

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, July 28, 2022

Springview Government Center
3130 East Main Street
Springfield, Ohio 45503

Jerri Taylor, Chairperson of the Clark County Board of Zoning Appeals, called the meeting to order at 2:00 pm. and asked for the Roll Call.

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

Absent For Roll Call: None.

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

Chairperson Taylor explained how the meeting will be conducted.

Approval of the June 23, 2022 Minutes

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

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the first case.

Case #BZA-2022-15 ~ Property Owners/Applicants: Casey & Sara Leslie ~ Location: 7720 Milton-Carlisle Rd., Bethel Twp. ~ Request: Conditional Use approval under Section 728.04 for a construction services business.

Mr. Allan Neimayer, Senior Planner, explained that the Applicant is here to get a reasoning for the Board's denial of the Conditional Use request from the June 23, 2022 meeting.

Mr. Neimayer gave a summary of the Conditional Use request.

Hearing no questions for Staff, Chairperson Taylor opened the public portion of the meeting at 2:05 pm. and asked if the Applicant would like to speak.

Mr. Neimayer turned out a power point presentation brought by the Applicant.

Casey Leslie, Applicant, 7720 Milton-Carlisle Rd. was sworn in. Mr. Leslie presented a PowerPoint presentation he prepared for the meeting. He explained that he is here to get an explanation on the exact reasons why his Conditional Use was denied and any adjustments he can make to get an approval. Mr. Leslie explained the before and after of the exterior of his home, pointing out updates that were made to improve the overall appearance. Mr. Leslie stated that the existing driveway came in at an angle to the garage. It did not make sense to be an S-curved driveway so he cut out a new driveway to the garage. Mr. Leslie stated that he has three work vehicles. He misspoke at the last meeting. He also has one personal vehicle. Mr. Leslie showed the pictures of his single axle work

trucks. They are professional looking and not junk. Mr. Leslie showed the pictures of what his property looks like during the day when at a work site. He explained we work four days a week. It is not six or seven days. This is only happening four days a week in the morning to switch out vehicles. There is no business work being done at the house. The structure will just be storage of vehicles and equipment. No customers come to the property, and we do not sell anything.

Mr. Leslie stated I am no longer asking for a larger structure. I will build under the allotted 3,000 square feet. I am asking for four non-resident workers. These workers are coming to the property to get a vehicle. I have three light duty business trucks. The code limits to one. I also would ask to use 100% of the structure. He also talked about planting perimeter trees instead of a fence as landscaping would look better. Most of my neighbors will not be able to see into the rear of the property.

Mr. Leslie reviewed slides of other houses in the neighborhood with pole barns. Homes on Free Rd. also have multiple pole barns. He then showed pictures of barns and remodels that his company, Bluebird Construction, has done. He added the last couple years have been difficult for business owners. Everyone is just trying to make things work. When you think about all those factors renting an office space is not realistic and more people work from home. It is more common and realistic that people are working from home. Mr. Leslie thanked the multiple families that are present in support of his request.

Mrs. Forstrom asked about the dumpster. The Applicant responded we do not store anything on the property, but anything extra we have would be stored in the accessory structure. I did ask for permission on the dumpster before getting it and was informed that there were no requirements on the dumpster. And as far as screening goes, once I build the barn it will go back there. Mrs. Forstrom asked about a commercial dumpster. Mrs. Tuttle responded once it becomes a business there will be dumpster restrictions. Mr. Leslie asked just with the screening of the dumpster. Mrs. Tuttle responded correct.

Chairperson Taylor stated the code says you can have one light duty commercial vehicle and two non-resident employees and you have more than that. I am always about supporting local and small businesses. If we allow this what happens when the business grows and then you have five employees and five trucks. The Applicant responded my business has grown a lot over the years, which initiated the move. We do not plan to grow, but if that were the case we would look into a commercial space. I would never have more than four employees coming to my property. If I hired two extra guys, they would meet at the job site. They would not need to come to my property. If this were to become a code enforcement issue, I know Mrs. Tuttle would hold me accountable. I also have three families here that would hold me accountable, which are my neighbors, and I do not want to do wrong by them.

