

# **Minutes**

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

Regular Meeting ~ 2:00 pm.  
Thursday, October 27, 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 2:02 pm. and asked for the Roll Call.

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

Absent For Roll Call: Mrs. Carol Smith.

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 September 29, 2022 Minutes**

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

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

**No:** None.

***Motion carried.***

Chairperson Taylor asked Staff to present the first case.

### **Case #BZA-2022-29 ~ Property Owner/Applicants: Garry & Patricia Williams ~ Location: 5541 Lower Valley Pike., Bethel Twp. ~ Request: Variance to Sections 802.03.05 to allow an accessory structure on a parcel of less than two acres without a primary structure.**

Mr. Allan Neimayer, Senior Planner, stated the subject property is located at 5541 Lower Valley Pike and consists of 1.11 acres. The property is currently zoned A-1 (Agricultural District). The Applicants have filed this variance request to allow an accessory structure (an existing storage shed) on a parcel of less than two acres without a primary structure. This structure is located towards the front of the property (near the road), the highest point of the property. According to the county auditor's records, the single-family home that was on the property was built in 1948. The house was destroyed by a fire. Mr. Neimayer explained there was a complaint received of construction of a shed and an RV being used for a dwelling. In June of 2022, zoning and building code violation notices were sent regarding these structures on the property.

Chairperson Taylor asked in a picture it looks like there is a mobile home on the property. Mr. Neimayer responded that was another complaint of someone possibly living in there. Mrs. Tuttle added it is still there. It was connected into the sewer and it is for recreational use only. Orders were given for it to be removed from utilities. The camper can be stored there but not hooked up to utilities or lived in. Chairperson Taylor asked even when someone was living in it, it did not count as a primary structure. Mrs. Tuttle responded that is correct.

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Mr. Duffee asked the shed by definition why is that an accessory structure and not a primary structure. Mrs. Tuttle responded because it is not a principal habitable dwelling. There was electricity to it at one point but being ran illegally by an extension cord.

Mr. Hazlett asked the building in question is that a utility type building so it could be moved. Mrs. Tuttle responded yes it could be moved. It did not appear to be on a permanent foundation.

Mr. Smith asked just to be clear, they cannot live permanently in the camper. Mr. Neimayer responded that is correct. Mrs. Tuttle added the camper can be used for recreational use with no connection to utilities and they would need to make provisions to pull out the waste.

Hearing no further questions for Staff, Chairperson Taylor opened this portion of the public hearing at 2:10 pm. and asked if the Applicants would like to speak.

Garry Williams, Applicant, 5791 N. Dayton-Lakeview Rd., was sworn in. Mr. Williams explained we were requesting to have the shed allowed there and we will use it to store lawn mowers.

Chairperson Taylor asked do you have plans to put a permanent residence on the lot. The Applicant responded no. They said we could not do that. Mr. Duffee asked for clarification on who's "they". The Applicant responded the County/Zoning. They said it was too much in the flood plain. If we went through all the steps, we could build on the same foundation but it would be too expensive for us.

Mr. Smith asked, what you plan to use that structure that is there now for. Applicant responded to store lawn mowers and equipment.

Mr. Duffee asked if anyone stays overnight in the structure. The Applicant responded no. My brother stays there every so often. He stays with me and my sister but loves the camper. The Applicant explained that there is a new septic tank already there that he cannot use. It gets pumped out just like the camper would. We will do whatever you want us to do.

Mr. Duffee asked about this shed, is there furniture in there. The Applicant responded there is anything he could salvage from his old house in there. There is no running water or plumbing. Mr. Duffee asked at one time you had electricity to the shed. The Applicant responded yes, it was temporary. He has a pipe that the cord goes through. Mr. Duffee asked about the camper by the river, is anything stored in there. The Applicant responded no.

Chairperson Taylor asked on this lot the primary structure is burned, there is an old garage, a camper and a storage shed. The applicant responded that is correct. Chairperson Taylor asked the Applicant to point out the location of the old garage. The Applicant states it is pretty badly damaged.

Mr. Duffee asked when the property floods how much of it floods. The Applicant responded everything floods but the location of the new shed. It sits approximately 30 feet from the road.

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.

Richard Shaw, 5543 Old Lower Valley Pike, was sworn in. Mr. Shaw stated that we live next door to the Applicants and own the properties on both sides of the Applicant. Mr. Shaw stated he is opposed to the request. It is an eye sore. They are not cleaning it up. They burn trash and there have been three overdoses this year. Larry lives there all the time. I live right next door and see him.

