

# ***Minutes***

## ***Clark County Board of Zoning Appeals***

Regular Meeting ~ 2:00 pm.  
Thursday, March 23, 2023

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 2:05 pm. and asked for the Roll Call.

Present For Roll Call: Mrs. Jerri Taylor, Mr. Rick Smith, Mr. Tom Duffee and Mrs. Carol Smith.

Absent For Roll Call: Mr. Paul Hazlett.

Also in Attendance: Mrs. Jennifer Tuttle and Mrs. Rachel Ricketts of Clark County Community & Economic Development.

Chairperson Taylor explained how the meeting will be conducted.

### **Approval of the February 23, 2023 Minutes**

Motion by Mr. Duffee, seconded by Mr. Smith, to **Approve** the minutes with corrections.

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

**No:** None.

***Motion carried.***

Chairperson Taylor asked Staff to present the case.

### **Case #BZA-2023-03 ~ Property Owners/Applicants: Ty & Robyn Callicoa ~ Location: 13000 Old Osborne Rd.; Harmony Twp. ~ Request: Variance from Chapter 2, Section 201, to reduce the frontage required for a lot split.**

Mrs. Jennifer Tuttle, Senior Planner, stated that the subject property is located at 13000 Old Osborne Rd. and consist of 68.44 acres. The property is currently zoned A-1 (Agricultural District). The Applicant would like a Variance to Chapter 2, Section 201, to reduce the frontage required for a lot split. The Applicant would like to split the existing property with the dwelling leaving 25 ft. of frontage for the new lot.

Mrs. Tuttle stated the Clark County Utilities had no comments. She explained the comments from the Clark County Engineer's office are as follows: 1) Access a) the lot split will create a 25 foot strip along the eastern property line which currently has a gravel drive which accesses a rear building. The residential property will need to establish an access easement on the 25 foot strip for shared use. Based on the information available and taking into consideration the above comments, the County Engineer defers to staff for the current request. She noted the Clark County Health District stated that a soil evaluation & lot split is required.

Chairperson Taylor asked for the reasoning for the 150 ft. of frontage. Mrs. Tuttle stated Chapter 2, Section 201 requires 150 ft. of frontage for this zoning district with a minimum of 1 acre lots.

Hearing no further questions for Staff, Chairperson Taylor opened the portion of the public hearing at 2:09 pm and asked if the Applicant would like to speak.

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Applicants, Robyn Calliccoat & Ty Calliccoat, 13000 Old Osborn Rd, were sworn in. Mrs. Calliccoat stated we are in the process of getting divorced. We are first generation farmers and would like to continue it for our family. We are friendly with the arrangement we have. Mrs. Calliccoat stated I will keep the homestead and have the access point for him to get back to the field. She stated it will be a shared driveway.

Mr. Calliccoat added I farm full time.

Mr. Smith asked Mr. Calliccoat if he takes farm equipment in that driveway. Mr. Calliccoat answered yes. Mr. Smith asked if 25 feet is wide enough. Mr. Calliccoat stated yes. He stated we get in and out with semis now, so it is enough.

Mr. Duffee asked to see the aerial map of the property again. Mr. Duffee asked if Mrs. Calliccoat will remain in the house. Mrs. Calliccoat answered yes. Mr. Duffee asked for an explanation of the lot split. Mrs. Calliccoat explained the house and part of the drive will be split off from the remaining 65 acres.

Mr. Duffee asked where Mr. Calliccoat keeps the equipment. Mr. Calliccoat stated it stays on the property.

Chairperson Taylor asked about the neighbors. Mrs. Calliccoat explained the surrounding property owners and noted they are in favor of the request since nothing is changing.

Mrs. Calliccoat added we have already got a soil test done through the Health District and we are able to put in a new septic if we need to.

Mr. Duffee noted in the future the land could be sold with that 25 foot strip back to the 65 acres.

Chairperson Taylor stated the request is for the 25 foot to put in a drive. Mr. Calliccoat stated the driveway is already there.

Mr. Smith asked to see the aerial view of the property.

Chairperson Taylor asked why it is necessary to split it if there is an agreement. Mrs. Calliccoat stated there is debt on the property and the agreement is that he will take the debt and I will not.

Mr. Duffee asked who owns the 65 acres. Mrs. Calliccoat stated right now we both do, but the 65 acres will be in his name and the house (acreage) will be in my name.

Mrs. Tuttle explained each new lot is required to have the 150 feet of frontage. The new proposed lot will be the 65 acres behind the barn with the driveway but only 25 feet of frontage.

