

# Minutes

## Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm  
Thursday, April 29, 2021

Springview Government Center  
3130 East Main Street  
Springfield, Ohio 45505

This Meeting was conducted using Zoom due to the COVID-19 Shelter and Place Order.

Mrs. Jerri Taylor, Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:01 pm. and asked for the Roll Call.

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

Absent For Roll Call: Ms. Greta Wilt.

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

### **Approval of the November 19, 2020 Minutes (Corrected)**

Mr. Neimayer stated the corrections were editorial (grammar and punctuation) and not of content substance or any action taken by the Board.

Motion by Mr. Hazlett, seconded by Mr. Smith, to **Approve** the corrected minutes as presented.

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

**No:** None.

**Abstain:** Mrs. Forstrom.

***Motion Carried.***

### **Approval of the March 25, 2021 Minutes**

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

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

**No:** None.

**Abstain:** Mrs. Forstrom and Mr. Smith.

***Motion Carried.***

Chairperson Taylor explained the procedures for the meeting. She then asked Staff to present the first case.

### **Case #BZA-2021-06 ~ Property Owner/ Applicant: Bruce Everhart ~ 320 N Hampton Rd., Bethel Twp. ~ Request: Variance to Section 201 to create a landlocked parcel to build a new single-family home**

Mr. Allan Neimayer, Senior Planner stated that the subject property is located at 320 N. Hampton Rd. and consists of 6.1 acres. The property is currently zoned A-1 (Agricultural District). The Applicant would like to split off the back (east side) portion of the property as a separate parcel to build a new single-family home. As this parcel would not have frontage along

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N. Hampton Rd., the Applicant has filed this variance request. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Mr. Smith asked could you go over it again. They proposed a new driveway next to the existing? Mr. Neimayer responded they are not proposing a new driveway at this time. The County Engineer's Office made a comment about not having enough room for a third driveway from a safety point. If approved, we would want to insure a shared driveway. Mr. Smith responded nothing being proposed yet? Mr. Neimayer answered, that is correct.

Chairperson Taylor asked if we allow the request we can make some stipulations for the drive. Mr. Neimayer responded yes.

Mrs. Forstrom asked on the drainage ditch would they need a culvert? Mr. Neimayer replied yes. Mrs. Forstrom then asked with more traffic on the driveway would that affect the well and septic in any way. Mr. Neimayer responded no; it is not close to the driveway.

With no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 2:15 pm. and asked if the Applicant would like to speak.

Stacey Pavlatos, Agent for Applicant, 700 E. High St. was sworn in. Mr. Pavlatos stated this request was made before Mr. Everhart passed away. The discussion has been that there will not be a new drive. The property's frontage is very narrow and the existing driveway would just be extended back to the new building site. They will follow whatever the engineer recommends.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none Chairperson Taylor closed the public Hearing at 2:19 pm. and asked for Board discussion.

Chairperson Taylor stated I do not see this acreage has much other use. They are consulting with engineering for drainage with the drive. If it remains a family property then they can address the well and septic when and if that times comes. Or we can adjust the 4.8 acreage for a possible new well and septic.

Mr. Smith stated I agree with everything you said. There would need to be something put in our motion that the lot split be dependent on an agreement with the front home owner so in the future both properties have access to that driveway.

Mr. Duffee stated I am thinking the same thing. It needs to be written and protected. If we approve we need to be sure the property owner consults with the engineer.

Mr. Hazlett stated I cannot wrap my head around this one. Too much concern on the access to the property in the back. If something were to happen with the family, I do not see how they will be able to do it.

Chairperson Taylor stated, you do not think having the easement in writing would help. Mr. Hazlett responded with the drainage running through it I think that will cause a problem.

Mrs. Forstrom added I think if we had a recorded access and if there became a new owner they would have to accept that easement.

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Chairperson Taylor stated we could Table this request it to give them time to look at the split and septic issue and see if they need to divide the acreage a little differently.

With no further discussion, Chairperson Taylor asked for a Motion.

