

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, May 24, 2018

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 2:00 pm. and asked for the Roll Call.

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

Absent For Roll Call: Mr. David Minard and Ms. Greta Wilt

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

Chairperson Taylor explained how the meeting will be conducted. She then asked if any Board members needed to abstain from any of the cases. Hearing none, Chairperson Taylor asked if there are any comments regarding the minutes. Hearing none she asked for a motion to approve the minutes. Mrs. Tuttle noted that Ms. Riggs suggested grammar changes on pages 3 and page 5.

Approval of the 2018 Minutes

Motion by Mr. Smith, seconded by Mr. Hazlett to **Approve** the minutes with the grammar changes suggested by Ms. Riggs on pages 3 and 5.

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

No: None.

Variance Case #BZA-2018-11 ~ Property Owner/Applicant: New Carlisle Associates LLC ~ Location: 640 S. Dayton-Lakeview Rd.; Bethel Twp. ~ Request: Variance to Chapter 6, Section B, 3, b) to increase the allowed size of a free standing sign from 111 sq. ft. (prior variance) to 215 sq. ft.

Chairperson Taylor asked for the Staff Report.

Mr. Neimayer stated the subject property is located at 640 S. Dayton-Lakeview Rd. and consists of 5.06 acres. The property is zoned B-3 (General Business District). In January 2018, the Applicant received a variance approval to increase the size of a new pole sign from 100 sq. ft. to 111 sq. ft. Now, the Applicant would like to add an additional 104 sq. ft. display area to this sign as panel spaces for tenants at the shopping center. Hence the Applicant has filed this variance request to increase the display sign area from the previously approved 111 sq. ft. to a new total of 215 sq. ft. Mr. Neimayer explained that Chapter 6, Section B, 3, b) states, "No free standing, ground, or building mounted sign shall have a surface area of greater than one hundred (100) square feet per side." Also, per Chapter 6, Section B, 3, c), "No business, industry, or use shall maintain a gross sign area exceeding three hundred (300) square feet on the premise." Mr. Neimayer showed a map of the existing wall signage. He noted that the current Zoning Regulations do not cover shopping centers specifically.

Chairperson Taylor asked if the Board had questions for Staff.

Chairperson Taylor asked if the white portion of the sign shown in the picture was for extra signage. Mr. Neimayer responded it was probably just a cover for the poles and deferred to the Applicant's representative.

Mr. Hazlett asked for clarification on the current request. He stated the Board approved the LED sign last month and the current request is for the tenant panels being added to the sign. Mr. Neimayer responded that was correct.

Chairperson Taylor noted she felt shopping centers may need a different formula for signage and noted it is something to look at and possibly change in the future. She asked if shopping centers are getting variances to address signage. Mr. Neimayer responded that different jurisdictions may handle it differently, but could also look at changing the formula for signage for shopping centers in future.

Chairperson Taylor noted that the request is quite a bit more than regulations allow. Mr. Neimayer noted that there is a limit on the number of free standing signs.

Mr. Hazlett asked if the interpretation of sign regulations was the same in past cases, wall and free standing added together. Mr. Neimayer responded yes.

Mr. Smith asked if there were a maximum number of tenants. Mr. Neimayer responded the shopping center is currently divided into there are 11 different spaces, but those spaces could be reconfigured. He stated there could be requests for more signage at this property in the future.

Ms. Riggs noted that there are 3 to 4 spaces currently empty.

Mr. Smith asked if there was a possibility to make sure the sign does not increase in the future. Mr. Neimayer responded it is possible.

With no further questions for Staff, Chairperson Taylor opened the public hearing at 2:13 pm.

Jerry Van Horn, 2609 Nordic Rd., Dayton, was sworn in. Mr. Van Horn, representative for the Applicant, stated the white area at the bottom of the sign is an aluminum cover to hide support poles. He noted it was not for more signage.

Chairperson Taylor asked for clarification by asking if any signage would be in the white area now or potential for the future. Mr. Van Horn responded no signage was planned. He noted that the ATM would block it. Mr. Van Horn stated the sign is approximately 32 to 33 ft. in height.

Chairperson Taylor asked if the lower portion of the sign would be illuminated. Mr. Van Horn responded yes, LED lights, with a photo cell.

