

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, August 25, 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. Paul Hazlett, Ms. Janie Riggs, Mr. Rick Smith, Mrs. Jerri Taylor and Mr. David Minard.

Absent For Roll Call: None.

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

Chairperson Greenwood explained how the meeting will be conducted.

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

Approval of the July 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, Ms. Riggs and Mr. Hazlett.

No: None.

Abstain: Mr. Minard.

Motion carried.

Case #BZA-2016-14 ~ Variance ~ Property Owner: Michael Needles ~ Applicant: Tim Kauffman ~ Location Fowler Road, PID #180-06-00025-000-037 ~ Mad River Township

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Allan Neimayer, Senior Planner, stated the Property Owner is Michael Needles and the Applicant is Tim Kauffman. He stated the subject property is located on Fowler Road north of Broadway Road and is undeveloped property. It is the parcel #180-06-00025-000-037 located in Mad River Township. This is a variance request to allow the construction of an accessory structure without a primary structure. The subject property and surrounding area to the north, south and east is zoned A-1 (Agricultural District). The west side of Fowler Road is zoned R-1 (Rural Resident). The subject property has been used as agricultural in recent years.

Mr. Neimayer noted on the submitted drawings it indicates the pole barn will be 30 feet by 70 feet. The submitted plot plan shows a driveway to get to the pole barn is on the northern part of the property on Fowler Road, which is township jurisdiction. He stated the coordination would be with the Township (Road Superintendent) for the access point, but the township may coordinate with the County Engineers.

Mr. Neimayer explained there was discussion on this property at the Technical Review Committee. He stated the contour map shows the property draining in a southerly direction. The County Engineer's Department comment letter is in the Board packets.

Mr. Neimayer stated that he would answer questions the Board may have at this time.

Mrs. Taylor asked where the Applicant's property is. Mr. Neimayer replied that the Applicant is here and could comment on that.

Mr. Hazlett asked about the exact measurements of the building. Mr. Neimayer said 40 feet by 70 feet was on the application. The Applicant is here and if there have been some changes, it can be amended as part of the hearing.

Hearing no further questions for Staff, Chairperson Greenwood opened this portion of the public hearing at 2:07 pm. and asked if anyone would like to speak in favor of the case.

Mr. Tim Kauffman, Applicant, 4850 Hagan Road, Springfield, Ohio was sworn in. Mr. Kauffman stated that the barn size was changed from the original application. He stated it is now 30 feet by 70 feet. He said he met with the Township Engineer three or four months ago and discussed the location of the drive.

Ms. Riggs asked for verification of the barn size as 30 feet by 70 feet. Mr. Kauffman stated that it could be smaller than that, but that would be the largest it would be.

Ms. Riggs asked where the easement was on the property originally. Mr. Kauffman explained that it would have to be graveled that there was not already a road there.

Mrs. Taylor asked who owned the property and what the proposed use of the structure. Mr. Kauffman said it would be farm storage and the original owner was the person up the street that has a lease with him and that it has been in that family for a long time.

Mr. Hazlett asked how close to the property line would the proposed structure sit. Mr. Kauffman explained that he did not own the property yet, but that he would set it back enough from the neighboring property.

Mr. Hazlett asked if he was planning on removing the shrubbery. Mr. Kauffman said no, he did not plan to remove shrubbery.

Ms. Riggs asked the Applicant if he had talked to the Township about the easement. Mr. Kauffman asked about how far back or to the side? Ms. Riggs asked if it was suitable to be there. Mr. Kauffman said that verbally the Township was happy with that. He stated the Township did take down honey suckle and brush so people could see around the turn.

Mr. Neimayer followed up regarding the set back. He stated zoning for the size of the property is a minimum of 10 feet, which is what is shown on the plot plan.

With no one else to speak in favor of the case, Chairperson Greenwood asked if anyone would like to speak in opposition of the case.

Ms. Cindy Needles, 5340 Broadway Rd., Springfield, was sworn in. Ms. Needles stated that she has great objection to this. Ms. Needles pointed out on the map where she lives. She stated she would like to know what the purpose of the structure is. Ms. Needles said there is a waterway and after a real heavy rain the water goes across her property. Her concern is that if something impedes that it will come down on her property. Ms. Needles also said that the power substation is there. She questioned if that makes it appropriate to build there.

