

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, April 27, 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 2:00 pm. and asked for the Roll Call

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

Absent For Roll Call: none

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 March 23, 2023 Minutes

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

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

No: None.

Motion carried.

Motion to continue case #BZA-2023-02

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

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the case

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

Mrs. Tuttle explained the meeting procedures. A member may move to Continue or Table a public hearing. This motion needs a second, cannot be debated, and takes a majority vote to pass. If a majority do not vote in favor, the public hearing continues.

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 explained the Applicants revised ODNR Application and explained the Application distribution list and the comments received.

Mrs. Tuttle read the email received from Joby Jackson, Assistant Chief for the Division of Surface Water. Ms. Jackson states, "At this point, we are not planning to attend. We believe the analysis of potential dewatering of wells is within the regulatory scope of ODNR's review and we do not have any permit applications related to this site at this time. If there are questions outside of ODNR's purview, please feel free to follow-up with us and I will work with agency staff to address items within Ohio EPA's jurisdiction."

Mrs. Tuttle read an email from Jamilyn Moore stating that No site inspection or walkover is needed from ODNR Environmental Review Team.

Mrs. Tuttle showed the updated map of the 13.Acres from the Applicant as well as the updated Cross Section.

Mrs. Tuttle stated that the railway guidelines were submitted into record by Mr. Messaros.

Mrs. Tuttle stated that the air pollution permit has been approved.

Mrs. Tuttle explained that Mr. Larry Schaffer is here on behalf of the Clark County Combined Health District and Mr. Tom Bender from the Clark County Engineers office to answer further questions.

Mr. Larry Schafer Director of Environmental Health of the Clark County Combined Health District. Mr. Shaffer explained that he is here to answer any questions regarding private water wells and the inspections we have performed at the former Hollman landfill.

Chairperson Taylor asked about the private wells and aquifers in that area, can you get us some oversight of what your overview of that is. Mr. Schaffer stated, it's in an isolated area along the Mad River. The jurisdiction with mining permits is with the Ohio Department of Natural Resources, they have a staff of Hydrologist and Geologist and many people that know what they are doing and care about the people of Ohio. We have full faith in them. If they are ready to move forward with the permit then the Clark County Health District has no obligations. They take the people and effects in the area into consideration.

Chairperson Taylor states, there is a history in the Enon area with issues with the water, it's a concern. In the past hasn't there been studies done about the aquifers in the area and concerns about well contamination. Mr. Shaffer states, the EPA did do studies of the area and did find fractured bedrock as there is in all areas. The Clark County Combined Health District cannot draw any conclusions from that. Mr. Shaffer explained, I think what you are looking for is a guarantee that this will not have any effect on ground water and there is not a guarantee. What I can tell you is that it's not uncommon to pull samples from a water well and it come back unsafe. Since January of this year the Health District has collected 94 samples of private water wells, 11 of them came back unsafe and 3 of them were contaminated with E.coli. Water well contamination happens. We can't predict the future, but what I can predict is that if we sampled everyone's water well in Mad River Township we would fine a lot of unsafe wells. We cannot say this quarry has anything to do with it nor do I think it would.

Chairperson Taylor asked, has the County had issues with the water aquifers in the area. Mr. Shaffer states, its common throughout the County we regularly collect water samples that are not safe, and not just in this area they are all over the County.

Mr. Smith asked, I recall that the ODNR representative said he didn't send any one out from his department. Then he said he did not communicate with the other offices, EPA and Hydrologist. They send something to him that states what they think, they did not personally make any inspections of this predicted site. Mr. Schaffer states, weather they went on site or not I do not know, but I know they fully review before they make their decisions.

Mr. Smith states, from what I took from ODNR is that they will be here in a heartbeat if something happens, but until it does happen were on our own. Mr. Shaffer explained, I don't think they have concerns that it will happen or they wouldn't recommend moving forward. Mr. Smith states, we are not hydrologists we have to learn from you guys and ODNR and the other results of the test, for them to tell us this is ok or this is not ok. We need help making this decision.

