

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, September 27, 2018

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Mr. Rick Smith, Vice Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:16 pm. and asked for the Roll Call.

Present For Roll Call: Mr. Paul Hazlett, Mr. Rick Smith and Ms. Greta Wilt.

Absent For Roll Call: Mrs. Jerri Taylor, Mr. David Minard and Ms. Janie Riggs.

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

Vice Chairperson Smith explained how the meeting will be conducted. He then asked if any Board members needed to abstain from any of the cases. Hearing none, Vice Chairperson Smith asked if there are any comments regarding the minutes. Hearing none he asked for a motion to approve the minutes.

Approval of the August 23, 2018 Minutes

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

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

No: None.

Motion carried.

Variance Case #BZA-2018-24 ~ Property Owners/Applicants: Loren & Susan Parker ~ Location: PID #130-08-00011-000-060; Harmony Twp. ~ Request: Variance to Chapter 2, Section A to reduce the lot frontage to 60 ft. instead of the required 150 ft. to allow the parcel to be divided. The frontage in question is located south of 463 S. Urbana-Lisbon Rd.

Vice Chairperson Smith asked for the Staff Report.

Mr. Allan Neimayer, Senior Planner, stated the subject property is located off of E. National Rd. and S. Urbana-Lisbon Rd., just outside the Village of South Vienna, and consists of 85.14 acres. The property currently has split zoning: B-3 (General Business District) on the north portion and A-1 (Agricultural District) on the south portion. The Applicant would like to divide the 85+ acres along the existing ditch line creating two separate parcels: 37.7375 acres to the north and 47.4009 acres to the south. While the 37+ acres would have approximately 562 ft. frontage along E. National Rd., the 47+ acres would only have 60 ft. of frontage along S. Urbana-Lisbon Rd. Because the 60 ft. frontage does not meet current zoning regulations, the Applicant has filed this variance request.

The Applicant also owns the adjacent property to the east fronting along E. National Rd. – PID #150-08-00012-301-012. This 3.85 acres is located inside the Village of South Vienna. Mr. Neimayer stated according to Chapter 2, Section A (A-1 Zoning District) of the Clark County Zoning Regulations, there is a minimum frontage requirement of 150 ft. for most uses (newly created parcels).

Mr. Neimayer explained that a neighbor, Rebecca Lippencott (135 E. National Rd.), called for clarification on the variance request. Also, Tammy Agle, legal counsel for the Village of South Vienna, called to inquire about the case.

Vice Chairperson Smith asked if the Board had questions for staff.

Mr. Hazlett asked how the property was created with a 60 ft. access. Mr. Neimayer gave a summary of the events leading up to this 60 ft. access and deferred to the Applicant to provide further detail.

With no further questions for Mr. Neimayer, Vice Chairperson Smith opened the public hearing at 2:23 pm.

Loren Parker, Applicant, 9545 E. National Rd., was sworn in. Mr. Parker explained in 2006 ODOT and the Ohio Attorney General locked access to property with no access to US 40. Mr. Parker explained he now has access on US 40 and SR 54. He explained his neighbor, Mr. Agle, sold him a 60 ft. wide strip of land to give him access. Mr. Parker explained that the access is supposed to be a farm lane. He explained that it is in the deed and authorized by the State. He explained the reason for the land division is because he could not really access through the property because of the topography. He explained after selling the land to the left it took away the entry way, so he asked ODOT for access onto SR 54 as otherwise there would be no access. Mr. Parker explained the access from SR 54 is 3,000 ft. long.

Mr. Hazlett asked if the 60 ft. by 3,000 ft. strip had a separate deed. Mr. Neimayer responded it is one parcel, but there may be different deeds to the property.

Vice Chairperson Smith asked Mr. Parker why he wanted to split the land. Mr. Parker responded he could not get through the property across the ditch even with a tractor. He explained he had access to the north area on US 40 and the south area on SR 54.

Vice Chairperson Smith asked Mr. Parker if he was splitting the property without crossing the ditch. Mr. Parker responded yes and explained he is getting up in age and wanted to sell the property. He stated the only reason for talking about split of land is the 60 ft. access point. He stated again that the state locked his access in the past. He explained he has the needed access on US 40. Mr. Parker continued to speak about the past access issue. Vice Chairperson Smith stopped Mr. Parker and asked him to stay focused on the current request.