**Action Case #BZA-2021-06 ~ Property Owner/ Applicant: Bruce Everhart ~ 320 N Hampton Rd., Bethel Twp. ~ Request: Variance to Section 201 to create a landlocked parcel to build a new single-family home.**

Motion by Mr. Duffee, seconded by Mr. Hazlett, to **Table** the variance request for up to 90 days.

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

**No:** None.

***Motion Carried.***

Chairperson Taylor asked Staff to present the next case.

**Case #BZA-2021- 07 ~ Property Owner/Applicant: Colonial Baptist Church; Agent: Matt Jackson ~ Location: 8963 Milton Carlisle Rd., Bethel Twp. ~ Request: Variance to Section 802.05, to allow an opened pavilion partly in the side yard instead of completely in the rear yard.**

Mr. Neimayer stated the subject property is located at 8963 Milton Carlisle Rd. and consists of 3.22 acres. The property is currently zoned A-1 (Agricultural District). The Applicant would like to construct an opened pavilion in the lower right portion of the property, in the side and rear yard areas. Because zoning regulations require the structure to be completely in the rear yard, the Applicant has filed this variance request. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Mr. Hazlett asked the use of the existing structure. Mr. Neimayer responded storage.

Mrs. Forstrom asked on the slide where is the leach field. Mr. Neimayer responded according to the Health District's records it is on the south side of loop drive, not where the Applicant has indicated.

Chairperson Taylor asked if I am looking at it correct there is no backyard. Mr. Neimayer responded that is correct.

Mrs. Forstrom asked, they stated they cannot put the pavilion anywhere else or else parking would fall beneath code. Mr. Neimayer responded yes if they were to put it behind (the church building) it would take up spaces of the parking lot.

Mr. Hazlett asked is it an open pavilion. Mr. Neimayer responded yes on all four sides.

With no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 2:39 pm. and asked if the Applicant would like to speak.

Agent Matt Jackson was not on the call.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 2:40 pm. and asked for board discussion.

Chairperson Taylor stated this is a well maintained church and I do not see any other option. I do not see it changing the character of the neighborhood. As long as it meets setback requirements, I do not see it negatively affecting anything. They are coming to us first and I do not see an alternative for this structure.

Mr. Hazlett stated I am good with it.

Mrs. Forstrom stated I am good with it. I would just like them to verify the distance from the other structure.

Mr. Duffee stated the occupant to the east is very close to the property. I see no problem with location of the pavilion.

Mr. Smith added I am good with it as proposed.

Hearing no further discussion, Chairperson Taylor asked for a motion.

**Action Case #BZA-2021- 07 ~ Property Owner/Applicant: Colonial Baptist Church; Agent: Matt Jackson ~ Location: 8963 Milton Carlisle Rd., Bethel Twp. ~ Request: Variance to Chapter 8, Section 802.05, to allow an opened pavilion partly in the side yard instead of completely in the rear yard.**

Motion by Mr. Duffee, seconded by Mrs. Forstrom to **Approve** as presented

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

**No:** None.

***Motion Carried.***

Chairperson Taylor asked Staff to present the next case.

**Case #BZA-2021-08 ~ Property Owners/ Applicants: Aaron & Kathryn Whitacre ~ 3070 Willow Rd., Moorefield Twp. ~ Request: Variance to Section 802.03.02 to allow a storage shed in the front yard less than 300 ft. from ROW.**

Mr. Neimayer stated that the subject property is located at 3070 Willow Rd. and consists of 1.1 acres. The property is currently zoned A-1 (Agricultural District). The Applicants are would like to locate a 10 ft. by 20 ft. shed in the front yard. Because this shed would be less than 300 ft. from the ROW, the Applicants have filed this variance request. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

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Chairperson Taylor asked we need 5 ft. correct? Mr. Neimayer responded that is correct.

Mr. Hazlett asked how far off the road are we? Mr. Neimayer responded from centerline of Willow Rd. to the proposed shed is approximately 125 ft.

Hearing no further questions for Staff, Chairperson Taylor opened the Public Portion of the Hearing at 2:49 pm. and asked if the Applicant would like to speak at this time.

