

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 9:00 am.
Thursday, May 25, 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 9:00 a.m. and asked for the Roll Call.

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

Absent For Roll Call: Mr. Paul Hazlett

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

Approval of the April 27, 2023 Minutes –

Minutes for the April 27, 2023 meeting will be deferred for approval at the June 29, 2023 meeting

Chairperson Taylor explained the meeting procedures.

There was a pause to correct technology / projection issues with the TVs

Chairperson Taylor asked Staff to present the case

Case #BZA-2023-06 ~ Property Owner/Applicant: Rodz Bros Construction & Remodeling LLC ~ Location: 2783 S. Dayton Lakeview Rd.; Bethel Twp. ~ Request: Variance under Chapter 5, Section 501.02 to allow gravel parking area, aisles and drives and Variance to Chapter 2, Section 213 to reduce the rear setback from 70 ft. to 25 ft.

Mrs. Rachel Ricketts introduced Case # BZA-2023-06. She explained that the subject property is located at 7283 S. Dayton Lakeview Rd in Bethel Township. The surrounding land use and zoning varies but includes B-3, B-1, I-1 and A. The light gray shading on the plot plan indicates gravel. She showed the location of gravel and setback on the projected plot plan.

She reviewed the sections of code related to the case and explained that the applicant is requesting a Variance to Chapter 5 to allow for gravel parking area, aisles and drives, as well as Chapter 2 to reduce the rear setback.

Mrs. Ricketts relayed that the Clark County Engineer's Office reviewed the request and has no objections to the variance request.

Chairperson Taylor asked to view the plot plan again. She asked if the 25 ft. discrepancy in setback is existing. Mrs. Ricketts explained that the request is for a new construction, it is not existing. Chairperson Taylor asked if removing the last building of the proposed development would allow the applicant to meet the appropriate setback. Mrs. Ricketts indicated she did not know without preparing additional measurements.

Minutes

Clark County Board of Zoning Appeals

Chairperson Taylor asked what the adjoining property was used for and zoned. Mrs. Ricketts indicated that the adjacent property is an agricultural field and it is not located within Clark County.

Hearing no additional questions for staff from the Board, Chairperson Taylor opened the public portion of the meeting at 9:08 a.m.

Applicant, Martin Rodriguez of 4545 S. Dayton-Brandt, New Carlisle, was sworn in.

The applicant explained that the company he owns was started in 2014. Originally, the company flipped houses and did construction work. He described that they are now branching out into various investments. He stated that they are a small company and that is why they are requesting the variance to allow for gravel instead of a paved surface. The company is just beginning to be established and there are financial concerns with the paving requirement. He also said that there will be limited traffic as the storage facility is mostly for boats, RV and recreational vehicles. They feel the gravel will adequately accommodate the amount of traffic without breaking down or causing dust. Mr. Rodriguez stated he had a list of other similar businesses that were serviced with gravel drives and aisles and that some of those on the list see more traffic than what their development is anticipating.

He stated that the reduction in required setbacks will allow the last additional building to be constructed at the rear as discussed by the Board previously. The size of the lot and existing setback requirements limit how many buildings can be there. The reduction of setback will allow more storage and will help the business. He stated that if the lot was adjacent to another zoning district, and not a Miami County property, the setback would be shorter. The building will provide screening to the agricultural field.

Mr. Smith asked the applicant if he has been made aware of the engineer's drainage concerns. The applicant indicated that they will have retention ponds on site for stormwater management and it will be designed to address any concerns.

The engineer, Jason Harral of 20 S. Limestone and Harral & Stevenson, was sworn in.

Mr. Harral stated that he is the civil engineer for the project. He explained that this is a low ADT site and thinks that gravel will be fine. There will not be an issue with dust and there is limited traffic anticipated. He reiterated that the setback at the rear is extended because of abutting another county. He indicated that the plan will account for drainage and will coordinate with ODOT for any permits, and will address any concerns or comments raised by the Clark County Engineer's Office. He doesn't see any concerns and will follow all proper processes to carry out the process.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Hearing no further comments or questions Chairperson Taylor closed the public portion of the meeting at 9:13 a.m.

Mr. Smith indicated that similar requests have been granted by the Board previously. He would like to stipulate that the engineer's comments be followed and that a registered engineer work with the applicant to address and drainage or stormwater concerns.

Chairperson Taylor stated she has no opposition to the request and indicated that the subject property is in an area where it will not impact the surrounding neighborhood. She voiced concerns with

reducing the setback requirement so dramatically from the setback required in the code. She proposed the removal of the last building which would allow the required setback to be met without a variance. She indicated that with the proposed 25ft setback it would be difficult to get a vehicle behind the building units. She reiterated that the adjacent property is currently a field and within another county but she stated that future development of that lot are uncertain and stressed the importance of planning for development scenarios. Mrs. Smith agreed with Chairperson Taylor's discussion point.

Mr. Duffee asked what the setback would be if the adjoining property was not in Miami County. Mrs. Tuttle explained that the setback is determined by the zoning district of the adjacent parcel. For lots that are business or industrial zoning the setback is 20 feet but for residential lots it is 70 feet. Mr. Duffee asked the intent of having the increased setback. Mrs. Tuttle explained that the increased setback created a larger buffer between residential properties. Properties zoned with more similar uses (office, business, industrial) could have a smaller setback without creating a nuisance to surrounding properties. Chairperson Taylor asked if the field adjacent to the lot could/would be developed in the future. Mrs. Tuttle responded that she is unsure of future plans and uses for the adjacent lot but indicated it could be developed into something other than a field. Mr. Smith asked to see the overhead photo again. Mr. Smith indicated that he felt the lot may not be the most likely location for residential purposes in the future.

Chairperson Taylor restated that removing one building wouldn't negatively impact the business and would maintain setback without need of a variance.

Chairperson Taylor reopened the public portion of the meeting at 9:17 a.m.

Mr. Duffee asked Mr. Harral (engineer) what the rear setback would be if the last building was eliminated from the development. The engineer indicated it would be at least 70 ft. but indicated that there is no intention to access the last building from the rear so the proposed smaller setback would not cause issues for the subject property and use of access the storage units. He also stated that the proposed map (projected on the screen) depicts the development at full build-out. The last building/storage unit would not be built at the beginning of the development. It will be a phased development.

Mr. Smith asked if the project is designed at the level of the front setback or if there would be room to move the development forward, creating more room at the rear setback line. Mrs. Tuttle informed the Board that the front setback is 50 ft. Mr. Harral indicated that the structure could be moved approximately 10 ft. but that they would still need to allow room for drainage and the retention facilities on the site.

Mr. Smith again asked if the project could be moved towards the front. Mr. Harral indicated that the project could move and explained there are septic areas as well at the front so those areas cannot be encroached upon.

Mr. Smith stated that moving the project would allow 35 ft. as the rear setback. Mr. Harral stated the requested setback is 20 ft. not 25 ft. (making a correction to the drawing projected on the screen) so moving the project forward 10 ft. would create a 30 ft. rear setback. He indicated they could do landscape screening to further help with the concerns of the adjacent property.

Mr. Smith restated Chairperson's hesitancy of reducing the rear setback in the event that the adjacent property is developed in the future. He stated it request to reduce the setback from 70 ft. to 20 ft. is substantial. Mr. Harral stated the 20 ft. setback is what would be required if the adjoining property was a B district. Chairperson Taylor thinks that removing a building would be a compromise to ensure that

the proposed development is within regulation as regarding the setbacks. She acknowledged that the additional building would add income to the development but felt it was a small compromise to ensure the property was within regulations.

Hearing no further questions from the Board, Chairperson Taylor closed the public portion of the meeting at 9:20 a.m.

Mr. Duffee stated he is comfortable with the 20 ft. setback, as if it was a business district adjoining the subject property and he acknowledged the concerns felt by the rest of the Board.

Mr. Duffee reviewed the Findings of Facts. He stated the first finding of fact as it related to reasonable return on the property does not really apply as the applicant is looking to maximize the return. When regarding if the request is substantial, Chairperson Taylor has indicated it is a substantial request but he (Mr. Duffee) believes it may not be substantial because Chairperson Taylor's concerns are based on hypothetical scenarios. He stated the third finding of fact relates to the neighborhood impact and he stated that either way the proposed development will not impact the neighborhood as the surrounding uses are also business-like in nature. He continued that the request will not negatively governmental services. In relation to fact number six, the variance is required in order to remedy the owner's request. Mr. Duffee stated the layout of the property is not an issue and the spirit of the zoning is met if the variance is approved. It does not violate any zoning maps and no topographical conditions will cause the property to not comply with Engineer's Office concerns. The request is reasonable.

Chairperson Taylor asked Mr. Smith and Mrs. Smith if they had any additional comments to add to the Finding of Facts or if they were in disagreement to any of the statements made by Mr. Duffee. Mr. Smith indicated that he agreed with the statements made by Mr. Duffee.

Hearing no further questions or comments from the Board, Chairperson Taylor asked for a motion with the suggestion that each variance be considered separately.

Action on Case #BZA-2023-06 ~ Property Owner/Applicant: Rodz Bros Construction & Remodeling LLC ~ Location: 2783 S. Dayton Lakeview Rd.; Bethel Twp. ~ Request: Variance under Chapter 5, Section 501.02 to allow gravel parking area, aisles and drives and Variance to Chapter 2, Section 213 to reduce the rear setback from 70 ft. to 25 ft.

Motion by Mr. Smith, seconded by Mrs. Smith to **approve** as presented the variance request to allow gravel parking area, aisles, and drives.

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

No: None.

Motion carried.

Motion by Mr. Smith, seconded by Mrs. Smith to **approve** as presented the variance request to reduce the rear setback from 70 ft. to 20. ft. with the condition that the proposed design be moved forwards as much as possible without interfering with any other utilities. The motion was then amended by Mr. Smith to state approval of the variance request to reduce the rear setback with a minimum of 30 ft. as the rear setback.

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

No: None.

Motion carried.

Minutes

Clark County Board of Zoning Appeals

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2023-07 ~ Property Owner/Applicant: David C. Lyle and Rhonda K. Hatfield ~ Location: 6220 Harvest St.; Moorefield Twp. ~ Request: Variance under Chapter 2, Section 201, to reduce the frontage from 150 ft. to 24 ft. to create two (2) new lots.

Mrs. Rachel Ricketts introduced Case # BZA-2023-07. She stated that the subject property is located at 6220 Harvest St in Moorefield Twp. She gestured to the projected map. The property consists of 13.87 acres and is zoned A-1. The surrounding land uses and zoning includes A-1 and R-1. The CONNECT Land Use Plan identifies the area as Rural / Agricultural and the Thoroughfare Plan shows Harvest St. as a local road. According to the site plan the driveway will be coming off Harvest St and will go back to the two lots. Each lot will be 1.12 acre. The zoning requires 150 ft. of frontage and they are requesting 24ft.

Chairperson Taylor asked to see the overhead photo / plan again. She asked for confirmation that there is an existing house or structure on the lot and Mrs. Ricketts confirmed that there is an existing house on the lot. Chairperson Taylor asked how the property was going to be split given the existing structure. Mrs. Tuttle referenced to the overhead photo and showed the location of the two lots that are proposed from the property. She indicated that the proposed lot splits are considered cluster lots and that this type of split is no longer permitted.

Mrs. Ricketts explained that the Technical Review Committee has reviewed the request. The Engineer's Office has reviewed and taken into consideration drainage, access and utilities. The drainage currently flows to a drainage agreement. There will need to be access easement and maintenance agreement for legal access. Based on the available information and the points concerning the aforementioned topics, the Engineer's Office. The Utilities department voiced concerns about the amount of space that will remain after the splits and will create a challenge to keep the required safe distance from the water and sanitary lines.