Mr. Hazlett asked Ms. Needles to show the Board on the projected map where she lived. Ms. Needles pointed out where she lived and showed where her garden area is located.

Mr. Hazlett asked if there was a fence going between the two properties. Ms. Needles said no.

Mr. Hazlett asked if there were any markers, to determine who owned what. Ms. Needles said it has all been Needles property for a hundred years. Ms. Needles stated that her brother-in-law owns it now and wants to sell it. Ms. Needles said that she has asked him not to sell it. She stated that he also has a farmer interested in it.

Mr. Christopher Trimmer, 5340 Broadway Rd., was sworn in. Mr. Trimmer stated that his wife and children have lived with his mother-in-law since her husband passed away. Mr. Trimmer said that formally they lived at 3312 Fowler Road. He said he wanted to reiterate what Ms. Needles said about the water. Mr. Trimmer pointed out the ditch and said it floods in the winter or with heavy rain. Mr. Trimmer said there were owls living there and that he thought they were protected. He also said that it was his understanding that Ohio Edison does not want the land filled because of the substation. Mr. Trimmer explained that it has been four or five years since his father-in-law had passed away and shortly thereafter his brother-in-law had been trying to sell the property. Mr. Trimmer said that he spoke to Ohio Edison last week and that there would be a representative here at the meeting. Mr. Trimmer stated that he has been told that this area cannot be developed because of the danger of the substation. Mr. Trimmer pointed out on the map a farmer that lives close by and said that he has been trying to buy the land. Mr. Trimmer said it would disturb the wild life and everyone's way of life.

Mr. Kauffman (Applicant) said he was not going to build something that would cause flood issues and deteriorate the slab. Mr. Kauffman stated that flooding is a lot different than some other waters and is something he would have to look into. He stated he might have to set the structure somewhere else. Mr. Kauffman then stated he would not be tearing down the trees between the properties. Mr. Kauffman stated he did not want to take away the neighbor's land and knows it has been in their family for years.

Chairperson Greenwood asked for Mr. Kauffman to please address the Board and not those in the audience. Mr. Kauffman apologized and said that he just wanted to give her a sincere look. Mr. Kauffman said he wanted to keep the property use as agricultural land. Mr. Kauffman said he was 55 years old and is an outstanding citizen.

With no one else to speak in opposition of the case, Chairperson Greenwood closed this portion of the public hearing at 2:25 pm. and asked for discussion among the Board.

Mr. Smith asked Mr. Neimayer if anyone has looked at the property as far as drainage. Mr. Neimayer stated that he had not received any comments other than the County Engineers.

The Board had some discussion. Mr. Neimayer asked the Board to speak up so we get it on the record.

Mr. Hazlett asked if the application is legit since the applicant was not the property owner. Mr. Neimayer answered either the property owner or applicant is appropriate.

Request for Executive Session.

Motion by Mr. Hazlett, seconded by Mrs. Taylor, to go into Executive Session and requested Mr. Neimayer join the Executive Session.

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

No: None.

Motion carried. Time Out: 2:28 pm.

Chairperson Greenwood noted the Time In at 2:50 pm.

Chairperson Greenwood stated that the Board would like to ask the Applicant, a couple more questions. Chairperson Greenwood opened this portion of the public hearing again and reminded Mr. Kauffman that he was under oath.

Chairperson Greenwood asked Mr. Kauffman what is his intention for the property. Mr. Kauffman answered agricultural use.

Mrs. Taylor asked specifically for the barn. Mr. Kauffman said yes (to agricultural use for the barn) and that the land has been for sale for several years. Mr. Kauffman said after talking to the property owner he believes it is because of the power station. Mr. Kauffman stated that he was not looking to make changes to the Needles property other than make it his and he is a very respectfully person.

Chairperson Greenwood stated if it is going to be used for agricultural use, he could qualify for an agricultural exemption. Chairperson Greenwood told Mr. Kauffman he could withdraw his case here and work with staff on the agricultural exemption. He said the Applicant would work with Clark County Soil and Water on the drainage issues. Chairperson Greenwood stated the choice was the Applicant's to withdraw this application today and apply for the agricultural exemption.