Aaron Whitacre, Applicant, 3070 Willow Rd. was sworn in. Mr. Whitacre stated that it will not be used for a vehicle. The purpose is for items I would use for the house and driveway, and some items will be wheeled. I am aging and not as strong and youthful, and to bring them from the back of the property up to the front the driveway is necessary.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 2:52 pm. and asked for Board discussion.

Chairperson Taylor stated I was torn on it until the Applicant gave us his reasons for wanting it. When we have two options we need to look at the other option.

Mr. Duffee stated I agree the secondary location is better.

Mr. Smith stated I can understand what the Applicant's intentions. I know according to our rules it should go back to the other location. I am inclined to let it go because of the house being so well kept and the landscaping would hide it a bit.

Mrs. Forstrom stated #2 would be the best location. However, location #1 looks hidden from the trees and quite a bit of ways from the neighbors.

Mr. Hazlett asked are their other properties with similar out buildings. I just do not see how it would be misplaced with the #1 location.

Chairperson Taylor stated let us look at Findings of Facts because we are so split. Discussion on the Findings of Facts. Chairperson Taylor asked for a motion.

**Action on Case #BZA-2021-08 ~ Property Owners/ Applicants: Aaron & Kathryn Whitacre ~ 3070 Willow Rd., Moorefield Twp. ~ Request: Variance to Section 802.03.02 to allow a storage shed in the front yard less than 300 ft. from ROW.**

Motion by Mr. Smith, seconded by Mrs. Forstrom, to **Approve** the variance request as presented.

**VOTE: Yes:** Mr. Smith, Mrs. Forstrom, Mr. Hazlett.

**No:** Mr. Duffee.

***Motion Carried.***

Chairperson Taylor asked Staff to present the next case

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**Case #BZA-2021-09 ~ Property Owner/ Applicant: Justin Paulus ~ 5815 Spangler Rd., Mad River Twp. ~ Request: Variance to Section 201, to split off existing house site (10+ acres) from a landlocked parcel, and put the remaining 28+ acres into a land conservation easement.**

Mr. Neimayer stated that the subject property is located at 5815 Spangler Rd and consists of 38.59 acres. The subject property is currently zoned A-1 (Agricultural District) and was created following Variance #BZA-2019-03 that was approved on March 28, 2019. The Applicant would like to split off the existing house site (10± acres) from the landlocked parcel, and put the remaining 29± acres into a land conservation easement. Because neither parcel would have frontage along a public ROW, the Applicant has filed this variance request. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Chairperson Taylor asked the brown shading is wooded tress. Mr. Neimayer responded that is correct.

With no further questions for Staff, Chairperson Taylor opened the Public Portion of the Hearing at 3:13 pm. and asked if the Applicant would like to speak at this time.

Justin Paulus, Applicant, 5815 Spangler Rd was sworn in. Mr. Paulus stated he built the home last year and moved-in in July. During construction I had a construction loan. Now I have spent the last six months fighting with the bank. Their new bench marks and guidelines used for appraisal of my new home, they are not finding comps in the area for my property and acreage. A 15 to 30 year fixed loan with low rates is to section out a 10 acre parcel to meet their bench mark so the adjustment does not kick me out of the federal loans.

Mr. Duffee asked, you say the easement is only a possibility, what is your anticipation of a timeline? The Applicant responded as my property sits now it is not an option. If you did allow it, I would need to get it surveyed and recorded and get a refinanced loan to get that additional property out of it. The conservation has a limited amount of money as well.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 3:28 pm. and asked for Board discussion.

Motion by Mr. Hazlett, seconded by Mrs. Forstrom, to go into **Executive Session**.

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

**No:** None.

***Motion Carried.***

Time Out: 3:29 pm.

Chairperson Taylor Opened the Public Portion of the Hearing at 3:53 pm.

Mrs. Forstrom asked for the total amount of acreage being donated to the conservation. The Applicant responded I do not know yet. I own 45.9 acres.