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Chairperson Taylor asked Mr. Shaw why he is opposed. Mr. Shaw responded it is an eye sore. Mr. Duffee asked do you believe he lives in the camper or in the shed. Mr. Shaw responded in the shed.

Vernon Donnelly, 358 E. High St., was sworn in. Mr. Donnelly stated I own the property on the other side of the road. The old building that has burned you can still smell the burn and it is an eyesore. I have been there 25 years. Larry dumped concrete under the shed and that is why it sits up higher. It should have been taken out a year ago. The camper was under water at point. It has to be filled with mold.

Chairperson Taylor asked Mr. Donnelly if everything was removed from the property would you still be opposed to the shed. Mr. Donnelly responded yes, it is an eye sore.

Mr. Hazlett asked how long ago the fire was. Mr. Donnelly responded probably a year and a half ago. Chairperson Taylor asked if everything else was gone from that property you would still have a problem with the storage shed. Mr. Donnelly responded numerous neighbors are opposed to it. We are responsible to clean up our property. The whole lot goes under water. It needs to be cleaned up.

With no one else to speak in opposition to the request, Chairperson Taylor allowed time for Rebuttal from the Applicant.

Mr. Williams stated please do not base your decision on one person's opinion. I had the whole road sign a paper saying they were ok with it. Mr. Duffee asked when that was. The Applicant responded about a week after this came up. Mr. Duffee then asked the Applicant what his plan is to clean up the fire debris. The Applicant responded we have been doing it on our, own just me and my brother. If we could afford to have someone come in and do it we would but we cannot.

Hearing no further questions from the Board, Chairperson Taylor closed this portion of the public hearing at 2:27 pm. and asked for Board deliberation.

Mr. Smith stated it is a sad story, but this is out of our realm. We are asked if we would allow an accessory structure in this location. And we have a rule if it is under two acres it says no. We have to back away and decide on the accessory structure and rule on whether or not to permit the accessory structure.

Chairperson Taylor stated anytime we have allowed an accessory structure without a primary structure, the Applicant has supplied us with building plans and that has been when we allowed it. The cleanup of the old house and trailer is all code enforcement. This is only about the accessory structure. My Concern is even though it is a storage unit, it has been used as a place to live and that is not permissible. I am inclined to say that the regulation is there for a reason.

Mr. Hazlett stated this is one of the saddest that I have had to deal with. It is a hardship case. I agree with Mr. Smith's assessment. There are a lot of things that are out of our jurisdiction. Our primary concern is the accessory structure and I have always been in agreement to have a structure to store the material for the house. But it does not sound to be like any of it is in front of us today. I hate it but I do not think I can approve this.

Mr. Duffee asked for clarification of the reconstruction of the building. Mrs. Tuttle stated there is an option to rebuild but it would be costly because of the floodplain. Mr. Duffee stated and insurance would almost be prohibited. If we decide an accessory structure cannot go there then it will be a vacant lot. Mr. Smith stated he can still use the trailer for recreational use and abide by the sanitary codes. Mr. Duffee added he cannot live in the trailer.

Mrs. Tuttle stated he cannot stay in this accessory structure either it is non-habitable. Mr. Duffee asked if that structure stayed there what would prevent him from living there. Mrs. Tuttle responded it would continue to be a code enforcement issue. Typically the rout is through the court system.

Mr. Duffee stated if this were a tool shed I see no problem with it maintained there. After the fire I understand they cannot rebuild. I would think a tool shed would not be inappropriate for the property. Following Mr. Smith's logic, I would follow through and then approve that. I do believe it is being used for a residence and that gives me pause. But that does not seem to be under our jurisdiction. I believe I will vote to approve the variance.

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

**Action on Case #BZA-2022-29 ~ Property Owner/Applicants: Garry & Patricia Williams ~ Location: 5541 Lower Valley Pike., Bethel Twp. ~ Request: Variance to Sections 802.03.05 to allow an accessory structure on a parcel of less than two acres without a primary structure.**

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

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

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

**Motion defeated.** The variance request is denied.

Chairperson Taylor asked Staff to present the next case.