Mrs. Taylor told the Applicant that because it (the parcel acreage) is over five acres it would be eligible for the agricultural exemption.

Mr. Kauffman asked for the meaning of agricultural exemption. Mrs. Taylor replied that you would not be subject to zoning regulations as long as it is used for agricultural use. Mr. Kauffman said that he had asked this question several months ago.

Mr. Hazlett explained that when you are not in the business (agricultural/farm) you are not aware of the exemption. Mr. Hazlett said that the agricultural exemption is a state exemption that triumphs local zoning and gives you some other options.

Mr. Kauffman asked if there was knowledge of the Engineer checking if there were any drainage issues. Mr. Neimayer stated that he did not get any comments back from the County Engineer or from Soil and Water. Mr. Kauffman said he walked the property during heavy rains and did not see anything. Mr. Neimayer said that Soil and Water has a lot of history as far as the use of the land, how it's been split and on the soils.

Mr. Kauffman stated that he wanted to close on this property in the next couple of weeks.

Mr. Hazlett stated the Applicant had a general idea where he wanted to place the building and the ground there is a little bit higher. He said the appearance is that he is putting in onto some higher ground that would probably not defer the water to go a different direction. Mr. Hazlett said he felt that it should be clarified with Soil and Water to be on the safe side. Mr. Hazlett explained with the agricultural exemption you have some freedom on putting the building up.

Mr. Kauffman asked if Soil and Water came out to do the testing. Mr. Hazlett said they would come out and check it. Mr. Hazlett said it is a common sense thing and said it is the option of the Applicant.

Mr. Kauffman asked if his options were to withdraw his application or throw my hat in the ring and take his chances. Mrs. Taylor explained state law says you can apply for the agricultural exemption and there should not be a reason you could not receive it. Mr. Kauffman said he felt a little miss guided and could have done that several months ago. He stated that the realtor might want to sell it to someone else.

Mr. Hazlett asked if the realtor was the one that advised him he needed to come for this zoning. Mr. Kauffman replied no that it was this office that did. Mr. Kauffman said he called six months ago. He stated that realtors do not know anything about property. It was advertised to build you dream home here.

Mr. Hazlett said to his knowledge there are no restrictions in that manner that are in place as far as the substation. He stated, now for lending institutions they have their own train of thought.

Mr. Kauffman asked if Mr. Neimayer would be able to help with the agricultural exemption. Mr. Neimayer said we have some paper work we would need to fill out. Mr. Neimayer explained as far as the confusion, a lot of times the office gets calls about just putting up pole barns without knowing the actual use. Zoning states you cannot have an accessory structure without a primary structure. Learning it is going to be used for agricultural use changes the way it will be processed.

Mr. Hazlett said, in their defense, a pole barn can be used for many uses.

Mr. Kauffman asked for a minute to think about it.

Chairperson Greenwood then asked if anyone would like to speak in opposition of the case.

Mrs. Needles stated she did not have anything personally against Mr. Kauffman. Mrs. Needles said that she understood that he was applying for this variance for the structure with the idea of putting up a residence at a later time. Mrs. Needles stated that she is just concerned with the water way. She stated if it disturbed it will go somewhere else. Mrs. Needles said that she just does not want a barn there because she just does not want to see it.

Mr. Kauffman stated that he would revoke his application and follow up on the agricultural exemption.

Chairperson Greenwood asked Mr. Kauffman if he did want to withdraw his application. Mr. Kauffman said yes.

Mrs. Taylor said she would like the Applicant to consider moving the barn forward a little bit giving the neighbors a little more space. She stated, if there is any possibly of moving it off of the property line,

she would encourage that as a possibility. Mr. Kauffman said yes and stated the line on the drawing was just there because of the 10-foot rule.

Chairperson Greenwood stated that the application has been withdrawn and the Board does not need to take any action.

Case #BZA-2016-15 ~ Variance ~ Property Owner: Dean and Sons LLC ~ Applicant: Jon Conwell ~ Location 7774 Dayton-Springfield Road ~ Mad River Township

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Allan Neimayer stated the Property Owner is Dr. Jacob Dean and the Applicant is Jon Conwell of Select Signs LLC. The subject property is located at 7774 Dayton-Springfield Road. This request is to allow reducing the side setback for a ground sign from 30 feet to 3 feet.