Mr. Duffee stated if it wasn't for the 25 feet of frontage we would not see this case. Mrs. Tuttle stated if they had 150 feet of frontage for both lots they could go through the lot split process and not need the Variance, but because they have to reduce that frontage down, they needed the Variance.

With no more questions for the Applicant, Chairperson Taylor asked if anyone would like to speak in favor of the request. Hearing none, she then asked if anyone wanted to speak in opposition to the request. Hearing none, Chairperson Taylor closed the public portion of the hearing at 2:18 pm and asked for Board discussion.

Mr. Duffee stated it is an unusual request, but I see no difference than other shared access we've dealt with in the past. I cannot generate reasons to be against it.

Chairperson Taylor added there is not much you can do with 25 feet of frontage except a drive.

Mr. Smith stated it's landlocked and it's been for farming. I don't see anything else that could transpire there and you wouldn't do anything with development, I think this is the best situation.

Mrs. Smith stated she agrees with Mr. Smith, and doesn't see any problems at all.

Mr. Duffee asked if it is possible in the future for someone to build a house on that acreage and they would only have 25 feet of road frontage. Mrs. Tuttle stated yes, that is correct.

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

**Action on Case #BZA-2023-03 ~ Property Owners/Applicants: Ty & Robyn Callicoaat ~ Location: 13000 Old Osborne Rd.; Harmony Twp. ~ Request: Variance from Chapter 2, Section 201, to reduce the frontage required for a lot split.**

Motion by Mr. Smith, seconded by Mr. Duffee, to **approve** as presented with the condition of the shared access agreement.

**VOTE: Yes:** Mr. Smith, Mr. Duffee and Mrs. Smith.

**No:** None.

***Motion carried.***

Chairperson Taylor asked Staff to present the next case.

**Case #BZA-2023-04 ~ Property Owners/Applicants: David & Nichole Baker ~ Location: 5974 New Carlisle Pk.; Bethel Twp. ~ Request: Variance from Chapter 8, Section 802.03.02 to allow a pole barn in the front yard less than 300 ft. from ROW on a corner lot.**

Mrs. Jennifer Tuttle stated that the subject property is located at 5974 New Carlisle Pike and consists of 1.56 acres. The property is currently zoned A-1 (Agricultural District). The Applicant would like to construct a 40 ft. by 50 ft. pole barn in the front yard of a corner lot less than 300 ft. from the ROW.

Mrs. Tuttle explained the zoning regulations.

**Chapter 10, Definitions, Corner Lot:** A lot abutting upon two (2) or more roads or streets at their intersection or upon two (2) parts of the same road or street and in either case forming an interior angle of less than one hundred thirty-five (135) degrees.

**Chapter 8, Section 806.01.02** on all corner lots, all yards which front on streets shall be considered front yards, and as such, shall meet the minimum front yard requirement specified for the District in which such lot is located. Of the remaining yards, one yard shall meet the minimum rear yard setback requirements while the other remaining yard shall meet the minimum side yard setback requirements.

**Chapter 8, Section 802.03** Residential accessory buildings shall be detached from the principle residential building, are preferred to be located in the rear yard and shall follow the development standards of Table 8.1. [rev. 11-4-2020]

**Chapter 8, 802.03.02** Notwithstanding other provisions of these Regulations, a residential accessory building may be located in the front yard provided it is at least three hundred (300) feet from the road right-of-way. [eff. 11-6-2008; rev. 11-4-2020]

Mrs. Tuttle stated that the Clark County Combined Health District noted that a site evaluation was completed and approved.

Mrs. Tuttle stated she could answer any questions from the Board.

Chairperson Taylor asked for the setbacks in a front yard. Mrs. Tuttle stated that is what the Board will have to choose since it's not allowed to be built in front yard. She noted there isn't anything in code for front yard setbacks.

Chairperson Taylor asked what is on the other side of the road on Whispering Wind Drive. Mrs. Tuttle answered there are homes.

Chairperson Taylor asked what we need for the right-of-way (how far off) on Whispering Wind Dr. Mrs. Tuttle stated because this is considered front yard that is what you will be approving. If anything is requested in the front yard, you would put the setbacks on it. It is based on your determination.

Mr. Smith asked for the maximum size allowed for the lot size. Mrs. Tuttle answered it is 1.56 acres, so they can have up to 3000 sq. ft.

Mr. Duffee asked if the variance is only for the distance from the right-of-way. He also asked how far away they are from Whispering Wind Drive. Mrs. Tuttle answered based on my approximate measurements it's about 38 feet from the centerline of the road. Mr. Duffee asked if it was considered in the side yard what that setback would be. Mrs. Tuttle answered 5 feet.

Chairperson Taylor asked if the distance is ok from New Carlisle Pike to the front of the pole barn. Mrs. Tuttle answered yes.

