

Regular Meeting
Thursday, August 29, 2013

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

Mr. Jeff Horne, Chairperson of the Board of Zoning Appeals, calls the meeting to order at 2:00 p.m.

Present: Mr. Don Wallace, Mr. Jack Spurlock, Mr. Tim Greenwood, Mr. Rick Smith, Mr. David Minard, Alternate, and Mr. Jeff Horne

Also Present: Mr. Allan Neimayer, Clark County Community Development 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: 8-48-2013: Minutes ~ July 25, 2013

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

VOTE: Yes: Mr. Wallace, Mr. Spurlock, Mr. Horne, Mr. Greenwood, Mr. Smith, and Mr. Minard

Motion carries.

Chairperson Horne 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.

Chairperson Horne asks the Board if anyone needs to abstain.

Mr. Horne comments he will need to abstain from Case #BZA-2013-32, Larry & Wanda Bolen, as far as voting. He will not cast a vote if there is a tie on this case.

Chairperson Horne asks the Staff to present the first case.

BZA-2013-29: Variance Case ~ Terry Apel ~ Located at 2422 S Tecumseh Road ~ Mad River Township

Mr. Neimayer, Senior Planner explains that the Applicant is requesting to reduce the front yard setback from 40 feet to 19 feet measured from the existing right of way for a 22 ft. by 21 ft. carport that is already constructed. The property is located on S. Tecumseh Road just south of I-70 in Mad River Township. The carport is detached from the garage and has four feet (plus or minus) separation from the existing structure. Zoning requires a six

foot separation from an existing structure. Therefore, we are dealing with a couple of variances: one for building separation and one for the setback from ROW line.

The Clark County Zoning Regulations state:

SECTION A
[eff: 12-1-05]

AGRICULTURAL DISTRICT	A-1 AGRICULTURAL
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PRINCIPAL PERMITTED AND CONDITIONED USES:	MINIMUM ZONING LOT REQUIREMENTS						MAXIMUM HEIGHT		FOOTNOTES (Restrictions)
	LOT SIZE (Area)	FRONTAGE WIDTH * (feet)	FRONT (Setback) **	SIDE		REAR (Setback)	(Feet)	(Stones)	
				LEAST WIDTH	SUM of BOTH				
1. Agriculture, Farm Markets, Agricultural-Related Processing & Marketing & related buildings & structures	1 Acre	150	50	30	60	50	35	2	1, 2, 3, 5, 5a, 8, 16, 31
2. Single-Family Residential	40 Acre	500	40	25	60	60	35	2	2, 5, 5a, 6
EXCEPTIONS TO 40 acre –									
a. Single-Family Residential (restricted to lotsplits)	1 Acre #	150	40	25	60	60	35	2	2, 5, 5a, 6
b. Single-Family Residential (restricted to cluster lotsplits) [eff: 12-17-09]	1 Acre #	--	40	25	60	60	35	2	2, 5, 5a, 6

The current ROW of this section of S. Tecumseh Road is 30 ft. (15 ft. from centerline). The proposed ROW, per the County’s Thoroughfare Plan, is 80 ft. (40 ft. from centerline). The carport sits approximately 34 ft. from the centerline and 19 ft. from the existing ROW as measured perpendicular to the ROW line.

The County Engineer’s report indicates there are no significant road improvements for this section of S. Tecumseh Road. The County Engineer has no objection to the variance to reduce the front yard setback as requested by the applicant.

The Health Department provided information that the septic/letch field area that is behind the house is not affected by this carport in question.

Several letters were received all in support of the Applicant’s variance request. Copies were provided to the Board members at the beginning of the meeting.

Mr. Wallace asks how this carport was built without approval. Mr. Neimayer responds this was a violation. The Applicant built the carport without getting a building permit. When a building permit was requested, it brought up issues of proper setback and separation of buildings.

Mr. Horne asks if there are any other questions for Staff. There were none.

Mr. Horne opens this portion of the public hearing at 2:09 pm. He asks if there are any proponents wishing to speak in favor of the case.

