

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, June 29, 2017

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, Mr. Rick Smith and Ms. Janie Riggs.

Absent For Roll Call: Mrs. Jerri Taylor and Mr. David Minard.

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

Chairperson Greenwood explained how the meeting will be conducted. He then asked if anyone wished to abstain from any of the cases. Mr. Smith stated he would abstain from Case #BZA-2017-10.

Chairperson Greenwood asked if there are any comments regarding the minutes. Ms. Riggs noted corrections to page 2, second paragraph: "she" instead of "he"; page 3, fourth paragraph, correct to say "does not comply"; and page 4, third paragraph, "from" instead of "for". Hearing no further corrections, he asked for a motion to approve.

Approval of the April 27, 2017 Minutes

Motion by Ms. Riggs seconded by Mr. Smith, to **Approve** the minutes as corrected.

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

No: None.

Motion carried.

Variance Case #BZA-2017-10 ~ Property Owners/Applicants: Richard & Rose Smith ~ Location: 6175 Fletcher Chapel Road; Harmony Township ~ Request: Variance to Chapter 8, Section B, 2, e, 1, a, 2) to allow an in-ground pool at 7 ft. from the principal structure instead of the required 10 ft.

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 6175 Fletcher Chapel Rd. and consists of 16.43 acres. He said the property is zoned A-1 (Agricultural District) and is the northwestern part of Harmony Township. He said the Applicant would like to install an in-ground swimming pool in the rear yard reducing the setback from the home to 7 feet due to property elevations. Mr. Neimayer explained that Zoning Regulations state in Chapter 8, Section B, 2, e, 1, a, 2) for in-ground swimming pools: "The swimming pool shall be located completely in the rear yard and shall not be located closer than ten (10) feet to the principal structure or any property line".

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Chairperson Greenwood asked if the Board had questions for Mr. Neimayer. There were no questions.

Chairperson Greenwood opened this portion of the public hearing at 2:04 pm. and asked if anyone would like to speak in favor of the case.

Applicant, Richard Smith, stated he was present, but had nothing to add.

Chairperson Greenwood asked if any audience members would like to speak in favor or against the case. Hearing none, he closed this portion of the public hearing at 2:05 pm. and asked for discussion among the Board.

Mr. Hazlett stated he did not see any issues with the request and noted that property elevations are different and that is why the BZA Board exists.

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

Action on Case #BZA-2017-10 ~ Property Owners/Applicants: Richard & Rose Smith ~ Location: 6175 Fletcher Chapel Road; Harmony Township ~ Request: Variance to Chapter 8, Section B, 2, e, 1, a, 2) to allow an in-ground pool at 7 ft. from the principal structure instead of the required 10 ft.

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

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

No: None.

Motion carried.

Variance Case #BZA-2017-11 ~ Property Owner/Applicant: William Hampshire ~ Location: 11743 Zeller Ct.; Bethel Township ~ Request: Variance under Chapter 8, Section B, 2,e, 1, a, 3) to allow an in-ground pool with an automatic pool cover instead of required fencing.

Chairperson Greenwood asked Mr. Neimayer for the Staff Report. Mr. Neimayer stated the subject property is located at 11743 Zeller Ct. and consists of 1.18 acres. He said the property is zoned R-1 and is Lot #18 of the Tall Hickory Estates Subdivision, Section 3. Mr. Neimayer explained the Applicant would like to install an in-ground swimming pool in the rear yard and utilize an automatic pool cover instead of the required fencing. Mr. Neimayer explained Under Chapter 8, Section B, 2, e, 1, a, 3) of the Zoning Regulations it states "The swimming pool or yard shall be surrounded by a four (4) foot wall or fence. Such wall or fence shall be maintained in good condition and properly secured to prevent uncontrolled access". Mr. Neimayer showed the Board a photo of an automatic pool cover provided by the Applicant. Mr. Neimayer noted that the County Engineer's Department felt the automatic system could be inconsistent and directed the Board to their comment letter. Mr. Neimayer said there a similar case a few years ago that the Board denied. He noted there is information in their packet provided by the Applicant. He stated he would answer any questions from the Board.

Chairperson Greenwood asked if anyone had questions for staff.

Mr. Greenwood asked for the neighborhood map and asked how many properties about the Applicants.

Mr. Neimayer responded three properties abutted the Applicants. He noted staff had not received calls from neighbors.

Mr. Hazlett asked Mr. Neimayer if the safety factor fell under BZA jurisdiction. Mr. Neimayer responded yes.

Mr. Hazlett asked if there were any pool covers in the neighborhood. Mr. Neimayer responded no.

Hearing no further questions, Chairperson Greenwood opened this portion of the public hearing at 2:13 pm. and asked if anyone would like to speak in favor of the case.

