

Minutes

Clark County Board of Zoning Appeals

Regular Meeting ~ 2:00 pm.
Thursday, November 17, 2022

Springview Government Center
3130 East Main Street
Springfield, Ohio 45505

Rick Smith, Vice-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: Mr. Rick Smith, Mr. Paul Hazlett and Mr. Tom Duffee.

Absent For Roll Call: Mrs. Jerri Taylor and Mrs. Carol Smith.

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

Vice-Chairperson Smith explained how the meeting will be conducted.

Approval of the October 27, 2022 Minutes

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

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

No: None.

Motion carried.

Vice-Chairperson Smith asked Staff to present the first case.

Case #BZA-2022-33 ~ Property Owner/Applicants: Rick & Samantha Zerkle ~ Location: 9697 Chenowith Rd., Harmony Twp. ~ Request: Variance to Section 802.02.063 to increase the maximum size allowed for an accessory dwelling unit from 600 sq. ft. to 1,180 sq. ft.

Mr. Neimayer stated the subject property is located at 9697 Chenowith Rd. and consists of 11.60 acres. The property is zoned A-1 (Agricultural District). The Applicants would like convert part of the existing barn to an Accessory Dwelling Unit and are seeking a variance to increase the allowed size from 600 sq. ft. to 1,180 sq. ft.

Mr. Neimayer explained the Clark County Combined Health District comment letter.

Mrs. Tuttle stated there is history of this property and the Applicant can explain more. She said the prior owner had an agricultural use exemption for the entire barn and that area was used for animals but slowly morphed into living quarters.

Mr. Hazlett stated this was a goat farm at one point. I was under this assumption the addition was added for the goats. Mrs. Tuttle explained it was a nice barn for goats. It has heat and water ran to it. It was an agricultural exemption and not approved for habitable conditions other than for the animals. Now, the Applicants want to use that portion (1,180 sq. ft.) for the accessory dwelling unit. That portion will no longer be agricultural use exempt and will need to go through the permitting process.

Mr. Hazlett stated that is where I was confused. I did not understand why we were here in particular. I knew there needed to be other entities. I did not think we would be involved. Mrs. Tuttle explained the square footage and the Applicants want more than what is permitted.

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Mr. Smith asked if this structure is more than 600 square feet. Mrs. Tuttle responded it is 1,180 sq. ft. Mr. Hazlett added it was constructed initially for the goat farm. Mrs. Tuttle answered correct.

Hearing no further questions for Staff, Vice-Chairperson Smith opened the portion of the public hearing at 2:11 pm. and asked if the Applicant would like to speak.

Ryan Miller, Applicant, 10944 Columbus-Cincinnati Rd., was sworn in. Mr. Miller explained there is a kitchenette in the building and three walk-in doors. There are no barn doors. I was having a second child and sold a house. We were hoping to buy another house but it has not worked out yet. This was supposed to be temporary. Right now, we only occupy the 600 sq. ft. but would like to expand.

Vice-Chairperson Smith asked you are not planning on adding space but just using more of the existing space. The Applicant responded yes.

Mr. Hazlett asked if this unit was already set up with a septic system? The Applicant responded yes.

Mr. Duffee asked who lives in the main house. The Applicant responded Rick and Samantha Zerkle, my possible future in-laws. Mr. Hazlett asked how long they have owned this property. The Applicant responded possibly three years.

Mr. Duffee asked to clarify you are only occupying the 600 sq. ft. at the moment but in the future you would like to utilize the additional space (1,180 total sq. ft.) that is already existing. And as part of your learning process you are willing to work with the Health Department. The Applicant responded yes.

With no more questions for the Applicant, Vice-Chairperson Smith asked if anyone would like to speak in favor of the request. Hearing none, he then asked if anyone wanted to speak in opposition to the request. Hearing none Vice-Chairperson Smith closed the public portion of the hearing at 2:17pm. and asked for Board discussion.

Mr. Hazlett stated I live in the area and I was aware of the property and being used as a goat farm. The property is over 11 acres. I was confused because the structure is already there and it is well off the road. I do not see any effect with any of the neighbors. The only thing needing to be considered is that the Applicant knows they will need to meet permitting requirements.

Mr. Duffee stated I have no issue with it. I reviewed the Findings Of Facts: it is not substantial; the character of the neighborhood will not be altered; it will not affect governmental deliveries; and the Applicant stated he was not aware of the zoning but he is learning. I believe Fact 8 substantial justice will be done by granting the variance.

Vice-Chairperson Smith stated that he agrees with Mr. Duffee and Mr. Hazlett.

Hearing no further discussion from the Board, Vice-Chairperson Smith asked for a motion.