Mr. Duffee asked, I was puzzled by the letter from Mr. Patterson in 2017. Mr. Schaffer states, I wrote that letter. Mr. Duffee asked what the difference was for not supporting it then vs now. Mr. Schaffer explained, the letter was not in opposition of the quarry. The Health District had some concerns and then those concerns were answered. Mr. Duffee asked, those concerns were answered to your satisfaction. Mr. Schaffer answered correct. Mr. Duffee asked, if that proposal would again rise to the top with that other mining operation you would have no concerns. Mr. Schaffer answered no, now that we've seen the response from ODNR we are assured they have the citizens best ineptest in mind. Mr. Duffee states, we were under that assumption too, but ODNR said no they don't have the big picture in mind, that they have a narrow concern based upon the application itself. I can be fairly natural and understand the concept of "staying in your lane", but clearly they did not have a larger picture of safety and danger to the health of the aquifer. Mr. Schaffer explained, we have faith in the Staff of ODNR that they are doing their job well. They are highly educated and trained. Mr. Duffee states, I do believe they are educated and doing their job, but their representative that was here told us that what were concerned with is not in their prevue so it's not part of their job.

Mr. Duffee states, what we're asking for is guidance to those limitations. It appears no one is an umbrella organization. No one is saying the aquifer is not in danger. Mr. Schaffer states, if the OEPA had concerns they would have given them to you. Mr. Duffee states, ODNR and EPA don't have communication on these things, it would require an investigation to take place. What is the probability with karst geology, sink holes and blasting operations what is the probability contamination would occur? Mr. Schaffer states, I am not aware of any gravel pit contaminating a water supply. Fairborn water supply is right in the middle of gravel pits. Mr. Duffee states, if I site the study done on the public water system in Enon, it says the aquifer that supplies drinking water to the village of Enon has a high susceptibility to contamination based on aquafers sensitivity of contamination, the numbers and types of potential contaminate sources and evidence of ground water quality impact from human activities. Mr. Schaffer asked what report that was. Mr. Duffee states that it's a drinking water source protection report for the City of Enon Public Water System but I don't have the date. Mr. Schaffer states, all those things are already existing.

Mr. Duffee states I'm pointing out there are possibilities that it is at risk for contamination. I guess what I'm after does this quarry operation increase that risk. The risk is there. But you are saying it does not increase risk of contamination. Mr. Schaffer states no. Mr. Smith asked what he bases that on. Mr. Schaffer explained, what we see from source contamination of private and public water wells.

Chairperson Taylor states, what kind of regulations were in place when that landfill was first in operation. We've heard stories about what is in there or not. What is your opinion about any contamination coming from that old landfill? Mr. Schaffer states, the landfill was started in the early 70s and I've heard stories about old barrel fill, but there is no record of that. What we know was in there before was household trash, but there is no evidence of active barrel fill or tanks of chemicals being dumped in there is no evidence of that. Chairperson Taylor states, what chances with the old landfills what's the chance it could get into the aquifers. Mr. Schaffer states, I won't say there isn't a chance, but there is stuff in the ground, I have a city of Springfield landfill a quarter of a mile from my house. I don't like it but I'm not concerned. Mr. Smith asked if it's over top of his aquifer. Mr. Shaffer answered yes. Mr. Smith asked, do you know how close it is to the aquifer. Mr. Shaffer states, when I was digging for my fence post I went down 6 feet and hit water.

Mr. Hazlett states, what your stating is your water table is pretty close to the top of the ground, I'm assuming there have been tests taken of the old pit over the years, are they getting results of any gas that you would say are outside of what's normal. Mr. Shaffer explained, I have not seen any results from any water samples taken around the Haulman landfill, but I will tell you they have continuous gas monitoring and I have seen the results there and they are below the action level.

