

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, May 26, 2016

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Mr. Tim Greenwood, Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:00 pm. and asked for the Roll Call.

Present For Roll Call: Mr. Tim Greenwood, Mr. John Hays, Mr. Paul Hazlett, Ms. Janie Riggs, Mrs. Jeri Taylor and Mr. David Minard.

Absent For Roll Call: None.

Also in Attendance: Mr. Allan Neimayer, Mrs. Jennifer Tuttle and Ms. Kristie West of Clark County Community Development, and other interested persons.

Chairperson Greenwood asked if there are any comments regarding the minutes. Hearing none, he asked for a motion.

Approval of the April 28, 2016 Minutes

Motion by Mr. Smith, seconded by Mrs. Taylor, to **Approve** the minutes as presented.

VOTE: Yes: Mr. Smith, Mrs. Taylor, Mr. Greenwood, Mrs. Riggs, Mr. Hazlett and Mr. Minard.

No: None.

Motion carried.

Chairperson Greenwood explained how the meeting will be conducted.

Case #BZA-2016-03 ~ Property Owner/Applicant: Kenneth and Michelle Porr ~ Location: 8410 Chillicothe Road ~ Green Township

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Allan Neimayer, Senior Planner, presented the case. The Property Owners/Applicants are Kenneth and Michelle Porr. The subject property is located at 8410 Chillicothe Road in Green Township. Mr. Neimayer explained this is a variance request to reduce the minimum rear yard setback from 60 feet to 8 feet to replace the existing deck and adding a porch. The surrounding property including the subject property is zoned A-1 (Agricultural District).

Mr. Neimayer stated that in 2008 a zoning certificate was filed and an addition made to the house. The information submitted by the Applicants indicates that the deck was there prior to them buying the property, which was in 2003. Mr. Neimayer said that he could not find a zoning certificate for the deck in that time period. This process will make the deck legal if the variance is approved. The Health Department verified the well, septic, and leach field areas are not in the proposed construction site.

Minutes

Clark County Board of Zoning Appeals

Mr. Neimayer stated in the packet there is a letter opposing this variance request. Also just received is a letter supporting this variance request. Mr. Neimayer stated that he would answer questions the Board may have at this time.

Mrs. Taylor asked if the porch was going to be new. Mr. Neimayer said that is correct.

Mrs. Taylor asked if it would extend it out any further than the existing deck. Mr. Neimayer said no from what he can tell.

Chairperson Greenwood asked about the letter opposing this request, where is location of that person. Mr. Neimayer looked up the address on the county GIS and said it is to the south of the Applicant's property.

Hearing no further questions, Chairperson Greenwood opened this portion of the public hearing at 2:08 pm. and asked if anyone would like to speak in favor of the case.

Michelle Porr, Property Owner/Applicant, 8410 Chillicothe Road, Cedarville, Ohio, stated that they moved into the house in 2003 and the deck was there when they purchased the house. The field to the rear of the home is farmed and no one has ever brought up any concerns of the deck being too close to the property line. She said that there is a tree that probably presents more of a problem when harvesting the fields than the deck does. The new deck is not going to extend any further.

Mr. Smith asked how much larger will the new deck be. Mrs. Porr stated that it would be the same length but 2 feet wider.

Mr. Smith asked towards the property line. Mrs. Porr said yes, but still behind the propane tank.

Mr. Hazlett asked if the propane tank will be moved. Mrs. Porr said no we do not have any plans to do that.

Chairperson Greenwood asked if anyone would like to speak in opposition of the case. Hearing none, he closed this portion of the public hearing at 2:10 pm. and asked for discussion among the Board.

Mr. Smith asked what should be the setback for the house. Mr. Neimayer stated 60 feet is what is required under A-1 zoning.

Mr. Smith asked if they got a variance for that. Mr. Neimayer said no because the house was built prior to the adoption of zoning.

Mr. Hazlett asked how far back is the house from the rear lot line. Mr. Neimayer said approximately 23 feet.