With no further questions for Mr. Parker, Vice Chairperson Smith asked if there was anyone else wishing to speak for or against this case. No audience members spoke in favor or against the case.

Vice Chairperson Smith closed the public hearing at 2:35 pm. and asked for discussion from the Board. Mr. Hazlett asked for an Executive Session.

Executive Session

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

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

No: None.

Motion carried.

Time out at 2:36 pm.

Time in at 2:56 pm.

Vice Chairperson Smith reopened the public hearing at 2:58 pm.

Vice Chairperson Smith asked Mr. Parker to once again explain his reasoning for splitting the property. Mr. Parker responded he wanted to sell the property separately. Vice Chairperson Smith asked if he had any future plans for the property. Mr. Parker stated the sewer line runs across the front of the property down US 40 and to the surrounding area.

Ms. Wilt asked Mr. Parker to clarify that he wanted to sell as two separate lots. Mr. Parker responded the school could be built on the property and make a difference. He mentioned his daughter was on the Northeastern School Board. He stated he had a for sale sign on the property with "schools preferred." He stated if the school wanted to, they could buy the property and build a new school. Mr. Parker stated there is good drainage on the property, per the surveyor.

Vice Chairperson Smith asked if this request was for selling and for an investment. Mr. Parker responded he would never sell the proposed "Lot B" for business. He stated the intent is to keep "Lot B" as agricultural. He stated if someone wanted to use the property for a school that would be ideal.

Vice Chairperson Smith closed the public hearing at 3:04 p.m. and asked for Board discussion.

Mr. Hazlett clarified that the request in front of them was the new parcel and the 60 ft. road access. Mr. Neimayer responded yes.

Mr. Hazlett stated he was not concerned about "Lot A", just "Lot B". He explained that a 3,000 ft. drive with a 60 ft. access causes many concerns.

Mr. Parker was upset and approached the Board with an (ODOT ?) document explaining the Board had to approve the request.

Vice Chairperson Smith asked Mr. Parker to stop speaking and explained the public hearing was closed. Mr. Parker continued speaking and did not return to his seat.

Mr. Tom Hale, Director of Community and Economic Development, explained to Mr. Parker that the public hearing was closed and he had to take a seat or he would have to get someone from the Sheriff's office to assist. Mr. Parker did not stop speaking or take his seat. Mr. Hale went to get a Deputy Sheriff. Vice Chairperson Smith continued with the meeting as Mr. Parker returned to his seat.

With no further discussion from the Board, Vice Chairperson Smith asked for a motion.

Action on Variance Case #BZA-2018-24 ~ Property Owners/Applicants: Loren & Susan Parker ~ Location: PID #130-08-00011-000-060; Harmony Twp. ~ Request: Variance to Chapter 2, Section A to reduce the lot frontage to 60 ft. instead of the required 150 ft. to allow the parcel to be divided. The frontage in question is located south of 463 S. Urbana-Lisbon Rd.

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

VOTE: Yes: None.

No: Mr. Hazlett, Ms. Wilt, and Mr. Smith.

Motion defeated. As a result, the Applicants variance request is denied.

Vice Chairperson Smith asked for the next case.

Variance Case #BZA-2018-25 ~ Property Owner/Applicant: Grease Magic LTD ~ Location: 1321 S. Dayton-Lakeview Rd.; Bethel Twp. ~ Request: Variance to Chapter 2, Section I to reduce the rear setback from 100 ft. to 35 ft. and the side setback from 40 ft. to 25 ft. to add an additional self-storage building.

Vice Chairperson Smith asked for the Staff Report.

Mr. Neimayer explained the subject property is located at 1321 S Dayton-Lakeview Rd. and consists of 4.0 acres. The property currently has split zoning: I-1'S' (Industrial District, Specific Use) in the west portion and B-3

(General Business District) in the east portion. Surrounding area zoned A. The Applicant would like to construct an additional 35 ft. by 180 ft. (6,300 sq. ft.) self-storage building at the rear of the I-1'S' zoned property. Because this proposed development would not be in zoning compliance with required setbacks, the Applicant has filed this variance request.