Mrs. Ricketts explained that there were also a few letters of opposition that were received and attached to the packet. Letters were received from Nathan & Rebecca Seeberg (6137 Morris Rd.) and William Graham (6107 Morris Rd.).

Chairperson Taylor indicated the letters were not in her copy and asked for a summary. Mrs. Ricketts distributed a copy of the letters for the Board to review. Mrs. Ricketts corrected that the letters were received after the meeting packet was distributed and the letters were sent separately after the packet. Chairperson Taylor apologized for missing the separate email.

Mr. Smith asked if the request was approved if it would "cut off" the rest of the parcel. Mrs. Ricketts indicated the rear of the property would still be accessible by a small area at the cul-de-sac at the end of Harvest St. and gestured on the map to where the rest of the lot could be accessed.

Chairperson Taylor asked for the total parcel size and Mrs. Ricketts confirmed 13.87 acres.

Chairperson Taylor requested to see the lot split location again. Mrs. Ricketts gestured on the map to where the shared driveway would be in addition to the two lots, in relation to the existing house and lot.

Mr. Duffee stated the lot with the house would stay a lot. Chairperson Taylor stated it would be three lots after the spilt and confirmed driveway access. Chairperson Taylor asked if another driveway

would be added to get to the rear of the remaining parcel or if the driveway used to access the two created lots would continue back to access the remainder of the property. Mrs. Ricketts asked that they defer that to the applicant. She explained they submitted with two utility options and stated that the Board could ask the applicant questions related to that, as well.

Chairperson Taylor confirmed the lots would be 1.12 acres after the split and Mrs. Ricketts confirmed that 1.12 acres is correct.

Hearing no further questions from the Board for staff, Chairperson Taylor opened the public portion of the meeting at 9:35 a.m.

The applicant, David Lyle of 6220 Harvest St., was sworn in.

He explained he has reviewed some of the concerns and believes those can be addressed. The two requested lots are for family. He explained the first lot is for his daughter to build a home behind the existing home. They are making the request for the second lot now so they do not have to go through the process again for his son to build a home at the property (lot 2) in the future. He stated that the utilities would be fine and that the electric is located nearby to make the connection. He referenced the concerns raised by others in the documentation and stated that this process would actually ensure that no further subdivisions take place at the property. He restated that at this point in time only one lot will be built upon. The request gives the option in the future for the second lot to be built upon.

Chairperson Taylor asked if he lived in the existing home and the applicant confirmed that he did.

Mr. Lyle referenced the projected map and explained that the driveway would only be used to access the two created lots (in response to the Board's questions during the staff presentation). Chairperson Taylor asked how people will access the field at the rear of the property. He said it is currently farmed and there is no driveway access currently. The field is accessed by driving through his property/yard.

Mrs. Smith asked how the field will be accessed once the proposed houses are constructed. Mr. Lyle stated that they will continue to access the rear of the property in the same way they are currently.

Chairperson Taylor asked if the new driveway will be large enough for tractors to be accommodated. Mr. Lyle stated that the new driveway will be 24 ft. which would accommodate tractors but that they may still use existing yard as the access way.

Chairperson Taylor raised the County Engineer's concerns, stated that the engineer's office objects to the request, and asked if he was aware of the concerns. Mr. Lyle said he had not reviewed them. Mrs. Tuttle provided a copy for him to review in order to discuss concerns with the Board.

The applicant stated he did not understand the Engineer's concerns as the legal access would be established with a legal agreement and the utility separation would be the same separation as on any other 1 acre lot. He confirmed that the drainage does go off the back.

Mr. Duffee stated the concern with utilities is if public utilities are provided in the future, that 24 ft. wouldn't give proper access. Mr. Lyle said the only public utility currently is electric and Mr. Duffee explained they were concerned with water and sewer utilities not electric. He explained if there were to be public utilities in the future for water and sewer then the lot configuration would be challenging.

Chairperson Taylor asked if the property is currently on a well and Mr. Lyle confirmed yes that his and all surrounding properties are on private wells. Chairperson Taylor indicated that she has concerns

because the engineer's office has concerns and stated that those concerns should be addressed. She stated more information and clarification is needed from the Engineer's office.

Mr. Duffee asked if applicant talked to engineer prior to submitting the proposed project. Mr. Lyle indicated he had not spoken with the engineer but was surprised by the potential for public water and sewer utilities at that location.

Chairperson Taylor stated that although the initial purpose of the lot split is intended for family to live there, there is nothing to say in the future that the lots wouldn't be sold to a non-family member. Non-family members occupying the proposed lots may pose problems in the future and that is something the Board must consider.

Mr. Smith asked what crops are raised on the back portion of the property and asked for clarification if it was corn and beans or some other crop. Mr. Lyle confirmed crops include corn and beans. Mr. Smith asked how they currently remove the product from the property and asked if semis are currently driven back the field. Mr. Lyle stated no semis are used and explained that it is not a large operation. He stated he believes that crop products are removed from the property with farm equipment.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none.

Chairperson Taylor asked if anyone from the audience would like to speak in opposition of the request.

William Graham 6107 Morris Road was sworn in.

Mr. Graham stated his property abuts the back of the field of the subject property. He gestured to the projected map to show his property. Chairperson Taylor asked if wooded area was abutting to the property line. Mr. Graham confirmed that it was. He stated his concern about whether or not there can be other houses or anything else added to that location in the future. He asked if there were lot size requirements and if they would be allowed to put in more units.

Mrs. Tuttle explained that because the property is zoned A-1 it could not be turned into a subdivision. The size requirement is a 1 acre minimum for lots with no public utilities and the frontage is required at 150 ft. She explained there can be four splits from the property. The variance is requested to reduce the frontage requirement but the applicant would have to come back through the process in order to split the property further and he would again need to go through the process for a variance to the frontage requirement. She confirmed he would not be permitted to do a full subdivision like other properties in the area. Any type of subdivision or similar development would require a rezoning process.

Mr. Graham confirmed there is a minimum size requirement and Mrs. Tuttle confirmed that there is. She stated the applicant did not meet that (frontage) and that is why the case was before the Board. Mr. Graham asked if there would be another meeting in the future if he was going to subdivide further and Chairperson Taylor explained that there would be another hearing if they wanted to add further houses.

Mr. Smith confirmed that the applicant would have to add an access road to the property if he wanted to add more houses in the future at the rear where there is currently no access. Mrs. Tuttle confirmed this statement. Mr. Smith clarified that the access road being proposed in the current request is for the two proposed lots so he would need additional access in the future.

Mr. Graham asked if there was a minimum lot size. Tuttle explained that the minimum lot size would be 1 acre and that minimum only changes if the property has access to public utilities (water and sewer). Mr. Graham clarified that the applicant could not request half acre lots in the future and Mrs. Tuttle confirmed that he could not.

Hearing no further comments, Chairperson Taylor closed the public portion of the meeting at 9:47 a.m.

Chairperson Taylor stated that she felt the applicant should have the opportunity to review the Engineer's Office concerns and meet with that office to try and address the identified concerns. She indicated that if the Engineer's Office and applicant have the opportunity to meet and discuss, they may be able to reach a solution that the Engineer's Office would be able to recommend approval.

Mr. Duffee agreed with Chairperson Taylor's suggestion.

Mr. Duffee stated that he wanted to better understand the cluster lots. He acknowledged that it was a practice the county used to allow and questioned what happened to cause the county to amend the regulations to prohibit the lot type. Mrs. Tuttle explained issues caused by shared driveways and utilities were the main issues.

Mr. Smith asked if there were public utilities near the subject property and Mrs. Tuttle explained that they did not go out as far as the subject property and stated she was unaware of any expansion planned in that direction.

Mr. Duffee asked for further clarification regarding the proposed shared driveway. He asked what problems might arise in the future if one of the applicant's children sold the created lot. Mrs. Tuttle explained there would need to be a shared ingress/egress agreement at the time of the split. Additionally, the maintenance and upkeep would need to be defined in an agreement to determine how maintenance costs would be shared between the properties. Other issues could include ensuring the occupants of the lots stayed on their respective side of the driveway, although the layout of his proposal wouldn't likely cause this issue. The two lots could also be combined prior to construction and there would be no mechanism to stop the combination if the County had concerns at that point.

Chairperson Taylor confirmed easements and agreements go with the sale of a property and Mrs. Tuttle confirmed that to be true. Any issues related to these easements and agreements would be a civil matter between future property owners.

Mr. Smith asked if the property could be shifted back to provide additional frontage and reduce the amount of the request. He is uncomfortable with the frontage being reduced so drastically to 24 ft.

Mr. Duffee stated that the request is a substantial request and the case should be tabled to allow the applicant and Engineer to meet and discuss the proposal. He stated the Engineer's objection carries weight in their decision and he believes discussion between the applicant and Engineer's Office would be helpful because he believes the concerns that were raised are solvable.

Chairperson Taylor reopened the public portion of the meeting at 9:52 a.m.

Chairperson Taylor explained how tabling works to the applicant. She explained that no additional fees would be due but tabling the request would allow time for the applicant and the Engineer's Office

Minutes

Clark County Board of Zoning Appeals

to have discussion about the request. She asked if the applicant is in agreement of tabling the request so he could better address the Engineer's concerns.

Mr. Lyle explained that he was in agreement with tabling the request and also stated that he saw the Engineer's concerns but did not fully understand the concerns because he doesn't think public utilities will be extended to his location. Chairperson Taylor explained that the additional time to meet with the Engineer's Office may provide better information to both the applicant and the Board.

Chairperson Taylor closed the public portion of the meeting at 9:54 a.m.

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

Action on Case #BZA-2023-07 ~ Property Owner/Applicant: David C. Lyle and Rhonda K. Hatfield ~ Location: 6220 Harvest St.; Moorefield Twp. ~ Request: Variance under Chapter 2, Section 201, to reduce the frontage from 150 ft. to 24 ft. to create two (2) new lots.

Motion by Mr. Smith, seconded by Mrs. Smith to **table** the request until the owner/applicant has talked with the County Engineer

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

No: None.

Motion carried.

Mrs. Tuttle explained that because no timeline was placed on the decision to table the request, notice will be sent to neighboring property owners whenever the request is set to appear before the Board again.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2023-08 ~ Applicant: Wesbanco Bank Inc. ~ Location: 7601 Dayton-Springfield Rd.; Mad River Twp. ~ Request: Variance under Chapter 8, Section 802.05 to allow a non-residential accessory structure in the front yard.

Mrs. Ricketts introduced Case # BZA-2023-08. She stated the subject property is located at 7601 Dayton-Springfield Rd in Mad River Township. She indicated that the use was a bank and she explained this is a mixed-use low intensity area in the CONNECT Land Use Plan and the road is a primary arterial in the Thoroughfare Plan. The applicant is required to get a variance because the previous ATM was removed. A variance is needed to reconstruct. Mrs. Ricketts explained the applicant is requesting a variance to Chapter 8 to allow an accessory building for non-residential use in the front yard. Code indicates they should be in the rear yard. This is to replace an ATM. The existing ATM was torn down which is why they require the variance. It is the same location as the previous one

She explained that the Technical Review Committee had no comments regarding the request.

Chairperson Taylor asked if the Board had questions for staff. There were none.

Chairperson Taylor opened the public portion of the meeting at 9:58 a.m.

Minutes

Clark County Board of Zoning Appeals

The consultant, Steve Todd, acknowledged that he was present but did not have comment regarding the request.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Chairperson Taylor closed the public portion of the meeting at 9:59 a.m.

