

# **Minutes**

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

Regular Meeting ~ 2:00 pm.  
Thursday, September 29, 2022

Springview Government Center  
3130 East Main Street  
Springfield, Ohio 45505

Jerri Taylor, Chairperson of the Clark County Board of Zoning Appeals of Clark County Ohio, called the meeting to order at 2:03 pm. and asked for the Roll Call.

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

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 August 25, 2022 Minutes**

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

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

**No:** None.

***Motion carried.***

Chairperson Taylor asked Staff to present the first case.

**Case #BZA-2019-19 ~ Property Owners/Applicants: Nathan & Karin VanZant ~ Location: 4319 Springfield-Xenia Rd.; Green Twp. ~ Request: Variance to Section 802.03.01 to allow a carport in the side yard with a 5 ft. side setback instead of 15 ft.; and to Section 802.06.01 to allow a third structure on a lot under one acre.**

This case was Tabled indefinite on 8-29-2022. Mr. Allan Neimayer, Senior Planner, stated that the Applicants have withdrawn their case.

Chairperson Taylor asked for a motion to remove Case #BZA-2022-16 from the Table.

Motion by Mr. Duffee, seconded by Mr. Smith, to **Untable** Case #2022-16.

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

**No:** None.

***Motion carried.***

Chairperson Taylor asked Staff to present the next case.

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**Case #BZA-2022-16 ~ Property Owner/Applicants: Dustin Futrell & Brandy Arner ~ Location: 507 Carman Ave., Bethel Twp. ~ Request: Variance to Sections 805.02.01 and 805.02.02 to increase the maximum height of a fence in the front and side yard from 4 ft. and 6 ft. respectively to 9 ft.**

Mr. Neimayer stated the subject property is located at 507 Carman Ave. and consists of 0.31± acres. The property, Lot #351 of the Park Layne Manor Subdivision, Section 2, Part 3, is currently zoned R-2A (Medium Density Single-Family Residence District). The Applicants would like to install a 9 ft. tall fence along the west lot line – see Applicant’s narrative for reasoning. Mr. Neimayer stated he has not received any communication from neighbors.

With no questions for Staff, Chairperson Taylor opened this portion of the public hearing at 2:08 pm. and asked if anyone would like to speak in favor of the case.

Dustin Futrell, Applicant, was not sworn in due to personal choice, but he did confirm to tell the truth. Mr. Futrell explained the Board had Tabled his case due to the neighbor calling. I was able to speak with the neighbor and she told me she has no problem with the proposed fence. She was calling because she did not understand the mail she received. Having heard from her that someone will move the cameras, it has been a few months and the cameras have not been moved. So, I would like to move forward with our original plan.

Chairperson Taylor thanked the Applicant for doing the additional work to present your case.

Mr. Duffee asked are these pictures of your house. The Applicant responded my neighbor’s house is in a picture. She has a 6-foot fence, and the cameras are mounted to the corner of her house. Mr. Duffee asked your property goes up to her fence. The Applicant responded yes. They are abutting properties.

Mr. Hazlett asked in your top picture the white area is the area of the view of her cameras. The Applicant responded yes. It covers more of my property than it does hers.

With no more questions for the Applicant, Chairperson Taylor asked if anyone else would like to speak in favor of the request. Hearing none, she then asked if anyone wanted to speak in opposition to the request. Hearing none Chairperson Taylor closed this portion of the public hearing at 2:14 pm. and asked for Board discussion.

Chairperson Taylor stated this is one of those cases where I hate to see a fence that size but then again, I do not know how I would feel of video surveillance on my yard. The more I look at it where the fence is located, I am not sure it effects the rest of the neighborhood.

Mr. Hazlett stated I have issues with it being that tall for safety reasons. I think other he could pursue other avenues. We should stick closer to what we should be doing as a Board. There could be legal issues in that regard. As far as a 9-foot fence, I cannot wrap my head around it. I do not want to set a precedence for the neighborhood.

Chairperson Taylor stated where the proposed fence is there is a slope. How much higher than the existing fence? It is not four or five feet above, it only looks about one or two feet. Mr. Hazlett explained I am looking at it from a safety standpoint. If there is a fire and they (first responders) need to climb the fence that extra footage would be an issue. Even for EMS I think it causes safety concerns they would have to overcome.

Chairperson Taylor stated I do not see it being a fire hazard. The only person it would effect is the neighbor with the cameras.