Mr. Neimayer explained the Board has two things to consider: one being the Conditional Use request and the other being the Variance requests. Chairperson Taylor clarified we are only looking at the Conditional Use. Mr. Leslie stated that he also wants his variance acted upon. Mr. Neimayer explained due to the public notification requirements by state law, the variance requests would have to be heard and acted upon by the Board at next month's meeting.

Mr. Leslie stated that he would like an explanation on why the Board denied his Conditional Use request. Chairperson Taylor stated I think it was clarification. Mrs. Forstrom added I found that it did not fit in the character of the neighborhood. I also did not realize that the Findings Of Facts did not apply to a Conditional Use request.

With no further questions for the Applicant, Chairperson Taylor asked if there was anyone in favor of the Condition Use request that would like to speak.

John Bacevic, 7676 Milton-Carlisle Rd. was sworn in. Mr. Bacevic stated that this would affect me the most. I am his direct neighbor and our driveways are right next to each other. He has been an incredible neighbor and made many improvements. The house was vacant and a mess before he bought it. The workers are curious. They are there for five to ten minutes, quiet and then they are gone. I am retired so I am home most of the time. Casey & Sara are great neighbors. What impresses me with the plan is he wants to make sure the neighborhood is maintained. The vehicles are not a bother to me and I am right next door.

Richard Baker, 7717 Milton-Carlisle Rd. was sworn in. Mr. Baker stated we have a large picture window that directly faces their property. We moved in in 1995. We have always had outstanding neighbors. The property had been vacant for many years and crumbling. In a matter of weeks, they turned that house around. We are a very close-knit neighborhood. We tend to die before we move. The Leslie's have been outstanding neighbors. They are active to the community and they sponsor a little league team. These are the type of people you want to keep in the county. I walk my dog around 7:00 am. every morning and she likes to see the workers come and go. They come, they change vehicles and they leave. They are there five minutes tops and they go. They are the type of neighbors we want and entrepreneurs we want in Clark County.

Jon Webber, 7701 Milton-Carlisle Rd. was sworn in. Mr. Webber stated he does not have much more to add other than endorse the prior two speakers. My wife sits on the front porch early in the morning, and we have never seen any type of problem. I have been out mowing when they come back and they are there no longer than five minutes.

With no one else to speak in favor of the request, Chairperson Taylor asked if there was anyone in opposition to the Conditional Use request that would like to speak.

Delores Peck 7071, Free Rd., was sworn in. Mrs. Peck explained we still have the same situation. We are in a residential neighborhood where they are coming and going. These people are seeing the front of the property. This is going to bud up to the rear of my property. This business could continue to grow. We are in a small community. They have done nice things to the property and I am sure they are nice neighbors. But the people coming and going into our neighborhood is not what we want. The properties he was showing in his slides with the pole barns are on larger lots. I do not think it is fair to allow one resident to change our daily sights and sounds. I moved here 17 years ago and someone will make a decision that will take that away from the residents.

Chairperson Taylor asked, if we allowed this what you would need to see happen that would help you feel better. Mrs. Peck responded the traffic is a big one and the growth of the company. Of course you want your company to grow. How many people will be allowed to park? Chairperson Taylor stated he is asking for four. Mrs. Peck replied, I do not want to see a dumpster. And what type of natural boarder is he thinking of; that is hear-say. Chairperson Taylor stated we can go forward with an approval subject to those stipulations. We are trying to find a balance to keep the harmony for everyone. Mrs. Peck replied definitely something that would block it like landscaping. Mr. Duffee added there are no restrictions if he wants to put up an accessory structure. We cannot put a rule on that. If this conditional use is approved, it makes it so he can run a business out of his home. It also says no internal or external alterations can happen. Another restriction is no more than one light duty commercial vehicle can be stored on the property. What he is asking for is just running the business out of his house. The other variances are for a later time if he brings them back.