Mr. Neimayer stated according to Chapter 2, Section I (Industrial District) Table 2.6 of the Zoning Regulations, the minimum side setback is 40 ft. and the rear setback is 100 ft. when adjoining any Zoning District except "O", "B" or "I". Mr. Neimayer presented the rezoning history of the property. He stated the parent 4.0 acre parcel was rezoned from A-1 (Agricultural District) to I-1'S' on January 6, 1987. The Specific Use designation allows for the following uses: lock and store facilities for individual, commercial and industrial storage; office space to serve the storage facilities; and outdoor storage for boats, trailers and recreational vehicles – these uses subject to applicable screening requirements. Following up on land use request for the front part of the parcel other than what the I-1'S' would allow, the then-owner of the property filed an application to rezone the front 1.451 acres to B-3 (General Business District). This latter rezoning request was approved on March 22, 1988 and thus created split zoning of the subject property. He further stated the increase in setback distances in the "I" and "B" zoning districts are intended to buffer those permitted industrial and business land uses with those of an abutting "R" district or existing residential dwellings. Following the 1987 I-1'S' rezoning, the property has been developed with multiple self-storage buildings maintaining the minimum 100 ft. rear setback, with one exception. In 2004, a zoning certificate was issued that allowed an 80 ft. extension for two of the existing buildings. A self-storage facility is a permitted use under B-4 zoning. The I-1 zoning district allows for those permitted uses in B-4 but must follow the minimum building rear and side setbacks of the I-1 District, Table 2.6. as noted above, those setbacks are 100 ft. rear setback and 40 ft. side setback.

Mr. Neimayer proceeded to show photos provided by the Applicant. He stated there was no communication from residents. He noted that there was a similar request a year ago, but utilities had concerns due to the lines running along the rear. Mr. Neimayer explained he received an email from the Utilities Department that it had been resolved.

Vice Chairperson Smith asked if the Board had questions for Staff.

Vice Chairperson Smith asked about the setbacks. Mr. Neimayer showed the property on the map and explained the setbacks.

With no further questions for Mr. Neimayer, Vice Chairperson Smith opened the public hearing at 3:17 pm.

Mike Stafford, representing Grease Magic LTD and Applicant, 11320 Carriage Hill Drive, was sworn in. Mr. Stafford explained both properties are owned by limited liability which is the same ownership within the family. He explained the first building was approved and then he kept building. He purchased the rest of the property and put in a retention area. He explained he was going to do retail along the front, so that limits the area to build. He further explained he had outside storage in the area, but now wants units for inside storage. Mr. Stafford explained there is enough space to get around the building. He wants to put the building where he has the open land. He stated he is trying to match the current build lines. He explained he needed more space. Mr. Stafford stated the request does not hurt the neighbors. He noted that the residential use is far away. He said it will look nicer than leaving the stuff outside the buildings. He stated he did not plan on electric or plumbing in the building and added the area already had light.

Vice Chairperson Smith asked about the utilities. Mr. Stafford responded the manufactured home park to the north had issues and was given an easement for sewer hookup and ties into county sewer. He stated there was concern that this building would block access. It does not block it.

With no further questions for the Applicant, Vice Chairperson Smith asked if there was anyone else wishing to speak for or against this case.

Mr. Tom Hale, Chief Building Official, was sworn in. Mr. Hale stated he was not speaking for or against the request. He stated from a building code standpoint, there are no building problems. He noted this zoning

predates Staff and it was fair to note that there were several buildings built at 25 ft. setback in the past. He noted the zoning code changed in 2009 and commercial buildings have been challenged with setback issues. He stated the building will not pose any issues.

Lowell McGlothin, 327 S Main St., New Carlisle, was sworn in. Mr. McGlothin stated he lives in Bethel Township and no one has a better run facility than the Applicant. Mr. McGlothin has known the family for a long time and everything is first class and kept up. He stated he would like to see the approval and stated it would help Clark County.

With no one else to speak for or against this case, Vice Chairperson Smith closed the public hearing at 3:29 pm. and asked for discussion from the Board. Mr. Hazlett asked for an executive session.

Executive Session

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

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

No: None.

Motion carried.

Time out at 3:30 pm.

Time in at 3:42 pm.