Mr. Neimayer explained that it is a new office complex and they are looking for proper signage for the tenants. The property is zoned B-3 (General Business District). Mr. Neimayer showed that the parking was on the front and that there is one shared access point, which was looked at many years ago. He noted the proposed sign is to be 30 feet from any adjoining lot line. Mr. Neimayer said that what is proposed is to have the sign in the far southern portion of the parcel. He stated it is the better location with the access drive and parking that is going in there. He stated to put it on the opposite side it would cause more visibility issues due to other adjacent buildings.

Mr. Neimayer stated there is a letter in the Board's packet from the County Engineer's Department. They concur with the sign being moved to the south as far as the Board is comfortable. Mr. Neimayer stated it should not be right along the lot line for maintenance proposes. He said the County Engineer has some reservation on the location because of site visibility for those coming out of the other parking area. They would like to see the sign moved further away from the drive.

Mr. Neimayer said there is also a letter from Mrs. Elaine Dean dated August 4th in support of the variance request. He noted the Board has a copy, but it was not in the packets. He stated there has been no other communication.

Mr. Hazlett asked about the visibility. He asked if anybody considered turning the sign 90 degrees. Mr. Neimayer said the Applicant is here and can respond to that. Mr. Neimayer stated he did not feel that would be a wise thing because people looking for it would not see it until you are right there. He stated moving it five feet back would help.

Hearing no further questions for Staff, Chairperson Greenwood opened this portion of the public hearing at 3:13 pm. and asked if anyone would like to speak in favor of the case.

Mr. Jon Snow, 3500 Pentagon Boulevard, Beavercreek, Ohio, who was asked to fill in for Jon Cowell, the Applicant, was sworn in. Mr. Snow said if the sign were parallel to the street, it would not do what they were trying to accomplish as far as visibility. Mr. Snow noted that Dr. Dean still owns the majority share of the adjacent office complex and that the letter is from his wife who is the President of the condo association giving their support. Mr. Snow said they are willing to pull the sign back several feet off of the property line. He explained that there is a little visibility underneath the sign, but they think the amount of blockage from visibility is very minor. He stated the sign is 6 feet tall by 11 feet wide.

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Chairperson Greenwood asked approximately how far back that sign could be. Mr. Snow replied that it could go back an additional two or three feet and off the property line by two feet or three feet.

Mr. Hazlett asked for the size of the tall the brick pillars that hold up the sign and how high the sign is off the ground. Mr. Snow said 11 feet width and approximately six to seven feet for the pillars.

Mr. Hazlett stated the sign itself is four feet off the ground at the bottom. Mr. Snow said yes I believe that is correct.

Mr. Neimayer confirmed six feet for the pillars and four feet for the sign, according to the application.

Ms. Riggs asked if the signage is for the Dean Medical Building or the adjacent businesses. Mr. Snow answered it would be for both. He said it is a placard type sign for different tenants. It could have different placards.

Mr. Riggs asked if it served a dual purpose. Mr. Snow said that no it was just for the business tenants. Mr. Neimayer added that there are two separate signs: one sign at 7790 (the adjacent office complex) and one at 7774, the new office building address.

With no one else to speak in favor of the case, Chairperson Greenwood asked if anyone would like to speak in opposition of the case.

Hearing none Chairperson Greenwood closed this portion of the public hearing at 3:18 pm. and asked for discussion among the Board.

Case #BZA-2016-15 ~ Variance ~ Property Owner: Dean and Sons LLC, Jon Conwell ~ Location 7774 Dayton Springfield Road ~ Mad River Township

Motion by Mrs. Taylor, seconded by Mr. Smith, to **Approve** the Variance request due to the special circumstances of the location of the sign as it may create a hazard as far as traffic conditions if placed somewhere else and subject to the sign location being shifted away from Dayton-Springfield Rd. as far as possible to reduce potential site visibility issues.

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

No: None.

Motion carried.