Terry Apel, Applicant, whose address is 2422 S. Tecumseh Road, stated that it was his fault. He was not aware that he needed a building permit with no concrete involved. After receiving the letter of violation he immediately came in the office to try to rectify the situation. He stated he was sorry. He has received only positive feedback from

surrounding property owners. They feel it is an improvement to his property and to the community around him.

Chairperson Horne asks if there are any questions from the Board members.

Mr. Spurlock asks if he plans on any additional driveway or if he plans to use only the existing driveway.

Mr. Apel responds he has no plans for additional driveway and plans only to use the existing driveway without widening it.

Chairperson Horne asks if anyone in the audience would like to speak in opposition. There were none.

Chairperson Horne closes the public hearing at 2:11 pm.

Chairperson Horne asks if there are any questions for Staff. There were none.

Chairperson Horne asks the Board for a motion.

BZA: 8-49-2013: BZA-2013-29 ~ Variance Case ~ Terry Apel ~ Located at 2422 S Tecumseh Road ~ Mad River Township

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

VOTE: Yes: Mr. Greenwood, Mr. Wallace, Mr. Spurlock, Mr. Smith, and Mr. Minard

Motion carries.

BZA-2013-30: Variance Case ~ Brian Newman ~ Located at 3303 S. Urbana-Lisbon Road ~ Harmony Township

Mr. Neimayer, Senior Planner explains that the Applicant is requesting a variance to reduce the minimum side yard setback from 25 ft. to 18.5 ft. to construct a 30 ft. by 25 ft. attached garage on the north side of the house. The subject property is zoned A-1 (Agricultural District) and located at 3303 S. Urbana-Lisbon Road in Harmony Township.

The Clark County Zoning Regulations state:

SECTION A
[eff: 12-1-05]

AGRICULTURAL DISTRICT	A-1 AGRICULTURAL
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PRINCIPAL PERMITTED AND CONDITIONED USES:	MINIMUM ZONING LOT REQUIREMENTS						MAXIMUM HEIGHT		FOOTNOTES (Restrictions)
	LOT SIZE (Area)	FRONTAGE	YARD REQUIREMENTS (Feet)				(Feet)	(Stories)	
			WIDTH * (feet)	FRONT (Setback) **	SIDE				
					LEAST WIDTH	SUM of BOTH			
1. Agriculture, Farm Markets, Agricultural-Related Processing & Marketing & related buildings & structures	1 Acre	150	50	30	60	50	35	2	1, 2, 3, 5, 5a, 8, 16, 31
2. Single-Family Residential	40 Acre	500	40	25	60	60	35	2	2, 5, 5a, 6
EXCEPTIONS TO 40 acre –									
a. Single-Family Residential (restricted to lotsplits)	1 Acre #	150	40	25	60	60	35	2	2, 5, 5a, 6
b. Single-Family Residential (restricted to cluster lotsplits) [eff: 12-17-09]	1 Acre #	--	40	25	60	60	35	2	2, 5, 5a, 6

Mr. Neimayer states that from the 2008 zoning application when the house was built, the Health District approved the septic tank location off the northwest corner of the house – in the area where the new garage is proposed. This may or may not pose an issue and has to be verified by the Health District.

Chairperson Horne asks if he is correct as he is looking at the house from the road that the septic is on the same side of the house that the garage is going to be built.

Mr. Neimayer responds that is correct.

Mr. Neimayer states that in the report from the County Engineers they have no objections to the variance request.

Mr. Neimayer there has been no other communications on this case. He asks if there are any questions for Staff.

Mr. Spurlock asks if there are any residential plots plotted out to the right of the property.

Mr. Neimayer states there are lots that are split off but as of 2012 nothing has been developed.

Mr. Spurlock asks are they lots of record.

Mr. Neimayer states that yes they are.

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

Hearing none, Chairperson Horne opens the public hearing at 2:18 pm. He asks if the Applicant or owner would like to speak at this time.