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

Minutes

Clark County Board of Zoning Appeals

Action on #BZA-2016-03 ~ Property Owner: Kenneth and Michelle Porr ~ Location 8410 Chillicothe Road ~ Green Township

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

VOTE: Yes: Mr. Smith, Mrs. Riggs, Mrs. Taylor and Mr. Hazlett,

No: None.

Motion carried.

Case #BZA-2016-05 ~ Property Owner/Applicant: Renee Conley ~ Location: 4920 Ridgewood Road West ~ Moorefield Township

Mr. Allan Neimayer presented the case. The Property Owner/Applicant is Renee Conley and the property is located at 4920 Ridgewood Road West, Moorefield Township. This is a variance request to reduce the setback requirements to the house and rear lot line from 10 feet to 7 feet to install an above ground swimming pool. Mr. Neimayer noted that the property to the north already has a pool and across the street. There are situations in the area where swimming pools do not comply with the 10-foot separation. Mr. Neimayer explained it is between the rear lot line that it would be 7 feet due to the limitations, size of the property and location of the house.

Mr. Neimayer stated that he has not received any communications regarding this and is on public utilities. Mr. Neimayer stated that he would answer questions the Board may have at this time.

Mrs. Taylor asked about the other pools not in compliance. Mr. Neimayer said yes just to the north and across the street there are pools not in compliant.

Mrs. Riggs asked what is directly behind the property. Mr. Neimayer said it is the IGA shopping center.

Mrs. Taylor asked is it the back of the store. Mr. Neimayer said yes it is.

Mr. Smith asked if there were a privacy fence there now. Mr. Neimayer said yes there is and there will be a requirement for pool access as well. Mr. Neimayer stated that there is a county utility easement that runs along the IGA side.

Hearing no further questions, Chairperson Greenwood opened this portion of the public hearing at 2:16 pm. and asked if anyone would like to speak in favor of the case.

Steve Conley, Owner/Applicant, 4920 Ridgewood Road West was sworn in. Mr. Conley explained that the pool would have 17 feet on both north and south sides and would have a wooden privacy fence on both sides. Mr. Conley stated the fence would be locked the whole time except two days a month when they come in and check the meter.

Chairperson Greenwood asked if anyone would like to speak in opposition of the case. There was no one.

Chairperson Greenwood closed this portion of the public hearing at 2:18 pm. and asked for discussion among the Board.

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

Action on #BZA-2016-05 ~ Property Owner: Renee Conley ~ Location 4920 Ridgewood Road West ~ Moorefield Township

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

VOTE: Yes: Mrs. Taylor, Mr. Hazlett, Mrs. Riggs and Mr. Smith.

No: None.

Motion carried.

Case #BZA-2016-06 ~ Property Owners/Applicants: Walter and Janice Sandy ~ Location: 1366 Cooper Avenue ~ Bethel Township

Mr. Allan Neimayer presented the case. The Property Owners/Applicants are Walter and Janice Sandy. The subject property is located at 1366 Cooper Avenue in Bethel Township. Mr. Neimayer stated this is a variance request to increase the maximum height of a fence in the front yard from 4 feet to 6 feet. The subject property is a corner lot. Mr. Neimayer explained there is an existing pool with part of it being in the front yard with a fence around it.

Mr. Neimayer said this case is a result of a code enforcement complaint. Mr. Neimayer showed slides to explain traffic visibility along Cooper Road and West Carpenter Drive.

Mr. Neimayer said he had a few SurProp letters that got returned. Also, there is a letter in the Board packets from Joy Urschel at 1419 Cooper stating she has no problem with this request. Mr. Neimayer stated that he would answer questions the Board may have at this time.

Mrs. Taylor asked if this request was to bring them into compliance. Mr. Neimayer said no, the fence was only allowed to be 4 feet in the front yard by code. This would allow the Applicants to keep the 6 foot fence.

Hearing no further questions, Chairperson Greenwood opened this portion of the public hearing at 2:23 pm. and asked if anyone would like to speak in favor of the case.

Walter Sandy, Owner/Applicant, 1366 Cooper Road stated he was here to represent his property and answer any questions that the Board may have.

Mrs. Taylor asked what is the reason for wanting to change the height. Mr. Sandy said that it is now at 6 feet and would like to keep it at 6 feet. Mr. Sandy said that he did not know that a corner lot that the side was also considered the front yard.