Mr. Duffee asked to speak again with the Applicant.

Chairperson Taylor reopened the public portion of the meeting at 2:18 pm and asked the Applicant to return to the podium.

Mr. Duffee asked the Applicant if you built the fence on the upper portion of your yard how high would the fence be. The Applicant responded if I built a 6-foot fence at the top of the hill it would be a 4 foot difference. It would adhere to the rest of the neighborhood.

Mr. Smith asked in one picture there is a level board from the fence to the yard. Can we see that picture again.

Mr. Duffee stated by the picture up above you would lose part of your side yard by camera, but most of your yard would be protected.

The Applicant stated for the building permit, the person in charge covered safety and how to build it. As far as fire hazard we have all other aspects of our yard to leave by. If we were to build it, it would be structural sound.

Mr. Duffee asked is there any gate into the neighbor's fence. The Applicant responded they have a gate between their garage and current fence.

With no further questions for the Applicant, Chairperson Taylor closed the public portion of the hearing at 2:22 pm.

Mr. Smith asked since this is a corner property will the fence be in what we consider the front yard. Mr. Neimayer responded yes part of it will be, about one section of the fence.

Mr. Smith stated I am not totally sold on the 9-foot fence. I saw the other pictures and I see other fences in the neighborhood that have gone higher. I also bring up the fact that his fence would be extending into the front yard of a corner lot house.

Mrs. Smith stated I am not crazy about a 9-foot fence. I do not think it will look good in the neighborhood.

Chairperson Taylor stated does it alter the neighborhood in the Findings Of Facts. Chairperson Taylor asked what is the length of the fence. The Applicant stated it is 80 feet long by 9 feet high.

Mr. Duffee stated he could build a fence near that tree on top of the elevation at six feet and it would be visibly higher. All he needs from us is a variance at the top of the property. With that logic I am leaning to approve the variance with the restriction that it would not intrude into his front yard on a corner lot.

Chairperson Taylor reopened the public portion of the hearing at 2:29 pm. The Applicant stated the fence is 80-foot long. Mr. Smith asked the way you have it now where you think that fence is starting vs the end of your house. Pointing to the picture, the Applicant stated it would be one fence length past the house.

Chairperson Taylor closed the public portion of the hearing at 2:32 pm. and asked for a motion.

**Action on Case #BZA-2022-16 ~ Property Owner/Applicants: Dustin Futrell & Brandy Arner ~ Location: 507 Carman Ave., Bethel Twp. ~ Request: Variance to Sections 805.02.01 and 805.02.02 to increase the maximum height of a fence in the front and side yard from 4 ft. and 6 ft. respectively to 9 ft.**

Motion by Mr. Duffee, seconded by Mr. Hazlett, to **Approve** the variance request with the condition that the fence cannot project into the Applicant's front yard.

**VOTE: Yes:** Mr. Duffee.

**No:** Mr. Hazlett, Mr. Smith and Mrs. Smith.

***Motion defeated.***

Chairperson Taylor asked Staff to present the next case.

**Case #BZA-2022-30 ~ Property Owners/Applicants: Chris & Beth Stiles ~ Location: 6400 Moorefield Rd., Moorefield Twp. ~ Request: Variance to section 802.03.01 to allow a 50 ft. by 70 ft. (3,500 sq. ft.) barn in the front yard.**

Mr. Neimayer stated the subject property is located at 6400 Moorefield Road in Moorefield Township and consists of 4.75 acres. The property is currently zoned A-1 (Agricultural District). The Applicants want to construct a 50 ft. by 70 ft. (3,500 sq. ft.) barn in the front yard for agriculture and personal use. The Applicants have filed this variance request because the barn would be less than 300 ft. from the right-of-way. Records from the Health District show the well in the front and septic and leach in the rear yard. Mr. Neimayer reviewed the comment letter from the County Engineer's Office. They would not approve any other access points off of Moorefield Road. Mr. Neimayer referenced a letter received from Larry Davis, surrounding property owner, who opposed to the building in the front yard.

Mr. Smith asked what are the indicators on the map. Mr. Neimayer responded they point out the existing buildings and well and septic.

Chairperson Taylor asked is the property is outlined in red. Mr. Neimayer responded yes.

Mr. Hazlett asked about the existing driveway. Mr. Neimayer pointed out the driveway. Mr. Hazlett then asked so they will be able to access their driveway from their property. The barn does not need its own entrance. Mr. Neimayer responded that is correct.