Mr. Duffee asked, what about leachate I thought there was some evidence presented to the Board. Mr. Shaffer states, we have no evidence of leachate coming off of the landfill. Mr. Duffee states, you are not concerned about the particular geology underneath this area. Mr. Schaffer states, I am not concerned this quarry would have any effect on it. That's not to say I'm not concerned about the geology. We have concerns about failing septic systems all over the place and contaminating the ground water. The septic systems would have a great effect on the water supply than the quarry would. Mr. Duffee states, perhaps in prior years this was the wrong strategy in this area removing that overburden, should we continue that. Perhaps in retro spec that was the wrong decision. Mr. Schaffer states, I can't see how that would be a mistake. Mr. Duffee states, if overburden was removed in an area it shouldn't have been increased contamination due to the particular geology, one would come to the conclusion it was a mistake. Mr. Schaffer states, if you want to continue that line of thinking, the overburden has been removed we don't know that has caused any issues. Mr. Duffee states, that speaks against the evidence. Mr. Duffee explained, is there a difference in well contamination and the underlining aquifer contamination. The wells are susceptible to biological contamination, it would be other run offs from Agricultural. Mr. Shaffer explained, those things are already in play. Mr. Duffee states, its already taken place so we just give up. Mr. Shaffer explained, no the fractured bedrock all throughout Mad River Township is already there, the quarry is not going to change anything. Mr. Duffee states, if decisions were made a generation ago that are detrimental to that ground water, why should we perpetuate those mistakes today with further knowledge. Mr. Schaffer states, there is no evidence of Agricultural activity effecting it now. Mr. Duffee states, you just said you agreed with me that removing top soil and overburden would increase the likelihood of contamination. Mr. Schaffer states, in the quarry. I'm not saying in the whole aquifer. This sits are next to the river, nothing else is around it. Mr. Schaffer states, we do not believe the quarry would have any effect on the ground water that anything else hasn't already effected.

Mr. Tom Bender Clark County Engineers Office. Mr. Bender explained, our role in this is access onto Dayton Springfield road and a storm water prevention plan. Chairperson Taylor explained her concerns regarding the trucks going up and down that road daily. She states that there will be 30-40 25 ton trucks using that road daily. Monday through Saturday from 6:30am to 5:00pm. When you go down Dayton Springfield road, there's so many access points for houses and businesses, what about the traffic flow and wear and tear on the roads. That's a big impact in my mind and increasing accidents.

Mr. Bender states, the Engineer Office will follow the Ohio revised code which will dictate what is public right of way. It has weight limit restrictions on it, as well as width and height restrictions, and that's state wide. As long as a vehicle is a legal it's allowed to drive on that road. Mr. Bender states, we don't regulate the number of vehicles or the speed. As long as they have legal loads. Mr. Bender adds a side bar. He explained, Dayton road is probably one of the best roads we have to handle that additional load, it used to be an ODOT road. We don't have any concerns about additional truck traffic. Mr. Bender states, 30-40 trucks a day is very minimal, we have a bus garage down the road. Mr. Bender states, from an engineering standpoint we would require that they follow Engineering principals that are outlined in ODOTs design table. That would be safe stopping distance, we would look at how vehicles are entering and exiting the road, we would do this for every commercial development around the County. We evaluated speedway drive we had them add a center turn lane. Those are all elements that will come into play when we move into that direction. The design of it will move forward once this is a viable project. Chairperson Taylor states, I am concerned about the impact of the community through there. It's not an industrial site. It is a county farm community that will be impacted by 25 ton trucks. Mr. Bender states, we have guidelines and restrictions to follow for a reason, you don't want your government officials making opinions on things.

Mr. Duffee asked, you think Dayton Springfield Road is equipped to handle the low impact. Mr. Bender states, my opinion it would have a minimal affect. Mr. Bender states, we have done several projects over the years, we reinforced it. Mr. Duffee states, it's a possibility in the future for access onto Dayton Springfield road, perhaps a left turn lane would be beneficial or stop light. Mr. Bender explained, we would evaluate that with a full traffic analysis. Mr. Duffee states is it possible his trucks could travel North on old mill road to access rout 40, is that permissible. Mr. Bender states, we would not make that demand on direction of vehicles if they have a legal load. Mr. Duffee asked, does your office monitor the discharge. Mr. Bender states, what we call the storm water pollution prevention plan or sediment erosion control, we would make sure they have a plan in place. Mr. Bender states, he would have storm water regulations he would have to meet, that's a State standard that we would review and monitor for him. There would be a collection process for storm water. Mr. Duffee asked how that is done. Mr. Bender states, currently storm water runs off and goes to Mad River. We would make sure there is a plan in place, so if he's disturbing the ground we would ensure a load of sediment does not leave his site.