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Chairperson Taylor asked if there was anyone else in opposition that would like to speak. Hearing none she then asked if the Applicant would like time for rebuttal. The Applicant responded no.

Chairperson Taylor closed the public portion of the meeting at 2:45 pm. and asked for Board Discussion.

Motion for Executive Session

Motion by Mr. Smith, seconded by Mr. Hazlett, to go into Executive Session.

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

No: None.

Motion carried.

Time Out: 2:47 pm. Time In: 3:10 pm.

Chairperson Taylor stated there was a lot of confusion during the last meeting with the conditional use and variance requests. The Conditional Use request presented today by the Applicant really helped clarify the things the Board was concerned about.

Mr. Hazlett concurred there was a lot of confusion last month. I had asked you last month if you wanted to Table the request to get your ducks in a row. I could see through some of it and I formulated an opinion but it took me awhile. But your presentation today answered my questions. I feel confident in where my vote will go.

Mrs. Forstrom stated I was confused last time because the structure was in it. With the Applicant's PowerPoint presentation, it made it clearer. I would feel fine with it.

Mr. Duffee stated I like the fact that we have separated the variance requests from the conditional use. I am comfortable with the business out of the home with the restrictions from Section 728.05.

Mr. Smith stated there were a lot of questions and after the presentation today a lot of us were not so confused.

Chairperson Taylor states the regulations state that the conditional use of the construction business is allowed with the requirements of 728.05 and we will be looking at those as a guidance for our decision. Hearing no further discussion, Chairperson Taylor asked for a motion.

Action on Case #BZA-2022-15 ~ Property Owners/Applicants: Casey & Sara Leslie ~ Location: 7720 Milton-Carlisle Rd., Bethel Twp. ~ Request: Conditional Use approval under Section 728.04 for a construction services business.

Motion by Mr. Duffee, seconded by Mr. Smith, to **Approve** the Conditional Use request for a major home occupation with the requirements of section 728.05 and with the stipulation of an exterior landscaping border with no specifications on the type of species of plant.

Mr. Hazlett stated the best interest of the zoning district and reasonable conditions, we expect you to follow suit in that regard and make the best out of this.

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2022-19 ~ Property Owner/Applicants: Bobby & Shannon Noles ~ Location: 5210 Burton Rd., Moorefield Twp. ~ Request: Variance to Section 805.02.01 to keep a 6 ft. existing fence in the front yard where 4 ft. is the maximum allowed and to Section 802.03.02 to allow a pool shed in the front yard.

Mr. Neimayer stated the subject property is located at 5210 Burton Dr. and consists of 0.25± acres. The property, Lot #2231 of Northridge Subdivision No. 30-A, is currently zoned PD-M (Planned Development Mixed Use District). Following up on a code complaint, the Applicants are requesting variances to Section 802.03.02 to allow a pool shed and to Section 805.02.01 to allow a 6 ft. fence both in the front yard of a corner lot.

Chairperson Taylor asked to clarify where the fence is located. Mr. Neimayer explained the area of the fence that is in the front yard.

Mr. Hazlett asked what the property behind it is zoned. Mr. Neimayer responded it is part of the same subdivision just not developed yet. Chairperson Taylor asked, when they put in houses behind this one, which direction will the houses be facing? Mr. Neimayer responded the side of the house will be next to their rear yard. Burton Road will be extended.

Mrs. Forstrom asked about the septic and leach field. Mr. Neimayer responded this is on public utilities.

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 3:27 pm. and asked if the Applicant is here and would like to speak.

Bobby Noles, Applicant, 5210 Burton Rd was sworn in. Mr. Noles explained he had this built in December 2013. He paid more for this corner lot and it was not disclosed to him that it was considered to have 2 front yards. After it was built, he constructed a fence because my wife has two small dogs. Burton Road has been extended. I am asking for a variance to maintain by 6-foot privacy fence and my 5 ft. by 4 ft. pool shed.

Mrs. Forstrom asked how tall the shed is. The Applicant responded eight feet. Mr. Duffee asked what is next to the shed. The Applicant explained it is a dog run.