Chairperson Taylor stated it looks like neighbors on each side but nothing close to the proposed barn.

Mr. Duffee stated the letter you received do you no which house. Mr. Neimayer responded no, but they are here to speak.

Mr. Hazlett asked what is the distance off the road. Mr. Neimayer responded approximately 85 feet from centerline.

Mr. Smith asked does topography restrict it from moving back. Mr. Neimayer responded no.

Mr. Hazlett asked is there any visibility issues at the proposed site. Mr. Neimayer responded I asked the County Engineer's Office to look at that, but there would not appear to be.

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Hearing no further questions for Staff, Chairperson Taylor opened this portion of the public hearing at 2:40 pm. and asked if anyone would like to speak in favor of the case.

Jason Hux, contractor for the Applicant, 543 E. Court St., Urbana OH was sworn in. Mr. Hux explained the elevation change is up to nine feet. There is a group of trees and it would cost so much to build it up. There was an old drive in there. We have the barn tucked back as far as we can to save on excavation work.

Mr. Smith asked if the barn could be turned to line-up with the driveway. Mr. Hux responded it will be to a certain extent. The barn's orientation will be more squared with the drive. Mr. Smith asked if it can be pulled back. Mr. Hux responded it drops off on the right hand side.

Chairperson Taylor asked that is all wooded area. Mr. Hux responded yes. And once we place it, it will be closer to 100 feet from the right-of-way.

Mr. Duffee asked what will be stored in the barn. Mr. Hux responded goats and personal things.

Chris Stiles, Owner/Applicant, 6400 Moorefield Rd., was sworn in. Mr. Stiles explained another reason we do not want to move closer to the house is the well we need to stay away from. And, the slope is about 35 feet. Storage in the building would be goats and vehicles on the property and for cold storage.

Mr. Duffee asked is that well you primary drinking water source. The Applicant responded yes.

With no further questions for the Applicant, Chairperson Taylor asked if anyone else wanted to speak in favor of the variance request. There were none. She then asked if anyone wanted to speak in opposition of the variance request.

Alvin Croucher, 6405 Moorefield Rd., was sworn in. Mr. Croucher explained he lives across the street. For the record he is opposed to the variance request. He knows Chris and his wife are good neighbors and they are raising goats. Mr. Croucher is concerned about the 3,500 sq. ft. barn. He houses 15 horses and 600 bales of small hay and do not have a 3,500 sq. ft. barn. We average five accidents per year on that curve. The county engineers took the drainage from the creek and ran it into my property. Not down the ditch but straight into my property. So, I will be affected negatively by his runoff. My wife is concerned about safety. Mr. Croucher spoke on the impact the size and height of the proposed barn, 16-foot sidewalls plus a pitched roof, and the curve of the road in regards to safety for Chris and his family coming out of their driveway.

Mr. Smith stated the barn would be almost 100 feet off the road. Would you be more willing to accept the 100 feet? Is the view blocked by trees? Mr. Croucher responded I am not a tree hugger but I would hate to see them come down.

Patricia Davis, 5463 Moorefield Rd., was sworn in. Mrs. Davis stated my concern is my property value if a barn goes into their front yard. Is he going to take care of this barn? Will he be working on cars? Moorefield Rd. is a horrible hazard. There are so many accidents. The school buses speed on the road. I would not be opposed to him putting it behind the house. If it cost more, I cannot help it. But in the front yard, I am opposed to it. I do not want to look at a barn in someone's front yard. We made numerus improvements to our property. I do not want this barn to decrease my property value.

Mr. Hazlett asked what is causing the vision issues on the bend in the road. Mrs. David responded you have to slow down around the bend, but they speed around it.

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Judy Croucher, 6405 Moorefield Rd., was sworn in. Mrs. Croucher stated the problem is the bend in that road and the way the road has progressively moved towards my property. The inside curb is so sharp. The Applicant reassured me this is an agricultural building. That being true, worst case scenario, if they sell this is a big barn and someone would buy that property and there is no guarantee it will be kept agricultural. There is no grazing land other than what they are already using. I also see the aspect of danger.

Mr. Hazlett asked about standing water on the road. Mrs. Croucher responded we have water standing in the ditch. Horse people (owners) do not want west Nile virus in their barns.