Mrs. Tuttle states, for the record if there are any more government entities or Township Trustees that would like to speak you may do so at this time. Hearing nothing from the audience Chairperson Taylor asked if the Applicant would like to speak.

Applicant, Fred Messaros 2936 Rebert Pike was sworn in. Mr. Messaros states, the landfill opened in 1974 and was closed in 1994. Mr. Messaros states, I have the paperwork from the OEPA on the gas study. In the last 2 years it has went down. They tested the gas around the landfill on the outer limits and all 5 tests came back zero. If we ever decided to move that close to the landfill as far as the OEPA is concerned, the landfill is not an issue. Mrs. Messaros explained, while I was there I asked the EPA for comments and asked them to come to this Meeting. He states that they said they would not comment unless he planned to dewater. Mr. Messaros stated that the Hydrologist was not able to come due to the fear of her being attacked.

Mrs. Smith asked if there is any gravel coming out of the property now. Mr. Messaros states yes from the reclaim area. We have 3 to 5 years for cleanup so we can haul it out. Mr. Duffee asked what reclaim is. Mr. Messaros explained the reclaim area.

Mr. Hazlett asked, do you know the history of the original quarry, was it being mined for building roads. Mr. Messaros states there was railroad on the property. Mr. Hazlett asked what the timeframe was of the old quarry. Mr. Messaros answered, 1846 to 1930.

Mrs. Smith asked how many trucks they are moving now. Mr. Messaros states about 4 or 5. Mr. Duffee asked, you are using the Cold Springs road now. Mr. Messaros answered yes.

Mr. Hazlett asked, we know the North Folk Southern goes through there, at what elevation it is in relationship to what you plan on mining. Mr. Messaros states we won't go lower than the tracks. They had me measure the rocks, the closest rock is 10 feet from the railway.

Mr. Duffee asked how the discussion with the railroad is going. Mr. Messaros explained, they might send someone. Mr. Messaros states, they are looking at it and reviewing it.

Greg Williams was sworn in. Mr. Williams explained, the elevation of the railroad from the Cross Section A-A report. Mr. Williams states, we do have a plan for Storm Water Management if the plan moves forward. Mr. Duffee asked how a sump works. Mr. Williams explained that they are in place to collect storm water coming off the site, and sediment is our primary task, it collects so it doesn't discharge. Mr. Duffee asked, how the water gets across the railroad. Mr. Williams states there's culverts and a ditch system along the railroad. Mr. Duffee asked if they are tile lined or open. Mr. Williams states they're open and built out of old sand stone and limestone.

Mr. Smith states, going back to the elevation, I believe it had been established that he was going to have a 15 foot buffer between the bottom of the quarry and the water table. What is it from the bottom of the quarry to the top of the aquifer? Mr. Williams's states, its 895 ft. to the bottom of the pit and ground water elevation we're hitting with test holes at 878 ft. Mr. Smith asked, so the ground water elevation is basically the top of the aquifer. Mr. Williams states, I am not a hydrologist but that is my understanding. That is pretty much the elevation of the river too.

Mr. Duffee asked about the 100 year flood level and where it would reach. Mr. Williams states it's about the level of the railroad but not above that. Mr. Duffee states, in a document it said the railroad is occasionally covered by flood water but I don't believe that was expert testimony. But you are convinced it would not reach the bottom of the mine. Mr. Williams's states, were above the railroad but anything is possible.

Mr. Williams states that he will provide the Board with updated answers to the questions.

Mrs. Tuttle states, Ohio EPA has commented on what they are going to comment on.

Heather Raymond 6677 Lakeside Cir. E. Worthington Ohio. Was sworn in. Ms. Raymond states, she is the Water quality Initiative Director at the Ohio State University. Ms. Raymond explained, previously I was the lead hydrogeologist at Ohio EPA and Water quality Characterization at the Catch program. I was also the lead researcher of the Clark County Nitrates investigation which has been submitted as part of testimony. Ms. Raymond states, I have walked this site and been to this site. Ms. Raymond states, I have some concerns, one being the Cross Section and water level. The representative from ODNR said they were not sure how the surface map was generated in the Clark County report, we were showing the water table being much higher. We also measure spring flow. There were 2 test wells drilled on the site and 2 measurements done, One in January and one in March. Something people don't realize is that water moves up and down significantly. In Karst settings it moves up and down more significantly in other areas. Ms. Raymond states, that is a concern. I looked at when the water levels were collected, and it was 5-10 days after a significant rain. It is my recommendation to