Mr. Duffee indicated that he saw no issue with the request and confirmed that there was/is an existing ATM at the site. Mr. Duffee questioned what the new ATM would look like and indicated he felt uncomfortable approving the request without having clarification on the looks.

Mr. Smith confirmed that they intended to replace the ATM in the same location as the previous one. Mrs. Tuttle confirmed the new ATM will be in the same location. She explained there was a code change in 2020 that caused this request to be made. The code will need to be amended again because there are non-residential uses that will need to be in the front yard such as banks, gas stations, etc. Mrs. Tuttle shared a photo of the previous/existing ATM.

Chairperson Taylor reopened the public portion of the meeting at 10 a.m.

Consultant, Steve Todd, was sworn in.

Chairperson Taylor asked the consultant if the new ATM will be the same size and shape as the old one. Mr. Todd explained that the unit will be larger than the existing but will have a smaller footprint. They are going to update the pad that it is poured on. He also described that the unit will allow for one car to be using the ATM and two waiting in line to use it.

Mr. Duffee asked if the ATM would have a canopy. The consultant stated that that aspect of the project would be handled by a different company but he does not think there is one.

Mr. Todd explained the existing ATM is older and does not meet new software updates so the proposed new model will help with software staying up to date.

Chairperson Taylor asked if the unit would accommodate one car at a time. Mr. Todd explained the three stackable system that would allow two cars to be waiting while one is using the unit.

Hearing no further questions from the Board, Chairperson Taylor closed the public portion of the meeting at 10:02 a.m.

Mr. Duffee reviewed the Finding of Fact. He indicated he was in agreement with the finding of fact that the applicant submitted as it was presented. Fact 1, the ATM is necessary to keep the current customer base. Fact 2, the request is not substantial as it replaces something that is already there. Fact 3, the character of the neighborhood will not be negatively impacted. Fact 4, the request should have no impact on governmental services. Fact 5, not applicable to this request. Fact 6, an ATM is already there so the replacement is appropriate. Fact 8, granting the variance will not substantially impact the spirit of the code. All Board members were in agreement.

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

Minutes

Clark County Board of Zoning Appeals

Action on Case #BZA-2023-08 ~ Applicant: Wesbanco Bank Inc. ~ Location: 7601 Dayton-Springfield Rd.; Mad River Twp. ~ Request: Variance under Chapter 8, Section 802.05 to allow a non-residential accessory structure in the front yard.

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

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2023-09 ~ Owner/Applicant: Timothy & Danielle Holzmann. ~ Agent: James Kent ~ Location: 9278 Lower Valley Pike.; Bethel Twp. ~ Request: Variance under Chapter 8, Section 802.02.063 to increase the size of an accessory dwelling unit from 600 Sq. Ft. to 1,172 Sq. Ft.

Mrs. Ricketts introduced Case # BZA-2023-09. She stated the subject property is located at 9278 Lower Valley Pike in Mad River Twp. The property consists of 23.4 acres and is zoned A-1 and used as single family residence. The surrounding land use and zoning include A-1 and R-1. She gestured to a map that showed setbacks from the surrounding property lines. It is identified as a Rural/Agricultural area in the CONNECT Land Use Plan. The road is a secondary arterial in the Thoroughfare Plan. She explained the applicant is requesting a variance to Chapter 8 to increase the size of an accessory dwelling unit. She indicated there was a garage that is an accessory structure and doesn't count towards size of the dwelling unit. It will also need a zoning certificate.

Chairperson Taylor asked for clarification that the request is based on the addition of the porch.

Mrs. Ricketts explained that Case # BZA-2022-07 was granted in 2022 to increase the size of an accessory dwelling unit from 600 sq. ft. to 1,060 sq. ft. This request was approved. The applicant is now requesting to increase the size further to 1,172 sq. ft. Additionally; Mrs. Ricketts explained that the variance that was granted in 2022 has expired as the applicant did not obtain a zoning certificate within 6 months of the decision. Now they are requesting a larger size.

Mrs. Ricketts explained that the zoning regulations restrict an accessory dwelling unit to 600 square feet. She also stated that there were no comments from the Technical Review Committee.

Hearing no questions from the Board for staff, Chairperson Taylor opened the public portion of the meeting at 10:08 a.m.

Agent, James Kent of 3600 Dayton-Xenia Rd Beavercreek, was sworn in.
Applicant, Timothy Holzmann of 9278 Lower Valley Pike, was sworn in.

Mr. Kent explained that a year ago they appeared before the Board for approval for a multi-generational housing request. In developing the drawings and plans they decided to add a porch. He stated he did not realize that the porch would count towards the square footage. That addition is the reason for the request for an additional 100 square feet in the accessory dwelling unit.

Minutes

Clark County Board of Zoning Appeals

Hearing no questions from the Board, Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Chairperson Taylor closed the public portion of the meeting at 10:10 a.m.

Chairperson Taylor stated that she did not see a problem with a small additional and stated that it looks like it will be nicely done. She does not believe it will impact the neighborhood as there is nothing around the area. It is a nice area and large lot.

Mr. Smith agreed that the property contains 23 acres and had no concerns with the request.

Mrs. Smith and Mr. Duffee were also in agreement.

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

Action on Case #BZA-2023-09 ~ Owner/Applicant: Timothy & Danielle Holzmann. ~ Agent: James Kent ~ Location: 9278 Lower Valley Pike.; Bethel Twp. ~ Request: Variance under Chapter 8, Section 802.02.063 to increase the size of an accessory dwelling unit from 600 Sq. Ft. to 1,172 Sq. Ft.

Motion by Mr. Smith, seconded by Mrs. Smith to **approve** as presented

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

No: None.

Motion carried.

Mrs. Carol Smith recused herself from deliberating and acting on Case #BZA-2023-10 and Case #BZA-2023-11 at approximately 10:13 a.m.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2023-10 ~ Owner/Applicant: Barry & Donna Hatfield. ~ Agent: Stephanie Hatfield Morris ~ Location: 7524 Milton Carlisle Rd.; Bethel Twp. ~ Request: Conditional use under Chapter 7, Section 728.04 for a major home occupation for a firewood business.

Case #BZA-2023-11 ~ Owner/Applicant: Barry & Donna Hatfield. ~ Agent: Stephanie Hatfield Morris ~ Location: 7524 Milton Carlisle Rd.; Bethel Twp. ~ Request: Variance under Chapter 7, Section 728.05.05 to allow outside storage with a Conditional Use.

Prior to introducing Case # BZA-2023-10 & 11, Mrs. Ricketts read the disclaimer "Based on advice from our legal counsel, The Board should disregard any statements made by Board Member Carol Smith relating to this issue. The Board should not consider comments that she made in making their decision as she has elected to recuse herself on this issue."

Mrs. Ricketts then introduced the cases. She stated the subject property is located at 7524 Milton Carlisle Road in Bethel Township. The property consists of 7.79 acres and is zoned A-1. The surrounding land use and zoning include A-1 and R-1. She explained the applicant is requesting a conditional use for a major home occupation. She explained the applicant is requesting a variance to

allow outside storage with a conditional use. She reminded the Board they heard this request in February. The area is identified as Rural / Agriculture in the CONNECT Land Use Plan and the road is identified as a collector road in the Thoroughfare Plan.

Mrs. Ricketts gestured to several projected slides and explained they showed the applicant's work area and explained that the applicant would go into further detail.

Mrs. Ricketts explained that the applicant had previously made their request as a part of BZA-2023-01 and reminded the Board they voted to deny the request due to noise and traffic concerns.

Mrs. Ricketts indicated there were approximately 8 letters received in support of the request and 0 new letters received in opposition to the request.

Mrs. Ricketts explained that several complaints had been received for other properties in the area that are operating business uses, as were identified in one of the received letters of support. She explained the complaint process and she indicated that the initial report was started for these other properties and the drive by inspection to start the process will be conducted shortly.

She explained the variance was for outdoor storage of products associated with a home occupation and may not be visible from the street.

Hearing no questions from the Board for staff, Chairperson Taylor opened the public portion of the meeting at 10:16 a.m.

Agent, Daniel Brown of Brown Law Office of 24 S. Ludlow Street Suite 300, Dayton OH, was sworn in.

Mr. Brown stated he will be speaking on behalf of the applicants for the conditional use and variance requests. He referenced the major home occupation provision in the code and stated that lawn care and landscaping businesses can be approved in an Agricultural district. He claimed that the requested business is a similar business type where wood is cut, split and bundled. He explained that the operator does the work himself and the home occupation is a small operation. Mr. Brown referenced the packet and discussed how the requirements that must be met for a conditional use have 8 objective requirements and that the 1 is a subjective requirement.

He reviewed the 9 requirements (paraphrased below) that conditional uses must meet and explained how the applicant related to each requirement

1. The structure won't be altered – Agreed, no alterations are proposed
2. Less than 25 % of the area can be for the use – Agreed, it is a small operation that will not exceed 25%
3. Not more than 1 sign permitted on site – The operator will not have a sign
4. No internal/external alterations – Agreed, there are no proposed alterations
5. No external storage and no products visible from the street – He explained this cannot be met because the wood will be stored outside which is why they are also seeking a variance to accompany the conditional use request
6. No equipment used for the operation will cause offensive noise, odor, etc. – Mr. Brown stated that this requirement is the subjective requirement where all others are objective. He stated that "offensive" needs to be considered and defined to determine if this requirement is met because all activities and uses cause noise. It must be determined if it is offensive. He claims the use will not be offensive in the context for how the properties in this area are being used, in an agricultural area. He asked to view the zoning map showing the separation between agriculture and residential zoning in the area. Gesturing to the map, he stated he assumes at

one time the whole area was all agricultural because only one section of properties is zoned residential. He restated again that the subject property is located in an Agricultural district. He explained the uses that could be permitted in the agricultural district that would be offensive such as farming, barns, pigs, chickens, etc. He believes the proposed business use is less offensive than some of the other permitted agricultural uses. He stated that the decision will come down to if the business can be compatible with the neighborhood and agricultural zoning. He stated he does not believe the requested use will have a negative impact on the area.

7. No additional parking – There is no additional parking
8. No more than 2 non-resident employees – Correct, the operator commits to this requirement
9. Only 1 light duty vehicle on property – the operator commits to this requirement

Mr. Brown restated that there is only one requirement that the applicants don't meet and he stated that the requirement is subjective and there is only one requirement that requires a variance. All objective requirements are met by the applicant. He reviewed the requested application with the board. He stated that the photos submitted were taken by him and are accurate or were downloaded from Google Maps or Google Earth by him. He described the business. He indicated that the business operator brings wood that needs to be cut to the property where he then cuts, splits and bundles it. The wood is then delivered/shipped to local customers. It is a good business that provides additional income and allows county residents to get local firewood while promoting a good local economy. The operator believes approximately 30% of the wood processed on site is for their own use and then 70% is for sale. Clients include friends and family and some is for small retail locations (like gas stations) locally. Most of the firewood is brought to the property by the operator. Only approximately 15% of wood is brought by outside contractors. It is not frequent for traffic to be generated at the property, only a few times a quarter will shipments be made to the location. Mr. Brown indicated that dump trucks, school buses, etc. create more traffic than this small business.

Mr. Brown referenced several projected photos from the site and explained that the wood is bundled using a small electric machine which does not create dust or fumes. The business is not visible from the road.