Mr. Duffee asked if there is a house right across the street and a development behind it. Mrs. Tuttle answered correct.

Hearing no further questions for Staff, Chairperson Taylor opened the portion of the public hearing at 2:29 pm and asked if the Applicant would like to speak.

Applicant, Nikki Baker, 5974 New Carlisle Pike, was sworn in. Mrs. Baker stated, we looked at several locations in the backyard but where the septic is we had to move it a little closer to the house. She stated if we moved it to the other side of the house, we would of needed another driveway to get back there. She stated this was the easiest and most convenient place to put it.

Mr. Duffee asked the Applicant if they owned any property where the subdivision was put in.

Mrs. Baker stated no. She stated we moved in around 1999 and they were still farming that land at the time.

Chairperson Taylor added I do like the fact that there won't be a second access drive. She stated New Carlisle Pike is a busy road. She stated it looks like you have looked for the best location for this.

Mrs. Smith asked if it's the same driveway. Mrs. Baker answered, yes. She stated the driveway that is currently there will go straight into the pole barn.

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With no more questions for the Applicant, Chairperson Taylor asked if anyone would like to speak in favor of the request. Hearing none, she then asked if anyone wanted to speak in opposition to the request. Hearing none Chairperson Taylor closed the public portion of the hearing at 2:31 pm and asked for Board discussion.

Chairperson Taylor stated I like the fact that there won't be another access. The corner lots have been a challenge for us for quite some time. I would only add in the motion that they do not go over the allowed 3000 sq. ft.

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

**Action on Case #BZA-2023-04 ~ Property Owners/Applicants: David & Nichole Baker ~ Location: 5974 New Carlisle Pk.; Bethel Twp. ~ Request: Variance from Chapter 8, Section 802.03.02 to allow a pole barn in the front yard less than 300 ft from ROW on a corner lot.**

Mr. Duffee read through the findings of facts and did not find anything substantial.

Motion by Mr. Duffee, seconded by Mr. Smith to **approved** as presented.

**VOTE: Yes:** Mr. Duffee, Mr. Smith and Mrs. Smith.

**No:** None.

***Motion carried.***

**Case #BZA-2023-02 (Continuation) ~ Property Owner/Applicant: Frederick Messaros ~ Location: 1291 Cold Springs Rd.; Mad River Twp. ~ Request: Conditional Use approval under Section 743 for Resource and Mineral Extraction**

Motion by Mr. Smith, seconded by Mr. Duffee to **continue** case #BZA-2023-02.

**VOTE: Yes:** Mr. Smith, Mr. Duffee and Mrs. Smith.

**No:** None.

***Motion carried.***

Chairperson Taylor asked Staff to present the next case.

Mrs. Jennifer Tuttle stated that the subject property is located at 1291 Cold Springs Rd and consists of 63.77 acres and 87.69 acres. The property is zoned PD-B and A-1 (Agricultural District). The Applicant would like a Conditional Use approval. The Applicant would like to use a portion of the property for resource and mineral extraction. The Applicant is required to do a lot line adjustment for approximately 85.27 acres for the use. The remaining acres will be used for Commercial Recreation and Agricultural Use rezoned in 2022.

Mrs. Tuttle added for the record we will be going back through the initial presentation. She noted some of it will be the same as last month and some of it is new information. She noted new information was submitted all the way up through today. Mrs. Tuttle explained we will go through Chapter 7, Section 743 in detail to go through the requirements for the Conditional Use.

Mrs. Tuttle stated that the Connect Clark County Land Use Plan identifies this area as Rural Agricultural and the thoroughfare plan states this is a primary arterial road which means connections to cities, larger towns and other major destinations and form an integrated network for larger traffic volumes at higher speeds, providing interstate and inner- county service. She stated this road is equipped to handle larger traffic volumes.

Mrs. Tuttle explained that a copy of the Application from ODNR is included in the Board packet. Mrs. Tuttle explained there is a local Zoning process and ODNR process. Mrs. Tuttle explained the distribution list of the ODNR application went to: U.S. Fish & Wildlife Service, Ohio EPA, Division of Surface Water, U.S. Army Corps of Engineers, Huntington District, Ohio EPA, Division of Drinking & Ground Waters, Ohio EPA, Division of Surface Water, Division of Mineral Resources Management ODNR-Geological Survey, U.S. Army Corps of Engineers, Huntington Columbia Gas Transmission, Office of Real Estate and Land Management Environmental Review Section, Division of Mineral Resources Management, U.S. Army Corps of Engineers, Division of Mineral Resources Management Ohio EPA Southwest District Office, Clark County Commissioners, Clark County Planning Commission, ODOT, District 7, Mad River Township Trustees and Clark County Soil & Water Conservation District.