put a water level monitor in the wells to measure within 5 hours. That is a much more scientific way to determine those water levels. Ms. Raymond states, another potential concern would be the springs we measured. On one occasion when I measured and tested the ground water from the sink holes very quickly it transmitted. Ms. Raymond states, it's the fastest ground water pull we've measured in the State of Ohio so we know that anything that enters this aquifer system can move very rapidly and very far away and potentially have a large impact. We consider this the most susceptible area in terms of potential contamination. Ms. Raymond explained, we also measured the spring flow and are concerned with the ground water springs.

Chairperson Taylor states, your recommendation would be to put monitors in place that stay there. Ms. Raymond states, I would think prior to approving an application they would want to know what that water level is. They monitored in January and March and it appeared to be stable. But it didn't catch any precipitation levels which is when you could see an impact. I have done water level measurements in this region and we've seen water levels go up 20 feet very quickly after precipitation. Chairperson Taylor asked, when they go up high what's the impact. Ms. Raymond answered, that whole area would be flooded. Where is the water going to go and how are they going to mine. Ms. Raymond states, if this is a wet area you could potentially warm that water before it's discharged into the Mad River which could cause impacts. Chairperson Taylor states, if this is the fattest water flow in the area wouldn't that water move out of the area rather quickly if it does flood. Ms. Raymond explained, if your mining and suddenly the bottom of your pit is covered in 10 feet of water, that's an operational concern. Ms. Raymond mentioned the springs and the concerns of water flow. Chairperson Taylor asked, if you're blasting the spring flow, what impact does that have on springs coming off of it? Will it adversely affect it? Ms. Raymond states, it becomes a surface stream out of the head wall, when you blast down it will have to find another way out and I can't predict where that will be and if it will cause structural issues. Chairperson Taylor asked, most wells are being fed by springs aren't they. Ms. Raymond states, we went to the Haulman Landfill, and there was a spring that came out on his property and a well that was a couple hundred feet away, we did a downward camera and were able to see the fractures and the water flowing down to the well and found salamander larva in his well. They are all interconnected. Ms. Raymond states, there is no buffer for the well. If you remove the aquifer then it will be drawing from different areas. The water has to go somewhere. Mr. Duffee asked, what she means by removing the aquifer. Ms. Raymond explained, its removing parts of the limestone. The cracks in the limestone. You only have so much.

Mr. Duffee asked, the old mine has been there for decades now, and does not seem to flood. She explained, they are going 20 feet deeper.

Mr. Duffee asked, when you did you do dye test, and you came up with this extraordinary amount of water movement, that is claimed to be the highest in the state over a certain time period, does that water move in one direction? Ms. Raymond states the river is the broad base, but it does not go from point A to point B and can change based on the rain. They saw this did occur during the test and where the dye appeared in a different spring, but it is very complex how the water flows. Mr. Duffee states, the test if its north of the well you tested, will it jump over the river. She explained, in broad terms the river is the base flow for the entire aquifer system. She explained the water is very complex how it flows, and that's what happens. On the surface which does have a strong impact on the items below the surface, and do not have as much protection layers, especially due to the glaciers that moved through this region. Mr. Duffee asks if it is susceptible to biological contamination. Ms. Raymond states biological or chemical contaminations on the surface can affect the area.

Mr. Duffee states, the proposal is for an additional 9 acres of removal, he then asks if the small area will minimize the impact that she is concerned about.

Ms. Raymond states the depths is more of a concern in protecting the business and avoid a dewatering issue, thus causing the mine to be disabled. If dewatering is required, it could potentially cause issues for local wells. Especially the spring flow or watercourse is interrupted or changed. She explained, I would say look at the dewatering issue and if it will need water and how it

Mr. Duffee asks, in Clark County is it your position that unique geological area, in this proposed mine area, does not exist all over the County so gravel pits or mining operations in other areas parts of the County, so they might have different considerations than this area.