Hearing no further questions for Mr. Van Horn, Chairperson Taylor asked if there was anyone else wishing to speak for or against this case. There were none.

Chairperson Taylor closed the public hearing at 2:17 p.m. and asked for discussion from the Board.

Mr. Smith stated he has seen similar signs in shopping centers. He noted this sign is nice and neat and felt it was better than having multiple signs.

Chairperson Taylor stated she felt it enhances the area. She noted that the formula for signage in the current regulations needs to be addressed in the future for shopping centers.

Mr. Smith noted he felt the signage on the building also needed limits.

Chairperson Taylor noted 300 sq. ft. may not be enough when you have so many businesses in a shopping mall.

Mr. Hazlett stated a decision to put a maximum sq. ft. was made in the past for a reason. He stated the first request was for more and now another request for additional sq. ft.

Chairperson Taylor noted approval could set a precedent for the future.

Ms. Riggs stated there are a few wall signs, but some are also in windows. She noted there is no consistency. She asked staff if current regulations were sufficient based on the requests being presented. Mr. Neimayer responded he felt the regulations needed to call out shopping centers and that an overall cap on square footage may not be the answer.

Chairperson Taylor noted the regulations are a bit outdated.

Mr. Smith noted that the request today is a good solution. He said it will help with traffic.

Ms. Riggs noted the sign was relocated because of the SR 235 project and now there is a traffic light. The new sign location identifies what is in the shopping center prior to approaching the traffic light coming from the south.

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

Action on Variance Case #BZA-2018-11~ Property Owner/Applicant: New Carlisle Associates LLC ~ Location: 640 S. Dayton-Lakeview Rd.; Bethel Twp. ~ Request: Variance to Chapter 6, Section B, 3, b) to increase the allowed size of a free standing sign from 111 sq. ft. (prior variance) to 215 sq. ft.

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

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

No: None.

Variance Case #BZA-2018-12 ~ Property Owner/Applicant: Ryan Fields ~ Location: 7329 Whitridge Rd.; Harmony Twp. ~ Request: Variance to Chapter 8, Section B, 3) to allow a 30 ft. by 48 ft. (1,440 sq. ft.) accessory structure without a principal building.

Chairperson Taylor asked for the Staff Report.

Mr. Neimayer stated the subject property is located at 7329 Whitridge Rd. and consists of 5.06 acres. The property is zoned A-1 (Agricultural District). The Applicant would like to construct a 30 ft. by 48 ft. (1,440 sq. ft.) pole barn on the property prior to construction of a single-family home. Mr. Neimayer noted per Chapter 8, Section B, 3), an accessory building shall be detached from the principal building. By definition, an accessory building must have a primary structure. Mr. Neimayer noted the area as rural with deed restrictions on the property.

Chairperson Taylor asked if the Board had questions for Staff.

Mr. Smith asked if a permit had been issued. Mr. Neimayer responded no.

With no other questions for Mr. Neimayer, Chairperson Taylor opened the public hearing at 2:39 pm.

Ryan Fields, 170 Meadow Ln., was sworn in. Mr. Fields noted he was still working on drawings on the custom built house and needs to build the pole barn to keep materials in.

Chairperson Taylor asked when he would start the construction of the home. Mr. Fields responded the spring of next year (2019).

Chairperson Taylor asked when the Applicant wanted to start building the pole barn. Mr. Field responded as soon if the Variance is approved. He stated the approach is already in.

Mr. Hazlett asked if there were building plans or a certain type like a Morton building. Mr. Fields responded it would be metal and stone materials. He stated it will look nice.

Chairperson Taylor asked if Mr. Fields had plans to live in it while constructing the home. Mr. Fields responded no.

Ms. Riggs noted it was a corner lot and wanted to know if it met requirements. Mr. Fields responded the deed restrictions frontage requirements are larger than zoning regulations.

Mr. Hazlett stated the concern is there is no primary structure.

Chairperson Taylor asked if there was anyone else wishing to speak for or against this case. There were none.

Chairperson Taylor closed the public hearing at 2:45 p.m. and asked for discussion from the Board.

Mr. Smith noted that he did the same thing in building his accessory structure before the primary building.

Chairperson Taylor noted that the zoning regulations may be outdated. She felt it was not an issue as long as a primary building is planned. Chairperson Taylor asked when it was put in the regulations. Mr. Neimayer stated it was amended in 2008, but he was not sure when it was first introduced.