Brian Newman, Applicant/owner, whose address is 3303 S. Urbana-Lisbon Road, states that he is confused by the drawing of the septic location. He stated that he would like to clarify that the septic has been moved to the other {south} side of the house right in the middle and that it goes to the back of the house.

Chairperson Horne asks if anyone else would like to speak in favor or make any comments or questions.

John Waymire, whose address is 2219 Columbus-Xenia Road, stated that he owns the surrounding farm property and has no problems with him building the garage. He also has no plans to sell the two lots that are plotted to the right of the property.

Carrie Waymire, whose address is 2219 Columbus-Xenia Road, verified the location of the septic tank. She has no objections of the proposed garage. It will not affect farming in any way. Brian Newman is a good neighbor.

Chairperson Horne asks if anyone else would like to speak in favor or make any comments or questions. There are none.

Chairperson Horne asks if anyone would like to speak in opposition of this case. There are none.

Chairperson Horne closes the public hearing at 2:22 p.m.

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

BZA: 8-50-2013: BZA-2013-30 ~ Variance Case ~ Brian Newman ~ Located at 3303 S Urbana-Lisbon Road ~ Harmony Township

Motion by Mr. Greenwood, seconded by Mr. Spurlock, to **Approve** the Variance request as presented.

VOTE: Yes: Mr. Greenwood, Mr. Spurlock, Mr. Wallace, Mr. Smith, and Mr. Minard

Motion carries.

BZA-2013-31: Variance Case ~ Tina Ilges (Jacob Lindsey) ~ Located at 4549 Willowbrook Drive ~ Moorefield Township

Mr. Neimayer, Senior Planner explains that the Applicant is requesting a variance to increase the maximum height of a fence in the front yard (a corner lot) from 4 ft. to 6 ft. for a privacy fence (already built) to contain the owner's dogs. The subject property is zoned R-2A (Medium Density Single-Family Residence District). The Applicant is requesting a variance to Chapter 8, Section E, 2, a), 2), a). This is brought to the Board following a zoning complaint violation.

There have been letters in favor of the request. There is one letter of opposition that stated fences should be kept to rear yard and not brought out to the sidewalk. Copies were provided to the Board members at the beginning of the meeting.

The Clark County Zoning Regulations state:

Chapter 8, Section E, 2, a), 2), a):

Section E (continued)

2. Design Standards

- a) No fence, wall, or screen may be located in any front yard except as provided below:
 - 1) Hedges not to exceed six (6) feet in height may be located in any front yard, but shall be subject to any traffic visibility requirements imposed by the Zoning Inspector.
 - 2) A fence or wall may be located in any front yard as follows:
 - a) The height of any fence or wall shall not exceed four (4) feet above the ground at any point, except that in instances where single-family homes front on major or secondary thoroughfares, such ornamental fences or walls shall be not more than six (6) feet in height.
 - b) Such fence or wall shall be subject to any traffic visibility requirements imposed by the Zoning Inspector. [eff. 4-4-96]
 - c) Such fence or wall on a corner lot shall be subject to any traffic visibility requirements imposed by the Zoning Inspector.

Mr. Neimayer stated that there are no issues regarding onsite utilities. The County Engineer's report had no objections to the variance to increase the maximum fence height.

Mr. Spurlock asked Mr. Neimayer to point out the location of the fence. He was wanting to know how close the fence is to the sidewalk on Blaine Avenue.

Mr. Neimayer responded that the fence is a couple feet at most.

Chairperson Horne asks if there are any other questions for staff. There were none.

Chairperson Horne opens this portion of the public hearing at 2:32 pm. He asks if the Applicant, the representative or the owner would like to speak.

Jacob Lindsey, Applicant, whose address is 4549 Willowbrook Drive, stated that he owns two large boxers that he rescued. They are not aggressive but do like to jump. He consulted many neighbors before constructing the fence and they agreed it is a good idea to keep the dogs contained. He has had multiple comments that those walking by do not feel threatened by the dogs with the 6 ft. fence.

Chairperson Horne asks if there are any questions from the Board for the Applicant. There were none.

