predecessors said that you could have a duplex at that time. In 2010, the County changed the residential zoning in Crystal Lakes to R-2B which only allows single-family dwellings. He comments to the Board that what Mrs. Brown had mentioned about needing a special zoning district for Crystal Lakes

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because of its circumstances of a subdivision that dates back to the early 20<sup>th</sup> Century, staff would agree with her. That is probably what needs to happen.

Mrs. Brown states that they are not opposed to development in Crystal Lakes. But they are opposed to development that would change the community in an unfavorable way.

Mr. Neimayer states in 2010 staff did try to get a proper zoning district. It would appear that there was concern about multi-family use. That is where the R-2B zoning came to be. Unfortunately, it was not looked at close enough to see that the lots do not comply with that district {lot size and yard requirements} and that it needs to have its own special district to address these issues.

Mrs. Brown asks if it would be possible for representatives from the Crystal Lakes Homeowners Association and Bethel Township Trustees to meet with staff to come up with something that would appropriately fit the community.

Mr. Neimayer responds that would be a positive direction to take in addressing the issues.

Mrs. Brown responds that the concern she has is that the more variances issued the harder it is to not give one to someone else in the future.

Mr. Slyfield comments that he only came to the meeting out of concern for his own property. In light of what Mrs. Brown and Ms. Brittingham has said about the history of the community and how to fix the community overall, he is now not in favor of the proposed request.

Vice Chairperson Greenwood asks if there is anyone else that would like to speak.

Hearing none, Vice Chairperson Greenwood closes the public hearing at 2:43 p.m.

Mr. Wallace states that frankly he has heard a lot of confusion about the lots and how to proceed. It was said that Mr. Brock is a good developer and that development is favored. A comment was made about if these procedures are followed then according to the zoning regulations there could be 15 feet to 20 feet long houses built on some of the lots. He also heard that the township trustees did not adequately have time to discuss this case as well as there may be a need for Crystal Lakes to have special zoning. He also knows from experience that this Board is going to be marching through variance after variance and that each variance tends to set a pattern that may be illicit with long term development. With all of that said he wonders if the Board should even proceed without coming to a position that everyone agrees to. He recommends tabling this case to allow more discussion to occur.

Vice Chairperson Greenwood asks, if the case is going to be tabled, will the Board need to make a motion to put the properties back into one request.

Mr. Neimayer responds, for record clarification if the Board wants to move to table this case as a whole to get more information, then he would like to have a motion to address these properties as a whole again and then the Board can proceed.

**BZA: 5-25-2013: BZA-2013-13 ~ Variance Case ~ James Brock ~ Located at 316 Rosewood Road; 34 Hillcrest Drive; 1218 Lakeshore Drive plus Rosewood Road {PIN 010-05-00025-120-005} and Lakeshore Drive {PIN 010-05-00025-120-002; Lakeshore Drive {PIN 010-05-00025-123-003, 004, 005 & 006}; Queen Road {PIN 010-05-00025-123-013 & 014} ~ Bethel Township**

Motion by Mr. Wallace, seconded by Mr. Smith, to bring each property back into one request {to undo motion BZA 5-24-2013}.

**VOTE: Motion carries unanimously.**

Hearing no further questions, Vice Chairperson Greenwood asks the Board for a motion.

**BZA: 5-26-2013: BZA-2013-13 ~ Variance Case ~ James Brock ~ Located at 316 Rosewood Road; 34 Hillcrest Drive; 1218 Lakeshore Drive plus Rosewood Road {PIN 010-05-00025-120-005} and Lakeshore Drive {PIN 010-05-00025-120-002; Lakeshore Drive {PIN 010-05-00025-123-003, 004, 005 & 006}; Queen Road {PIN 010-05-00025-123-013 & 014} ~ Bethel Township**

Motion by Mr. Smith, seconded by Mr. Wallace, to **Table** the Variance requests until a new zoning district is properly created for the Crystal Lakes Subdivision.

**VOTE: Motion carries unanimously.**

**BZA-2013-14: Variance Case ~ Daniel Lough ~ Located at 351 Greenacres Drive ~ Bethel Township**

Mr. Neimayer, Senior Planner, presents the staff report and accompanying maps. The subject property is zoned R-1 (Rural Residence District) and located at 351 Greenacres Drive in Bethel Township, and consists of Lots 57 & 58 of the Broadview Acres Subdivision. The Applicant is requesting a variance to Chapter 8, Section B, 6, a) to increase the size of an accessory structure from 800 sq. ft. to 1,120 sq. ft. to construct a 28 foot by 40 foot pole barn in the rear yard.