Vice Chairperson Smith stated the request would require asphalt not gravel.

Mr. Hazlett asked Mr. Stafford if he would entertain the request to match gravel. Mr. Stafford stated yes and explained that was his intent.

Mr. Hazlett stated the changes from the previous request are positive and he believes the changes are ok and felt there was no reason to deny. Mr. Hazlett stated he was in favor of the request.

Ms. Wilt stated it was well planned and within the build line limits of the other buildings.

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

Action on Variance Case #BZA-2018-25 ~ Property Owner/Applicant: Grease Magic LTD ~ Location: 1321 S. Dayton-Lakeview Rd.; Bethel Twp. ~ Request: Variance to Chapter 2, Section I to reduce the rear setback from 100 ft. to 35 ft. and the side setback from 40 ft. to 25 ft. to add an additional self-storage building.

Motion by Mr. Hazlett, seconded by Ms. Wilt, to **Approve** the Variance request as presented with gravel parking area permitted.

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

No: None.

Motion carried.

Variance Case #BZA-2018-26~Property Owner/Applicant: Joshua Morgan ~ Location: 1167 Teresa Lane; Bethel Twp. ~ Request: Variance to Chapter 2, Section A to allow a 5 ft. side setback instead of the required 25 ft. to build a room addition.

Vice Chairperson Smith asked for the Staff Report.

Mr. Neimayer stated the subject property is located at 1167 Teresa Lane and consists of 1.64 acres. The property is zoned A-1 (Agricultural District). To the east side is larger residential lots and agriculture to the west. The Applicant would like to add a 1,112 sq. ft. room addition at the rear of the home maintaining the existing north build line. Because this addition would not meet the current side yard setback requirement, the Applicant has filed this variance request.

Mr. Neimayer stated Chapter 2, Section A of the zoning regulations requires the least side yard setback of 25 ft. The Applicant would like to maintain the same building line of the existing home, which is approximately 5 ft. from the (north) side lot line. The well and septic are not in the proposed area. He stated there was no communication or questions on this case.

Vice Chairperson Smith asked if the Board had questions for Staff.

Vice Chairperson Smith asked if the distance is 5 ft. now. Mr. Neimayer responded it is approximately 5.5 ft.

With no further questions for Staff, Vice Chairperson Smith opened the public hearing at 3:49 pm.

Joshua Morgan, Applicant, 1167 Teresa Lane, was sworn in. Mr. Morgan stated he wanted to build more square footage for his growing family. He stated the current house space is useable, but not functional. He explained his need for the extra square footage and to redo the layout of the home. Mr. Morgan noted it will increase the value of property and of the neighborhood. He explained he did not want to move because everything he needed was right there. He stated he has been in contact with architects, but his dad explained the variance process should be first. Mr. Morgan explained this is the best option, but there may be others. He was trying not to have an odd shaped addition.

Mr. Hazlett asked where the well and septic were located. Mr. Morgan stated it does not appear to be an issue. He noted it will still be 40 ft. away. He stated the septic is in front of the home. He was not adding any bedrooms or bathrooms, just making them bigger.

With no further questions for the Applicant, Vice Chairperson Smith asked if there was anyone else wishing to speak for or against this case.

There were no audience members.

Vice Chairperson Smith closed the public hearing at 3:56 pm. and asked for discussion from the Board.

Mr. Hazlett stated it is common sense to allow the Applicant to continue to build at the same build line.

Ms. Wilt stated she felt it was not an issue to continue with the build line and it would increase property value.

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

Minutes

Clark County Board of Zoning Appeals

Action on Variance Case #BZA-2018-26 ~ Property Owner/Applicant: Joshua Morgan ~ Location: 1167 Teresa Lane; Bethel Twp. ~ Request: Variance to Chapter 2, Section A to allow a 5 ft. side setback instead of the required 25 ft. to build a room addition.

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

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

No: None.

Motion carried.

Land Use Committee

Mr. Neimayer stated due to the time he would defer the Land Use Committee discussion until the next meeting.

Staff Comments

Mr. Neimayer stated the next scheduled meetings are on October 25 and November 29, 2018.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 3:59 pm.

Mr. Rick Smith, Vice Chairperson

Mr. Thomas A. Hale, Secretary