Mr. Croucher added we are concerned about is if they ever have to sell, who is to say they will not use the barn as a commercial building. It could be a garage with lifts put in. Mr. Smith responded who ever would want to do that they would need to come back for that.

With no one else to speak in opposition, Chairperson Taylor asked for a rebuttal from the Applicant.

Applicant stated that with our water drain off we plan on excavating, the water will drain down our property instead of going across the road. The barn is out of the site line from the road.

Mr. Smith asked you do not feel your barn would obstruct the view. The Applicant responded no. You can visibly see across. It is a terrible corner, but my barn will not obstruct any views. The Applicant added once you get up the hill you can see straight across, which is why we set it back.

Mr. Duffee asked what the maximum height of the barn is. The Applicant responded about 25 feet to the peak.

Mr. Smith asked you do not have a problem taking every inch away from the street. The Applicant responded yes we do not want to block site lines. To answer the question on why that curve is so bad, it is the grade change

Hearing no further comments, Chairperson Taylor closed the public portion of the hearing at 3:16 pm. and asked for Board discussion.

Mr. Smith stated I can understand the topography and the back part of the property is unusable. He is showing it drops 35 feet. That is a lot of distance. To relocate the barn they would have to construct a road down to it, which would mean tearing down more trees because. I personally believe if he can get it back away from the road and come up with 100 feet I do not see a problem with that barn blocking someone's view of the road. They will reroute the water drainage down their property. I feel he has done everything he could do here. I will go along with it.

Chairperson Taylor stated I am not crazy about it. The way the road curves is something that is not the Applicant's problem. There is no place else to put it. There are accidents on this road and the County Engineer's Office gave their ok. Is this something we should have them look at again?

Mrs. Smith states I am ok with the County Engineer's taking a second look.

Mr. Hazlett stated I cannot see faulting the Applicant for constructing a building that size and in that location. If the road is an issue then that is an issue. I do not see the barn having anything to do with that.

Chairperson Taylor I do not see any of us as experts in that matter. I understand what you are saying. But I will prefer to get another opinion from the County Engineers. Mrs. Smith stated it would not hurt to have them take a look at it.

Mr. Duffee stated I believe there are problems with the road. I do not think the visibility will be affected. I also look at the size of the barn and it is regulated. Before the Board is the distance of the barn from the ROW. As I look at the Findings of Facts, this is a substantial request. However, Fact #7 there is no other place to put this barn on the property. To me the existence of the irregular topography of the property overrules the fact that it is a substantial request. I would vote to approve the variance. And to ask the County Engineers to go back out for another look is no problem but I do not see how it affects the visibility. I do believe if it did we would have heard from the County Engineers. I do believe there is a problem, but I do not see the existence of the barn being one of them. Drainage was brought up and the county engineers exasperated a problem but again not one the Applicant has the ability to effect with what they have already stated, based upon what the County has tried to do with the drainage on the road. With that being said I will approve as submitted.

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

**Action on Case #BZA-2022-30 ~ Property Owners/Applicants: Chris & Beth Stiles ~ Location: 6400 Moorefield Rd., Moorefield Twp. ~ Request: Variance to section 802.03.01 to allow a 50 ft. by 70 ft. (3,500 sq. ft.) barn in the front yard.**

Motion by Mr. Duffee, seconded by Mr. Smith, to approve the variance request as presented.

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

**No:** None.

***Motion carried.***

Mr. Smith states, I would like to add that we ask the Applicant to move the barn as far away from the road as possible without causing yourself an expense.

### **Review of Corner Lots**

Mrs. Tuttle led the discussion on corner lots and possible zoning text amendments. She reviewed several slides showing different examples of corner lots and how current zoning regulations apply to accessory structures. She spoke on developed areas vs rural areas and whether there should be different standards for each. Also, should accessory structures be looked at differently vs. fencing.

Mr. Neimayer stated that developing graphics will go a long way to help explain new regulations.

Mrs. Tuttle suggested the current division of lots under one acre be divided into less than one-half acre and one-half acre up to but less than one acre. She stated this would benefit property owners in Northridge, Park Layne, Crystal Lakes and similar developments.

Staff will continue working on this with some preliminary graphics for the next meeting.

### **Staff Comments**

Mr. Neimayer stated the next scheduled meetings are October 27 & November 17, 2022.

### **Adjournment**

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

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 4:10 pm.

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Mrs. Jerri Taylor, Chairperson