

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, September 28, 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, Ms. Janie Riggs, and Mr. David Minard.

Absent For Roll Call: Mrs. Jerri Taylor and Mr. Rick Smith.

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

Mr. Greenwood noted Mr. Minard will be a full-voting member.

Chairperson Greenwood explained how the meeting will be conducted. He then asked if any Board member needed to abstain from any of the cases. Ms. Riggs stated she would be abstaining from BZA-2017-20.

Chairperson Greenwood asked if there are any comments regarding the minutes. Hearing none, he asked for a motion.

Approval of the August 24, 2017 Minutes

Motion by Mr. Minard seconded by Mr. Hazlett, to **Approve** the minutes with the typographical errors noted by Ms. Riggs (Page 3, paragraph 4, delete "the property" and Page 6, paragraph 7, remove "the".)

VOTE: Yes: Mr. Minard, Mr. Hazlett, and Mr. Greenwood.

No: None

Abstain: Ms. Riggs.

Motion carried.

Variance Case #BZA-2017-17 ~ Property Owners/Applicants: John & Theresa Cochran ~ Location: 112 Newlove Rd.; Harmony Township ~ Request: Variance to Chapter 8, Section B, 2, h) to allow an accessory family suite at 720 sq. ft. instead of the maximum 600 sq. ft.

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Allan Neimayer, Senior Planner, stated the subject property is located at 112 Newlove Rd. and consists of 0.97 acres. He noted the property is zoned A-1 (Agricultural District). Mr. Neimayer said the Applicants would like to convert an existing detached garage into an accessory family suite, an "apartment for 88 year old father so he can be taken care of here." Chapter 8, Section B, h) of the Clark County Zoning Regulations states the maximum size of a

family suite shall not exceed 600 sq. ft. In addition, zoning regulations require the family suite “be located in the principal dwelling and must be subservient to the principal use of the property as a dwelling.” He also noted only one set of on-site utilities are permitted, and must be adequately sized to serve both the single-family dwelling and the accessory family suite. Mr. Neimayer stated the records from the Health District indicate the on-site utilities are located behind (east of) the house and existing detached garage.

Chairperson Greenwood asked if there were any questions for staff.

Mr. Hazlett asked for the road frontage of the property. Mr. Neimayer responded 95 ft. Mr. Hazlett asked for clarification it was for the existing garage for accessory apartment. Mr. Neimayer stated that was correct.

Chairperson Greenwood asked if the Board granted the variance, who would deal with any health department issues. He asked if it would be discussed during the building permit process. Mr. Neimayer responded yes, staff works with the Applicant to make sure they are working with the Health District.

Mr. Hazlett asked for clarification again. He stated regulations only allow 600 sq. ft. and they are asking for 720 sq. ft. Mr. Neimayer responded yes.

Chairperson Greenwood opened the public hearing at 2:09 pm. and asked if the Applicant wished to speak.

Theresa Cochran, Applicant, 112 Newlove Rd., was sworn in. She stated her husband’s father is elderly and they would like to turn the 720 sq. ft. garage into a living area for him. She stated it has electricity, but she will have to add sewer and water. She stated she has had an architect work on an enclosed breezeway design.

Mr. Hazlett asked for the distance between the house and garage. Ms. Cochran responded 6 ft. Mr. Hazlett asked if she still had room to get to the back yard. Ms. Cochran responded she would still have several ways to get to the backyard.

Hearing no further questions, Chairperson Greenwood asked if anyone in the audience wished to speak in favor of the case. There were none. He then asked if anyone wished to speak against the case. There were none.

Chairperson Greenwood closed the public hearing at 2:12 pm.

Mr. Hazlett stated he had no issues with the request. He stated it was only an additional 120 sq. ft. of space.

Ms. Riggs stated she had no issues with the request.

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

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Action on Variance Case #BZA-2017-17 ~ Property Owners/Applicants: John & Theresa Cochran ~ Location: 112 Newlove Rd.; Harmony Township ~ Request: Variance to Chapter 8, Section B, 2, h) to allow an accessory family suite at 720 sq. ft. instead of the maximum 600 sq. ft.

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

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

No: None.

Motion carried.

Variance Case #BZA-2017-18 ~ Property Owner/Applicant: Dale Back ~ Agent: Wayne Gibson ~ Location: 3267 Lower Valley Pike; Mad River Township ~ Parcel No. 180-06-00016-302-012 ~ Request: Variance to Chapter 2, Section A to create a new 10-acre parcel without frontage on a public right-of-way.