Case #BZA-2016-16 ~ Variance ~ Property Owner: Spring Run Farms ~ Applicant: Alan Donaldson ~ Location 8414 Haddix Road ~ Mad River Township

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Allan Neimayer stated the Property Owner is Spring Run Inc. and the Applicant is Alan Donaldson. The subject property is located at 8414 Haddix Road in Mad River Township. He stated this is a Variance request to reduce the frontage requirement from 150 feet to 50 feet to split off the existing house site. Mr. Neimayer stated there is an updated plot plan from what was originally submitted. The subject property is just west of the railroad tracks and has approximately 32 acres. The subject property is zoned A-1 (Agricultural). In addition to the house, the property has been used for agricultural purpose.

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Mr. Neimayer stated the original Plot Plan showed the proposed house lot at seven acres and needed an additional variance request due to the maximum size allowed under the A-1 district. Mr. Neimayer explained that it was brought to staff's attention after the staff reports were out that there was an updated survey showing the proposed house lot at 4.41 acres and still keeping the request of 50-foot frontage off Haddix Road. He stated there is no change proposed with the shared access of the subject property and the two additional properties. Mr. Neimayer said the Board is looking at the 50 frontage and the depth to width, the two variances under consideration here. Mr. Neimayer stated that there are 3 properties that share the access point. There are documents that each of those properties share that 20-foot-wide access strip. He stated we want to ensure there is proper recording of this as we do the lot split subject to the variance approval.

Mr. Neimayer stated that he would answer questions the Board may have at this time.

Mrs. Taylor asked the reason for the lot split. Mr. Neimayer said the Applicant is here and could answer that.

Hearing no further questions for Staff, Chairperson Greenwood opened this portion of the public hearing at 3:24 pm. and asked if anyone would like to speak in favor of the case.

Mr. Alan Donaldson, 9206 Haddix Road, Fairborn Ohio, was sworn in. Mr. Donaldson stated that he is the Operations Manager for Spring Run Farms. He said the deal was consummated in 2014 and they do not really have an option for the house. Mr. Donaldson stated there are two sons of the former rancher that are very interested in moving to their old house. He stated he filed the variance request in regards to the road frontage requirement.

With no one else to speak in favor of the case, Chairperson Greenwood asked if anyone would like to speak in opposition of the case.

Hearing none Chairperson Greenwood closed this portion of the public hearing at 3:27 pm. and asked for discussion among the Board.

Discussion among the Board. Mr. Hazlett sees no issues with this request with the information that we have in front of us. Mrs. Taylor stated approving this variance will preserve farmland.

Case #BZA-2016-16 ~ Variance ~ Property Owner: Spring Run Farms, Alan Donaldson ~ Location 8414 Haddix Road ~ Mad River Township

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

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

No: None.

Motion carried.

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Case #BZA-2016-17 ~ Variance ~ Property Owner/Applicant: Karen Taylor ~ Location 7389 Georgetown Street ~ Harmony Township

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Allan Neimayer stated the property Owner/Applicant is Karen Taylor. The subject property is located at 7389 Georgetown Street. This is a variance request for an eight foot fence that would exceed the maximum front and side yard height restrictions. The property in that area is zoned R-2 (Single-Family Residential Low Density). The north side of US 40 is the (National Golf Links) golf course.

Mr. Neimayer explained that this case originated as a Code Enforcement matter. He indicated Zoning Inspector, Terry Shaffer, was present to answer questions. Mr. Neimayer stated according to zoning regulations, the maximum height of a fence in the side yard is six feet and the front yard is four feet.

Mr. Neimayer stated that he has not received any communication on this. He stated that he would answer questions the Board may have at this time.

Mrs. Taylor asked for clarification on the enforcement. Mr. Neimayer stated there was a complaint made resulting in a code enforcement letter. The Applicant was notified that in order to keep the fence there would need to be the proper (variance) approval.

Mrs. Taylor asked if there was a partial fence. Mr. Neimayer explained that the blue on the map is representing the property line. He stated the fence is between the two properties.

Mr. Hazlett asked if the fence was far enough away that you could see getting in and out of the drive. Mr. Neimayer said yes you could see where the fence stops and it appears it would not impact either of the properties getting in and out of the driveway or cause any sight visibility issues.

Ms. Riggs asked if the old fence that was taken down was the same height as this one. Mr. Neimayer said he does not know.

Hearing no further questions for Staff, Chairperson Greenwood opened this portion of the public hearing at 3:34 pm. and asked if anyone would like to speak in favor of the case.