Ms. Raymond states this is difficult. If there was a mining operation that was not as close to public wells that would be different, and additional testing would need to provide some clarity. The railroad provided some concerns since they are typically seen in the southern region which would provide some additional protection.

Duffee asked, we need mines and we need limestone but your saying you have an issue with this particular area, which should give us pause.

Chairperson Taylor read a recommendation from the Village of Enon. She responded, my recommendation would be to have the storm water plan. That's one way of doing monitoring. To do monitoring on site.

Mr. Smith asked, you were talking about dewatering as a possibility. Mr. Messaros has said to us that there will be no dewatering. Ms. Raymond explained the tests and the new elevations he has provided as to why dewatering might be a possibility.

Tom Allen, 3413 Fox Dr. Lewis center Ohio. Mr. Allen states, I grew up in this area, retired from Ohio EPA, also I have been doing conservation work on Mad River. I made a statement before, we are not against mining. But just like any other land uses you want to prevent the issues to your ground water and surface water sources. Mad River water shed is unique, you have highly fractured bed rock because of the glaciers. You have buried river beds, these characteristics have made our ground water resources very vulnerable. Mr. Allen explained, you have to understand these situations. At this site the aquifer starts at the ground level. May to July there were 4 major rain events in the Mad River water shed, over flowing the banks. You get the rain events and you could have issues because you're working in a fracture. And that cold water is very important to the water quality. I need to make a statement, I worked at the Ohio EPA, we worked with mining people, we tried to get the facts about these sites, and I can't believe this mine is allowed to go in this area, but I'm concerned ODNR didn't require more of a study. How can you give a permit if you don't require information to define the site? Not against mining but you want to prevent the issues. Look at the state of Ohio now are putting out millions of dollars to cover water issues in the state. In specific cases when you have vulnerability. Why would you allow it? Why wouldn't you prevent and at least ask for the information that guarantees you you're not going to have an issue. This is a very vulnerable area. I would ask the board to be more proactive, and work with people that understand these ground water resources. Establish conservation zoned and protecting the quality of these water resources and what a benefit to the citizens and it can be economically beneficial too, studies show. And what they found is that people want to be there because of the quality.

Chairperson Taylor states, we had ODNR here, I do not feel like they answered our questions to our satisfaction. If there was any doubt why wasn't more testing done. She states that they said they

weren't required too. We asked about EPA. Chairperson Taylor states they say they don't interact well.

Mr. Smith states, having worked for the EPA, were not against the EPA, we need to know how we initiate or start something this. Mr. Smith states, we need scientific back up. Something for us to gage what the problems are. This still puts it back on us and we have to take a stab in the dark. Mr. Allen states, they put the burden on you to hire a geologist and experts instead of the mining company to do that.

Mr. Duffee states, you spoke generally on Mad River. What are your concerns about this mining proposal? Mr. Allen states, the work I've been involved with for over 40 years, we work in coordination with land owners, and we consider the quality of the water shed. These types of impacts on the water shed could diminish its quality. Not against the mining. Mr. Duffee asked, how could this have an effect on the Mad River? Mr. Allen states it's the quality. Temperature changes by the time it makes it to the river. If you're protecting the water source, it could be a real benefit. I've been working with West Liberty and Urbana, there was a watershed group at one time. Protecting the quality of this water shed is our number one priority.

Chairperson Taylor called for a 5 minute recess at 4:02pm
The Board returned at 4:12pm

Dr. David Zainey 4534 Fairfield Pk. was sworn in. Dr. Zainey presented a PowerPoint on water quality. Mr. Zainey explained Agricultural Runoff.

Chairperson Taylor states you did a very thorough presentation for us.

Kathleen Baber 33 Winding Drive was sworn in. Ms. Baber states, I attended the Q & A with ODNR. It was startling this specific area is not addressed. Their inspector covers 11 counties. That is not local knowledge. Ms. Baber states, the involved entities are not cooperating or collaborating information that protects the citizens of the state. Ms. Baber states, the agencies hide behind the law to accomplish things. The long list of agencies that commented, no comment it doesn't concern us. I'm saying there was plenty of evidence, the citizens have done the work, ODNR has done the bare minimum. My third point is the BZA is our only hope. The state has given you the authority, there are those regulations are so broad and not specific to our situation here. The operator states, it's a recipe for a future disaster. This is not the right property or area for this operation. It puts our water supply at risk. Mr. Leiser from ODNR made no statements that this is at all safe and good.