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 3267 Lower Valley Pike (PID #180-06-00016-302-012) and consists of 16.64 acres. He stated the property is zoned A-1 (Agricultural District). The existing parcel does not have any road frontage and is a legal, non-conforming lot. The Applicant would like to split the northern 10.0 acres from the parcel to be used for farming. He explained this proposed 10-acre parcel cannot be combined with the Agent's current property to the north (PID #180-06-00016-301-005) due to the old rail ROW now owned by the Clark County Park District. The Park District has agreed to an access easement on the east side of their property as shown on the survey map. Mr. Neimayer explained that Chapter 2, Section A of the Clark County Zoning Regulations requires new lots in the A-1 District to have a minimum 150 ft. of frontage on a public right-of-way. Mr. Neimayer stated most of the property is in the flood plain. He then directed the Board to the letter from the County Engineer.

Chairperson Greenwood asked if there were any questions for staff.

Ms. Riggs asked if the easement preexisted. Mr. Neimayer responded yes.

Hearing no further questions, Chairperson Greenwood opened the public hearing at 2:20 p.m.

Dale Back, Applicant, 3267 Lower Valley Pike, was sworn in. She stated she did not have anything to add to what was presented. She stated the surveyor could answer questions.

Tom Dusa, surveyor with Haley Dusa, 270 Regency Ridge Drive, Dayton, was sworn in. He stated he was hired to help with the split. He stated Wayne Gibson, who owns the property to the north, wants 10 acres to farm. He stated Mr. Gibson will provide the 30 ft. easement for access. The Clark County Parks District is okay with the 30 ft. easement. He stated an easement was needed to make it a legal lot, so it could be split. He stated the 30 ft. easement would continue so that Ms. Back's property was not land locked.

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Chairperson Greenwood asked if there were any questions.

Mr. Hazlett asked who owned the property. Ms. Back responded she owns the property.

Mr. Hazlett asked how Ms. Back accessed her property. Mr. Dusa responded the drive, but it is not currently an easement. Mr. Hazlett stated there was no ownership of the drive, but other neighbors also use it. Mr. Dusa responded that was correct. Mr. Hazlett asked if the area to be split was pasture area. Mr. Dusa responded yes. Mr. Hazlett asked if there are any plans to develop the land. Mr. Dusa responded no, but it would have to meet all the zoning requirements if someone did. He noted there are at least 4 properties just like this one in the area.

Zach Harvey, Attorney representing Mr. Gibson, 30 Warder St., was sworn in. Mr. Harvey stated the split is the first step to clean up the four lots. He said the lots use the existing drive, but it is not an easement. Mr. Harvey stated the County Parks own old railroad property. The easement has been discussed and has been agreed upon. There are no development plans at this time for the 10 acres. This cleans up the other property access issues. He noted the parcel is currently landlocked.

Chairperson Greenwood asked if anyone else from the audience wished to speak for the case. There were none. He then asked if anyone wished to speak against the case. There were none. He closed the public hearing at 2:32 p.m.

Mr. Hazlett asked Mr. Neimayer to clarify what the County Engineer meant by cluster in the letter. Mr. Neimayer reviewed cluster lotsplits done in the past.

Mr. Hazlett stated this is one of many issues created in the past. This would clean it up and straighten up the easement issue. He further stated, after hearing testimony, he felt it was carefully planned.

Ms. Riggs asked if access was ever dedicated. Mr. Neimayer responded according to testimony, everyone is just using the drive. Ms. Riggs asked if it was the only access. Mr. Neimayer responded yes.

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

Action on Variance Case #BZA-2017-18 ~ Property Owner/Applicant: Dale Back ~ Agent: Wayne Gibson ~ Location: 3267 Lower Valley Pike; Mad River Township ~ Parcel No. 180-06-00016-302-012 ~ Request: Variance to Chapter 2, Section A to create a new 10-acre parcel without frontage on a public right-of-way.

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

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

No: None.

Motion carried.

Variance Case #BZA-2017-19 ~ Property Owner/Applicant: Justin Clevinger ~ Location: 3249 Spangler Rd.; Bethel Township ~ Request: Variances to Chapter 6, Section B, 2, a) to allow an off-premise sign with 4 faces instead of two; and to Chapter 6, Section B, 2, d) to allow a 5 ft. setback from the right-of-way instead of the required 40 ft.

