

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, March 28, 2019

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

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

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

Absent For Roll Call: None.

Also in Attendance: Mr. Allan Neimayer and Mrs. Jennifer Tuttle of Clark County Community and Economic Development.

Mrs. Tuttle explained that Mr. David Minard has resigned from the Board, effective March 27, 2019, due to health reasons.

Approval of the January 24, 2019 Minutes

Ms. Taylor moved, seconded by Mr. Smith, to **Approve** the minutes as presented, noting that David Minard is no longer on the Board to vote.

VOTE: **Yes:** Mrs. Taylor and Mr. Smith.

No: None.

Abstain: Mr. Hazlett, Ms. Riggs, Ms. Wilt.

Minutes were noted as approved.

Approval of the February 28, 2019 Minutes

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

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

No: None.

Motion Carried.

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

Remove Case BZA-2018-27 from Table

Motion by Mr. Smith, seconded by Ms. Riggs, to **Remove** the case from the Table.

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

No: None.

Motion Carried.

Case #BZA-2018-27 ~ Property Owner/Applicant: Terry Brown ~ Location: 7533 W. National Rd.; Bethel Twp. ~ Request: Variance to Chapter 8, Section B, 3, b) to allow a storage shed in the front yard less than the required 300 ft. from the road ROW and with less than 5 ft. side setback.

Mr. Allan Neimayer, Senior Planner, gave a summary of this case and why it was Tabled on November 29, 2018 and February 28, 2019. Mr. Neimayer had emailed the Health District's information to the Applicant and talked about alternatives, reduce size, etc. He later provided the Applicant with information on the sanitary sewer line and a contact number with the Village of Donnelsville. Mr. Neimayer stated he has not heard from the Applicant.

He stated that he was going to recommend the Board dismiss this case, but Ms. Riggs stated there were new structures put up on the property. Mrs. Tuttle followed up on the complaint and found a new structure in the front yard. A violation letter was sent after wards the Applicant contacted Mr. Neimayer. The Applicant explained he spoke with the Village of Donnelsville and, due to the tap in fee, will not be collecting to the village's sanitary sewer line. The Applicant elected to put up a storage shed instead of garage. Mr. Neimayer noted this structure is in the front yard with a zero setback from the side lot line.

Chairperson Taylor asked if the storage shed is in compliance. Mr. Neimayer responded currently the code does not address the setbacks of structures in the front yard. He noted that if it was located in the rear yard, the minimum setback would be 5 ft.

Chairperson Taylor stated the Applicant is asking for the Variance after the fact (structure is already in place.) Mr. Neimayer responded yes.

Chairperson Taylor asked if Staff heard anything from neighbors. Mr. Neimayer stated he sent surrounding property owner letters again with the updated information.

Chairperson Taylor asked what would happen if the request is denied. Mr. Neimayer responded Tom Hale, as Zoning Administrator, could take legal action to have the storage shed removed. Mrs. Tuttle stated there is a current code enforcement case on the property and if the request was denied, the process would continue.

Mr. Hazlett asked about distance from well. Mr. Neimayer responded in the past the Health District has informed him there needs to be a 10 ft. separation.

Chairperson Taylor asked if it had a foundation. Mrs. Tuttle responded it was not required for the size.

With no further questions for Mr. Neimayer, Chairperson Taylor opened the public hearing at 2:11 pm.

Chairperson Taylor asked if any audience member wished to speak on this case. Hearing none, she closed the public hearing at 2:12 pm. and asked for Board discussion.

Mr. Smith stated the Applicant does not have another space for the shed and it was the lesser of all the evils. Chairperson Taylor stated he does not have many options on the property due to the shape of the lot.

Ms. Riggs stated the best option is to connect to sanitary sewer. Chairperson Taylor noted it was not cost effective for the Applicant.

Mr. Hazlett stated he had no issues, but might think of it differently if it had a permanent foundation. Ms. Wilt stated it looks portable and does not look bad for the neighborhood. Chairperson Taylor stated the property is maintained and the location of the storage shed did not appear to interfere with neighbors.