Karen Deibel 210 Allen Street was sworn in. Ms. Deibel mentioned a letter she submitted to the Board. Also the zoning regulations that states it's the Applicant that is responsible to provide the information. She states that Ms. Raymond mentioned several actions that seem like easy small actions that could be conducted by the Applicant. This case could have devastating consequences. The regulations are there for a reason and at this time the applicant has not provided any information that this is a safe operation. Ms. Deibel also mentioned an article that she submitted and encouraged them to read. Ms. Deibel states, I caution you to not rely heavily on what they might say in this case because I don't believe they have demonstrated public safety.

Chairperson Taylor asked if Dr. Zainey could answer more questions.

Mr. Duffee states, you recited an article that I did not catch the name of. Dr Zainey explained it's a review article from 2001 that was submitted to the Board already. Mr. Duffee asked about the EPA

study that found leachates was that the US or Ohio. Dr. Zainey states that was the US EPA. Mrs. Tuttle states, there was a hard copy in your packet.

Mr. Hazlett asked if he lives in the area. Mr. Zainey states I live on Fairfield Pike. Mr. Hazlett asked if he has had his well-tested. Dr. Zainey answered yes.

Carol Culbertson 5825 Garrison Rd. Enon Ohio was sworn in. Ms. Culbertson states, I have been diligent in getting public records. I have a public record from the DERR, which this landfill has a DERR number. They are responsible for looking at contaminated results. Mr. Duffee asked if it was State or Federal. Ms. Culbertson answered that she would look into it. She explained that the results gave history on the landfill. Mr. Hazlett asked if she lives in the area and has had her well tested. Ms. Culbertson stated yes.

Chairperson Taylor asked for a Rebuttle from the Applicant

Mr. Keith Best 4826 Balentine Drive was sworn in. Mr. Best states, I have been a blasting expert for 30 years. We monitor quarries all over the US. We monitor vibrations of blasting. Mr. Best states, I have heard things I highly disagree with. I have never heard of someone dying from being scared of a blast. Mr. Best states, blasting occurs all over the country. There are regulations to be followed. This landfill is over several hundred feet away from where blasting will take place. The cross section someone pointed out the area of the landfill they thought it was and it's not. It's adjacent. It's over 900 feet away. Mr. Best states you have to choose your site where the limestone is. Limestone deposit is not everywhere. You can't develop a quarry anywhere away from everything.

Mr. Duffee asked, you made a point of stating that the nearest house is about 1100 feet away from the blast site, you were confident any type of decimal level would be minimal, is it possible someone at that house would hear vibration. Mr. Best states yes they will feel it, but it will sound like thunder for one second or half of a second. Mr. Best states, houses 1700 feet with the type of blasting they're doing, I would be surprised if they knew they were blasting. Mr. Duffee stated, the Applicant states he would blast once a day. Mr. Best states, and that would be one blast for 1 second a day. The pattern he is drilling it is likely it will be half of a second. Mr. Duffee states, the River right next to the quarry, what those canoes would experience. Mr. Best states, there will be a visible inspection to make sure no one is inside that blast zone. You will not do a blast when someone is boating alone in that river. It's not wise or ethical. We will do a visual inspection. Mr. Duffee states, a written testimony submitted mentioned fly rock. What is the possibility someone gets hit with a fly rock. Mr. Best states, fly rock is defined by any blasted rock that leaves the permitted area. There are a lot of techniques you use in blasting to prevent that from happening. Mr. Duffee asked, if something like that occurs do you have to report it. Mr. Best states yes it's reported to ODNR within 24 hours.

Mr. Messaros explained, Mr. Haulman states, speaking to the Ohio EPA and the Health Department, Mr. Haulman was never in violation of anything. I asked him about the PC there and there is no record or violation of it. All there is, is household trash. We removed all the tires. According to them that was only the violation he was ever in and line the banks for erosions. There is nothing hazardous in that landfill.