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 3249 Spangler Rd. and consists of 10.45 acres. He stated the property is zoned A-1 (Agricultural District). The Applicant would like to install an off-premise sign with four (4) faces and a setback of 5 ft. from the right-of-way. Mr. Neimayer said Chapter 6, Section B, 2, a) of the Clark County Zoning Regulations limits off-premise signs to two (2) sign faces. In addition, Chapter 6, Section B, 2, d) requires the setback for off-premise signs to "be no closer to the public right-of-way than the established building setback requirements of the district in which the sign is located, and no closer than thirty (30) feet to any adjoining lot line." He explained the front building setback in the A-1 District, residential use, is 40 ft. The current ROW of Spangler Rd. is 40 ft. and the Thoroughfare Plan ROW for Spangler Rd. 80 ft. Therefore, the required zoning setback of the off-premise sign is 80 ft. from the centerline of Spangler Rd. (40 ft. front building setback plus 40 ft. Thoroughfare Plan ROW from centerline). The Applicant's variance request is to allow the off-premise sign to be 45 ft. from centerline. Mr. Neimayer pointed out a sign further down the road approved in the past.

Chairperson Greenwood asked if there were any questions for Mr. Neimayer.

Ms. Riggs asked if the sign would have lights. Mr. Neimayer responded yes.

Mr. Hazlett asked if the sign would be internally illuminated. Mr. Neimayer responded no, just a light shining down on display area.

Ms. Riggs questioned the size of the shaft to see if it was big enough and deep enough to support the wind and the type of soft ground. Mr. Neimayer responded the Applicant would be required file a Flood Plain Development Application. Ms. Riggs said the ground is very swampy in the area and it floods with two inches of rain, so she was concerned.

Mr. Hazlett asked for clarification that the Applicant would have to get Flood Plain development approval. Mr. Neimayer stated yes and added the Applicant would also need a zoning certificate and a building permit.

Hearing no further questions, Chairperson Greenwood opened the public hearing at 2:47 p.m.

Beacher Webb, sign contractor, Harveysburg, Ohio, was sworn in. He stated it is necessary to address the flood plain and there are requirements to meet. He stated they are asking for the sign to be 45 ft. from the centerline of road. He handed out photos of the proposed sign to illustrate the size. He stated the advertising is for small mom and pop businesses and rent for \$150 a month. He stated the signs are considered miniature signs and need to be closer to the road because they are smaller. He noted there are safety issues if you put them too far from the road because you do not want a motorist to read something they cannot see. He stated the sign face is 6 ft. by 12 ft., about half the normal size. His company has over 100 throughout Ohio. Mr. Webb stated the diameter of the shaft would be 24-30 inch diameter. He noted that was a good question. He stated if while digging they discovered sand/gravel, a foundation would be put in.

Chairperson asked if anyone else in the audience wished to speak for or against the case. There were no comments. Chairperson Greenwood closed the public hearing at 2:55 p.m.

Mr. Hazlett asked if anyone thought there would be a visibility issue. Ms. Riggs answered no.

Mr. Greenwood asked if there was a house to south and if they were notified. Mr. Neimayer responded yes to both questions.

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

Action on Variance Case #BZA-2017-19 ~ Property Owner/Applicant: Justin Clevinger ~ Location: 3249 Spangler Rd.; Bethel Township ~ Request: Variances to Chapter 6, Section B, 2, a) to allow an off-premise sign with 4 faces instead of 2; and to Chapter 6, Section B, 2, d) to allow a 5 ft. setback from the right-of-way instead of the required 40 ft.

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

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

No: None.

Motion carried.

Mr. Riggs removed herself from the Board for the next case.

Variance Case #BZA-2017-20 ~ Property Owners/Applicants: Randy & Jean Berry ~ Location: 1313 Lake Shore Dr.; Bethel Township ~ Request: Variance to Chapter 2, Section F to allow a reduction in front yard setbacks of a corner lot from 25 ft. to 17 ft. and 25 ft. to 23 ft. for a room addition.

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 1313 Lake Shore Dr. and consists of 0.25 acres. He said the property is zoned R-CL (Residential-Crystal Lakes). He reviewed the history of creating the specific zoning district for Crystal Lakes. The Applicant would like to add an 8 ft. by 26 ft. (208 sq. ft.) addition to the single-family dwelling for storage and is requesting an allowance to reduce the front yard setbacks of the corner lot from 25 ft. to 17 ft. (Sycamore Rd. side) and 25 ft. to 23 ft. (Lake Shore Dr. side) for the room addition. Chapter 2, Section F of the Clark County Zoning Regulations requires a 25 ft. front yard setback. Because the subject property is a corner lot, the 25 ft. setback would be required for both Sycamore Rd. and Lake Shore Dr. Mr. Neimayer stated he received a letter from a surrounding property owner not in support of request. He noted the person did not identify which property they owned. No further communication on this case was received.

Mr. Hazlett asked if it was an attached room addition. Mr. Neimayer responded yes.

Hearing no further questions, Chairperson Greenwood opened the public meeting at 3:04 pm.