Mrs. Tuttle stated based on testimony and questions from last month's meeting there were a lot of specific questions about mining. Mrs. Tuttle reviewed a few highlights from ODNR's website which states the responsibility and regulatory part of the application process is permitting, inspection and enforcement and technical services that are a part of this; Hydrology, engineering, blasting, soils and archeology. She explained all of those are part of the ODNR process. She stated the permitting section also includes hydrologists, engineers, an archaeologist, a soil scientist, and a blasting expert who provide technical assistance to all other DMRM sections. Their main responsibility is reviewing the technical aspects of permit applications with regard to the area to be mined and technical matters during mining and reclamation, such as Geology, Hydrological impacts, mine drainage control, soil conditions and land capability, wildlife habitat, underground mine subsidence control, land use and revegetation, prime farmland productivity restoration and cultural and historic resources. All of those things are evaluated in the application process.

Mrs. Tuttle stated blasting was mentioned quite a bit last month. Mrs. Tuttle explained the inspection and enforcement section includes mineral resources inspectors who are highly trained professionals responsible for ensuring compliance with all mining rules at the mine site. Mineral resources inspectors monitor mining activities from the time the permit is issued until the last acres are reclaimed and bond is released. Inspections of active mines ensure compliance with regulations designed to protect both people and the environment from the potential impacts of mining. Emphasis is placed upon proper operation and control of impacts on: Topsoil handling, Surface and subsurface protection of water systems, Regrading and revegetation, Blasting, Potential damage to land and structures caused by underground mine subsidence and Toxic material handling.

Mrs. Tuttle explained based on the Citizen's Guide to Minding and Reclamation in Ohio from ODNR's website it states only a certified blaster may conduct blasting in Ohio's quarries and surface coal mines. She noted to become certified, a blaster must obtain 2 years of blasting crew experience including on-the-job training, attend 30 hours of classroom training, and pass an exam covering blast design, safety, vibration control and monitoring, and state and federal blasting regulations. Once certified, a blaster must attend 24 hours of continuing education during every 3-year renewal period.

Mrs. Tuttle explained the decibels chart and the air blast effects. She stated in their simplest form, ground vibration must not exceed 1.0 inch per second and air blast must not exceed 133 decibels at any dwelling. And in 2002, the USBM limits were adopted for Ohio quarries.

Mrs. Tuttle explained that there was some mention about how it affects area homes. She stated according to ODNR's website and the Citizen's Guide to Mining and Reclamation it is helpful for homeowners to know that even when blast vibrations are far below the legal limit, highly perceptible vibration can be experienced inside the home; windows and dishes might rattle, knickknacks and pictures might move or fall if not securely fastened, and hanging lamps might sway. These effects can be generated by ground vibration or air blast acting separately or together, and can last from one to three seconds or more, depending upon the distance from the blast, geologic influences and other factors. Despite these sometimes startling effects, there is no direct correlation between how a blast "feels" and its potential for causing structural damage to a home. In fact, cultural stresses (e.g., doors slamming, kids jumping, people pounding nails) and natural stresses (e.g., sunlight, wind, rain, temperature and humidity fluctuations and changes in soil moisture) can place greater stresses on a home than legal blast vibrations.

Mrs. Tuttle stated submitted a map with 10 acres last month, but the new updated map is about 13.6 acres. She noted the mining area has increased.

Mrs. Tuttle referenced the Cross Section map and explained the Applicant or Applicant's expert will explain and answer questions.

Mrs. Tuttle stated that she contacted the Clark County Combined Health District to get information on the old landfill. She stated they provided a map with an outlined area of the Haulman Landfill. She stated they are confident landfill activity did not happen outside of the yellow line on the map provided.

Mrs. Tuttle stated the Applicant is required to sign a document through ODNR permitting that they will follow Zoning. Based on conversations with ODNR, they will contact us if they notice activity before this conditional use is approved and the zoning certificate issued.

Mrs. Tuttle stated the Applicant has provided several photos. She showed the Board the photos and explained the Applicant could give more details as to the location and direction of the photos.

Mrs. Tuttle stated the ODNR permit is still being reviewed. She noted they are required to send any approvals.

Chairperson Taylor asked if they get ODNR approval are they able to start. Mrs. Tuttle stated no. She stated they still have to meeting local zoning which is the Conditional Use permit and the Zoning Certificate.

Chairperson Taylor asked if they could wait on the ODNR report (approval) before making a decision. Mrs. Tuttle stated yes, you can.