With no further questions for the Applicant, Chairperson Taylor asked if there was anyone else in the audience who is in favor of the variance request who would like to speak. Hearing none she then asked if there was anyone in the audience who is opposed to the variance request who would like to speak. There were none. Chairperson Taylor closed the public portion of the hearing at 3:29 pm. and asked for Board discussion.

Mr. Smith stated this is our same problem again, corner lots. We have not had time to talk about it yet in this meeting on what our solution could be to this problem. Once our zoning laws catch up, we can allow this without needing a variance. I am for granting approval for this variance.

Chairperson Taylor states, a 6-foot fence is allowed in the back yard, just not in the front yard. Mr. Neimayer responded that is correct.

Mrs. Forstrom stated I agree with Mr. Smith. We would not have to have them come in if we updated the zoning regulations.

Chairperson Taylor asked this was complaint driven are you allowed to disclose what the complaint was. I do not see this affecting the other neighbors. Mrs. Tuttle responded someone that was previously before the Board for a variance request was upset that they had to get one, and so they decided the Applicant needed to go through the process as well.

Mr. Hazlett asked about the actual property line. Mrs. Tuttle responded she field measured and verified the property lines.

Mr. Duffee stated in his opinion the part of the house facing Burton Drive should be the front yard. Another observation is if the pool shed and the fence was moved over (east) another four feet, there would be no violation. I am comfortable with the variance request. Mr. Duffee stated in his opinion the Findings Of Facts: Facts #1 and #2 it is not a substantial request; Fact #3 it does not alter the character of the neighborhood and it does not adversely affect the neighborhood, the Applicant stated he bought the property without the knowledge of the zoning; Fact #7 it is because of the corner lot that we are addressing this.

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

Action on Case #BZA-2022-19 ~ Property Owner/Applicants: Bobby & Shannon Noles ~ Location: 5210 Burton Rd., Moorefield Twp. ~ Request: Variance to Section 805.02.01 to keep a 6 ft. existing fence in the front yard where 4 ft. is the maximum allowed and to Section 802.03.02 to allow a pool shed in the front yard.

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

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2022-20 ~ Property Owners/Applicants: Bo & Ashley Johnson ~ Location: 3210 Willow Rd., Moorefield Twp. ~ Request: Variance to Section 802.02.032 to allow an automatic swimming pool cover instead of the required 4 ft. tall wall or fence.

Mr. Neimayer stated that the subject property is located at 3210 Willow Rd. and consists of 1.0 acre. The property, Lot #13 of Riegel Acres Subdivision Section 2, is currently zoned R-1 (Rural Residence District). The Applicants have recently completed construction of their new home and are preparing to construct a 14 ft. by 35 ft. inground swimming pool in the rear yard. The Applicants have filed this variance request to allow an automatic swimming pool cover instead of the required 4 ft. tall wall or fence. Mr. Neimayer passed around to the Board information from the maker of the pool cover.

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Chairperson Taylor asked about the recommendation from the Health District that it needed to be moved. Mr. Neimayer clarified there is no requirement from the Health District, it is just a recommendation. He pointed out the two alternate reserve leach field areas. Chairperson Taylor stated if you move the swimming pool over (west) and put decking over near the leach field, the decking would not disturb the leach field.

Mr. Hazlett asked about issues with setbacks. Mr. Neimayer responded the setback from the lot lines and from the house is 10 feet.

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 3:42 pm. and asked if the Applicant is here and would like to speak.

Bo Johnson, Applicant, 3210 Willow Rd., was sworn in. Mr. Johnson explained there are two areas for the reserved leach field area. When I had this house built, I had the areas designed for a backup area, a pool and a pole barn. There is plenty of space. As far as the pool cover goes, it is 100 percent safer than a fence. The pool cover has a key pad. The information I provided is from the manufacturer. From my research, this is a better safer option than a fence.

Mrs. Forstrom asked about the trees. The Applicant responded the trees are surrounding the property.