**Case #BZA-2022-31 ~ Property Owners: James Strewing, Trustee: Applicant: Willie Ruiz~ Location: 1889 Business Way., Bethel Twp. ~ Request: Variance to section 501.02 to allow the driveway to a business use to be gravel; Note the parking area next to the building will be concrete surface.**

Mr. Neimayer stated the subject property is located at 1889 Business Way and consists of 4.52 acres. The property is currently zoned I-1 (Light Industrial District). The Applicant is developing this property for his concrete business. Although his plans are to have the parking area next to the building to be a concrete surface, he has filed this variance request to allow the driveway from Business Way cul-de-sac to the building, approximately 750 ft., to be gravel.

Mr. Smith and Chairperson Taylor asked for clarification on the surrounding properties.

Hearing no further questions for Staff, Chairperson Taylor opened this portion of the public hearing at 2:44 pm. and asked if anyone would like to speak in favor of the case.

Paul Strudel, architect and Agent for the Applicant, 3216 Lower Bellbrook Rd., Spring Valley, OH was sworn in. Chairperson Taylor asked what the reason is for wanting gravel instead of concrete. Mr. Strudel explained he has been working with the Applicant the last four months on this project. We have no problem doing the concrete for parking, but the Applicant only intends to use it to park equipment and store some materials. Mr. Strudel does not think it is out of character for what is around the property.

Mr. Duffee asked is this a new purchase. The Agent responded yes.

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Willie Ruiz, Applicant, 1922 Aspen Rd., was sworn in. Mr. Ruiz stated the reason he wants the gravel is because of the trucks going in and out it (concrete) would be destroyed in six months. It is better to have the gravel. I am going to store equipment in the pole barn.

Mr. Hazlett asked about the current drive that is gravel now that is suitable for what you need. The Applicant responded yes it is all gravel right now. Mr. Hazlett then asked you plan to add more gravel and groom it. The Applicant responded yes we will.

Mr. Duffee asked about the vehicles the Applicant will be moving there are they 18-wheeler. The Applicant responded no they are 2500 trucks and concrete company trucks. Mr. Duffee then asked if there would be an office in the building. The Applicant responded no office at this time.

With no further questions for the Applicant, Chairperson Taylor asked if anyone else wanted to speak in favor of the variance request. Hearing none, she then asked if anyone wanted to speak in opposition to the variance request. There were none. Chairperson Taylor closed the public portion of the hearing at 2:52 pm. and asked for Board deliberation.

Chairperson Taylor stated I do not see a problem with it. I do not think it will affect any other businesses and its abutting up to farmland. We have allowed gravel lots for businesses in the past for drainage reason. It would be costly to put concrete that length and I do not see it being necessary.

Mr. Hazlett noted the Applicant has stated in six months of in and out the concrete would be torn up. I see no issue with it.

Mr. Duffee stated to clarify no objections from neighbors. Mrs. Tuttle responded no.

Mr. Smith stated the neighboring properties have gravel on their lots. If there was a problem it would have been indicated. I think they will be for smaller trucks. I see no problem with it.

Chairperson Taylor stated I feel they are trying to do the right thing.

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

**Action on Case #BZA-2022-31 ~ Property Owners: James Strewing, Trustee: Applicant: Willie Ruiz~ Location: 1889 Business Way., Bethel Twp. ~ Request: Variance to section 501.02 to allow the driveway to a business use to be gravel; Note the parking area next to the building will be concrete surface.**

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

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

**No:** None.

***Motion carried.***

Chairperson Taylor asked Staff to present the next case.

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**Case #BZA-2022-32 ~ Property Owners: a) David Leapley & Susan Buckles, PID #010-05-00017-000-074, and b) Chad & Amy Hamilton, PID #010-05-00017-000-127 ~ Applicant: John Evans ~ Location: NE Corner of Liberty Rd. & New Carlisle Pike (PID -074) and NW Corner of Bischoff Rd. & New Carlisle Pike (PID -127) ~ Request: Variance to Section 602.02.04 to allow one off-premise sign on each parcel with a zero setback from the right-of-way.**

Mr. Neimayer stated that The Applicant has filed this variance request to allow for two off-premise signs with a zero (0) setback from the right-of-way. These signs were initially discovered by the county engineer's office and originally located within the road right-of-way. The signs have been moved outside of the right-of-way, and a zoning violation letter was sent on September 21, 2022 – new signs installed without a zoning certificate. The Applicant filed this variance request on October 3, 2022.