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Action on Case #BZA-2022-33 ~ Property Owner/Applicants: Rick & Samantha Zerkle ~ Location: 9697 Chenoweth Rd., Harmony Twp. ~ Request: Variance to Section 802.02.063 to increase the maximum size allowed for an accessory dwelling unit from 600 sq. ft. to 1,180 sq. ft.

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

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

No: None.

Motion carried.

Vice-Chairperson Smith asked Staff to present the next case.

Case #BZA-2022-34 ~ Property Owner: All Inclusive Warehouse Office LLC ~ Applicant: Richard Deering ~ Location: 6001 Lower Valley Pike., Bethel Twp., PIDs #010-06-00032-000-070 & 076 ~ Request: Variance to Section 212, Table 2.3 and Section 213, Table 2.4 to reduce the rear setback from 70 ft. and 60 ft. to 25 ft. and 35 ft. respectively.

Mr. Neimayer stated the subject property is located at 6001 Lower Valley Pike and comprised of PIDs #010-06-00032-000-070 & -076, each parcel of 2.0 acres. Parcel -076 was recently rezoned to B-4S (Heavy Business District Specific Use) for a planned self-storage development. Parcel -070 is currently zoned B-3 (General Business District). The Applicant is seeking a variance to reduce the rear setback requirement from 70 ft. (B-4S zoning) and 60 ft. (B-3 zoning) to 25 ft. and 35 ft. respectively – see proposed development plan. Mr. Neimayer reviewed the County Engineer's Office's comment letter on drainage, stormwater and access. He then reviewed the comment letter from the County Floodplain Administrator.

Vice-Chairperson Smith asked if both properties are now owned by the same person. Mr. Neimayer responded yes.

Mr. Hazlett asked about the setbacks being requested. Mr. Neimayer used the development plan slide to review the requested setback variances.

Hearing no further questions for Staff, Vice-Chairperson Smith opened the portion of the public hearing at 2:26 pm. and asked if anyone would like to speak in favor of the case.

Jason Harral, Harral and Stevenson Civil Engineering, 120 E. Main St., Suite A, Circleville, OH, Agent for the Applicant, was sworn in. Mr. Harral explained we are the civil engineers for the development and put this layout together for the Owner/Applicant Richard Deering. Basically, what we are asking is to reduce the rear setback of both parcels to 25 ft. Mr. Deering clarified this development is different than the typical mini self-storage units. This is actually a warehouse storage to facilitate the offices going in. Someone could rent an office and have access to outdoor storage. It is a different type of commercial project. The floodway caught us off guard. Typically, a floodway is associated to a channel stream. Being that there is no channel stream on this side of Route 4, we did not anticipate that. The original flood study from 2010 referenced a couple prior flood studies, and we finally got back to all of this floodplain and floodway was modeled on aerial photography from 1983. It is 40 years old, and it is not accurate to what is out there now. We are working with another consultant that specializes in this to verify before we move forward. Right now we just want to make sure we can get the variance for the setbacks. There is a lot of work to do. We have other options which we could flood proof the buildings. Knowing they are in a floodway we can do movers so that if they do flood

there is no damage and allow water to pass from one side to another. For storage that would work but not for the offices. But the office is in the existing building.

Vice-Chairperson Smith asked what the plan is for the blue building. Mr. Harrell responded the same use just smaller units.

Mr. Duffee asked so how will the storage area be accessed. Mr. Harrell responded through the main entrance. There is existing pavement and proposed pavement with gated access through the front. Mr. Duffee then asked you do not anticipate more access from Lower Valley Pike. Mr. Harrell responded no. We will coordinate that through the County Engineer's Office.

Mr. Hazlett asked about the existing building that will be office units. What is the difference in the height of the ground to bring them up? Is it significantly lower? Mr. Harrell responded the area is about 18 to 20 inches lower than the existing floor. We would propose to do a cut fill. Mr. Hazlett then asked can we anticipate that if you do raise them up, any flow through there from the floodplain, there could be some issues. Mr. Harrell responded that is the study we would have to prove through the permit process. If there are changes to the flood map, it would need to be reviewed and approved by FEMA.

Mr. Hazlett asked how long has the existing building been there. Mr. Harrell responded approximately the mid-70s.

Richard Deering, Owner/Applicant, 1325 Lower Valley Pike was sworn in. He explained this development is a new concept. All-inclusive means a person gets a 14-foot door warehouse, and you get an office, conference room and a forklift all for one price. It is a brand-new concept for the area. Mr. Deering stated he has lived here for 75 years and has seen floods come and go. I have never seen flood water at this property.

Vice-Chairperson Smith asked if anyone else wished to speak in favor of the variance request. Hearing none, he then asked if anyone wished to speak in opposition to the variance request. There were none. Vice-Chairperson Smith closed the public portion of the hearing at 2:37 pm. and asked for Board discussion.

Mr. Hazlett stated my personal feeling is that a lot what we discussed is not in our jurisdiction. Our only concern are the setbacks. I do not see a problem with the request.