Mr. Greg Smith, 7379 East National Road, South Charleston, Ohio was sworn in. Mr. Smith said he was speaking on behalf of his wife, Karen Taylor Smith. Mr. Smith explained that they did not know how the process works so they made their own pictures.

Mr. Smith stated there was previously a fence there that was six feet high. Mr. Smith said they did not know there were restrictions and did not inquire before the fence was put up. He said the main reason is for privacy, particularly around the hot tub. Mr. Smith stated the property to the left is for sale. He said they did have problems with people peeking over at the hot tub. He also stated the fence was to keep the basketball going over the fence. Mr. Smith explained that when we had the wind storm in April that it actually blew the old one down, which had been up for 16 to 18 years and was looking pretty bad.

Mr. Hazlett asked if the construction of the new fence was it in the same line as the old one. Mr. Smith said yes. We had pulled up the old posts and put the new post pretty much in the same spot.

Mrs. Paula Reynolds, 7379 East National Road, South Charleston, Ohio was sworn in. Mrs. Reynolds said she had no problem with the previous fence that was put up. Mrs. Reynolds said that the two properties are up for sale. She said since the new owners took possession of the properties the fence had blown down and they put it back up in the same spot, same area. Mrs. Reynolds talked to the neighborhoods and they said they liked the fence and agreed it would be privacy for them as well.

With no one else to speak in favor of the case, Chairperson Greenwood asked if anyone would like to speak in opposition of the case.

Hearing none Chairperson Greenwood closed this portion of the public hearing at 3:41 pm. and asked for discussion among the Board.

Mr. Hazlett said he sees no problem with the request. He stated it meets all the criteria that we would expect out of it.

Mrs. Taylor said because we are looking at it not really constituting a change in the use of this fence. She said the only thing changing is the height.

Case #BZA-2016-17 ~ Variance ~ Property Owner/Applicant: Karen Taylor ~ Location 7389 Georgetown Street ~ Harmony Township

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

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

No: None.

Motion carried.

Case #BZA-2016-18 ~ Variance ~ Property Owners: Benny and Joy Terrell ~ Applicant: Benny Terrell ~ Location 1643 Dale Ridge Road ~ Bethel Township

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Allan Neimayer stated the Property Owners are Benny and Joy Terrell. The subject property is located at 1643 Dale Ridge Road in Bethel Township. This is a variance request to allow an accessory structure in the side yard that exceeds: 1) the minimum side yard setback and 2) the maximum number of accessory structures allowed on a lot less than one acre. Mr. Neimayer noted that on the aerial photo of the property there are already two accessory structures. There is a third structure that the applicant is looking at replacing with the new structure, if approved. He said in the Park Layne Subdivision, you will see there are larger accessory structures on adjunct properties, although none of them have more than two structures.

Mr. Neimayer said the proposed structure is going to be 24 feet by 26 feet. The Applicant is looking for a one foot set back from the side lot line. Mr. Neimayer noted that in prior cases a minimum three foot set back was viewed as acceptable to allow for maintenance. He said if you get less than that, it makes it very difficult to even get equipment in there such as a ladder. The proposed structure would be mostly in the side yard with just a portion in the rear yard.

Mr. Neimayer said that an adjacent homeowner sent a letter in support of the request. This is not in the Board's packets because it came after the packets were sent.

Mr. Neimayer stated that he would answer questions the Board may have at this time.

Mrs. Taylor said that we are looking at the number of accessory structures that we may have. But the one is going to be torn down. Mr. Neimayer said that the trailer would be removed if they are allowed to have the new structure.

Mr. Hazlett asked that they are only going to get rid of the storage container that they are not planning on taking the others down. Mr. Neimayer said yes, that is his understating. He noted, we are not dealing with public utilities.

Mr. Greenwood asked if there were other properties that had three accessory structures. Mr. Neimayer said he did not find any.

Hearing no further questions, Chairperson Greenwood opened this portion of the public hearing at 3:50 pm. and asked if anyone would like to speak in favor of the case.

Mr. Benny Terrell, 1643 Dale Ridge Road, New Carlisle, Ohio, was sworn in. Mr. Terrell stated that he and his wife have lived in Park Layne all their lives and at this address for 30 years. Mr. Terrell explained the structures: one is for a race car, another is for the swimming pool accessories, and one is a shed for the mower and such. Mr. Terrell pointed out his neighbor on the map and said she has no complaints and that they have a garage that is 32 feet by 32 feet.