The surrounding zoning to the north, south, west and east of the subject property is R-1 with land use being residential. The subject property is a corner lot that consists of two lots and is a part of the Broadview Acres Subdivision.

The Clark County Zoning Regulations state:

**Chapter 8, Section B:**

- 6. Location, Numbering, and Size of Residential Accessory Buildings. [eff. 11-6-08]
  - a) Unless otherwise permitted by this Zoning Resolution, a lot of less than one (1) acre zoned Residential or used for residential purposes, shall contain no more than two (2) accessory buildings and the sum of their square footage shall not exceed the maximum square footage noted in TABLE 8.1
  - b) When two (2) or more accessory buildings are located on a lot utilized for residential purposes, the sum of their square footage shall not exceed the maximum square footage noted in TABLE 8.1.
  - c) Accessory building development standards shall be based upon the following table and requirements:

TABLE 8.1 – Accessory Building Development Standards [eff. 11-6-08]

Lot Size	Maximum Size of Accessory Building(s)	Maximum Height	Set-Back From Side or Rear Property Lines (When located in rear yard)
Under one (1) acre	800 square feet	18 feet	5 feet
Equal to or greater than one (1) acre but less than two (2) acres	1,600 square feet	20 feet	5 feet
Equal to or greater than two (2) acre but less than three (3) acres	2,400 square feet	25 feet	10 feet
Equal to or greater than three (3) acre but less than four (4) acres	3,200 square feet	25 feet	10 feet
Equal to or greater than four (4) acre but less than five (5) acres	4,000 square feet	25 feet	10 feet
Five (5) or more acres (non-agricultural)	4,800 square feet	25 feet	10 feet

The Clark County Engineer’s Department has reviewed the variance request and has no objections.

The Clark County Combined Health District has reviewed and approved the plot plan showing the location of the proposed accessory structure (pole barn) and separation distances from the well and septic/leach field.

The Clark Soil and Water Conservation District has reviewed the variance request and has reported that the area has historically been known to flood and stay wet for an extended amount of time. The proposed pole barn will be placed approximately 5-6 feet away from the centerline of the existing drainage channel. Considering the amount of drainage and soils on this property, they recommend a grading plan with surveyed elevations be provided by the applicant. It is important that any alterations to the drainage swale do not affect the existing drainage in a negative way for this property or the neighboring properties.

Mr. Neimayer asks if there are any questions from the Board members.

Mr. Wallace asks to see an expanded look of the neighborhood.

Mr. Neimayer displays the location map of the surrounding subdivision.

Mr. Greenwood asks if there is an existing accessory structure on the property.

Mr. Neimayer states that there appears to be a small shed on the property.

Vice Chairperson Greenwood asks if the Board has any further questions for Staff.

There are none.

Vice Chairperson Greenwood opens the public hearing at 3:00 p.m. and asks if there are any proponents wishing to speak in favor of the case.

Mr. John Lough (Representative for the Applicant), whose address is 336 Greenacres Drive, states he is the brother of the Applicant who could not attend the meeting. He states that there was a small shed on the property, which was there when the property was purchased, but has been removed.

Vice Chairperson Greenwood asks if there has ever been a drainage problem in the back yard from heavy rains and flooding.

Mr. Lough responds that his brother has not had flooding issues in the back yard. About two years ago the County put in new drainage tile under the road and placed broken up concrete down along the bank of the creek to keep it from washing out.

Mr. Wallace asks if there has been any comment from surrounding neighbors regarding the structure.

Mr. Lough responds no.

Mr. Smith asks if there is anything that shows how far the pole barn will be away from the drainage ditch.

Mr. Neimayer responds that according to the letter from Soil & Water the pole barn will be located 5 - 6 feet from the centerline of the ditch. In addition, there is an 8 foot easement along the south property line and will have to stay outside of that easement.

Mr. Wallace asks how long has the property been in possession of the owner.

Mr. Lough responds that his brother has owned the property for about nine years.

Mr. Wallace asks if there has been any problems with the drainage ditch overflowing.

Mr. Lough responds there has been no extreme flooding in the rear of the property.