With no further questions for the Applicant, Chairperson Taylor asked if there was anyone else in favor of the variance request that would like to speak. Hearing none, she then asked if there was anyone in opposition to the variance request that would like to speak. There were none. Chairperson Taylor closed the public portion of the hearing at 3:45 pm. and asked for Board discussion.

Mr. Smith stated this is another area that needs to be updated in the zoning regulations. We all see from the literature that he submitted. I am a believer in something like this, more so than a fence.

Chairperson Taylor explained, we have had this conversation every time, fences can be climbed. A fence can be left open, a pool cover can be left open. The homeowner did the research and he feels the cover is the safest for his family. An accident can happen whether it is a pool cover or a fence. The Applicant is looking to be a reasonable pool owner.

Mr. Duffee stated I have nothing to add.

Mrs. Forstrom stated fences are good too. Fences can be a deterrent. What if someone forgets to close the pool cover? Chairperson Taylor stated it should be either one. Mr. Hazlett stated he agrees.

Chairperson Taylor reopened the public portion of the hearing at 3:50 pm. The Applicant asked do I need to relocate my pool. Mr. Neimayer responded no. The Health District is just making a recommendation.

Chairperson Taylor closed the public portion of the hearing at 3:51 pm.

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

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Action on Case #BZA-2022-20 ~ Property Owners/Applicants: Bo & Ashley Johnson ~ Location: 3210 Willow Rd., Moorefield Twp. ~ Request: Variance to Section 802.02.032 to allow an automatic swimming pool cover instead of the required 4 ft. tall wall or fence

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

Mrs. Forstrom went through the Findings Of Facts. The character would be altered but it will not affect government service delivery.

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

No: Mrs. Forstrom

Motion carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2022-21 ~ Property Owner: The OT Farms LLC ~ Applicant: Darcy Turner-Olinger ~ Location: 9316 W. National Rd., Bethel Twp. ~ Request: Variance to Section 602.03.02 to increase the size of a wall sign from 100 sq. ft. to 175 sq. ft.

Mr. Neimayer stated the subject property is located at 9316 W. National Rd. and consists of 41+ acres. The property is currently zoned PD-M (Planned Development Mixed Use District). The Applicant recently rezoned the property to allow for a wedding venue/event center. The Applicant has filed this variance request to increase the size of a wall sign from 100 sq. ft. to 175.5 sq. ft.

Chairperson Taylor asked what the reasoning for 100 sq. ft. size was. Mrs. Tuttle responded it has been in there since 1990.

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the meeting at 3:58 pm. and asked if the Applicant would like to speak.

Darcy Turner-Olinger, Applicant, 9316 W. National Rd., was sworn in. Mrs. Turner-Olinger explained we were trying to get a sign that was proportional to the size of the barn and safe to see from the roadway.

Mr. Hazlett asked what is the approximately distance from the road. The Applicant responded about 250 feet off the road. Mr. Hazlett stated it is not that substantial of a size difference. The Applicant stated our biggest priority is that it is legible and safe to read from the road.

Chairperson Taylor asked Mr. Neimayer about should the Applicant want to add additional signage. Mr. Neimayer responded there is a maximum signage area of 300 sq. ft.

Mrs. Forstrom asked the Applicant if the sign is lit. The Applicant responded there is lighting above that light the sign, but the sign is not internally illuminated. She added we do not plan to put up any more signs. During event days we will do a temporary sign.

Mr. Duffee asked do you plan to light the sign every night. The Applicant responded no, just for an event.

With no further questions for the Applicant, Chairperson Taylor asked if there was anyone else is in favor of the variance request that would like to speak. Hearing none she then asked if there was

anyone who wanted to speak in opposition to the request. Hearing none Chairperson Taylor closed the public portion of the meeting at 4:02 pm. and asked for Board Discussion.

Chairperson Taylor stated when I read it I did not think about it being a safety issue. I think it is well done and appropriate to the size of the barn. It is not hindering any roadways or houses.

Mr. Smith stated I think it is fine. If it was on a pole I might have a problem with that, but this adds to it. I think it is fine.

Mr. Hazlett stated it makes sense to me especially as a safety aspect.