Chairperson Greenwood asked if anyone would like to speak in opposition of the case. There was no one.

Chairperson Greenwood closed this portion of the public hearing at 2:25 pm. and asked for discussion among the Board.

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

Action on #BZA-2016-06 ~ Property Owners/Applicants: Walter and Janice Sandy ~ Location 1366 Cooper Avenue ~ Bethel Township

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

VOTE: Yes: Mr. Smith, Mrs. Taylor, Mrs. Riggs and Mr. Hazlett.

No: None.

Motion carried.

Case #BZA-2016-04 ~ Property Owner: Larry Berner ~ Applicant: L.J.G.A. LLC ~ Agent: Jim Peifer ~ Location: 525 Tremont City Road ~ Moorefield Township

Mr. Allan Neimayer, Senior Planner, presented the case. This is BZA-2016-04. The property owner is Larry Berner, the applicant is L.J.G.A. LLC and the agent is Jim Peifer. The property is located at 525 Tremont City Road, Moorefield Township. Mr. Neimayer explained that this is a conditional use approval under Chapter 7, Section 129 for a sand and gravel mining operation.

Mr. Jim Peifer, Agent for the Applicant, requested to speak at this time. Mr. Peifer stated that Attorney Mr. Lagos has raised a jurisdictional issue about this case. Mr. Peifer explained that Mr. Lagos advised him that the Applicant's correct name is L.J.G.A. Investments not L.J.G.A. LLC. Mr. Peifer said that he had his office check and verify that Mr. Lagos is correct. Mr. Peifer suggested that the Board let him amend the application to reflect the correct name.

Mr. requested to speak at this time. Mr. Lagos stated that this is the third round on this situation. He explained that the applicant name is important. Mr. Lagos said that we just found this out today. He stated that the applicant (as provided to the Board) is a nonexistent entity and does not exist under the laws in the State of Ohio. Mr. Lagos stated that you cannot bring an action in less you are property authorized to do business in the State of Ohio. The listed applicant is not authorized to do business in the State of Ohio. Mr. Lagos stated that Mr. Peifer would like to amend the application. Mr. Lagos explained that you cannot do that. The question is, was the applicant a legal entity when the application was filed. Mr. Lagos said it was not and is not today. This is a very serious activity. If the applicant cannot if get his corporate name correct, do we want to give him a gravel permit.

Mr. Peifer stated he respectfully disagrees with Mr. Lagos. Mr. Peifer explained that he feels the application can be amended with the approval of the Board. Mr. Peifer respectfully ask that the Board allow the amended application so that we can proceed or if not ask for a continuance.

Mrs. Taylor asked if we were to amend this application what proof or documentation do we have.

Minutes

Clark County Board of Zoning Appeals

Mr. Peifer said that it is not a new name and has been in existence since 2005. The Secretary of State shows it as L.J.G.A Investments LLC.

Mr. Lagos commented that names are important to be done correctly especially in a significant case like a gravel operation.

Executive Session on Case #BZA-2016-04

Motion by Mr. Hazlett, seconded by Mr. Smith, to go into Executive Session.

VOTE: Yes: Mr. Hazlett, Mr. Smith, Mrs. Riggs and Mrs. Taylor.

No: None.

Motion carried.

Time Out: 2:31 pm.

Time In: 2:48 pm.

Chairperson Greenwood asked for a motion.

Motion by Mrs. Taylor, seconded by Mr. Smith, for Mr. Peifer to withdraw Case #BZA-2016-04 due to the incorrect submitted name of the Applicant.

VOTE: Yes: Mrs. Taylor, Mr. Smith, Mrs. Riggs and Mr. Hazlett.

No: None.

Motion carried.

Staff Comments

Mr. Neimayer stated the next scheduled meeting is Thursday, June 23, 2016.

Adjournment

Motion by Mrs. Taylor, seconded by Mr. Hazlett, to Adjourn.

VOTE: Motion carried unanimously.

The meeting was adjourned at 2:50 pm.

Mr. Tim Greenwood, Chairperson

Mr. Thomas A. Hale, Secretary