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

Action on Case #BZA-2018-27 ~ Property Owner/Applicant: Terry Brown ~ Location: 7533 W. National Rd.; Bethel Twp. ~ Request: Variance to Chapter 8, Section B, 3, b) to allow a storage shed in the front yard less than the required 300 ft. from the road ROW and with less than 5 ft. side setback.

Motion by Mr. Smith, seconded by Mr. Hazlett, to Approve the case as presented.

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

No: None.

Motion Carried.

Case #BZA-2019-03 ~ Property Owner: Dirtvest LTD Applicant: Justin Paulus ~ Location: 0 Spangler.; PID #180-10-00023-000-042; Mad River Twp. ~ Request: Variance to Chapter 2, Section A to allow a land division with zero frontage and using a shared ingress/egress easement for access

Mr. Neimayer explained the subject property is located on Spangler Rd, PID #180-10-00023-000-042 and consists of 110.33 acres. The property is zoned A-1. The Applicant wants to split off 40 acres (approximately 37 acres in Clark County and approximately 3 acres in Greene County) and build a new single-family home. Because the 37 acres would not have frontage on a public right-of-way, the Applicant has filed this variance request.

With the new parcel having zero frontage, the Applicant proposes using an existing ingress/egress easement from Spangler Rd. for access. This same easement currently provides access to the single-family home on the abutting parcel to the north, 5801 Spangler Rd., which is property owned by Ray Paulus, brother of the Applicant.

Mr. Neimayer stated the applicant wants to be just outside of WPAFB overlay. He stated Zone 1 and 2 do not allow residential. He will build in zone 3. WPAFP Planner confirmed the location complies. He stated Access is off Spangler Road, it will be shared access existing easement. DIRTVEST sent an email indicating they preferred using existing access.

Mr. Smith asked if the Applicant has to have an agreement for access. Mr. Neimayer responded yes with the property owner – Dirtvest. Chairperson Taylor noted another drive on Spangler Rd. would create an issue.

Mr. Hazlett asked if there is a legal document. Mr. Neimayer stated there is a current document for the Applicant's brother, Ray Paulus. A new agreement, or a revision of that current document, will need to be created for the Applicant (Justin Paulus).

With no further questions for Mr. Neimayer, Chairperson Taylor opened the public hearing at 2:26 pm.

Justin Paulus, Applicant, 7620 New Carlisle Pike, was sworn in. Mr. Paulus stated he had been working with Mr. Neimayer. He stated the access easement is already in place, just paperwork that they have agreed to do. Mr. Paulus stated he has been working with Dirtvest, property owner, for a year and a half on this matter and this is lot configuration they are willing to sell to him. He stated he is buying land in the country for the woods. He spoke to Wright Patt about the overlays and understands he has to stay in the front to stay in the current zone. He noted the additional Greene county area is a buffer for any future development.

Mr. Hazlett stated he just wanted to make sure all issues are addressed. He stated the Board had to look out for the future as well.

Mr. Paulus stated he was okay with the process. He just wanted to explain the background of the project. Mr. Paulus stated if he had to buy the road frontage, it would be eight acres that would have to give up somewhere else. He stated those eight acres in the back are more beneficial.

Mr. Hazlett stated the Applicant was going about it the correct way. He just needs the documents in place.

Mr. Paulus stated this is what Dirtvest wants to do and Greene County Zoning is okay with everything as well.

Chairperson Taylor asked if any audience member wished to speak on this case. Hearing none, she closed the public hearing at 2:32 pm. at asked for Board discussion.

Mr. Hazlett asked if Staff received any information from neighbors. Mr. Neimayer responded no.

Chairperson Taylor stated the parcel will be landlocked and asked the purpose of having minimum frontage vs. access easement. Mr. Neimayer explained the legal means to access, help with traffic and access. He noted there are alternatives to having frontage. He noted the easement will allow both access and it is a good solution.