Mr. Brown outlined the neighborhood makeup and explained that the subject property is in an agricultural district but is located near a residential district. There are two other businesses that are operating right now within a close proximity to the subject property. One got approval recently from the Board for a construction business. It has outdoor storage and visible parking. Mr. Brown stated that the proposed request is no worse, and actually better, than the other uses in the area. He explained that another business in the neighbor is located in an agricultural district but is also essentially doing firewood preparation. He referenced photos of the two existing businesses. He called out the visibility of these operations from the road, where operation is not visible at the Morris property.

Mr. Brown stated that the operator is sympathetic to neighbors and surrounding property owners. They are willing to make accommodations to help eliminate issues. The Morris family has planted a row of trees that will grow out overtime and provide a screen so as to shield the business from neighboring properties.

Mr. Brown again referenced the remainder of the application and summarized that it discusses the conditional use criteria and explains how the request meets the criteria.

He again stated that number 6 of the conditional use requirements is the only one that up in the air related to offensive noise. He stated that the equipment associated with the business includes tractor,

chainsaw, splitter, and bundler. He explained that all equipment is stored in the barn and the wood is typically bundled in the garage using the electric bundler which does not produce any loud sounds. There is limited equipment used and the operator is willing establish hours that are respectful of the surroundings. They are willing to keep chainsaw work limited to 3 hour daily period during the hours of 10 AM to 5 PM on Monday – Saturday. With the operator being the sole employee, three hours is likely the maximum that he would want to work at a time given the physical nature of the business. The use will not be at continuous or at odd hours. The operator is willing to make these accommodations to help address neighbor concerns.

Mr. Brown explained that the applicant is in a “catch 22” scenario in regards to the variance request. The conditional use criteria says no outside storage and that new buildings cannot be constructed for the home occupation. So the applicant would either need a variance for outside storage or for constructing a new building. The applicant would rather store the wood outside as it is already a natural substance and won’t negatively impact the visual area and won’t cause any issues.

Mr. Brown believes it is a rural neighborhood with small businesses and does not believe that the request will be a detriment to the area.

Mr. Brown referenced the letters of support that were received and showed their proximity to the subject property and explained that Stephanie Morris (agent) would like to speak.

Agent, Stephanie Hatfield Morris of 7524 Milton-Carlisle Rd, was sworn in by Chairperson Taylor. Mrs. Morris is the daughter of applicant and resident at the subject property/operator of the firewood businesses.

Mrs. Morris explained that they (her and her husband) moved to the property in 2017 and installed a wood burner because they have electric heat. The wood burner offsets the costs of heating. She explained that the chainsaw runs for business and personal use as they use wood to heat their home. She stated that they reached out to neighbors to see if there were specific times that would be more appropriate for running the chainsaw and that the majority of the neighbors they spoke with did not realize that they also operated a business at the subject property. She stated that their property is well maintained. She explained that she has been local her whole life and that her children will be attending local schools so they do not want to cause a disturbance to the community. Mrs. Morris stated that Bluebird asked for a variance and conditional use for their business nearby and they have vehicles and outdoor storage that are visible even though they are located in a residential area.

Chairperson Taylor asked if there were any other business plans for the property. Mrs. Morris stated that they do not have any other businesses planned at that location. Chairperson Taylor asked about a sign advertising a hog farm at the location and Mrs. Morris stated that the sign is no longer displayed. Chairperson Taylor specifically asked if they were proposing to open a hog farm. Mrs. Morris stated that her daughter is looking to have 4-H hogs but that they are not starting a business.

Hearing no other questions from the Board, Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request.

Elizabeth Fallon of 10475 Milton-Carlisle Rd, was sworn in by Chairperson Taylor.

Ms. Fallon stated that she has lived on the street since 2016 and that she has known the Morris family since 2017. She had been looking for a place to purchase firewood and someone suggested she get in touch with them. She stated that the subject property is immaculately kept. She stated that she wished neighbors closer to her kept their property as nice. She explained that the Evan’s Ranch is

near their location and that the ranch has semis and other equipment that tracks mud out onto the road. She stated that the Morris family has a paved driveway and that it has not led to any issues on the roadway. Ms. Fallon indicated that the Morris family has a small child and she believes they will only work during appropriate hours so as to not wake their own child. She stated they are a nice family that they help out their neighbors. She does not think the business is a disturbance and stated her hope that the Board would look favorably upon the request.

Chairperson Taylor asked for Ms. Fallon to point out her home in relation to the subject property on the projected map. Ms. Fallon stated that her property was not in the extent shown on the map.

Chairperson Taylor asked if it was several miles away from the subject property and Ms. Fallon stated she lives down the road from the subject property but that it was not several miles from the location.

Fre-Leigh Hamm of 7685 Milton-Carlisle Rd. was sworn in by Chairperson Taylor.

Ms. Hamm indicated her property location on the projected map in relation to the subject property which was nearby. She stated that she has lived in the area a long time and has chosen to stay in the area. She explained that the area is an agricultural area and there are lots of sounds that are heard in that area (kids, mowers, trucks, buses, etc.). She said the area is an agricultural area and she does not find the home occupation to be offensive. She indicated that she believes the Morris family is operating the business to help support their family in a way that is not invasive to the area. She stated that the Morris family's house is well kept and reiterated that they are a family that is working hard to provide for their own family in their neighborhood. She does not believe they are doing anything wrong. She stated that they are a family working hard to provide for themselves and that she is frustrated to see neighbors against one another.

Ms. Hamm stated that her house is off the road but is on a hill that abuts agricultural uses and farm equipment. There are lots of sounds associated with these uses and she is not bothered by it. She acknowledged that the area is an agricultural area and people are trying to live a simple life. She doesn't think the business operator is doing anything negative.

Applicant, Donna Hatfield of 235 N. Hampton Rd, was sworn in by Chairperson Taylor.

Mrs. Hatfield indicated that she is the property owner and stated that her daughter and son-in-law live at the subject property with her granddaughter. She is in support of their small business. She stated that the property is well maintained and that they are trying to make a living. She explained that the wood is brought in to the property in a pickup by the operator and only occasionally has anything delivered from other sources. She stated that they several friends, neighbors and customers with the split and bundled wood. She also stated that they have added 4-5 ft. trees to shield the operation from a neighbor who has complained in order to be a good neighbor. She also stated that there are other property owners closer who have had no complaints with the operation at that location.

She reiterated her support for the small business and asked that the Board also support it.

Hearing no further comments in favor of the request, Chairperson Taylor asked if anyone from the audience would like to speak in opposition of the request.

Dallas Smith of 712 Free Road was sworn in by Chairperson Taylor.

Mr. Dallas Smith stated that he is not an enemy to the request that he is a neighbor but stated that at no point has anyone come to him to ask about a variance or conditional use. He also stated he does

not see the connection between a firewood business and agricultural uses. He acknowledged that the operator is a hard worker and Mr. Dallas Smith stated that he admires that about him. He stated his complaint is that when he goes to his back yard he sees all the wood piled up and compared it to a pulp mill.

Mr. Dallas Smith also stated that the wood has brought ants and other insects to the property. He indicated that he is going to have to have an exterminator come to his property to address an ant problem at the fence row. He also referenced the trees that have been planted on the property line by the operator. He stated that the trees will not grow to an appropriate height to block the view for him during his time at the property because he is 79 years old. Mr. Dallas Smith stated that the operator is intimidating when he is upset. Mr. Dallas Smith referenced the other businesses in the area that were referenced by Mr. Brown in his testimony. Mr. Dallas Smith stated that is not bothered by the Bluebird business.

Chairperson Taylor asked for clarification about the Smiths deck and the wood storage location in relation to their deck. She also asked about the frequency that the chainsaw is being run and if Mr. Dallas Smith felt there was a way to eliminate the wood being visible from his property or a compromise.

Mr. Dallas Smith indicated that the trees would need to be mature in order for them to provide screening. Chairperson Taylor asked if a privacy fence would assist in screening and he indicated that a privacy fence would be offensive to him. He stated the current location of the wood isn't offensive. His concern is the insects that come from the wood and the debris from the process. He stated that the debris is burned on site.

Chairperson Taylor asked how far to the property line and Mr. Dallas Smith indicated it was likely 125 yards from the property line where the wood is being processed. Chairperson Taylor asked if moving the operation would alleviate the problem and Mr. Dallas Smith indicated that moving the operation would be helpful.

Chairperson Taylor asked if there was anything else that could be done to alleviate the problems associated with the operation.

Mr. Dallas Smith asked to see the applicant submitted photos of the property. He showed the location where logs are stored that are visible from his property. Chairperson Taylor confirmed that those are seen from the Smith property. He stated that those logs could be moved behind the barn.

Chairperson Taylor asked about the frequency of chainsaw use and Mr. Dallas Smith indicated that the chainsaw usage has decreased since the first meeting. His main concern is the insects coming off the wood.

Deborah Gould of 7585 Milton-Carlisle Road, was sworn in by Chairperson Taylor.

Ms. Gould indicated that she assumed that the operator had to stop running the business from the residence after the last hearing when the request was denied. She stated he has continued working and that she has heard him working and has seen him loading wood into the dump trailer since the time of the first hearing/denial. She stated that he has shown no regard for the Board's first decision. She said she saw him working as recently as the previous Monday (before the second hearing). She acknowledged that the chainsaw noise has reduced since the first hearing but it is still there and noticeable. Ms. Gould believes he has moved the location which has reduced the noise.

She stated that she does not really see the negative visual impacts of the business unless she is walking down Free Road but she does not think the pile is getting smaller since the first hearing and she believes he may still be bringing in wood to the property. Ms. Gould reiterated her original testimony is that her major concern is that the operator does not show regard and respect for the surrounding area and neighbors. She stated she believes that her lot is zoned as agricultural but stated she wouldn't have livestock at the property out of respect for the surroundings. She stated even so there are restrictions.

In relation to respecting neighbors, she referenced the hog farm sign that used to be on the subject property. Ms. Gould relayed that another neighbor put her house on the market shortly after the hog farm sign was installed. Ms. Gould acknowledged that the story was second hand but wanted to relay it to the Board. She indicated she heard the operator approached this neighbor and assumed that she was partially to blame for the denial of his request. Ms. Gould sees the threatened hog farm as retaliation to the denial of the request.

Ms. Gould asked who polices these kinds of issues as related to the noise. She stated that the Morris family would set off illegal fireworks also. She does not want to call the police every time he is operating at inappropriate times. She also has concerns if the operator will follow stipulations if approved because he already had no regard previously for the denial and other policing issues. She indicated that she and the neighbors do not want to have to call the police if he is operating outside of the committed hours.

Ms. Gould referenced Mr. Brown's earlier testimony referencing the 6th requirement to be met for the conditional use to be granted. Ms. Gould stated that noise is a big issue in determining where to live. She referenced not living near an airport or other business generating noise. She also stated she does not agree with Mr. Brown's statement that the firewood business is a similar use to landscaping and lawn service. The proposed use/request does not operate in the same way. The landscaping and lawn services will leave the site to do the work and are basically only parking their equipment at the home.

She stated the chainsaw noise is disruptive when she goes outside to her porch in her free time. Ms. Gould stated she doesn't live right next to the subject property, she is across the road, but she still feels it is a disturbance when he is sawing. She acknowledged that it has quieted since the first hearing but it is still able to be heard and it disturbs the peace. She stated that even in agricultural zones the tractors and other noises don't occur every single day.

She stated that the noise is a big complaint. She also acknowledged that there are truck and bus noises with living in this area, but stated the chainsaw is for longer durations. Even limited operation to 3 hours (as Mr. Brown stated) is still a lot of noise. She stated the operator works early in the morning and it is able to be heard from her house. She said she is even able to hear him throwing logs into the metal dump truck. She stated that those who have spoken in support of the business do not live next door to the subject property. Ms. Gould stated that there are a lot of residential houses on that section of road, there is not a working farm in that section. She referenced Mr. Brown's testimony stating the operator would work Monday thru Saturday and stated that 6 days a week is excessive for the that area where there are more houses than agricultural uses.