The Retreat at Evans Farms is located at 1892 Liberty Rd. in Pike Twp. However, the locations of the two off-premise signs are located in Bethel Twp. and are subject to county zoning. One off-premise sign is located at the NE corner of Liberty Rd. & New Carlisle Pike. The other off-premise sign is located at the NW corner of Bischoff Rd. & New Carlisle Pike. The Applicant was directed to get signed owner affidavits from the respective property owners. Off-premise signs shall not be located closer to the public right-of-way than the established building set-back requirements of the district in which the sign is located, and not closer than thirty (30) feet to any adjoining lot line. The applicable zoning district is A-1 (Agricultural District). The minimum front (building) setback requirement is 40 ft. from the right-of-way.

Chairperson Taylor asked if the signs were going to be moved, why not moved them to be in compliant. Mrs. Tuttle responded they moved the signs out of the public right-of-way so the County Engineer's Office did not comment further. They want to keep the signs out of active farm land.

Mr. Smith asked the original complaint came from whom. Mrs. Tuttle responded the County Engineer's Office. Mr. Smith then asked are they ok where the sign are now. Mrs. Tuttle responded yes as long as the signs are not in the public right-of-way, but they have not been back to measure and neither have I. Depending on the Board's decision today, I will go back to measure.

Hearing no further questions for Staff, Chairperson Taylor opened this portion of the public hearing at 3:03 pm. and asked if anyone would like to speak in favor of the case.

John Evans, Applicant, 1756 Bischoff Rd., was sworn in. Mr. Evans explained, that he was unaware of the zoning setbacks. I am asking for this variance by the request of the property owners so the signs will not be in the active farm land. The sign is not obnoxious. It just indicates the location of our business. I would appreciate your consideration to not have to do the long setback. Chairperson Taylor asked if he moved either signs or just one sign. The Applicant answered, the sign on Bischoff was close to the setback so I moved it a little bit, and the one on Liberty road I moved back to the zero setbacks.

Mr. Hazlett asked what the size of the sign is. The Applicant responded its two ft. by four ft. Mr. Hazlett then asked how high the sign is. The Applicant replied barely six foot.

Chairperson Taylor asked if anyone else wanted to speak in favor of the variance request.

Ken Alderage, 2092 Bischoff Rd., New Carlisle, OH was sworn in. Mr. Alderage stated that he travel these roads every day and the signs are not an obstacle. I have lived off of Bischoff Rd. for 32 years and I just do not see an issue with it. The sign is not huge and not obstructing anything. He mows two miles of the county roadway saving the County money. He keeps things well maintained.

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

Hearing no further comments Chairperson Taylor closed the public portion of the hearing at 3:10 pm. and asked for Board deliberation.

Mr. Duffee went through the Findings of Facts: It is not a substantial request; the character of the neighborhood is not effected; the signs are attractive; governmental services do not apply; the Applicant did not know of the zoning restrictions when erecting the signs; , and Fact #7 the use of the ground of the agriculture would be effected if the signs were moved back into the farm land.

Mr. Smith added as long as the visibility is not an issue then I agree with what Mr. Duffee said.

Mr. Hazlett stated as long as they are off the road with what the County Engineer's said then I am ok with it.

Chairperson Taylor stated as long as Mrs. Tuttle can measure for the zero setback then I am in agreement.

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

**Action on Case #BZA-2022-32 ~ Property Owners: a) David Leapley & Susan Buckles, PID #010-05-00017-000-074, and b) Chad & Amy Hamilton, PID #010-05-00017-000-127 ~ Applicant: John Evans ~ Location: NE Corner of Liberty Rd. & New Carlisle Pike (PID -074) and NW Corner of Bischoff Rd. & New Carlisle Pike (PID -127) ~ Request: Variance to Section 602.02.04 to allow one off-premise sign on each parcel with a zero setback from the right-of-way.**

Motion by Mr. Hazlett, seconded by Mr. Duffee, to **Approve** the request with a zero setback.

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

**No:** None.

***Motion carried.***

### **Review of Corner Lots**

Mrs. Tuttle presented corner lot setback drawings for the Board for discussion and review. The Board was in agreement with the proposed new corner lot regulations.

### **Staff Comments**

Mr. Neimayer stated the next scheduled meetings are November 17 and December 29, 2022.

### **Adjournment**

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

**VOTE: Motion carried unanimously.**

The meeting was adjourned at 3:29 pm.

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Mrs. Jerri Taylor, Chairperson