Mrs. Forstrom stated it hits all the checks on the Findings Of Facts.

Mr. Duffee stated I am a believer in a restriction on advertising, but the barn to the west of this one has a substantial design on it. I think this is tasteful.

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

Action on Case #BZA-2022-21 ~ Property Owner: The OT Farms LLC ~ Applicant: Darcy Turner-Olinger ~ Location: 9316 W. National Rd., Bethel Twp. ~ Request: Variance to Section 602.03.02 to increase the size of a wall sign from 100 sq. ft. to 175 sq. ft.

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

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

No: None.

Motion carried.

Chairperson Taylor asked Staff to present the next case.

Case #BZA-2022-20 ~ Property Owners/Applicants: Martin & Karen Berberich ~ Location: 1400 Snider Rd., Bethel Twp. ~ Request: Variance to Section 802.02.011 and 805.02.02 to increase the maximum height of a fence from 6 ft. to 7 ft. in portion of the front and side yard.

Mr. Neimayer stated the subject property is located at 1400 Snider Rd. and consists of 1.91 acres. The property, Lot #7 of Valley Vista Subdivision, is currently zoned R-1 (Rural Residence District). The Applicants are requesting a variance to allow a 7 foot high fence and allow for a portion of the fence to extend 15 ft. into the front yard.

Mr. Smith asked about the graphic of measuring fences. Mr. Neimayer clarified the post extension does not add into the height measurement, but the post extension cannot be more than one foot. Mrs. Forstrom asked about the gap from the ground. Mrs. Tuttle explained we measure from the ground, so even if they move it up it is included in the height. Chairperson Taylor asked they want the same height of the fence. Mr. Neimayer responded they want the same height, which is 7 feet, and it extends 15 feet into the front yard. Mrs. Tuttle added parts of the fence are higher due to the change in the ground of the yard.

Mr. Hazlett asked whether there is a visibility issue with roadway or driveways. Mr. Neimayer responded no.

Hearing no further questions for Staff, Chairperson Taylor opened the public portion of the hearing at 4:12 pm. and asked if the Applicant would like to speak.

Martin Berberich, Applicant, 1400 Snider Rd. was sworn in. Mr. Berberich stated that the fence has been there for 14 years and I have lived here for 19 years. I got a certified letter that said if I did not follow his (neighbor Mr. Driscoll) commands he was going to turn me into zoning and that is why we are here today. Due to my neighbor's business and the tension, I decided to extend the fence. I used to have natural barriers between the properties and as the years went on he cut back the shrubs and damaged the grass. On the other side of the fence (his side) my property extends 10 feet so I can maintain the fence. When I built the fence I was unaware of the zoning code.

Mrs. Forstrom asked so why do you want to expand the fence. The Applicant responded it was extended 10 years ago due to all the truck traffic he had at his house. Chairperson Taylor clarified the Applicant is not asking for any additional fencing. The fence is already there. Mrs. Tuttle responded that is correct. The Applicant added the fence is about 300 feet from the street so it does not cause any traffic issues. The Applicant submitted new pictures to the Board.

With no further questions for the Applicant, Chairperson Taylor asked if there was anyone else in favor of the variance request that would like to speak. Hearing none she then asked if there was anyone is in opposition to the variance request that would like to speak.

Mr. Smith asked the Applicant how far from the property line is the fence. The Applicant responded about 6 to 8 feet. Mr. Smith then asked do you have bushes and trees on the other side of your fence that you maintain. The Applicant responded yes.

Tim Driscoll, 1540 Snider Rd. was sworn in. Mr. Driscoll explained that he is in opposition of the variance request. Mr. Driscoll stated he has tried to get along with the Applicant but it just has not worked that way. My complaint is that the fence is over 6 feet all the way around. Mr. Driscoll passed around a presentation to the Board members. He explained that the regulations state that his fence cannot be more than 6 feet tall.