Hearing no further questions from the Board or any other audience members speaking in opposition to the request, Chairperson Taylor asked if there was a rebuttal from the applicant or agents thereof.

Mrs. Stephanie Morris returned to the podium.

Mrs. Morris asked to reference the support letter proximity map. She confirmed there is a neighboring home that was listed and is still for sale. She stated that her husband, did not visit the occupant of that home (as was stated during Ms. Gould's testimony). Mrs. Morris stated that the resident at the for sale property reached out to them before and after the first hearing to tell them that people had called her asking to raise opposition to the request. Mrs. Morris confirmed that this home is still for sale and reiterated that there is no hog farm at the subject property.

Mrs. Morris indicated that there are several letters of support on record from people who live closer to the subject property than the Goulds who spoke in opposition.

She referenced the aerial photo of the property and indicated that the adjoining field is planted with corn which will shield the property from noise and visual disturbances.

She referenced the photo that Mr. Dallas Smith referenced in his testimony about the wood location and confirmed that the photo is an old photo. The wood in the photo is no longer at that location. She gestured to the map and showed the location between the Smith property and where they are now processing the firewood. She stated that it does not seem feasible that the Smiths would be looking that far into the Morris yard while on their porch. The corn also shields some of the view when it has grown up.

Mrs. Morris also referenced on the map properties which are in closer proximity who supplied support letters and indicated that those who have sent support letters have not had issues with ants. She also stated that they get the yard treated at the subject property because of their daughter and dogs and that they do not have issues with ants.

She indicated that she did call Mr. Dallas Smith and asked if they could move the times of operation to better accommodate them. She stated he told her he did not have an issue with the operation. She stated that the Smiths have purchased firewood from them in the past and that the operator has hauled wood from the Smith's daughter's property. Mrs. Morris stated that shortly after she had called Mr. Dallas Smith that he texted her asking if she knew who had reported them to the Board of Zoning Appeals.

Chairperson Taylor asked how long they have been operating the business and Mrs. Smith indicated that they have not been in business for a year yet.

Hearing no further questions or comments, Chairperson Taylor closed the public portion of the meeting at 11:05 a.m.

Motion by Mr. Smith, seconded by Mr. Duffee to move to executive session

VOTE: Yes: Mr. Smith, Mr. Duffee and Chairperson Taylor

No: None.

Motion carried.

The Board entered Executive Session at 11:05 a.m. and requested that Mrs. Tuttle and Mrs. Ricketts join the Executive Session.

Mrs. Tuttle explained that the Board would be in Executive Session to deliberate and would return.

The Board returned from Executive Session at 11:31 a.m.

Chairperson Taylor explained that in Executive Session the board examined new facts, testimony, etc. for further deliberation of the case.

Mr. Duffee shared the findings of facts:

Mr. Duffee stated that most major home occupation requests in the past have been for businesses/occupations where the business activity is not happening on the site. He provided an example of a construction company where he explained the requests were more often for storage of vehicles and equipment, not for work to occur on the site. He stated that the current case is difficult to consider because the work site is on the subject property.

He asked for the regulations to be projected. Mr. Duffee listed some of the major home occupation categories which included tree services, landscaping and lawn services and he stated that these occupations are going to other sites more often than working on site. The same applies with construction services. He explained that the Board's deliberations show that the request does not meet the criteria for major home occupation. He also explained that the listed prohibited services, including mechanical services, welding and machining, etc. that result in noise and fumes and other disturbances, are more similar to the request.

The Board's opinion is that the request does not meet the criteria of a major home occupation and more likely meets the prohibited business criteria.

Mr. Smith agreed with the findings of fact and stated that the specific business type is not a listed conditional use.

Chairperson Taylor explained that the Board has given the request a lot of thought and have only considered the regulations when deciding this case. The regulations were used as a guideline when reaching their decision.

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

Action on Case #BZA-2023-10 ~ Owner/Applicant: Barry & Donna Hatfield. ~ Agent: Stephanie Hatfield Morris ~ Location: 7524 Milton Carlisle Rd.; Bethel Twp. ~ Request: Conditional use under Chapter 7, Section 728.04 for a major home occupation for a firewood business.

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

VOTE: Yes: None

No: Mr. Duffee, Mr. Smith, Mrs. Taylor

Motion defeated

Mr. Duffee stated that the variance is not required as the conditional use was not approved. The applicant/resident has the right to store their own firewood at the property. That does not need permission from the Board.

Mrs. Tuttle suggested the Board still make a motion and vote on the variance request.

Minutes

Clark County Board of Zoning Appeals

Action on Case #BZA-2023-11 ~ Owner/Applicant: Barry & Donna Hatfield. ~ Agent: Stephanie Hatfield Morris ~ Location: 7524 Milton Carlisle Rd.; Bethel Twp. ~ Request: Variance under Chapter 7, Section 728.05.05 to allow outside storage with a Conditional Use.

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

VOTE: Yes: None

No: Mr. Duffee, Mr. Smith, Mrs. Taylor

Motion defeated

The Board discussed if they should proceed through the remaining cases or take a recess for a lunch break. After discussion, it was determined to hear all remaining cases with the exception of the final case which had three requests associated with it.

Chairperson Taylor asked Staff to present the next case.

Mrs. Carol Smith rejoined the Board at 11:38 a.m.

Case #BZA-2023-12 ~ Owner/Applicant: Jeffery Thomas & Latishia Detty. ~ Location: 4747 Botkin Rd.; Madison Twp. ~ Request: Variance under Chapter 8, Section 802.03.02 to construct a 32 ft. by 48 ft. barn with a 600 sq. ft. Accessory Dwelling Unit in the front yard.

Mrs. Ricketts introduced Case # BZA-2023-12. She stated that the subject property is located at 4747 Botkin Rd in Madison Township. The property consists of 2.71 acres and is zoned A-1 and has a private well and septic. The surrounding land use and zoning includes A-1. She explained the applicant is requesting a variance to Chapter 8 to construct a barn with an accessory dwelling unit in the front yard. It is Rural / Agricultural in the CONNECT Land Use Plan and it is a collector road in the Thoroughfare Plan.

She gestured to the map which shows the distance from the property line. It is 256.7 feet. The requirement is 300 ft. It is close. There are no setbacks in the front yard so the Board would create the setback with their determination. Mrs. Ricketts explained the zoning regulations in relation to the request.

Chairperson Taylor asked for clarification that the structures is a barn but that it is going to be used for an accessory dwelling. Ricketts confirmed it is a barn that is 32 ft. X 48 ft. with 600 SF of an accessory dwelling.

Hearing no questions for staff, Chairperson Taylor opened the public portion of the meeting at 11:45 a.m.

Applicant, Jeff Thomas of 4747 Botkin Rd, was sworn in by Chairperson Taylor.

Chairperson Taylor asked why the structure was being constructed and why at that location. The applicant explained that elsewhere on the property there is a leach field and large tree. Thomas

indicated that the proposed location will be able to utilize the existing driveway. It is a proposed dwelling for his mother-in-law.

Chairperson Taylor asked if the structure was already in place and the applicant indicated that the project as in the planning stages.

The applicant indicated he owned the abutting property and Chairperson Taylor asked why they weren't constructing something on that lot. The applicant indicated that if he sells that property he does not want to have to have his mother-in-law move.

Mr. Duffee confirmed it a barn. Mr. Thomas indicated that it is a barndominium. It will house his tractor and other equipment but then will have a finished dwelling unit also.

Mr. Duffee asked if it was two story. The applicant indicated it is one story. One open room. There is a kitchenette, bathroom, open room etc.

Chairperson Taylor confirmed the request is only needed because it is in the front yard.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Chairperson Taylor closed the public portion of the meeting at 11:48 a.m.

Mr. Smith indicated he does not have a problem because it is almost at the permitted 300 ft. distance at 257 ft. He understands not adding the expensive of moving the location and having a separate driveway.

Chairperson Taylor does not think it is a dense area and does not foresee any negative impact to the surrounding area. The request is not a substantial difference.

Mrs. Smith stated that she is in favor of the request.

Mr. Duffee explained the findings of fact. The request is not substantial and the character if the neighborhood will not change and no governmental services will be negatively impacted.

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

Action on Case #BZA-2023-12 ~ Owner/Applicant: Jeffery Thomas & Latishia Detty. ~ Location: 624747 Botkin Rd.; Madison Twp. ~ Request: Variance under Chapter 8, Section 802.03.02 to construct a 32 ft. by 48 ft. barn with a 600 sq. ft. Accessory Dwelling Unit in the front yard.

Motion by Mr. Smith, seconded by Mrs. Smith to **approve** as presented

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the next case.

Minutes

Clark County Board of Zoning Appeals

Case #BZA-2023-13 ~ Owner/Applicant: Gregory & Karen Thompson. ~ Location: 50 Clubhouse Dr.; Harmony Twp. ~ Request: Variance to Chapter 8, Section 802.06.03 to allow the maximum height of accessory structure at 23 ft. instead of 20 ft.

Mrs. Ricketts introduced Case # BZA-2023-13. She stated that the subject property is located at 50 Clubhouse Drive in Harmony Township. It consists of 1.03 acres and is zoned R-1. The surrounding land use and zoning include A-1 and R-1. There is one business area on the zoning map. She explained the applicant is requesting a variance to allow for higher maximum height on an accessory structure. The area is identified as Rural / Agricultural in the CONNECT Land Use Plan and a state road in the Thoroughfare Plan. Mrs. Ricketts referenced an overhead photo that may be outdated. They are trying to match the height of the garage with the house which is required in the community. She stated that the applicant could describe in greater detail. She stated they may need an additional variance for a side setback if the location does not meet the required 15 ft.

Hearing no additional questions for staff from the Board, Chairperson Taylor opened the public portion of the meeting at 11:53 a.m.

Contractor Carl Pinkerman was sworn in by Chairperson Taylor.

Mr. Pinkerman explained that the community has covenants for structures within the community. He referenced Mrs. Rickett's earlier question of an additional variance and explained that the neighborhood requires 20 ft. setbacks so no additional variance will be needed. The design of the proposed structure will match the remainder of the property visually. The property owners are also going to have storage within the garage. The contractor indicated that the applicants are tall so they want additional height in the storage area which can be accommodated to meet the requirements of the neighborhood covenants. There will be a driveway, apron, sidewalk, patio, etc. to fully utilize the property. The garage will have storage in the upper portion of the garage for outdoor and Christmas decorations.

Mr. Smith asked if the variance was for aesthetic purposes. Mr. Pinkerman explained the design and materials of the project. Mr. Pinkerman explained that the covenants require accessory structures to match the height of the other buildings, which is why the additional height is being requested. He also explained that the architecture will be aesthetically pleasing and will allow the applicant to fully utilize the property.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Hearing no further comment, Chairperson Taylor closed the public portion of the meeting at 11:58 a.m.

Chairperson Taylor explained that she does not see an issue with 3 extra feet of height. She thinks the property will be beautiful. She also stated that there are already rules and regulations in place through the neighborhood and no additional variance will be needed.

All Board members were in agreement with Chairperson Taylor's statement.

Mr. Duffee relayed the findings of fact. He stated the request is not a substantial request and the project will enhance the neighborhood. The intent of the code is maintained and the project will not cause issues with governmental services in the area.