Chairperson Horne asks is there anyone else that would like to speak in favor of the case.

Cathy Balch, whose address is 1139 Blithe Road, stated that she had no objections. She does not understand the issue unless it is the height being on a corner lot. She drives a low profile vehicle and does not have any trouble seeing around the fence. It is aesthetically pleasing. The owner followed the chain link fence line that was there before the current fence.

Chairperson Horne asks if anyone else would like to speak. There were none.

Chairperson Horne closes this portion of the public hearing at 2:35 pm.

Chairperson Horne asks the Board if there are any further questions.

Mr. Spurlock you said that this was from a zoning complaint. What was the nature of the complaint.

Mr. Neimayer replied that he believes it was the items by the side of the house and also the height of the fence.

Mr. Neimayer asked Mr. Shaffer to respond. To the best of my knowledge everything else has been cleared up. What is behind the fence I do not know.

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

BZA: 8-51-2013: BZA-2013-31 ~ Variance Case ~ Tina Ilges (Jacob Lindsey)
~ Located at 4549 Willowbrook Drive ~ Moorefield Township

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

**VOTE: Yes: Mr. Spurlock, Mr. Minard, Mr. Greenwood, Mr. Wallace,
and Mr. Smith**

Motion carries.

BZA-2013-32: Variance Case ~ Larry & Wanda Bolen ~ Located at 538 Moorefield Road ~ Moorefield Township

Mr. Neimayer, Senior Planner explains that the Applicants are requesting a variance to reduce the minimum frontage from 150 ft. to 98 ft. to allow for a lot split/attachment that will put the existing leach field for the adjacent house on the same parcel. The subject property is zoned A-1 (Agricultural District) and located in Moorefield Township.

The Clark County Engineer’s Department has reviewed the variance request and has no objection to the variance to reduce the frontage requirement as requested, provided the survey is updated to show no direct access from Moorefield Road to the adjacent house site. Its access shall continue to be from the existing shared access drive Mr. Neimayer stated no further communication has been received regarding this case.

The Clark County Zoning Regulations state:

Chapter 2, Section A:

SECTION A
[eff: 12-1-05]

AGRICULTURAL DISTRICT

A-1 AGRICULTURAL

PRINCIPAL PERMITTED AND CONDITIONED USES:	MINIMUM ZONING LOT REQUIREMENTS						MAXIMUM HEIGHT		FOOTNOTES (Restrictions)
	LOT SIZE (Area)	FRONTAGE WIDTH * (feet)	FRONT (Setback) **	SIDE		REAR (Setback)	(Feet)	(Stories)	
				LEAST WIDTH	SUM of BOTH				
1. Agriculture, Farm Markets, Agricultural-Related Processing & Marketing & related buildings & structures	1 Acre	150	50	30	60	50	35	2	1, 2, 3, 5, 5a, 8, 16, 31
2. Single-Family Residential	40 Acre	500	40	25	60	60	35	2	2, 5, 5a, 6
EXCEPTIONS TO 40 acre –									
a. Single-Family Residential (restricted to lotsplits)	1 Acre #	150	40	25	60	60	35	2	2, 5, 5a, 6
b. Single-Family Residential (restricted to cluster lotsplits) [eff: 12-17-09]	1 Acre #	--	40	25	60	60	35	2	2, 5, 5a, 6

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

Mr. Smith asks if the 10 ft. separation between the property line and the barn is acceptable.

Mr. Neimayer responds that it is.

Chairperson Horne asks for any other questions or comments. There are none.

Chairperson Horne opens the public hearing at 2:43 p.m. and asks if there is anyone that would like to speak on behalf of the Applicants.

Mark Scholl representing the Applicants, 1533 Moorefield Road, there was an original farm house that burned down in the late 1970s. The two one acre lots were split off by Bolen family in 1980. Not sure why the large T-shaped parcel is left. Not sure if the owners put the leach field between the house and driveway or tied into an existing leach field that went with the original house on that property. Currently the existing house is

on county water that serves the western one acre lot. The property sits low between two hills. There would be a 20 foot easement on the existing driveway with shared ingress/egress easement.