Mr. Smith stated it is a good idea to have the request as a Variance to come forward to make sure the intent of the Applicant is to build a house.

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

Action on Variance Case #BZA-2018-12 ~ Property Owner/Applicant: Ryan Fields ~ Location: 7329 Whitridge Rd.; Harmony Twp. ~ Request: Variance to Chapter 8, Section B, 3) to allow a 30 ft. by 48 ft. (1,440 sq. ft.) accessory structure without a principal building.

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

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

No: None.

Motion carried.

Conditional Use Case #BZA-2018-13 ~ Property Owners/Applicants: David & Sarah Garber Location: 6814 Milton-Carlisle Rd.; Bethel Twp. ~ Request: Conditional Use under Chapter 7, Section 118 for a home occupation (residential construction and commercial maintenance business).

Variance Case #BZA-2018-14 ~ Property Owners/Applicants: David & Sarah Garber Location: 6814 Milton-Carlisle Rd.; Bethel Twp.~ Request Variance to Chapter 7, Section 118, 2, a) to allow a 5 ft. diameter sign; Section 118, 2, c) to allow a 528 sq. ft. addition to the existing barn for a home occupation use; and Section 118, 2, g) to allow non-resident employees.

Chairperson Taylor asked for the Staff Report. Mr. Neimayer stated that he will present the staff reports together.

Mr. Neimayer stated the subject property is located at 6814 Milton-Carlisle Rd and consists of 1.73 acres. The property is zoned A-1 (Agricultural District). The property currently serves as the base for the Applicant's residential construction and commercial maintenance business. "We do home remodel additions; no work done onsite" (on the subject property). The Applicants are requesting Conditional Use approval for a home occupation (residential construction and commercial maintenance business) to be operated out of an existing accessory structure. Included in this request, the Applicants would like to add a 22 ft. by 24 ft. (528 sq. ft.) addition to the

front of the accessory structure for the business office use. There are three accessory structures on the subject property. According to the county auditor's records, the size and year built of these structures are as follows:

1. 1 side open, metal pole building; 64 ft. by 28 ft. (1,792 sq. ft.); 1920
 2. 4 sides closed, metal pole building; 36 ft. by 24 ft. (864 sq. ft.); 1920
 3. detached garage; 12 ft. by 20 ft. (240 sq. ft.); 1940
- combined total = 2,896 sq. ft.

Mr. Neimayer noted under Chapter 7, Section 118, 2): a) The external appearance of the structure in which the use is conducted shall not be altered, and not more than one (1) sign no larger than two (2) square feet shall be mounted flush to a wall of the structure. [The Applicants have filed a separate variance application to allow for a 5 ft. diameter sign.]; b) No off premise signs to be provided; c) No internal or external alterations, construction, or reconstruction of the premises to accommodate the use shall be permitted. [The Applicants have filed a separate variance application for the proposed office addition.]; d) There shall be no outside storage of any kind related to the use, and only commodities produced on the premises may be sold on the premises; no display of products may be visible from the street, no more than twenty-five (25) percent of the gross floor area of the dwelling shall be devoted to the use; e) No equipment, process, materials or chemicals shall be used which create offensive noise, vibration, smoke, dust, odor, heat, glare, x-rays, radiation, or electrical disturbances; f) No additional parking demand shall be created; and g) No person who is not a resident of the premises may participate in the home occupation as an employee or volunteer or independent contractor.

Chairperson Taylor asked if the Board had questions for Staff.

Chairperson Taylor asked if it was farmland surrounding the property. Mr. Neimayer responded yes.

Ms. Riggs asked for an Executive Session.

Request for Executive Session

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

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

No: None.

Motion carried.

Time Out: 2:54 p.m.

Time in from Executive Session 3:13 p.m.

With no further questions for Mr. Neimayer, Chairperson Taylor opened the public hearing at 3:14 p.m.

Mrs. Sarah Garber, 6814 Milton Carlisle Road, was sworn in. Mrs. Garber stated they needed to add on to their barn because their current office is in their dining room and they need more space. She noted relocating the office to the barn would help with space issues. She noted it would be nice to have a restroom as well so they would not have to go back to house. She also stated it would be nice to have a 16 sq. ft. sign instead of the requested 5 ft. diameter sign.