Mr. Smith asks if it is a fairly deep drainage ditch.

Mr. Lough responds that it is fairly deep.

Mr. Wallace asked if his brother has considered a grading plan such as the one recommended by the Soil & Water Conservation District.

Mr. Lough responds that his brother has a contractor that will do whatever it takes as far as the drainage ditch is concerned in order to build the pole barn.

Mr. Wallace asks who would approve a grading plan if that was done by the Applicant.

Mr. Neimayer responds that it would be looked at by the Soil & Water Conservation District given that is their expertise. Staff would look at it because of the variance application and would involve Soil & Water. It is not just the building that is looked at but the grading surrounding it in that it does not have any negative impacts on the stream or vice versa.

Mr. Wallace asks if the approval of the final plans to build would include a grading plan and would it be a building inspector that would say yes, the grading plan has accomplished the intent of Soil & Water's recommendation.

Mr. Neimayer responds that the grading plan can be a condition of the zoning and building process to involve the Soil & Water Conservation District. The building review process looks at the drainage that will be going away from the building and if there will be any problems as a result of that.

Vice Chairperson Greenwood asks if there are any opponents.

There are none.

Vice Chairperson Greenwood closes the public hearing at 3:04 p.m.

Hearing no further questions, Vice Chairperson Greenwood asks the Board for a motion.

**[BZA: 5-27-2013: BZA-2013-14 ~ Variance Case ~ Daniel Lough ~ Located at 351 Greenacres Drive ~ Bethel Township](#)**

Motion by Mr. Wallace, seconded by Mr. Smith, to **Approve** the Variance request subject to a grading plan be included in the zoning and building approval process that will result in approval by the Soil & Water Conservation District.

**VOTE: Motion carries unanimously.**

**BZA-2013-15: Variance Case ~ Amy & Adam Zimmerman ~ Located at 1661 Summerford Road ~ Harmony Township**

Mr. Neimayer, Senior Planner, presents the staff report and accompanying maps. The subject property is zoned A-1 (Agricultural District) and located at 1661 Summerford Road in Harmony Township. The Applicants are requesting a variance to Chapter 8, Section B, 3, a) to allow an accessory structure in the side yard to construct a 30 foot by 56 foot pole barn.

The surrounding zoning to the north, south, east and west of the subject property is A-1 with land use being agricultural/rural residential.

The Clark County Zoning Regulations state:

Chapter 8, Section B:

3. An accessory building shall be erected detached from the principal building. An accessory building, such as garage, which is attached to the principal building, either directly or connected by an enclosed breezeway, is no longer considered an accessory building and must meet the setback requirements of the principal building. [eff: 11-6-08]
  - a) A detached accessory building shall only be erected in a rear yard, except that a private detached garage may be erected in a rear or side yard. If a private detached garage is located in a side yard, the side yard requirements of the principal building shall be met. [eff: 11-6-08]

The Clark County Combined Health District has reviewed the variance request and reported to staff that they have no objection to the variance request. With the property being over 5 acres there should be an adequate site for a reserve leach field area should the current one fail.

The Clark County Engineer's Department has reviewed the variance request and has no objections.

The Clark Soil and Water Conservation District has reviewed the variance request and has no objections.

Mr. Neimayer asks if there are any questions from the Board members.

There are none.

Hearing no questions from the Board members, Vice Chairperson Greenwood opens the public hearing at 3:14 p.m. and asks if there are any proponents wishing to speak in favor of the case.

Mr. Adam Zimmerman (Applicant), whose address is 1661 Summerford Road, states that he is hear before the Board to answer any questions they may have.

Mr. Smith asks what the use of the pole barn will be.

Mr. Zimmerman responds that it will be used as a garage and storage building.

Mr. Wallace asks if the Applicant has talked to his neighbors about the proposed building.

Mr. Zimmerman responds that he has talked to his neighbors and there is no one objecting to him building it.

Vice Chairperson Greenwood asks if there are any opponents.

There are none.

Vice Chairperson Greenwood closes the public hearing at 3:15 p.m.

Hearing no further questions, Vice Chairperson Greenwood asks the Board for a motion.

**BZA: 5-28-2013: BZA-2013-15 ~ Variance Case ~ Amy & Adam Zimmerman ~ Located at 1661 Summerford Road ~ Harmony Township**

Motion by Mr. Smith, seconded by Mr. Minard, to **Approve** the Variance request as presented.