Mr. Paul Hazlett arrived at 2:59 pm

Mrs. Tuttle read each item in Chapter 7, Section 743 and discussed the Applicants answers to each Conditional Use requirement. She explained the information was in the Board packet or on the screen to follow along.

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Mr. Duffee noted on Section 743.06.09 he noticed the crusher was not included in that description. Mrs. Tuttle stated note that and ask the Applicant for more information when he presents.

Mr. Duffee noted on Section 743.06.15 what would we expect the Applicant to say. Mrs. Tuttle answered the materials (resource or minerals) are there. Mr. Duffee asked what sustainable means in this context. Mrs. Tuttle explained it means it is not going to disturb the area, can still be brought back to the original use, and not going to affect the surrounding area (continued with minimal long-term effect on environment).

Mr. Duffee asked for staff to express what an adequate answer is to these questions. Mrs. Tuttle answered, staff is not allowed to comment one way or another on approval. She noted the Board will have to determine if what is been read is an adequate answer to the conditions. She noted staff cannot make recommendations on Variances or Conditional Uses.

Chairperson Taylor asked for the definition of dewatering. Mrs. Tuttle stated that is a technical term we will defer to the Applicant.

Mrs. Tuttle continued reading the Applicant's answers. She read Section 743.06.21 and noted the Applicant answered that a driveway permit has been obtained. Mrs. Tuttle noted for the record a driveway permit has not yet been obtained but they have been in discussion with the Engineer's office.

Mrs. Tuttle explained in the next Section 743.07 will refer to the Map. (The map was distributed to all Board Members).

Chairperson Taylor asked for clarification on Section 743.07.014. Mrs. Tuttle explained that the road right-of-way and easements should be indicated on the Map. Mr. Duffee stated that the service road is not on the map.

Chairperson Taylor stated that Section 743.07.02 the Location of the processing plant and other accessory related operations are not on the map. Mrs. Tuttle stated note that and we can differ to the Applicant for more information.

Mr. Duffee asked about Section 743.07.06 has there been any indication of future lots. Mrs. Tuttle answered no.

Mrs. Tuttle stated Section 743.08 covers development standards.

Mrs. Tuttle explained, Section 743.08.11 Quarrying shall not be carried out closer than 300 feet to any adjoining property line. She noted the Applicant is requesting a Variance for 50 feet to any adjoining property line and 120 feet from the railroad. Chairperson Tuttle asked if there is a variance request to the conditions. Mrs. Tuttle stated yes, based on the new information there will be 2 variance requests.

Mrs. Tuttle explained Section 743.08.02 and that the Applicant is requesting to be 120 feet from the railroad. The Applicant is currently working with Norfolk Southern to obtain approval.

Mrs. Tuttle explained if the conditional use was approved, the 2 Variances would be required.

Mr. Duffee stated that Section 743.08.04 through Section 743.08.042 do not have answers to those conditions. Mrs. Tuttle stated if the answers are blank after them, the Applicant did not answer them.



Chairperson Taylor asked if there has been a Variance application filed for those Variances requests. Mrs. Tuttle stated the discussion has happened and the Applicant is aware the application is required but they have not been submitted yet.

Mrs. Tuttle explained the comment from Ohio EPA. Mrs. Tuttle stated that the Karst has not been identified in the areas of the mining. She noted the comment letter is included in the Board's packet as well as a map they provided.

Mrs. Tuttle stated that she has reached out to the railroad for comments and feedback. She stated they have not responded. She noted comments are required specifically because the applicant is asking for the Variance from the railroad. She stated the Applicant has contacted someone at the railway and is working on that paperwork for the Variance. Mr. Duffee asked if they have copies of those communications. Mrs. Tuttle answered yes, it is in your meeting packet.

Mrs. Tuttle explained that she reached out to the Norfolk Southern Railway on March 8, 2023 and has not gotten a response. Mrs. Tuttle states that notification was sent a second time to the Mad River Township Trustees, and they have not given a response.

Mrs. Tuttle explained the comment letter from Clark County Engineer's office and noted again that no access permit has been issued.

Mrs. Tuttle explained the Clark County Combined Health District stated they have no additional information to contribute. She stated they said ODNR has the expertise and authority, they are required to make all decisions.

Mrs. Tuttle explained the Clark Soil and Water Conservation District letter and the NPDES permit is required from the Ohio EPA, which includes storm water pollution prevention plan.

Mrs. Tuttle stated we received more information from Dr. David Zainey and it was emailed out to the Board. Mrs. Tuttle noted that 2 letters were received from Carol Culbertson on March 13 and March 21, 2023. She noted Dr. Zainey emailed again on March 22, 2023, but that information did not come through. She stated we were not able to open the PDF and Dr. Zainey was made aware of that.