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

Action on Case #BZA-2023-13 ~ Owner/Applicant: Gregory & Karen Thompson. ~ Location: 50 Clubhouse Dr.; Harmony Twp. ~ Request: Variance under Chapter 8, Section 802.06.03 to allow the maximum height of accessory structure at 23 ft. instead of 20 ft.

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

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2023-14 ~ Owner/Applicant: Robert Lemaster. ~ Agent: Archadeck Outdoor Living ~Location: 289 Tillie Ln.; Bethel Twp. ~ Request: Variance under Chapter 8, Section 806.02.015 to allow a front porch open on three sides to project into the front yard more than 8 ft.

Mrs. Ricketts introduced Case # BZA-2023-14. She stated that the subject property is located at 289 Tillie Lane in Bethel Township. The property consists of .558 acres and is zoned A-1. The surrounding land use and zoning is A-1. She explained the applicant is requesting a variance to allow a front porch to project more than 8 ft. into the front yard. The area is identified as Rural / Agricultural in the CONNECT Land Use Plan and the road is identified as a local road in the Thoroughfare Plan.

She explained the zoning regulations state that porches may project into the front yard of a property 8ft. and explained that the front setback is 40 ft. in the A-1 district. Porches are not permitted to project more than 8 ft. and the proposed porch will be covered. She gestured to the map to show the front yard setback location. She indicated that the applicant is only requesting to project 6 ft.

Chairperson Taylor asked how far the porch will be from the road. Mrs. Ricketts indicated the porch will be 34 ft. from the road with the projection.

Chairperson Taylor asked for more information on the 8 ft. projection regulation. Mrs. Tuttle explained that the projection restriction is to protect public right of way. By covering or enclosing it, the structure becomes a permanent structure.

Chairperson Taylor asked what would happen if the road was widened in the future at that location. She asked if the structure would be close to the road or if the applicant would have to remove it. Mrs. Tuttle stated that the issue would be discussed at that time but that she does not think it would go that far to be an issue in the particular area of the request. Mrs. Tuttle indicated that there are other structures in the area that sit closer to the road and indicated that it is a small lot.

Hearing no further questions from the Board, Chairperson Taylor opened the public portion of the meeting at 12:04 p.m.

Applicant Robert Lemaster of 289 Tillie Lane was sworn in by Chairperson Taylor.

Contractor Roger Miller of Archadeck Outdoor Living at 714 (Road name unclear) Centerville was sworn in by Chairperson Taylor.

Mr. Lemaster explained that the porch is going to be covered because they are adding a ramp and it made sense to cover it for safety reasons. He explained he has health problems and would like the ramp to assist him now and in the future. He was not aware of the right away setbacks when they were planning on the setbacks.

Chairperson Taylor asked if the structure was already built and both the applicant and contractor indicated that it was not. Mr. Miller stated that he will not build unless a permit has been acquired.

Mr. Lemaster indicated it will not be an ADA ramp, just a utility ramp for him and his wife to use as they get older/

Mr. Miller explained that the covering is going to be a lite patio cover which would be easier to remove if needed in the future. He stated that it is not going to be a traditional roof structure.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Hearing no further comments, Chairperson Taylor closed the public portion of the meeting at 12:07 p.m.

Mr. Smith stated he has no issue with the request. He acknowledged the road could be widened but does not believe that widening the road would impact the request, given the specific area of roadway.

Chairperson Taylor agreed and stated she does not think it would ever be widened at a level that would impact the proposed structure. She indicated perhaps the berm would be widened but does not foresee it being widened with additional lanes.

Mrs. Smith agreed with the statements.

Chairperson Taylor stated that she supports home improvements and beautifying of properties.

Mr. Duffee relayed the findings of fact. He stated the request is not a substantial request, and indicated there will be no negative neighborhood impact and there will be no negative impact on governmental services. He explained the applicant had confusion about the right of way distance.

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

Action on Case #BZA-2023-14 ~ Owner/Applicant: Robert Lemaster. ~ Agent: Archadeck Outdoor Living ~Location: 289 Tillie Ln.; Bethel Twp. ~ Request: Variance under Chapter 8, Section 806.02.015 to allow a front porch open on three sides to project into the front yard more than 8 ft.

Minutes

Clark County Board of Zoning Appeals

Motion by Mr. Smith, seconded by Mrs. Smith to **approve** as presented

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

No: None.

Motion carried.

The Board discussed whether or not to finish the rest of the cases or if they should take a lunch break. As it was determined that the two remaining applicants were not present, the Board decided to recess for lunch.

Motion by Mr. Duffee, seconded by Mrs. Smith for the Board to recess for lunch at 12:12 p.m. and to reconvene at 1:12 p.m. for the remainder of the cases.

Motion carried unanimously.

The Board reconvened at 1:14 p.m.

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

Absent For Roll Call: Mr. Paul Hazlett

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

Chairperson Taylor explained the meeting procedures.

Case #BZA-2023-18 ~ Owner: William Resnicky~ Applicant: Alec Ashbaugh. ~Location: 135 W. Main St.; Bethel Twp. ~ Request: Variance under Chapter 8, Section 802.06.03 to allow 1,800 sq. ft. in accessory structures on a lot under one (1) acre.

Mrs. Ricketts introduced Case # BZA-2023-18. She stated that the subject property is located at 135 W. Main St. in Bethel Township. The property consists of .72 acres and is zoned R2-A. The surrounding land use and zoning include R2-A and A-1. There is no floodplain in the area. She explained the applicant is requesting a variance to Chapter to allow 1800 SF of accessory building on a lot less than one acre. The area is identified as Suburban Living Low Intensity in the CONNECT Land Use Plan and it is a secondary arterial in the Thoroughfare Plan.

She explained the zoning regulations for properties under 1 acre. She stated that there are currently two accessory buildings on the property. If the two existing buildings remain once the proposed structure is constructed, the total square footage of accessory buildings on the lot will equal 2,160 SF. She explained if the two existing buildings are to remain; the request will need to be amended to a variance to Chapter 8, Section 802.06.01 to allow 3 accessory buildings on a lot less than one (1) acre in addition to square footage variance. She explained the applicant could verify if the structures were staying or being removed.

Chairperson Taylor asked for the location of the existing structures. Mrs. Ricketts deferred the question to applicant.

Minutes

Clark County Board of Zoning Appeals

Mrs. Ricketts indicated there were 1 letter of support received and no letters of opposition received.

Hearing no questions from the Board, Chairperson Taylor opened the public portion of the meeting at 1:18 p.m.

Contractor Alec Ashbaugh of 235 E. Main St, Medway was sworn in by Chairperson Taylor.

Mr. Ashbaugh explained that they are proposing to remove the dilapidated existing structures. He gestured to the map to show that there is a shared driveway with the neighboring property and the current buildings make it hard to fully utilize the driveway.

Chairperson Taylor confirmed that structures will be removed and the contractor indicated they would be removed. Chairperson Taylor confirmed that the request then is for 300 excess sq. ft. than what is allowed (1800 SF vs. 1500 SF)

Mr. Smith asked for clarification on existing structure location and Mr. Ashbaugh gestured to the map showing the location.

Mr. Duffee asked if the driveway would lead into the structure and the contractor confirmed it would. Mr. Duffee clarified that structure was going to be a garage and again the contractor confirmed yes. Mr. Ashbaugh explained that the owner's daughter and grandchildren live with them so they need additional space for storage and vehicles. The project will improve safety at the property. He said there are a lot of dilapidated structures in Medway so this will be nice to have the two existing structures from this property removed. The neighbor just built a garage.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Hearing no further comments, Chairperson Taylor closed the public portion of the meeting at 1:22 p.m.

Chairperson Taylor stated she believes that one slightly larger structure is better than two dilapidated structures. She also stated that a stipulation should be added to ensure the two existing structures are removed.

Mr. Smith agreed with her statements and said that the access will be easier with the neighbor with the proposed project.

Mr. Duffee stated the findings of fact. He indicated that the request is not substantial as long as the existing structures are removed. He stated that the neighborhood will be improved and that no governmental services will negatively be impacted. He also stated the intent of the code is met with minor variance.

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

Action on Case #BZA-2023-18 ~ Owner: William Resnicky~ Applicant: Alec Ashbaugh. ~Location: 135 W. Main St.; Bethel Twp. ~ Request: Variance under Chapter 8, Section 802.06.03 to allow 1,800 sq. ft. in accessory structures on a lot under one (1) acre.

Minutes

Clark County Board of Zoning Appeals

Motion by Mrs. Smith, seconded by Mr. Smith to **approve** as presented. The motion was then amended to include the stipulation that the two existing structures shall be removed.

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

No: None.

Motion carried.

Motion by Mr. Duffee, seconded by Mr. Smith to recess at 1:25 p.m. until the next applicant arrives.

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

No: None.

Motion carried.

The Board reconvened at 1:35 p.m. when the last applicant arrived.

Present for Roll Call: Chairperson Taylor, Mr. Smith, Mr. Duffee, Mrs. Smith

Absent for Roll Call: Mr. Paul Hazlett

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

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2023-15 ~ Owner/Applicant: Kamron A. Nichols. ~Location: 6175 Moorefield Rd.; Moorefield Twp. ~ Request: Conditional Use under Chapter 7, Section 728.04, for a major home occupation for construction services.

Case #BZA-2023-16 ~ Owner/Applicant: Kamron A. Nichols. ~Location: 6175 Moorefield Rd.; Moorefield Twp. ~ Request: Variance under Chapter 7, Section 728.05.04 to construct a barn for a major home occupation for construction services and Section 728.05.09 to allow for more than 1 light duty commercial vehicle.

Mrs. Ricketts introduced Case # BZA-2023-15 and BZA-2023-16. She stated that the subject property was located at 6175 Moorefield Rd in Moorefield Township. The property consists of 1.25 acres and is zoned A-1. The surrounding land use and zoning includes A-1. She explained the applicant is requesting a conditional use under Chapter 7 for a home occupation. She explained the applicant is also requesting a variance under Chapter 7 to construct a barn for a major home occupation and to allow for more than 1 light duty commercial vehicle. The CONNECT Land Use Plan identifies the area as Agricultural and the road is a secondary arterial in the Thoroughfare Plan.

She reviewed the regulations for the major home occupations. She gestured to the projected regulations as they related to the request. She specified that a regulation stated that not more than 25% of the structure could be used for the business use and indicated that the applicant would have to confirm the amount of the structure that would be used. Mrs. Ricketts also indicated that the pole

barn is not currently on the site so the construction of the barn will require a variance. She also stated he is requesting to have more than 1 light duty vehicle onsite.

She gestured to the projected map to show the proposed location of the barn.

She stated that the request was reviewed by the Technical Review Committee and relayed that the Clark County Engineer's Office commented that a roadside work permit would be required to discharge into the right of way and any additional access would need approval from the Engineer's Office and would require a drive permit.

Chairperson Taylor asked for clarification of the name of the side road projected on the map. Mrs. Ricketts confirmed it is Hodge Road.

Hearing no questions from the Board, Chairperson Taylor opened the public portion of the meeting at 1:40 p.m.

Applicant Kamron Nichols of 6175 Moorefield Road was sworn in by Chairperson Taylor.

Mr. Nichols described the business as a residential trash disposal service. He explained the proposed barn will consist of one to two bays for the business trucks so he can conduct maintenance and the other bay will be for personal vehicles and storage. He stated that he is requesting the pond because that is already a wet area of the property. The neighboring property in that area is also wet. His neighbor also has expressed an interest in draining to the pond if it is constructed. They have discussed raising the properties. He stated he is aware of the setback requirements. He stated the pond would not be large and would be recreation while helping to keep that area dry.