Ms. Riggs asked if there is a reason why he could not bring the proposed structure back a little further. Mr. Terrell said he plans on being at least two feet from where the land drops off, but he could move it back with no problem.

Ms. Riggs said it would be difficult for anyone to get back there. Mr. Terrell said when the guy drew the plans, he missed understood. He said flip it around, then there would be no issues getting back there.

Mr. Hazlett said he was a bit confused because it appeared to him that it is 24 wide feet and 26 feet long. Mr. Terrell said if it was flipped it would be 26 feet wide and 24 feet long.

Mr. Hazlett asked if it would be feasible adjust it to the back a little more. Mr. Terrell said absolutely and that he could pull the garage back towards the swimming pool.

Mr. Hazlett asked if Mr. Terrell had planned to take out the other two sheds. Mr. Terrell said he could move one of the structures because it is not permanent.

Mr. Hazlett asked if the idea is to build it and replace the existing storage you have now. Mr. Hazlett said he thought that the intention was to build the new one and remove all the other storage. Mr. Terrell said the race car trailer burnt to the ground and he no longer has that trailer.

With no one else to speak in favor of the case, Chairperson Greenwood asked if anyone would like to speak in opposition of the case.

Hearing none Chairperson Greenwood closed this portion of the public hearing at 3:59 pm. and asked for discussion among the Board.

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Mrs. Taylor asked Mr. Neimayer based on what was presented and it not meeting codes, if the Board approves it, does that approve the location or does he have to bring back an updated plan. Mr. Neimayer said the Board can approve the variance request subject to the proposed structure being in a different location.

Mr. Neimayer said that Mr. Terry Shaffer, Building Inspector, pointed out to him that the Ohio Residential Building code requires a minimum of two feet from the side lot line. He stated anything less than five feet has to have a higher fire rated wall.

There was discussion among the Board.

Mr. Hazlett said he would like to see a different location and size of the building.

The Board wanted to ask the applicant more questions.

Chairperson Greenwood opened this portion of the public hearing again at 4:04 p.m. and reminded Mr. Terrell that he was under oath.

Mr. Smith asked the Applicant if he could reconfigure the actual size of the structure on the plan.

Mr. Terrell explained that it was draw wrong and explained his plan again. He said yes it could be moved back with no issues.

Mr. Hazlett asked if he would entertain making the garage smaller. Mr. Terrell said that it would take away from his two car space. He also explained that on the drawings it shows that the fire wall is already there.

Mrs. Taylor asked Mr. Neimayer what options the Board has in this case. Mr. Neimayer explained the following options: 1) you can table it for a revised plot plan; 2) you could approve the request reducing the set back and allowing the changes you want. He said if you go that route, it will be on the zoning certificate. Mr. Neimayer said that if you table it for revised plans, you still have the three structure issues. He asked if the Board was comfortable with that.

Mrs. Taylor said that she would like to see a structure big enough to take down two of the other structures.

Mr. Neimayer stated that if you table it, just be clear to the Applicant as to what you are looking for.

Mrs. Taylor stated she did not want to set a precedent of having more than two structures.

Minutes

Clark County Board of Zoning Appeals

Case #BZA-2016-18 ~ Variance ~ Property Owners: Benny and Joy Terrell ~ Applicant: Benny Terrell ~ Location 1643 Dale Ridge Road ~ Bethel Township

Motion by Mrs. Taylor, second by Mr. Hazlett, to **Table** Case #BZA-2016-18 and ask the Applicant to bring back a revised plan that shows the proposed structure moved back so that there is a minimum three foot setback from the side lot line, and reduce the total number of accessory structures to two.

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

No: None.

Motion carried.

Staff Comments

Mr. Neimayer stated the next scheduled meeting is Thursday, September 29, 2016, the fifth Thursday of the month.

Adjournment

Motion by Mr. Smith, seconded by Mr. Minard, to Adjourn.

VOTE: Motion carried unanimously.

The meeting was adjourned at 4:15 pm.

Mr. Tim Greenwood, Chairperson

Mr. Thomas A. Hale, Secretary