Mrs. Tuttle stated staff created a map with measurements. She stated based on the lot lines, this is an approximate location of mining and distance to residential dwellings and the landfill. Mrs. Tuttle noted that the approximate width of the entire area is about 506 feet. She noted that is not enough space to be 300 feet from all adjoining lot lines. She explained the portion he is mining is not that wide.

Chairperson Taylor asked for the measurement from where he is mining to the distance of the railroad. Mrs. Tuttle stated that the Applicant is proposing that the mining part is 120 feet, but I do not have that measurement.

Mr. Smith asked about the 50-foot Variance. Mrs. Tuttle explained it is around the area in yellow on the map.

Chairperson Taylor asked for the measurement to the river. She asked if staff could find out that distance. Mrs. Tuttle stated yes.

Mrs. Tuttle stated the identified items needing a Variance are the less than 300 feet to the adjoining property lines and the 120 feet to the railroad. She noted the Board could not act on the second one until the railway comes to a decision because that is a requirement.

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Mr. Duffee asked the about the items on the right-hand side on the map. Mrs. Tuttle explained they are the distances to the closest dwellings.

Mrs. Tuttle stated the Conditional Use permit is for the 13.6 acres only. She explained any additional acreage or parcels added to the site would require a new Conditional Use permit.

Chairperson Taylor stated the Applicant will need a floodplain development permit, an approved permit from ODNR and an approval from the railroad. Mrs. Tuttle stated yes, but there might be additional things added.

Chairperson Taylor stated we can ask specific questions from those entities that have not responded. Mrs. Tuttle stated yes.

Mrs. Tuttle stated the ODNR application process is going on at the same time. It's once the application is approved by ODNR that we get that information.

Chairperson Taylor asked if the Board could request additional information prior to the report being completed. Mrs. Tuttle stated yes.

Chairperson Taylor closed the public portion of the hearing at 4:20 p.m. and asked for a 5-minute recess.

### **5 min recess**

Motion by Mr. Duffee, seconded by Mr. Smith to **approve** the 5 minute recess

**VOTE: Yes:** Mr. Duffee, Mr. Smith, Mr. Hazlett and Mrs. Smith

**No:** None.

***Motion carried.***

Time Out: 3:29 pm

Time in: 3:36 pm

Chairperson Taylor opened the public portion of the hearing at 3:36 pm and asked if the Applicant would like to speak. Chairperson Taylor stated that there will be a 15-minute time limit on each person wishing to speak because of the size of the group and ensuring everyone gets a chance to speak.

Applicant, Fred Messaros, 2811 Fairfield Pike, was sworn in. Mr. Messaros explained the pictures he brought. Mr. Duffee asked if there is a natural fracture there (referring to a picture). Mr. Messaros stated that's just a pile of brush and trees. Mr. Messaros stated our whole operation will be down in the hole. He stated you won't see stockpiles, we will build the berm.

Chairperson Taylor asked how big the hole is. Mr. Messaros answered it is about 4 acres. Mr. Messaros stated you cannot drive down Lower Valley (Pike) and even see us. He stated no one will know we are there other than the sign.

Chairperson Taylor stated the reclaiming you are referring to is cleaning up what's been there for years. Mr. Messaros answered yes.

Mr. Smith asked about one of the pictures and if that is the bottom of the old quarry. Mr. Messaros stated yes. Mr. Smith asked if he would be working in that area. Mr. Messaros stated no we are just reclaiming it. Mr. Smith clarified that's not an area you will be blasting. Mr. Messaros answered correct.

Mr. Duffee asked why not. Mr. Messaros answered because we are going the other direction.

Mr. Duffee clarified (with the Applicant) you said the existing pit is about 40 feet deep and you will go 90 feet. Mr. Messaros stated yes, but not in that location. He stated the quarry back in the day spread the whole property about 4400 feet.

Mr. Duffee stated that is a continuation of the landfill and was one big quarry. He stated they only used part of that for the landfill. Mr. Messaros stated yes about 7 acres. Mr. Duffee stated the existing pit is about 4 acres and you will increase it 9 more acres and start at the north and push the wall back to the south. Mr. Messaros answered yes but a little more east. Mr. Duffee stated you're not going to sink the 40-foot pit that's there and make it 90 feet. Mr. Messaros stated yes, we will. Mr. Messaros stated whatever they (ODNR) tell us, but we are still waiting on the report from the hydrologist. He stated they drilled 2 test holes, one hit water at 104 feet and one was 99 feet. He stated they do their formula and come back and tell us what we can do. Mr. Duffee stated because you cannot hit the water table. Mr. Messaros stated that was correct but it's not the water table that was hit.