**VOTE: Motion carries unanimously.**

**BZA-2013-16: Variance Case ~ Sue Conley ~ Located at 115 Brookside Drive ~ Bethel Township**

Mr. Neimayer, Senior Planner, presents the staff report and accompanying maps. The subject property, zoned A-1 (Agricultural District), is located at 115 Brookside Drive in Bethel Township and is Lot 7 of the Brookside Estates Subdivision. The Applicant is requesting a variance to Chapter 8, Section B, 3, a) to allow an accessory structure in the front yard to construct a 20 foot by 20 foot detached garage.

The surrounding zoning to the north, south, west and east of the subject property is A-1 with land use being residential.

The south line of the property is heavily buffered by trees. There is an existing concrete pad that will be used for the detached garage.

At the Technical Review Committee meeting the location of the proposed detached garage, being in the front yard and its proximity to the neighboring driveway, was discussed in regards to safe site distance. Brookside Drive is a local residential street and not a through street that is heavily traveled. It would be unlikely that the detached garage would pose any major issues in terms of site distance.

The Clark County Zoning Regulations state:

Chapter 8, Section B:

3. An accessory building shall be erected detached from the principal building. An accessory building, such as garage, which is attached to the principal building, either directly or connected by an enclosed breezeway, is no longer considered an accessory building and must meet the setback requirements of the principal building. [eff. 11-6-08]
  - a) A detached accessory building shall only be erected in a rear yard, except that a private detached garage may be erected in a rear or side yard. If a private detached garage is located in a side yard, the side yard requirements of the principal building shall be met. [eff. 11-6-08]

The Clark County Combined Health District has reviewed the variance request and reported to Staff that there are no records on file regarding the location of the well and septic system. With the house being so close to the road the well and septic system would likely be in the rear yard. In that respect it would be a safe location for the proposed detached garage.

The Clark County Engineer's Department has reviewed the variance request and has no objections.

Mr. Neimayer asks if there are any questions from the Board members.

Mr. Minard asks for clarification with regards to the Engineer's report stating a detached carport and not a detached garage.

Mr. Neimayer responds that he originally reported the structure as a carport based on earlier discussions with the Applicant's contractor. Just prior to the agendas going out, the contractor clarified with Staff that the project is actually a detached garage.

Vice Chairperson Greenwood asks if the Board has any further questions for Staff.

Hearing none, Vice Chairperson Greenwood opens the public hearing at 3:20 p.m. and asks if there are any proponents wishing to speak in favor of the case.

Mr. Don Messer (Contractor representing the Applicant), whose address is 560 Upper Valley Pike, states that he feels the proposed location of the detached garage is the proper place. There is a gas line that runs on the left (south) side of the house that prevents the garage from being put on the south side of the property.

Vice Chairperson Greenwood asks if the Board has any questions for the Applicant. There are none.

Vice Chairperson Greenwood asks if there are any opponents. There are none.

Vice Chairperson Greenwood closes the public hearing at 3:21 p.m.

Hearing no further questions, Vice Chairperson Greenwood asks the Board for a motion.

**BZA: 5-29-2013: BZA-2013-16 ~ Variance Case ~ Sue Conley ~ Located at 115 Brookside Drive ~ Bethel Township**

Motion by Mr. Minard, seconded by Mr. Smith, to **Approve** the Variance request as presented.

**VOTE: Motion carries unanimously.**

**STAFF COMMENTS**

Mr. Neimayer states the Board has been given copies of the proposed zoning amendments contained in its entirety in the zoning regulations. Previously distributed was Chapter 10 Definitions with the proposed changes in that chapter. It is on the agenda to have a discussion with that, if there are any questions or comments he will address them. If the Board would like to defer this until next month's meeting they may do so. He proceeded to review some of the proposed changes to various chapters with the Board. He will continue in detail at the July meeting.

He states there have been cases filed so there will be a meeting next month. The meeting will be on Thursday, June 27, 2013.

**ADJOURNMENT**

**BZA: 5-30-2013 ~ Adjournment**

Motion by Mr. Smith, seconded by Mr. Minard, to adjourn the meeting.

**VOTE: Motion carries unanimously.**

The meeting was adjourned at 3:25 p.m.

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Tim Greenwood, Vice Chairperson