Chairperson Taylor asked how many trucks are used as a part of the business. Mr. Nichols stated that he has two trucks. Chairperson Taylor asked what will happen if the business expands. Mr. Nichols stated that he would look for commercial property to buy or rent if the business expands. He stated he does not want to bother his neighbors. He stated that right now they are not large enough to take on the debt or expense of a separate property.

Chairperson Taylor asked how long have he has been in business and the applicant indicated he has been in business under a year.

Chairperson Taylor asked what he is currently doing with the trucks for the business and Mr. Nichols explained that he is parking on an existing gravel area.

Chairperson Taylor asked if he was planning to hire more employees being that he owns two trucks. Mr. Nichols stated that he is not intending to hire anyone else. He has two trucks so that one is a backup if the first is broken down and being fixed.

Chairperson Taylor asked how the business is doing and asked if it was something that could be sustained. The applicant stated that he is growing every day. It stated it is slow growth but they are looking to get more accounts. He reiterated that he will get a commercial property when they expand.

Chairperson Taylor asked if he had talked with the Engineer's Office. The applicant stated he is trying to determine if they can do it the project before finalizing plans with the Engineer. He is planning on working with the engineer for access if approved. He did not want to put time and money into having the Engineer's on site if the request is denied.

Chairperson Taylor asked how he will access barn. Mr. Nichole gestured to the projected map. He indicated there is a gravel entrance and parking area that is existing. He would use that existing area and expand the area to reach the barn.

Chairperson Taylor asked which side of the barn he will use as the access point. Mr. Nichols gestured to the map and explained the proposed updated location of the barn. He stated it was about 60 ft. into the trees and they are able to meet the 5ft setback. He stated it will be located in the trees and will be able to access it more feasibly. He also stated the trees provide shielding so that neighbors do not see the garbage trucks.

Mr. Duffee asked who “we” are for all the work (as the applicant had referenced “we” in his testimony as he described the project). Mr. Nichols explained his family is helping him with the project but that the business has no other employees.

Mr. Duffee asked for clarification about the two trucks and the applicant confirmed that one is a spare.

Mr. Duffee asked what types of trucks are used in the business and Mr. Nichols stated that they are regular garbage trucks.

Mr. Duffee asked how they will drive through the wet area where he is proposing the pond. Mr. Nichols explained he is hoping to construct a raised road area with dirt from the pond to allow the trucks to travel to the rear of the property to access the barn. He gestured to the location of these features on the projected map.

Chairperson Taylor asked if he would be doing paperwork in the barn or if the barn would be for storage and mechanical work and the applicant confirmed the barn usage would be for mechanical purposes. Chairperson Taylor indicated that the proposed use probably meets the less than 25% criteria.

Mr. Duffee asked if it was a metal pole barn that would be constructed. The applicant stated that it would be a pole barn but that he still needs to get price quotes. He wanted to wait and get approval first. He indicated that it will be a pole barn with a cement floor. Mr. Duffee asked if it would have a lift for mechanical repairs and Mr. Nichols indicated it would not have a lift. He stated that the trucks are too heavy for a lift and that the trucks are mostly tall enough for him to make repairs without a lift.

Mr. Duffee confirmed both trucks would be stored in the barn overnight and the applicant confirmed that most of the time they will be in the barn.

Chairperson Taylor suggested the Board consider the barn and the pond separately.

The applicant summarized that the barn would be for storage, maintenance and to keep the trucks from causing an eye sore to the neighbors.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Mr. Jeremy Best of Clark Soil & Water at 3130 E. Main Street was sworn in by Chairperson Taylor. He indicated that he was neutral and not attending in favor or opposition of the request; he just had some comments from Soil & Water that he wanted to raise.

He explained the drainage of the property and stated that the barn area may be a low spot. The applicant interjected that by moving the barn location to the proposed location it isn't really. He also stated that there are areas within the wood line where it gets lower and where ponding occurs during heavy rains. He gestured to the map, used the fire pit as a land marker for the low spot and further described the topography of the property.

Mr. Best requested to pass around a copy of the map he submitted. Planning staff shared the map with the Board and Chairperson Taylor confirmed it was in the Board's packet.

Chairperson Taylor asked if moving the barn more in the center of the property would be a better solution and stated it would require a shorter driveway.

Mr. Best indicated the area of the pond is a low area and then flows from the neighboring property towards the proposed barn area. His concern is if they build up for the barn then it will not allow the existing drainage from the site and it will disrupt the natural drainage pattern of the property.

Chairperson Taylor asked again about moving the barn to the central property area and indicated they may have to remove a tree. Mr. Best suggested that regrading the site would allow drainage to still flow would potentially allow the central location to be feasible.

Mr. Nichols indicated the barn may change from the location again saying the ponding occurs in the tree line but not at the proposed site. He stated they haven't had water issues at that location but within the trees sometimes water ponds.

Chairperson Taylor asked for clarification on the fire pit location and the applicant gestured to the projected map.

Chairperson Taylor confirmed if that if the location is a high area there shouldn't be issues with the barn.

Mr. Best explained it would be okay as long as they don't cut off the drainage path. Mr. Best stated he attended the meeting mostly in regards to the pond but the requests do complement one another related to drainage. He stated if the applicant builds up berms that block the natural drainage outlet and adds fill to the site there may be water issues that are not currently there. He indicated there is not a culvert under the road at this location and so there are concerns about future issues.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Mrs. Tuttle reminded the Board that the Conditional Use request needs to be determined before the barn Variance request. Chairperson Taylor confirmed the Conditional Use is for the major home occupation.

Hearing no further comments, Chairperson Taylor closed the public portion of the meeting at 1:58 p.m.

Mr. Smith stated he has concerns. He does not have a contour map to reference and stated it is difficult to visualize the layout without one. He stated that the barn would likely block natural drainage patterns at the site.

Mr. Duffee stated that the barn will be placed on higher ground.

Chairperson Taylor stated she is not opposed to the home occupation. She stated that the request is not the same as the case the Board heard before and indicated that because they will not be working on the site it would not impact the neighboring properties. She would like more coordination for the location of the barn with Clark Soil and Water.

Mr. Smith indicated he does not have issues with the Conditional Use request and his concerns are with the location of the barn and the drainage.

Mrs. Smith also stated that she does not have issues with the Conditional Use and stated that coordination with the County regarding drainage concerns is needed.

Mr. Duffee stated that Conditional Uses have sometimes come back to burn the BZA in previous cases. The applicant has indicated that if the business grows he will find a suitable commercial location. Mr. Duffee stated that in his opinion the applicant could look for a commercial area now but he is not strongly opposed to the request, his statement is just a concern. If the Board approves the conditional use, then they will have to consider the 25% use of the structure and number of trucks.

Chairperson Taylor reopened the public portion of the meeting at 2:03 p.m.

Mr. Nichols returned to the podium.

Chairperson Taylor stated that she is not opposed to the Conditional Use but would like Mr. Nichols to do it correctly by working with the County's experts to ensure that the project is done in the correct manner. Mr. Nichols indicated that he is agreeable to that. He stated that Mr. Best has been to the property and he has no problems working with Soil and Water or anyone. Chairperson Taylor explained the approval process and stated that sometimes stipulations are placed on an approval.

Mr. Duffee asked how long the applicant has lived at the subject property. Mr. Nichols indicated he purchased the property in February of 2022 and the company started in June of 2022.

Mr. Best returned to the podium.

Chairperson Taylor asked Mr. Best if he thinks there are suitable locations on the site that could be worked out with a little more time and discussion if the variance is approved. Mr. Best stated that he could make recommendations of suitable sites but that he cannot force him to use the correct location.

Chairperson Taylor asked if a stipulation could be added to follow recommendation from Soil and Water and Mrs. Tuttle confirmed that a stipulation could be made that would require the applicant to follow Soil & Water recommendations.

Mr. Best stated he would have to look into the request more because when he visited the site he was mainly looking into the pond location. He stated he assumed the material dug out for the pond would be used for fill for the barn. He stated that isn't the fault of the applicant, it just wasn't his focus when he was on site. His earlier statements are based off of maps and data not visual observations.

Chairperson Taylor asked what would happen if the request was approved with the stipulation to follow Soil & Water recommendations and then no suitable location is identified. Mrs. Tuttle explained Mr. Best will have to confirm location in order for a zoning certificate to be issued. If he cannot confirm

a suitable location, the applicant would not meet the requirements of the conditional use and the request could be revoked.

Mr. Smith asked about the contours at the neighboring property and asked if adding a road could cause back up issues on the neighboring property. Mr. Best stated that it may cause back up if the natural drainage is blocked because it is a low area. The area is already wet but it could make it more so if the outlet is blocked.

Mr. Smith asked if it was surface water, a spring or something else that causes the wet area to be developed. Mr. Best stated he believes it is mostly surface water and stated it is a clay soil type. There are springs on the other side of the road but feels this area is more likely surface water, specifically roadside drainage, that doesn't have anywhere to go until enough fills in and then starts draining.

Mr. Smith asked if the pond would be dry most of the time and Mr. Best indicated that he isn't sure. There may be older infrastructure tile in place to allow it to be standing water. It is possible but he cannot say for certain. Mr. Nichols started to address the comment and was reminded that he can return to the podium after Mr. Best has finished.

Mr. Smith stated he does not think the project will be an easy fix. He is not comfortable with it. He said most time people with ponds have them fed with a well or spring, otherwise it will be drive except for rain. The road may create another wet area with no drainage on the neighboring yard. A solution needs to be reached but it seems like the pond and barn may not be feasible in which case the conditional use may not be required.

Chairperson Taylor stated she supports small business and indicated that the conditional use needs to be determined first. She stated that nothing says that the pond has to happen right now. That could be a later request. The conditional use request is separate. The pond is not necessary for him to do his business and livelihood.

Chairperson Taylor closed the public portion of the meeting at 2:14 p.m.

In regards to the Conditional Use:

Mr. Smith stated he is okay with the conditional use. Small businesses are important and the conditional use at the property is fine.

Mr. Duffee stated that major home occupations are tricky. He is cautious but supportive of the request.

Mrs. Smith stated she agrees with the use of the property.

Chairperson Taylor reiterated that no work will happen on site which makes it different than other requests heard by the Board. The barn be for maintenance and repair and will store the truck out of sight and there are not a lot of other neighbors near the property. Other neighbors won't be impacted. Each conditional use is evaluated on a case by case basis and this is more of a storage request.

Mr. Smith began making a motion to approve as presented. Mrs. Tuttle injected to ask if they wanted to add stipulations to the request.

Mr. Smith withdrew is motion.

Minutes

Clark County Board of Zoning Appeals

Mr. Smith questioned what would happen if they got more trucks or if an employee was hired to utilize both trucks, causing two trucks to be coming and going every day. At what point is it considered that the business grew and could they add stipulations for the number of trucks.

Mrs. Ricketts explained he is allowed 2 employees as a part of the conditional use approval.

Mr. Duffee asked if they could stipulate that adding a third truck would require the applicant to seek out a commercial location.

Mrs. Tuttle explained that the third truck would be the growth threshold and Mr. Smith and Mr. Duffee indicated they were more comfortable with that.

Action on Case #BZA-2023-15 ~ Owner/Applicant: Kamron A. Nichols. ~Location: 6175 Moorefield Rd.; Moorefield Twp. ~ Request: Conditional Use under Chapter 7, Section 728.04, for a major home occupation for construction services.

Motion by Mr. Smith, seconded by Mrs. Smith to **approve** as presented with the stipulation that only 2 trucks may be stored at the property

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

No: None.

Motion carried.