Mr. Smith stated basically that is an uncontained area. Mr. Messaros stated yes. He stated what you do is wait a week and the water will sink back down and they will come out and test it. Mr. Smith stated but you won't be entering in any contained areas. Mr. Messaros answered no.

Chairperson Taylor asked the Applicant when starting the operation will it begin with the old existing quarry and go down. Mr. Messaros answered we will start with the high wall and get it all cleaned up.

Mr. Duffee asked if he will be removing topsoil and trees. Mr. Messaros answered yes.

Mr. Duffee asked if he hit bedrock. Messaros stated yes in some places. He stated it as 6 inches, some places 3 or 4 feet.

Mr. Smith asked on average you will be removing 2 or 3 feet. Mr. Messaros answered yes on average.

Mr. Messaros stated we will be 120 feet from the track (railway).

Mr. Duffee asked why the train derailed on that track. Mr. Messaros stated his thought on the derailment is the S Curve of the track.

Mr. Duffee asked where he stands with the railroad. Mr. Messaros stated I have to get them the map. Mr. Duffee asked where he will need to take it. Mr. Messaros answered Columbus.

Mr. Hazlett asked how aggressive and timeframe for getting things out of there.

Chairperson Taylor stated its 28 years is the projection he gave us.

There were no more questions for the Applicant.

Mrs. Tuttle asked the Board if they had any questions regarding the Map or the Cross Section or would they like to wait for the expert. Chairperson Taylor stated that they will wait.

Greg Williams, 4191 Enlow Rd., Athens Ohio, was sworn in. Mr. Williams explained he is a licensed professional engineer in civil and mining engineering for 35 years.

Mr. Williams stated he created the map and can answer questions.

Chairperson Taylor asked for the distance from the mining line to the river. Mr. Williams stated if you look at the Cross Section map it looks like the river is about 200 feet. He noted something to distinguish about the Variance, we are asking for 50 feet from the permit boundary and another 50 feet into the actual excavation limit of the high wall and that's shown on the Cross Section.

Mr. Duffee asked where the floodplain is located. Mrs. Tuttle stated that it is barely touching the parcel on the river side. She stated for the record that it is still under review by the Floodplain Administrator.

Mr. Williams stated he understood there may be question on the topo map. He stated on the Cross Section the old pit is indicated by the red dash line that dips down. The extent of the permit is going out from that. He stated it went from 10 acres to 13.6 acres. The topo lines show the existing lines of the elevations.

Chairperson Taylor asked for the distance of the closest house to the mining site. Mrs. Tuttle answered the closest house is on Lower Valley at about 1,100 feet.

Mr. Williams explained the Cross Section-AA and what each line represents. He stated the green line is what we are proposing for the final excavation limits. We had 2 holes that were drilled last week and we can't do a final design until we get the state hydrologist report. He stated she has all the data. He stated we do know the water came in at 865.4 and we are proposing to stay 15 feet off the ground water line, which is down in the limestone. He stated it is telling us the ground water is not up in the pit. He stated we are not doing a dewatering operation, the only water we are anticipating is storm water from rain. Mr. Williams stated the first cut will be up high about 20 to 25 feet, and then around the existing pit and move out. He stated the first elevation will come down close to the original pit. He stated then another lift and then the final. That's the configuration of what we are proposing but this could change based on the states hydrology report.

Chairperson Taylor stated if you are looking at each one of those levels at 28 years that would be about 9 years per level. Mr. Williams answered it is the amount of material you're moving at a time.

Mr. Smith asked if he was aware of any sink holes in the area. Mr. Williams stated not in this area.

Mr. Duffee stated the railroad is about 30 feet above the river according to your map and about 100 feet away. Mr. Williams answered the railroad is about 50 feet from the river bank. He stated Mad River looks to be about 870 to 875 for water level.

Chairperson Taylor asked how far above the ground water. Mr. Williams stated about 15 feet above that.

Mr. Smith asked if limestone material will be left. Mr. Williams stated yes.

Mr. Williams stated last time there were concerns about blasting so we brought in an expert for blasting.

Keith Best, 4886 Ballentine Dr., Canal Winchester, Ohio, was sworn in. He stated he is the Regional Manager for the North Region for Sauls Seismic Inc. He stated he has been with the Company for almost 30 years. He stated his expertise is in blasting and vibration consulting.

Mr. Best gave a presentation on blasting. Mr. Best stated that blasting is the most cost effective way to fracture the rocks. He stated this in turn reduces the cost of building materials. He explained why blasting is necessary and that blasting is done all over the region.