Vice-Chairperson Smith stated he has to go through other entities. As long as they go through FEMA, I do not see an issue with it.

Mr. Duffee reviewed the Findings Of Facts and did not see any objection to them.

Mr. Hazlett stated a lot of the concerns are out of our hands. Vice-Chairperson Smith added I think we should consider that when we make our decision.

Mr. Neimayer reminded the Board of the Applicant's amended his request for 25 foot rear setback for both parcels.

Hearing no further discussion from the Board, Vice-Chairperson Smith asked for a motion.

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Action on Case #BZA-2022-34 ~ Property Owner: All Inclusive Warehouse Office LLC ~ Applicant: Richard Deering ~ Location: 6001 Lower Valley Pike., Bethel Twp., PIDs #010-06-00032-000-070 & 076 ~ Amended Request: Variance to Section 212, Table 2.3 and Section 213, Table 2.4 to reduce the rear setback from 70 ft. and 60 ft. to 25 ft. for both parcels.

Motion by Mr. Duffee, seconded by Mr. Hazlett, to **Approve** the Amended Variance request as presented.

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

No: None.

Motion carried.

Vice-Chairperson Smith asked Staff to present the next case.

Case #BZA-2022-35 ~ Property Owners/Applicant: Aleici Mireles ~ Location: 1251 Bookwalter Ave., Bethel Twp. ~ Request: Variance to Section 501.03.03 to reduce the driveway setback from the side lot line from 5.0 ft. to 1.0 ft.

Mr. Neimayer stated the subject property is located at 1251 Bookwalter Ave. and consists of 0.18 acres. The property, Lot #414 of the Park Layne Manor Subdivision Section 2, Part 3, is zoned R-2A (Medium Density Single-Family Residence District). The Applicant would like to reduce the driveway setback from the side lot line from 5.0 ft. to 1.0 ft. to add a gravel driveway extension. Mr. Neimayer read a comment letter received from a surrounding property owner. He then reviewed the comment letter from the County Engineer's Office.

Mr. Hazlett asked is the Applicant ready to start on this. Mrs. Tuttle responded that is correct. This variance request came in from a complaint.

Mr. Neimayer stated there is no one in the audience. The Applicant was sent the agenda as a reminder of the meeting. It is up to the Board on how they want to proceed with the Applicant not in attendance.

Mr. Duffee stated the regulations were changed, but the thought was there would not be variances for communities like this. So you changed the regulations just for cases like this. Mr. Neimayer responded particularly with smaller lots. This is where the complaints have come from. It is no different than someone building a larger structure or requesting to reduce the setbacks for a pole barn or shed and the run off from that structure. Mr. Duffee asked it is possible those driveways that we can see are in violation. Mr. Neimayer responded the ones that exist would be legal non-conforming.

Mr. Hazlett stated it is a small lot and it does not look the lot is wide. Mrs. Tuttle added we did not analyze the regulations if two neighbors agree and want to abut their driveways. So we will come back with a revision to allow for that.

Vice-Chairperson Smith asked is there a limit on how many vehicles you can park. Mrs. Tuttle responded that is the hardest thing to prove. Then we have to rely on neighbors. Vice-Chairperson Smith stated the complaint says there are dump trucks there and employees entering and exiting. Mrs. Tuttle responded we tried to build a case but we have to have evidence before we move forward.

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Vice-Chairperson Smith stated I am not a fan of the gravel driveway. When you turn in the wheel will go off the concrete and the gravel will go into the neighbor's yard. Mr. Hazlett added the way it is laid out at the moment it does not look like there would be a shared drive in the future.

Vice-Chairperson Smith states, I would be against this

Mr. Duffee asked if there was gravel or concrete. Mrs. Tuttle responded it is just dirt ready. The Applicant stopped when they got the violation letter.

Mr. Neimayer explained, with the Applicant not here, I would advise you to Table this case to the next meeting. Mr. Hazlett stated I would be okay with Tabling it until next month's meeting.

With the Applicant not in attendance and no one in the audience, Vice-Chairperson Smith asked for a motion.

Action on Case #BZA-2022-35 ~ Property Owners/Applicant: Aleici Mireles ~ Location: 1251 Bookwalter Ave., Bethel Twp. ~ Request: Variance to Section 501.03.03 to reduce the driveway setback from the side lot line from 5.0 ft. to 1.0 ft.

Motion by Mr. Duffee, seconded by Mr. Hazlett to **Table** this case until Next Month's meeting

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

No: None.

Motion carried.

Staff Comments

Mr. Neimayer stated the next scheduled meetings are December 29, 2022 & January 26, 2023.

Adjournment

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

VOTE: Motion carried unanimously.

The meeting was adjourned at 2:59 pm.

Mr. Rick Smith, Vice-Chairperson