Chairperson Taylor explained to Mr. Nichols that they have approved him having a business at that location with two truck and two employees. She stated that now the Board would look into BZA-2023-16 for the barn variance. She referenced the projected variance request and stated the regulations required no more 25% of the dwelling to be used for the business. Mrs. Tuttle indicated that applied to accessory also. She stated that during his testimony he stated some space would be used for personal use so the Board would have to determine how much could be used for business use.

Chairperson Taylor reopened the public portion of the meeting at 2:20 p.m.

Mr. Nichols returned to the podium.

He explained that there would be 2 bays for the commercial trucks and then 1 bay would be for personal use. Chairperson Taylor confirmed that approximately 33% of the barn would be for personal use and Mr. Nichols confirmed that as correct.

Chairperson Taylor confirmed the personal use would be for vehicles and he confirmed it would be for vehicles. He makes repairs on personal vehicles for himself and close family.

Hearing no questions from the Board, Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Chairperson Taylor closed the public portion of the meeting at 2:22 p.m.

Mrs. Tuttle explained that access would have to be approved through the Engineer's Office. She explained even if access is currently being used at the property, it doesn't mean it has been approved for use from the Engineer's Office. Chairperson Taylor asked how to stipulate getting access approval

from the Engineer's Office when the variance request is related to the percentage of the structure that will be used. Mrs. Tuttle stated it would be a stipulation to obtain approval and an improved access permit. Chairperson Taylor stated that stipulation could be added to the approval.

Chairperson Taylor stated she did not see an issue with the 33% vs 66% split in personal use and business use. She also stated that the stipulation to follow recommendations from the County Engineer should be added to the approval.

Chairperson Taylor asked for a motion on the case to approve the request with the recommendations stated previously.

A motion was made by Mrs. Smith to approve the request with the condition that he works with the Engineer's Office to establish legal access.

Mr. Duffee interjected with a point of order and asked if location of the barn was being stipulated in the motion.

Chairperson Taylor indicated the motion would need to be amended to include the stipulation that he works with Soil & Water to determine the best location for the barn and to follow their recommendations.

Mrs. Smith amended the motion for approval to include the stipulations of working with the Engineer to establish legal access to the barn and working with Soil & Water to establish the location of the barn.

Mrs. Tuttle reminded them include allowing up to 66% of the structure to be used for the business.

Chairperson Taylor asked for the motion to be read back to the board for clarity. Mrs. Dunlap indicated the motion was to approve with the stipulations that the applicant: 1) must follow the Engineer's recommendation for access to the barn, 2) must follow Clark Soil & Water recommendation for the location of the barn, and 3) is permitted to use up to 66% of the barn structure for commercial use.

Mrs. Smith withdrew her motion to allow for the Board to hear questions from Mr. Best.

Chairperson Taylor reopened the public portion of the meeting at 2:27 p.m.

Mr. Best returned to the podium.

Mr. Best asked for clarification of what would happen if the engineer's office allows access from one location but asked if onsite utilities have been located. He asked what happens if the driveway location crosses the leach field or well area.

Mr. Nichols indicated that well is in the rear of the property and the septic is at the front with the leach field flowing east past the house. He gestured to the projected map. Chairperson Taylor asked if Mr. Best was referring to electric or just water and sewer. Mr. Best indicated he was concerned with septic. He asked Mr. Nichols how far his lines extend and asked if he had worked with the Health District. Mr. Nichols indicated he had not worked with the Health District but did have a septic professional at the property and they located the lines and leach area.

Minutes

Clark County Board of Zoning Appeals

Mrs. Tuttle stated that the Health District did not require a site evaluation during Tech Review and they stated the applicant would need to ensure that they have a reserve area if the septic fails. Mr. Best stated that the pond could also pose a problem to having enough area for a reserve area if needed. Chairperson Taylor asked if they could add a stipulation that the location shall not interfere with the leach field and well. Mrs. Tuttle stated that a site evaluation could be added as a requirement to establish a replacement area.

Chairperson Taylor closed the public portion of the meeting at 2:29 p.m.

Hearing no further questions or comments from the Board, Chairperson Taylor asked for a motion to add the requirement for a site evaluation to the previously stated motion.

Mr. Smith asked if the Board should table the request until the applicant has had the opportunity to work with the County to address these concerns. If these issues could be addressed prior to coming to the Board it would make the approval easier.

Chairperson Taylor explained to Mr. Nichols that the Conditional Use has been approved so he can continue to operate the business. She stated that rather than adding a lot of stipulations to the variance request, by tabling the request, it allows him to work with the experts to provide information to them so that the decision is not based off of guesses. She explained that with tabling he will not have to refile or pay again, but it allows time for him to present more finalized plans.

Chairperson Taylor informed him that there is no charge to work with the Engineer's office and Soil and Water. Mrs. Tuttle said there would be a fee for the Health District.

Mr. Nichols stated he was agreeable to the Board's decision to table the request. He stated that he had received previous approval for the pond and had started to construct it. He stated he has an 8 ft. / 8.5 ft. hole in his yard where he started constructing the pond and he would like to complete the pond. He said it is holding water.

Mrs. Ricketts reminded the Board that the public portion of the meeting is closed.

Chairperson Taylor stated the Board needed to make a motion to table the variance request. She suggested 90 or 120 days for the request. She stated he could come back earlier if everything is completed prior to the 120 days.

Action on Case #BZA-2023-16 ~ Owner/Applicant: Kamron A. Nichols. ~Location: 6175 Moorefield Rd.; Moorefield Twp. ~ Request: Variance under Chapter 7, Section 728.05.04 to construct a barn for a major home occupation for construction services and Section 728.05.09 to allow for more than 1 light duty commercial vehicle.

Motion by Mrs. Smith, seconded by Mr. Smith to **table** the request for 120 days or less to allow the applicant opportunity to meet and discuss the request with Clark Soil & Water, the Engineer's Office and the Health District as needed.

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

No: None.

Motion carried.

Mr. Duffee asked if trash trucks are considered light duty. Staff indicated it was a heavy duty truck. Mr. Duffee asked what was permitted in the conditional use and staff stated that vehicles are not mentioned. Mr. Duffee stated when the request comes back to the Board they would need to specify this in the approval and Mrs. Tuttle confirmed that to be true.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2023-17 ~ Owner/Applicant: Kamron A. Nichols. ~Location: 6175 Moorefield Rd.; Moorefield Twp. ~ Request: Variance under Chapter 8, Section 808.06.07, to construct a 45 ft. by 45 ft. recreational pond on a lot less than five (5) acres, closer than 25 ft. to any lot line and closer than 75 ft. to road right-of-way.

Mrs. Ricketts introduced Case # BZA-2023-17. She stated that the subject property was located at 6175 Moorefield Rd in Moorefield Township. The property consists of 1.25 acres and is zoned A-1. The surrounding land use and zoning includes A-1. She explained the applicant is requesting variance under chapter 8 for a recreational pond on a lot less than 5 acres and closer to any lot lines and road right-of-way than permitted.

Chairperson Taylor suggested that this request should be tabled for 120 days also to allow the applicant the opportunity to work with the County's experts to coordinate the barn and pond locations. Without having more concrete facts it does not make sense to discuss. She stated that Clark SWCD recommends not accepting the zoning variance for the proposed size and location of the pond as presented. Chairperson Taylor stated that she believes that given the opportunity to meet and discuss, Soil and Water and the applicant may be able to find a suitable location.

Chairperson Taylor opened the public portion of the meeting at 2:37 pm

Mr. Nichols of 6175 Moorefield Road returned to the podium and Chairperson Taylor reminded him that he has been sworn in under oath.

Mr. Nichols stated that the pond was under construction and had been approved previously if it was kept under 500 SF. Chairperson Taylor asked who approved the pond and he stated he did not know who he spoke with.

Mr. Nichols explained he then received a letter stating that the pond could not be completed after he had started building. The project has been started and it is holding water. He stated he knows he needs more information but he would like to complete the project so the hole is completed and so he is asking the Board to decide so that he can complete the project rather than have a dirt hole in his yard.

Chairperson Taylor indicated that it would probably be best to table this request also and that he could come back before the 120 days if needed.

Mr. Smith indicated that working with Soil and Water would be helpful in determining where water can come into the pond and then back out without having it flow into the barn or other property. He stated addressing these drainage concerns would be helpful.

Mr. Smith asked who told him he could build it. Mr. Nichols stated he did not remember. He called the County and they said if he kept it under 500 SF he could proceed. He said that now he has a hideous hole in the yard.

Mr. Smith indicated he would still have been subject to setback requirements. Mr. Nichols indicated that he could meet the required setbacks of 25 ft. and 75 ft.

Chairperson Taylor stated that she did not want to cause problems with the neighboring property and Mr. Nichols stated that the neighbor wants to work with him on the pond. The neighbor stated he could raise his property or drain to the pond if needed.

Mr. Smith indicated that working with Mr. Best will help best determine where to put it so that it could be placed appropriately to help with the wet area and to help get the driveway constructed.

Mr. Nichols indicated agreement. Chairperson Taylor indicated that she wants the project to be done but that it should be done right the first time. Chairperson Taylor indicated that working with the experts will help guide him.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request.

Mr. Best of 3130 E. Main Street returned to the podium and Chairperson Taylor reminded him that he is sworn in.

Mr. Best stated that he is neutral in the situation but wanted to speak. He stated that Mr. Nichols spoke with him when he called (about a year ago) asking about a pond. Mr. Best relayed to the applicant that if it is under 500 SF it could be constructed on the property. He stated that the actual construction of the pond has gotten bigger than the allowed 500 SF that is why he received the letter to stop. He stated the spoil pile was not causing issues and water could still enter and leave the property correctly. He is supportive if the applicant and neighbor can work together. Mr. Best stated his main concern is to keep the underground utilities protected. Knowing the location of the onsite utilities and having a reserve area is important.

Mr. Best also wanted to clarify that the applicant did call and speak with him and that he doesn't believe the applicant was intending to do anything wrong. Chairperson Taylor indicated she believes that Mr. Nichols is trying to do everything correctly and that is why that she believes having him work with the available experts at no cost will really be beneficial. She stated that all of the components of the request, the barn, driveway, pond, are all connected.

Chairperson Taylor asked if anyone from the audience would like to speak in favor of the request. There were none. She then asked if anyone from the audience would like to speak against the request. There were none.

Hearing no further comment, Chairperson Taylor closed the public portion of the meeting at 2:45 p.m.

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

Action on Case #BZA-2023-17 ~ Owner/Applicant: Kamron A. Nichols. ~Location: 6175 Moorefield Rd.; Moorefield Twp. ~ Request: Variance under Chapter 8, Section 808.06.07, to construct a 45 ft. by 45 ft. recreational pond on a lot less than five (5) acres, closer than 25 ft. to any lot line and closer than 75 ft. to road right-of-way.

Minutes

Clark County Board of Zoning Appeals

Motion by Mrs. Smith, seconded by Mr. Smith to **table** the request for 120 days or less.

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

No: None.

Motion carried.

Chairperson Taylor explained that the applicant has up to 120 days to return. She also stated that if the time is going to exceed the 120 days he will need to come back to the Board and request an extension and the Board can table the request again to allow time for him to meet with the necessary agencies. The applicant can come back anytime within 120 days if everything is ready to proceed before that timeframe.

Staff Comments

Next scheduled meeting: June 29, 2023.

There are 6 to 7 cases that will be on that hearing.

The Board discussed if they should meet earlier to accommodate the case load. It was determined that the Board will meet at their usual time in June.

Adjournment

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

Motion carried unanimously.

The meeting was adjourned at 2:52 p.m.

Mrs. Jerri Taylor, Chairperson