Ms. Wilt asked if Dirtvest could remove the access on a future owner. Mr. Neimayer stated the easement runs with the land.

Mr. Hazlett stated he wants to make sure legal documents are in places.

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

Action on Case #BZA-2019-03 ~ Property Owner: Dirtvest LTD Applicant: Justin Paulus ~ Location: 0 Spangler.; PID #180-10-00023-000-042; Mad River Twp. ~ Request: Variance to Chapter 2, Section A to allow a land division with zero frontage and using a shared recorded ingress/egress easement for access

Motion by Mr. Hazlett , seconded by Mr. Smith, to **Approve** as presented, with the condition of a shared and recorded ingress/egress easement for access.

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

No: None.

Motion Carried.

Case #BZA-2019-04 ~ Property Owners/Applicants: Thomas & Pamela Thullen ~ Location: 4807 Graham St.; Moorefield Twp. ~ Request: Variance to Chapter 2, Section B to reduce the minimum lot size from 1.0 acre to 0.53 acre to allow for a lot split/attachment.

Mr. Neimayer stated the subject property is located at 4807 Graham St. and consists of 1.22 acres. It comprises part of Lot 27 and part of Lot 28 of the Eliza Yeazell's Heirs Subdivision. The property is zoned R-2A (Medium Density Single-Family Residence District) and does not have public water or sanitary sewer. The Applicants would like to split off the existing garden area, approximately 0.70 acres, to be attached to their abutting parcel to the south, 4803 Graham St. The current frontage of both properties, 4807 and 4803 Graham St., would not change. He stated the Health District has no issues. Mr. Neimayer stated Ashley Bailey, abutting neighbor to the north, had contacted Mrs. Tuttle about concerns with the shared drive.

Chairperson Taylor asked why they wanted to attach a portion of the property to the other. Mr. Smith stated they want to sell the house portion and keep the garden area.

Mr. Smith asked for frontage of the property. Mr. Neimayer responded 70 ft., noting the existing frontage would not change.

With no further questions for Mr. Neimayer, Chairperson Taylor opened the public hearing at 2:46 pm.

Thomas Thullen, Applicant, 4803 Graham St., was sworn in. Mr. Thullen stated the shared drive document is recorded. He stated he would answer any questions.

Ms. Wilt asked how far the house was to the property line. Mr. Thullen responded 10 to 15 ft.

Mr. Hazlett asked if that met zoning. Mr. Neimayer indicated the minimum setback is 15 ft.

Chairperson Taylor asked if any audience member wished to speak on this case. Hearing none, she closed the public hearing at 2:49 p.m. at asked for Board discussion.

Mr. Hazlett stated the request was planned it out well.

Chairperson Taylor stated it will be in compliance with setbacks.

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

Action on Case #BZA-2019-04 ~ Property Owners/Applicants: Thomas & Pamela Thullen ~ Location: 4807 Graham St.; Moorefield Twp. ~ Request: Variance to Chapter 2, Section B to reduce the minimum lot size from 1.0 acre to 0.53 acre to allow for a lot split/attachment.

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

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

No: None.

Motion Carried.

Staff Comments

Mr. Neimayer stated the next scheduled meetings will be on April 25 and May 23, 2019. Mrs. Tuttle noted there are five cases for the April meeting.

Mr. Neimayer gave an update on proposed Zoning Text Amendments. He noted the County Commissioners adopted the new zoning text format and it will be effective at the end of April. He asked if the Board wanted another briefing on the proposed amendments. He stated they didn't need to act on it, but needed to be aware. Chairperson Taylor stated it would be best for a briefing after the amendments are adopted. Chairperson Taylor explained some of the items discussed during the Land Use Regulations Committee meetings.

Adjournment

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

VOTE: Motion carried unanimously.

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

Mrs. Jerri Taylor, Chairperson

Mr. Thomas A. Hale, Secretary