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Chairperson Taylor asked for the reason he is sectioning off 10 plus acres. Is it because of the bank loan? The Applicant responded yes. The bank recommended a 10 acre parcel. They think it would be the best fit. When the county engineer's office submitted their comments, they recommended squaring off the lot which would take it to 15 acres. Then the bank had questions on that. But it sounded like they would approve the loan with the 15 acres.

Chairperson Taylor stated what the Applicant is asking for is to split off the 10 acres with his house. Options A and B and the potential easement. There is nothing written on what is going to happen after this split takes place. Mrs. Forstrom and Mr. Duffee both agree.

Mr. Smith stated the way it was written is what miss led us. After the Applicant has explained it to us it makes since that's he is trying to do what he can to get the right kind of loan.

Chairperson Taylor stated by using the proposal of Option B you have access to both points of the lot. Was that part of the county engineer's office concerns? If we choose Option A or B that addresses the Engineer's concerns. Mr. Neimayer responded that is correct.

Chairperson Taylor Closed the public portion of the hearing at 4:10 pm. and asked for a motion.

**Action on Case #BZA-2021-09 ~ Property Owner/ Applicant: Justin Paulus ~ 5815 Spangler Rd., Mad River Twp. ~ Request: Variance to Section 201, to split off existing house site (10+ acres) from a landlocked parcel, and put the remaining 28+ acres into a land conservation easement.**

Motion by Mr. Smith, seconded by Mr. Duffee, to **Approve** the variance request with the situation that the combined access be reinforced.

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

**No:** Mrs. Forstrom, Mr. Hazlett and Mrs. Taylor.

***Motion Defeated.***

Chairperson Taylor asked Staff to present the next case.

**Case #BZA-2021-10 ~ Property Owner/ Applicant: Theresa Nolan ~ 5212 W. Jackson Rd., Mad River Twp. ~ Request: Variance to Section 802.02.03, A, to allow an above ground swimming pool in the side yard.**

Mr. Neimayer stated that the subject property is located at 5212 W. Jackson Rd. and consists of 0.67 acres. The property is currently zoned A-1 (Agricultural District). The Applicant has filed this variance request to install an above ground swimming pool in the side yard next to a 20 ft. by 25 ft. deck they are rebuilding. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Mrs. Forstrom asked how far would the pool be from the leach field if they put the pool behind the deck. Mr. Neimayer responded I do not have the exact measurements of the leach field so the Applicant may be able to answer that.

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Mr. Hazlett asked would there be any issues from putting the pool back behind there. Mr. Neimayer replied yes, the leach field area is going to create issues with the required separation distance – a minimum of 10 ft.

Chairperson Taylor asked is this pretty close to where the old pool was? Mr. Neimayer responded yes.

Mrs. Forstrom asked are they going to put any kind of screening on it? Mr. Neimayer adds, the requirement for an above ground pool is a locked ladder.

Hearing no further questions, Chairperson Taylor opened the Public Portion of the Hearing at 4:18 pm. and asked if the Applicant would like to speak at this time.

Theresa Nolan, Applicant, 5212 W. Jackson Rd., was sworn in. Mrs. Nolan stated the question about the proximity of the leach field to the pool in the back was also the concern of our pool installation company. Not knowing the exact ending of the leach field and from pictures of the previous owners. And we are planning on putting a privacy fence up around that area.

Mrs. Forstrom asked do you know the height of the privacy fence. The Applicant responded whatever the traditional recommendation is. Mr. Neimayer responded 6 ft.

Chairperson Taylor asked if there was anyone is in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 4:21 pm. and asked for Board discussion.

Mrs. Forstrom adds, on the map it shows almost 50 ft. towards the back of the garage, do they have extra property. Mr. Neimayer states, it's not owned by the applicant. Mrs. Forstrom adds, I don't see any other places for them to put the pool.

Mr. Hazlett stated I am good with it.

Mr. Duffee stated this will not be an issue for anyone.

Mr. Smith stated I am fine with it.

Chairperson Taylor asked for a motion.