He stated when a blast detonates some of the explosive energy is not utilized in breaking rock, so you have byproducts and those are ground vibrations and air pressure. As an explosives engineer, you are trying to use as much as that explosive energy as possible to fracture the rock, the rest is wasted energy. He stated there is always some byproducts, you can't blast without ground vibration and air pressure, the blasters job is to find that perfect medium. He stated everything they do that creates excessive vibration or air pressure is wasted money.

Mr. Best explained the timing delays of blasting and it is as little as 1 millisecond at a time. It breaks it up just enough to cancel out the vibrations. He stated the vibration travels through the ground in all directions as a wave motion, similar to the ripple created in a pond when a stone hits the water. He stated that energy decreases rapidly with distance from the blast and normally decays to levels undetectable by humans beyond several thousand feet.

Mr. Best explained seismographs. He stated they are used to measure particle velocity and air pressure. He stated particle velocity is how fast the ground is moving as the vibration passes. We're monitoring on 3 levels, vibrations coming directly at it, vibrations perpendicular and vibrations up and down. He stated one piece of equipment we can monitor those 3 channels. He stated the peak of that is the particle velocity and that is what the regulatory limits are based on. You will hear the blast at times, some won't hear it at all. This is small scale blasting. We measure the particle velocity in inches per second. This standard is the gold standard for blasting in the United States. This is the most restrictive vibration standard in the United States. A seismograph report will come in within minutes of pulling the trigger on the blast.

Mr. Best showed a chart of the effects of environmental forces to homes.

Mr. Best explained that they can predict what the vibration levels will be based on the amount of explosives being detonated inside that small millisecond time frame and the distance from the blast to the homes or our seismograph. Mr. Best explained the prediction formulas they use for quarries across the US. He stated the lower the number is the higher expected vibration. The State of Ohio says if you are not below 90 you don't have to monitor with the seismograph.

Mr. Best explained there has been concern on the landfill and the railroad track. He stated the only way vibrations can cause settling is if it densifies the soils. It can happen in certain types of soils and high enough vibration. Liquidation can occur in beach sand when it gets wet it settles. For this to happen you have to have certain soils and long duration of vibrations.

Mr. Best stated the proposed blasting is to shoot 4 inches in diameter about 30 feet deep. It will only fracture 2.5 times that diameter. A typical blast pattern would be about every 10 feet. Vibration travels up and out to the place of least resistance. In larger quarries, they are trying to create a level floor. To do that, they have to do subdrilling, so if they want the depth of 30 feet, they may have to

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load the explosives at a depth of 33 feet just to get the rock to start breaking 3 feet above that explosion. He stated the bottom 3 feet will not crack.

Mr. Best explained something to keep in mind when blasting in coal mines, they load explosives within a foot of the coal, the last thing they want to do is damage that coal. He stated the explosives go up and out they do not go down.

He explained how vibrations emanate. He stated at 100 feet away from the blast; vibrations will be 273 times less than what they are at 3 feet. He stated at 300 feet they will be over 1500 times less, and at 1000 feet (the distance we are talking about) it will be 9000 times less. He stated this is just to show how quickly it disseminates. Mr. Best stated they monitor by the railroad tracks we measure the vibration of the train itself which is typically over 2 inches and the frequency is less than 10 and that's about 10 times higher than what we were talking about. Those tracks have to be able to flex and move, they are designed to move. Mr. Best shared a video showing a blast in a quarry with businesses and homes all around.

Chairperson Taylor stated that she would like to end the meeting and continue it next month so that the people in opposition have enough time to speak. Chairperson Taylor stated that we need to be out of here by 5 pm so those in opposition will be the first ones to speak at next month's meeting.

Mrs. Tuttle noted that she would present any new information before going into more public comment. She explained she had spoken to ODNR and requested a Q and A meeting. She stated the plan is an informational meeting one hour before the next meeting. She noted notifications will be sent along with an ad in the newspaper.

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

**Action on Case #BZA-2023-02 ~ Property Owner/Applicant: Frederick Messaros ~ Location: 1291 Cold Springs Rd.; Mad River Twp. ~ Request: Conditional Use approval under Section 743 for Resource and Mineral Extraction**

Motion by Mr. Hazlett, seconded by Mr. Smith to **continue** case BZA#2023-02 until the April 27, 2023, meeting.

**VOTE: Yes:** Mr. Hazlett, Mr. Smith, Mr. Duffee and Mrs. Smith.

**No:** None.

***Motion carried.***

**Staff Comments**

Next scheduled meeting: April 27, 2023.

### **Adjournment**

Motion by Mr. Smith, seconded by Mr. Duffee, to Adjourn.

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 4:40 pm

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Mrs. Jerri Taylor, Chairperson