Chairperson Taylor asked the Mrs. Garber to define *commercial maintenance business*. Mrs. Garber responded the business does additions, residential remodels and maintenance items.

Chairperson Taylor asked if it would create more traffic. Mrs. Garber responded she did not foresee growing the business much more. She stated two contractors (family members) come to subject property each day.

Chairperson Taylor asked if it would be a disruption to neighborhood or increased traffic. Mrs. Garber responded it would not be a crew of people.

Mr. Hazlett noted that after hearing the description of business, understanding all of the work is done off site, and the need for accessory structures for office and supplies, he was not against the request. He noted the Board exists for this reason; he stated the Board is a buffer to allow such variances. He noted the Board has to determine how far is too far. He also noted there needs to be better definitions for home occupations.

Mr. Smith asked about clients and traffic. Mrs. Garber responded only two people (clients) have delivered checks. They do not really create traffic. She stated we do not conduct business at house. Instead, we go to the client's house.

Mr. Smith asked why the Applicant wanted a larger sign. He noted there would not be a need for a larger if you do not want people to come to the subject property. He stated he understand the request, except for the sign. Mrs. Garber responded they just wanted the name/logo on the barn.

Chairperson Taylor noted she was concerned they could outgrow the area. She asked how long they had been there. Mrs. Garber responded since 2010.

Chairperson Taylor stated it does not appear anything has changed since then, so it seems to blend with the neighborhood. She stated she had no issues with the office in the barn.

Chairperson Taylor asked about the number of employees. Mrs. Garber responded it is a family business and there would be a max of eight (8).

Chairperson Taylor stated most will not be there at the same time and it is only to retrieve the supplies on site. Mrs. Garber responded yes.

Mr. Smith stated he did not have a problem with the employees since they did not work onsite.

Ms. Riggs asked when the structures were built. Mr. Neimayer responded in the 1920s and 1940s for the detached garage.

Ms. Riggs asked how far from the road. Mr. Neimayer measured from GIS and stated approximately 92 ft. and approximately 115 ft.

Hearing no further questions and having no audience members, Chairperson Taylor closed the public hearing at 3:32 p.m.

Chairperson Taylor asked for discussion from the Board.

Chairperson Taylor stated she was okay with everything except sign. She noted she was in favor of small business and not opposed to the home occupation. She noted there is not a disruption to neighborhood; it will pretty much stay the same. The maximum employees is not an issue because they are not working there. She said the separate office is not an issue and there are not any setback issues with zoning.

Mr. Hazlett stated the concept is good without disrupting the neighborhood. He stated he agreed with Mrs. Taylor, but noted the sign is an issue because it would draw too much attention.

Mr. Smith stated he was okay with the request except the increase in the sign.

Ms. Riggs stated she agreed the sign increase would be an issue.

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

**Action on Conditional Use Case #BZA-2018-13 ~ Property Owners/Applicants: David & Sarah Garber
Location: 6814 Milton-Carlisle Rd.; Bethel Twp. ~ Request: Conditional Use under Chapter 7, Section 118 for a home occupation (residential construction and commercial maintenance business).**

Motion by Mr. Smith seconded by Mr. Hazlett, to **Approve** the Conditional Use request as presented.

VOTE: **Yes:** Mr. Smith, Mr. Hazlett and Ms. Riggs.
 No: None.

Motion carried.

**Action on Variance Case #BZA-2018-14 ~ Property Owners/Applicants: David & Sarah Garber
Location: 6814 Milton-Carlisle Rd.; Bethel Twp. ~ Request Variance to Chapter 7, Section 118, 2, a) to allow a 5 ft. diameter sign; Section 118, 2, c) to allow a 528 sq. ft. addition to the existing barn for a home occupation use; and Section 118, 2, g) to allow non-resident employees.**

Motion by Mr. Smith seconded by Ms. Riggs , to **Approve** the Variance requests excluding the request for a 5 ft. diameter sign.

VOTE: **Yes:** Mr. Smith, Ms. Riggs and Mr. Hazlett.
 No: None.

Motion carried.

Staff Comments

Mr. Neimayer stated the next scheduled meetings would be on June 28 and July 19, 2018.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 3:48 p.m.

Mrs. Jerri Taylor, Chairperson

Mr. Thomas A. Hale, Secretary