Applicant, William Hampshire, 11743 Zeller Ct., stated he has talked to his neighbors. He stated there are not a lot of fences surrounding entire properties in his neighborhood. He stated the covenants of the subdivision regulate the material type for fences. Mr. Hampshire stated he has a daylight basement with an egress window and he did not want a fence blocking it. Mr. Hampshire stated he submitted articles about safety and how the covers are better than fence. He stated a person can walk on the cover and it would not break. Mr. Hampshire stated there is negative with fence in that the gate door can be left open. He stated an automatic cover can stop little kids from falling in. He stated there is a button (locked) to automatically cover the pool. He noted the homeowner has to be diligent with the automatic cover, the same with a fence. He stated it would be expensive to fence the entire property.

Mr. Smith asked if others in the neighborhood have a fence around their pool. Mr. Hampshire said many have it around their property and some just around the pool. Mr. Hampshire stated his neighbor had wrought iron fence on two sides of their pool. Mr. Hampshire noted that one of his neighbors mentioned they did not want a fence to obstruct their view. Mr. Hampshire noted he talked to Scarff's Nursery (a neighbor) and they did not have any complaints

Mr. Hazlett asked if the property was in a subdivision. Mr. Hampshire said yes. He said there is an HOA (Home Owners Association), but not everyone is in compliance. He stated there are no fees. He stated he built his home 10 years ago and put the septic out front knowing he wanted a pool in the future.

Mr. Hazlett asked if Mr. Hampshire had any letters from his neighbors. Mr. Hampshire stated he did not have any letters. He knows most of the neighbors and has talked to them.

Ms. Riggs asked about the material of the cover. She stated in all her research some material only last five years and weakens easy due to sun damage, water, etc. She stated the weight limit does not suspend with an adult or heavy snow. She stated research states it weakens. Mr. Hampshire stated the material was a mesh and the installer told him it would hold 300 lbs. He stated he would have to pump off water, snow, etc. He acknowledged it is part of the homeowner's maintenance. The installer told him it would last 10-12 years if maintained properly.

Chairperson Greenwood noted there were no audience members. Therefore, no one else was present to speak in favor or against the case. He closed this portion of the public hearing at 2:27 pm. and asked for discussion among the Board.

Mr. Smith stated he had also investigated the covers. He stated a person could get over a fence and he felt the cover was better than a fence. He noted young kids like to climb fences, if the automatic pool cover control is under lock and key, he felt it is a better approach. He stated you could leave a gate open. This cover will also protect the Applicant's own children.

Ms. Riggs stated a pool is a liability and it needs to be protected. She stated encroachment is an issue. She stated the pool should require a fence due to the liability of drowning. Although she has never personally dealt with automatic pool covers, she read a lot about them. She stated it helps with evaporation, holds heat in and provide more maintenance benefits than safety.

Mr. Hazlett stated without seeing an automatic cover it is hard to determine its safety, but he stated he would think it is better than the old floating covers. Mr. Hazlett noted that he felt there was improvement due to modern day technology and it could be safer than a fence. Mr. Hazlett noted that he felt the concept sounds great, but was not sure if the cover would be better than a fence. He noted he was not sure if it is the right time to allow the covers instead of fencing. He noted that the neighbors do not seem to mind and the controls would be locked up.

Mr. Smith stated he had seen an automatic cover hold a German Shepard dog.

Ms. Riggs asked if the new technology was less sensitive to UV light and regular wear and tear. Mr. Smith stated the one he was referring to had been in place 15 years.

Ms. Riggs noted that a less dense area would make a difference.

Board members asked Mr. Neimayer about the fencing language. Mr. Neimayer stated that in residential areas the pool area or whole yard area must be fenced.

Mr. Hazlett stated the decision needs to be based on if it is safe enough.

Mr. Hampshire noted that other areas (communities) are starting to allow them.

Chairperson Greenwood stated he felt there will be different variables for each case.

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

Action on Case #BZA-2017-11 ~ Property Owner/Applicant: William Hampshire ~ Location: 11743 Zeller Ct.; Bethel Township ~ Request: Variance under Chapter 8, Section B, 2,e, 1, a, 3) to allow an in-ground pool with an automatic pool cover instead of required fencing.

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.

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Staff Comments

Mr. Neimayer told the Board the next scheduled meeting was July 27, 2017. He also noted that there would be further discussion as to whether the code needs changed to include automatic pool covers or continue to decide through BZA on an individual basis.

Mr. Neimayer also asked the Board if any members would miss the July meeting due to the county fair. He also asked if they felt the meeting should be moved up a week for future calendars. Those in attendance did not mind if the July meeting was moved up a week.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 2:45 pm.

Mr. Tim Greenwood, Chairperson

Mr. Thomas A. Hale, Secretary