Chairperson Taylor stated if the fence came down you would not have a buffer in-between properties. Would that increase the tension? Mr. Driscoll responded there would not be any tension. Chairperson Taylor then asked what you would gain from the fence coming down. Mr. Driscoll responded I just want him to shorten it. Chairperson Taylor stated if you take off a foot of the fence what purpose does that serve. Mr. Driscoll responded the bottom of the fence is 18 feet off the ground. The fence is over 7 feet. Chairperson Taylor what does shortening the fence change in your scenario between the two of you. Mr. Driscoll responded it will not make it better, but there are zoning regulations that he needs to abide by.

Mr. Hazlett asked Mr. Driscoll how long he has lived at his property. Mr. Driscoll responded I built my house in 1994. Mr. Hazlett then asked how long they have been neighbors. Chairperson Taylor stated 19 years according to the Applicant.

Chairperson Taylor explained the purpose of this Board is not to solve disputes between neighbors. We look at the fence itself. It has been there for 14 years. We hear from both sides that there are problems, but that cannot be a factor in our decision. Mr. Driscoll stated he understood.

With no further questions for Mr. Driscoll, Chairperson Taylor asked if the Applicant would like time for Rebuttal. The Applicant responded no. Chairperson Taylor then closed the public portion of the meeting at 4:33 pm. and asked for Board Discussion.

Chairperson Taylor asked for an Executive Session. Mr. Smith stated he does not believe we need one. Mr. Smith stated we are not the referee. We are here to determine the height of the fence. The fence is in on the Applicant's property and there is a minimum of 4 to 6 feet to the property line. The variance request is for the height of the fence and that it is extending 15 feet into the front yard. The fence has been there for 14 years and it is not blocking the view of the driveway. There is no danger. I am not for making the owner shorten the fence.

Mr. Hazlett stated I agree a lot with what Mr. Smith said. I do not see where the benefit is in shortening an established fence. I understand the frustration, but there is nothing to be gained by shortening the fence one foot.

Chairperson Taylor asked is it a big deal to shorten it. Mr. Hazlett responded you could cut it down without changing the structure but I do not see it changing anything in this particular case, and that is what we do look at individual cases. Mr. Smith added taking a foot off the fence is not going to change anything.

Chairperson Taylor stated the neighbor could put up a fence on his property. Mr. Smith stated we do look at every case individually and we have permitted 6 foot fences in the past. I cannot justify denying this one.

Mr. Duffee stated I think back to the case on Hustead Rd. and the township trustee request. Personally, I can allow the 15 feet into the front yard, but I am going to be a stickler and say it needs to be 6 feet all the way around. Mr. Smith stated if this was a new fence I would agree with you. Mrs. Tuttle added in that Hustead Rd. case visibility was an issue.

Mrs. Forstrom stated the fence has been there for 14 years. It is definitely not neighborly to leave the branches there but there is nothing to forbid it.

Chairperson Taylor stated I am on the fence with this one because I see both sides. They could take a foot off of the top. What is that going to change? It will not detract or enhance taking a foot off.

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

Action on Case #BZA-2022-20 ~ Property Owners/Applicants: Martin & Karen Berberich ~ Location: 1400 Snider Rd., Bethel Twp. ~ Request: Variance to Section 802.02.011 and 805.02.02 to increase the maximum height of a fence from 6 ft. to 7 ft. in portion of the front and side yard.

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

Chairperson Taylor went through the Findings of Facts. Mr. Smith stated that Mr. Driscoll needs to understand that this Board is not meant as a punishment. We will not allow ourselves to be put in that position. If we decide to approve it we are not passing it in favor of him, but we have approved these fences in other instances. It is far off the roadway and causes no interference with the public driving.

Mr. Driscoll asked to be heard. Chairperson Taylor re-opened the public portion of the hearing at 4:45 pm. Mr. Driscoll stated the fence was not an issue. It was when he started piling debris on my side of the fence. Chairperson Taylor Closed the public portion of the hearing at 4:47 pm.

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

No: None.

Motion carried.

Staff Comments

Mr. Neimayer stated the next scheduled meetings are August 25 and September 29, 2022.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 4:55 pm.

Mrs. Jerri Taylor, Chairperson