**Action on Case #BZA-2021-10 ~ Property Owner/ Applicant: Theresa Nolan ~ 5212 W. Jackson Rd., Mad River Twp. ~ Request: Variance to Section 802.02.03, A, to allow an above ground swimming pool in the side yard**

Motion by Mr. Hazlett, seconded by Mr. Duffee to **Approve** as presented

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

**No:** None.

***Motion Carried.***

Chairperson Taylor asked Staff to present the next case.



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### Case #BZA-2021-11 ~ Property Owner/ Applicant: Ryan Perkins ~ 4426 Randall Dr., Moorefield Twp. ~ Request: Variance to Section 802.06.03 to increase the height of a detached garage from 18 ft. to 20 ft.

Mr. Allan Neimayer stated that the subject property is located at 4426 Randall Dr. and consists of 0.17 acres. The property is currently zoned R-2A (Medium Density Single-Family Residence District). The Applicant would like to increase the headroom of the existing detached garage resulting in increasing the overall height to 20 ft. Because this exceeds the maximum height allowed for an accessory structure, the Applicant has filed this variance request. Mr. Neimayer reviewed slides of zoning and land use of the subject area.

Mr. Smith asked is this to have a second story for the garage. Mr. Neimayer responded I think the main reason is for the vehicles, but I will defer to the Applicant.

Mrs. Forstrom asked if we increase for the two feet what the headway will be on the second story. Mr. Neimayer deferred to the Applicant.

With no further questions for Staff, Chairperson Taylor opened the Public Portion of the Hearing at 4:27 pm. and asked if the Applicant would like to speak at this time.

Ryan Perkins, Applicant, 4426 Randall Dr., was sworn in. Mr. Perkins stated the headway is for storage. I have three children and a 3<sup>rd</sup> grandchild on the way. We need storage space and to keep our vehicles off the street.

Chairperson Taylor asked if there was anyone in favor of this variance that wished to speak at this time. There were none. She then asked if there was anyone who wished to speak in opposition to this variance. Hearing none, Chairperson Taylor closed the public Hearing at 4:31 pm. and asked for Board discussion.

Chairperson Taylor stated, I do not see changing the two feet and enhancing the garage as an issue. There are no complaints from neighbors.

Mrs. Forstrom stated I think you are correct. Mr. Smith stated I am fine with it. Mr. Hazlett added it will match the pitch on the house. I am good with it. Mr. Duffee stated the homeowner's predicament can be obviated through some other storage means. There is a reason the 18 ft. is the limit.

### Action on Case #BZA-2021-111 ~ Property Owner/ Applicant: Ryan Perkins ~ 4426 Randall Dr., Moorefield Twp. ~ Request: Variance to Section 802.06.03 to increase the height of a detached garage from 18 ft. to 20 ft.

Motion by Mr. Hazlett, seconded by Mr. Smith to **Approve** as presented.

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

**No:** Mr. Duffee.

***Motion Carried.***

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### Staff Comments

Next Scheduled Meetings: May 27 and June 24, 2021.

### Adjournment

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

***VOTE: Motion carried unanimously.***

The meeting was adjourned 4:37 pm.

Motion by Mrs. Forstrom, seconded by Mr. Hazlett, to **re-open** the meeting at 5:03 pm. to reconsider Action on Case #BZA-2021-09.

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

**No:** None.

***Motion Carried.***

**Action on Case #BZA-2021-09 ~ Property Owner/ Applicant: Justin Paulus ~ 5815 Spangler Rd.; Moorefield Twp. ~ Request: Variance to Chapter 2, Section 201, to split off existing house site (10+ acres) from a landlocked parcel, and put the remaining 28+ acres into a land conservation easement**

Motion by Mrs. Forstrom, seconded by Mr. Smith to **Approve** the variance request as presented for Preferred Option A, with the following conditions: 1) the remaining acreage (in particular the "triangle area" at the southeast of the current parcel) cannot be developed other than agricultural and related use; and 2) the ingress/egress easement must be recorded to run with the land.

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

**No:** None.

***Motion Carried.***

### Adjournment

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

***VOTE: Motion carried unanimously.***

The meeting was adjourned at 5:08 pm.

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Mrs. Jeri Taylor, Chairperson