Randy Berry, Applicant, 1313 Lakeshore Drive, was sworn in. He stated he really liked the neighborhood. He stated his home had really small closets and they need more storage space. He stated the area is beside their master bedroom so some of it will become a master closet. He stated he did not know what neighbor objected, but if it was the one next door, the addition is on the opposite side, therefore not affecting them.

Mr. Greenwood asked if the Applicant was going to continue to use both drives. Mr. Berry responded he would continue to use the front portion of the drive off of Lake Shore Dr.

Hearing no further questions, Chairperson Greenwood asked if anyone else wished to speak for or against the case. There were none. Chairperson Greenwood closed the public hearing at 3:07 pm.

Mr. Hazlett stated there are known issues with the size of the lots in Crystal Lakes. He stated this project is just barely over the setback requirements. He noted the neighbor (who sent in the letter) was not present to testify against the request. He stated he did not see how it could be a negative to the area. It does not interfere with any line of sight.

Chairperson Greenwood agreed. He stated the setbacks are very close to the regulations. Hearing further discussion, Chairperson Greenwood asked for a motion.

Action on Variance Case #BZA-2017-20 ~ Property Owners/Applicants: Randy & Jean Berry ~ Location: 1313 Lake Shore Dr.; Bethel Township ~ Request: Variance to Chapter 2, Section F to allow a reduction in front yard setbacks of a corner lot from 25 ft. to 17 ft. and 25 ft. to 23 ft. for a room addition.

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

VOTE: Yes: Mr. Hazlett, Mr. Minard and Mr. Greenwood.

No: None.

Motion carried.

Mr. Riggs re-joined the Board for the remainder of the meeting.

Variance Case #BZA-2017-21 ~ Property Owner/Applicant: Herbert Tipton ~ Location: 4588 Lower Valley Pike; Bethel Township ~ Request: Variance to Chapter 2, Section A to allow a reduction in the side setback sum from 60 ft. to 48 ft. to construct a new single-family dwelling.

Chairperson Greenwood asked Mr. Neimayer for the Staff Report.

Mr. Neimayer stated the subject property is located at 4588 Lower Valley Pike and consists of 1.04 acres. He said the property is zoned A-1. The Applicant would like to remove the existing single-family dwelling and construct a new 1,947 sq. ft. single-family dwelling. The proposed size of the new dwelling creates an issue with the required side setbacks. Chapter 2, Section A, of the

Clark County Zoning Regulations requires the side setbacks to be 25 ft. minimum and a sum of 60 ft. The width of the subject property is 103 ft. The side setbacks for the existing dwelling are approximately 21 ft. (west lot line) and approximately 28 ft. (east lot line) for a sum of 49 ft. The proposed new dwelling is 55 ft. 2 inches by 51 ft. 4 inches. Assuming the new dwelling is centered on the property, the side setbacks would be approximately 24 ft. on both sides.

Chairperson Greenwood asked if there were questions for staff. Hearing none, he opened the public hearing at 3:13 pm.

Herbert Tipton, Applicant, 1017 Merrywood Dr., Englewood, was sworn in. He stated he inherited the property and would like to live there. He explained he did not want a two-story house, so he needed the Variance to meet setbacks of the ranch style home he selected.

Chairperson Greenwood asked if anyone was living in the house. Mr. Tipton responded no.

Hearing no further questions, Chairperson Greenwood asked if there were any other audience members who wished to speak for or against the request. There were none. Chairperson Greenwood closed the public hearing at 3:15 p.m.

Mr. Hazlett stated he understood the Applicant did not want to repair the current home but still wants to use the property. He stated he also understood why he wanted a ranch and, therefore, he had no issues with the setbacks.

Chairperson Greenwood stated the property has been vacant and demolishing the old home and building a new will be a plus in the area.

Action on Variance Case #BZA-2017-21 ~ Property Owner/Applicant: Herbert Tipton ~ Location: 4588 Lower Valley Pike; Bethel Township ~ Request: Variance to Chapter 2, Section A to allow a reduction in the side setback sum from 60 ft. to 48 ft. to construct a new single-family dwelling.

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

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

No: None.

Motion carried.

Staff Comments

Mr. Neimayer told the Board the next scheduled meeting will be October 26, 2017. He told the Board six applications had been filed. He reminded them about the holiday calendar with meetings scheduled for November 21 and December 28.

Mr. Hazlett told staff he missed the Connect Public Workshop, but was still interested. Mr. Neimayer explained the next round of public hearing was tentatively set for December. He invited the Board to the October steering committee meeting.

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Chairperson Greenwood informed the Board he had turned in his resignation effective December 31, 2017. He explained that he had been on the Board for 8-9 years and has really enjoyed it, but needed to move on.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 3:25 pm.

Mr. Tim Greenwood, Chairperson

Mr. Thomas A. Hale, Secretary