Then railroad, Keith said the railroad would put off 10 times on the seismograph compared to the blasting. Mr. Messaros states karst is not an issue. Whatever's in the river is going into the aquifer. Mr. Messaros states, we are staying 150 feet away from that spring. They both agreed it wouldn't be an issue.

Mr. Hazlett asked, can you remind everyone how far you will be from the dump site. Mr. Messaros states over 900 feet.

Chairperson Taylor Closed the public portion of the hearing at 5:24 pm

Motion to go into Executive Session

Motion by Mr. Hazlett, seconded by Mr. Smith to **approve** the Executive Session

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

No: None

Time out: 5:25 Time in: 5:56

Motion carried.

Chairperson Taylor states, we've heard hours' worth of testimony. We asked for a lot of agencies to come in and answer our questions. The agencies did not give us the answers we are looking for. We are not comfortable with the information we are given from experts.

We will request from the Applicant that they hire a hydrogeologist to run more tests. Until those tests are done we are not going to make a decision on this case

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. Smith, seconded by Mr. Hazlett to **continue** case BZA#2023-02 until a test study is done by a Hydrologist

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the next case

Case #BZA-2023-05 ~ Property Owner/Applicant: Frederick Messaros ~ Location: 1291 Cold Springs Rd.; Mad River Twp. ~ Request: Variance request from Chapter 7, Section 743.08.011 to allow quarrying closer than 300 feet to adjoining property line and 743.08.02 to allow quarrying and blasting less than 300 feet from railway.

Mrs. Tuttle stated that The Applicant would like to use a portion of the property for resource and mineral extraction. The Conditional Use for the resource and mineral extraction is still under review. The Applicant is requesting a Variance from Chapter 7, Section 743.08.011 to allow quarrying closer than 300 feet to adjoining property line and 743.08.02 to allow quarrying and blasting less than 300 feet from railway.

Mrs. Tuttle explained that the Applicant has signed agreements from the surrounding neighbors to be within 50 feet of their property.

Mrs. Tuttle explained that the Applicant is in communication with Norfolk Southern on their guidelines to get a written approval.

Minutes

Clark County Board of Zoning Appeals

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 6:01 pm and asked if the Applicant would like to speak

Fred Messaros 2936 Rebert Pike was sworn in. Mr. Messaros explained we are still working with the railroad. We are asking to reduce the setback from 300 feet to 120 feet.

Mr. Hazlett states, sense this is sensitive to the other case, would you be in agreement that we table or continue this.

Chairperson Taylor asked if anyone wished to speak in favor of the variance request that would like to speak. Hearing none she then asked if anyone wished to speak in opposition of the variance request.

Carol Culbertson 2558 was sworn in. Ms. Culbertson states, I'm opposed to changing the 300 foot setback long before he bought this property. The 300 foot setback is in the regulations for the safety of the people and residents of mad river township. As the gentleman said fly rock is an issue. The United States department of labor states that fly rock is an issue anytime or anywhere there is blasting. This is a safety issue.

Dr. Zainey 4534 Fairfield pike was sworn in. Dr. Zainey states, I'm opposed to this because this would bring the health risk closer to other residents of mad river twp. I also presented a case medical study done in mass. Where they have been detecting things from blasting in the water wells of nearby residents. Based on these increased health risks this should not be approved.

Hearing no further comments, Chairperson Taylor closed the public portion of the hearing at 6:06pm and asked for a motion

Action on Case #BZA-2023-05 ~ Property Owner/Applicant: Frederick Messaros ~ Location: 1291 Cold Springs Rd.; Mad River Twp. ~ Request: Variance request from Chapter 7, Section 743.08.011 to allow quarrying closer than 300 feet to adjoining property line and 743.08.02 to allow quarrying and blasting less than 300 feet from railway.

Motion by Mr. Hazlett, seconded by Mrs. Smith to **continue** case BZA#2023-05

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

No: None.

Motion carried.

Staff Comments

Next scheduled meetings: May 25, 2023

There are 13 cases on the Agenda. Mrs. Tuttle asked the Board if they would like to change the time of the meeting. The Board agreed to move the Meeting time to 9:00am on Thursday May 25, 2023.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 6:11 pm

Mrs. Jerri Taylor, Chairperson