Chairperson Horne asks if for the shared driveway it is required to be widened where it meets Moorefield Road.

Mr. Neimayer responds that it will flare as it comes out to the actual pavement.

Mark Scholl responds that it is already wider than the 20 foot easement will be. It does flare out. When Moorefield Road was widened it was paved.

Chairperson Horne asks if there are any other questions for Mr. Scholl. He noted that for the record there are no other persons in the audience. Chairperson Horne closes this portion of the hearing to the public at 2:49 pm.

Chairperson Horne asks if there are any other questions for Staff or comments.

Hearing none, Chairperson Horne asks the Board for a motion for approval.

BZA: 8-52-2013: BZA-2013-32 ~ Variance Case ~ Larry & Wanda Bolen ~ Located at 538 Moorefield Road ~ Moorefield Township

Motion by Mr. Greenwood, seconded by Mr. Spurlock, to **Approve** the Variance request subject to the two existing accessory structures be removed.

VOTE: Yes: Mr. Greenwood, Mr. Spurlock, Mr. Wallace, Mr. Smith, and, Mr. Minard

Abstain: Mr. Horne

Motion carries.

Zoning Regulations – Proposed Amendments – Chapters 8 and 9

Mr. Neimayer proceeds to Chapter 8. He states that in Chapter 8 the changes are mainly editorial and that there is no substance change.

Mr. Neimayer then proceeds to discuss Chapter 9. There have really been no changes in this chapter either. This is the administrative portion that has been reformatted or reorganized. I have just put it in a more logical order. I am hoping to have this ready for the October meetings. This was presented to Planning Commission and the Rural Zoning Commission at their August meetings. The Rural Zoning Commission has initiated the formal process. The rezoning process by the code I don't have to bring to you but I will keep you informed.

Mr. Neimayer asks if there are any questions or comments. He states he would like to have this all done by the beginning of next year.

Mr. Neimayer then discusses Page 8-6, Table 8.1. The proposal is based on the average number of cases that have been brought to you and then have had approval. Very few of these cases have been denied by the Board. He asks for questions or comments.

Mr. Wallace recalls discussion from last month and questions if some numbers are too large.

Mr. Neimayer states we could do nothing with this or continue to see a large number of variance cases. He then states that under 1 and up to 2 acre lots need to be changed. Acreage higher than that could stay the same. No variance request in 4 to 5 acre range. There are not many requests for 5 plus acres.

Mr. Wallace questions whether running this through the Boards delays the process.

Mr. Neimayer states that depending on the time that is true. Both the Planning Commission and the Rural Zoning commission believe that at least the latter categories are too high. One suggestion was leaving those as are. The other option is changing numbers with some type of formula.

Chairperson Horne asks if we could go to 4 to 5 acre and 5 acre plus lots and keep those numbers 6,000 sq. ft. We need to take into consideration the surrounding properties of the lots requesting a variance. He states that he thinks 9,000 sq. ft. is too large. He then asks for comment to his question.

Mr. Neimayer states that he thinks that would be fine. If we find it is not working we could come back to review.

Mr. Shaffer I agree 9,000 sq. ft. is getting pretty large for residential lots. We need some kind of control.

Mr. Spurlock states for example if you have two 5 acre lots side by side you would have a lot of building on those two lots.

Mr. Neimayer is looking for input no need to vote. This will minimize some cases and not put an extra burden on owner. Leave larger lots to 6,000 and we will monitor that.

STAFF COMMENTS

Mr. Neimayer states there have been new cases filed so there will be a meeting next month. The meeting will be on Thursday, September 26, 2013.

Mr. Greenwood comments he will be out of town for the next meeting.

ADJOURNMENT

BZA: 8-53-2013 ~ Adjournment

Motion by Mr. Greenwood, seconded by Mr. Wallace, to adjourn the meeting.

VOTE: Motion carries unanimously.

The meeting was adjourned at 3:11 p.m.

Jeff Horne, Chairperson