



BUTLER COUNTY BOARD OF ZONING APPEALS

Butler County Government Services Center
315 High Street | Hamilton, Ohio 45011

Meeting Agenda
Tuesday, July 17, 2018
7:00 p.m.

I. Opening

- A. Roll Call Mr. Gary Salmon
 Mr. Thomas Bevington
 Mr. Bryan Price
 Mr. John Burgess, Alternate
- Absent Mr. Alan Daniel
 Mr. Chad Norvell

II. Approval of Minutes

- A. May 15, 2018

III. New Business

- A. BZA18-12V Darian and Cody Cappel
 7575 Dicky Rd.
 Middletown, Ohio 45042
- B. BZA18-13V Brett Oakley
 8762 Thomas Rd
 Middletown, Ohio 45042
- C. BZA18-14V Linda Dinkel
 2043 Smith Rd.
 Hamilton, Ohio 45011
- D. BZA18-15V Brett Oakley
 7441 Franklin Madison Rd.
 Middletown, Ohio 45042
- E. BZA18-16V John Russo
 1430 Morman Rd.
 Hamilton, Ohio 45013

IV. Adjournment

REGULAR MEETING:

Tuesday, July 17, 2018
Butler County Government Services Building
Conference Room 1
315 High Street, 1st Floor
Hamilton, OH 45011

CALL TO ORDER:

Mr. Bevington brought the meeting to order at 7:00 p.m.

ROLL CALL:

Present: Mr. Thomas Bevington, Chair
Mr. Gary Salmon
Mr. Bryan Price
Mr. John Burgess, Alternate

Absent: Mr. Chad Norvell
Mr. Alan Daniel

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager
Stephanie Foley, Administrative Secretary

Approval of Minutes:

May 15, 2018

Mr. Salmon made a motion to approve the May 15, 2018 meeting draft Minutes, with a correction to BZA-13B from the previous meeting. Mr. Price seconded the motion. Motion carried 4-0.

AYES: Salmon, Price, Bevington, Burgess

New Business:

BZA18-12V

Darian and Cody Cappel
7575 Dicky Rd.
Middletown, Ohio 45042

Mr. Bevington swore in the applicant, Darian Cappel, 4700 Manchester Rd, Middletown, Ohio 45052. The applicant introduced the proposal for building a home on 7575 Dicky Rd. Middletown, Ohio 45042 that needs variance changes.

Testimony in favor of: Mrs. Cappel testified to build a home on 7575 Dicky Rd. Middletown, Ohio 45042. She states that they would build a drive way that needs a 100 foot variance and a panhandle of 20 feet.

Questions and Comments:

- Mr. Bevington asked how many acres this property is.
- Mrs. Cappel answered saying it was just under 4 acres.
- Mr. Salmon says that the health department has approved the septic system split for this property.
- Mr. Price makes the comment that they cannot have farm animals and Mrs. Cappel clarifies if this includes chickens; it does.
- Mr. Salmon asks what happens if they cannot get a driveway permit for this property.
- Mrs. Cappel says they would not build a house.
- Mr. Bevington clarifies the question by asking if the father-in-law would allow an easement
- Mrs. Cappel says that would be fine.
- Mr. Price asks if she knows the frontage of the lots; she does.

Mr. Bevington swore in Joe Little, 4015 Dixie Highway, Middletown, Ohio 45042. He states this is his granddaughter. He personally thinks it is a great idea because his grandson-in-law is a nurse and would be able to take care of his family if need be.

No testimony in opposition to
No neutral testimony
No other questions or comments

Staff Comments

The request is a split property without proper road frontage and a panhandle to 20 feet.

1. The property is zoned A-1 Agricultural.
2. This area is rural character
3. The applicant is seeking a variance, said applicant shall be required to establish to the board, proof by a preponderance of the evidence that an unnecessary hardship will prevail unless the variance is granted.
4. The spirit and intent of the zoning resolution is not to allow this type of variance, but since there are lots in the area with 100 feet of road coverage and this will not change the character of the area, staff will recommend approval with the following conditions:
 - a. Must use existing drive way for access to the new property
 - b. Must have an ingress and egress easement accomplished

Mr. Salmon made the motion to approve **BZA18-12V** subject to staff comments. Motion was seconded by Mr. Burgess. Motion carried 3-1.

AYES: Salmon, Burgess, Bevington
NAYES: Price
ABSTAIN: None

BZA18-13V

Brett Oakley
8762 Thomas Rd
Middletown, Ohio 45042

Mr. Bevington swore in the applicant, Brett Oakley, of 83 Dry Run Circle, German Town, Ohio 45327. The applicant introduced the proposal to build a 120 foot tower.

Testimony in favor of: Mr. Oakley stated that this tower is a sort of monument. He is wanting to put up-lighting on it and have a wow factor when entering the park.

Questions and Comments:

- Mr. Bevington asked how wide the statue was and Mr. Oakley said it was 18 by 18 feet.
- Mr. Oakley stated that the FAA has approved this tower.
- Mr. Oakley explains where this tower will sit in the park; right in the middle of all the attractions
- Mr. Salmon asks what size the placard is. Mr. Burgess responds with the answer
- It is stated that there is no signage on this tower but that they do have a Christmas festival that brings more lights and a wow factor to the statue
- It is stated that no one can climb this tower because of safety reasons; the stairs are not accessible to the public
- It is a free standing tower engineered by the engineering office with strong bolts
- Mr. Bevington asked how deep the footer is; 10 feet is the answer
- It was asked if this would be an economic improvement to the community; Mr. Oakley said it was more of a monument and creates a different atmosphere that speaks theme park
- Mr. Oakley states that 40 foot trees are currently the tallest structure on this property now
- Mr. Oakley says that it will be visible from Route 4.

Testimony in opposition

No neutral testimony

Staff Comments

The request is to install a steel framed tower that is taller than zoning allows.

1. The property is zoned B-3 General Business.
2. This area is commercial in character.
3. The applicant is seeking a variance, said applicant shall be required to establish to the board, proof by a preponderance of the evidence that an unnecessary hardship will prevail unless the variance is granted.

4. The spirit and intent of the zoning resolution is not to allow this type of variance, and since there are no hardships that exists with the property the staff will recommend denial with the exception that if the board votes for approval, we have a list of conditions:
 - a. A Building Permit is required.
 - b. No lighting for the tower except required by the FAA
 - c. No business use of the tower, only for decoration use
 - d. Tower cannot exceed 135 feet
 - e. No signs from tower
 - f. No spotlights from tower
 - g. Up-lighting is permitted

Mr. Price made the motion to deny **BZA18-13V** subject to staff comments. Motion was seconded by Mr. Salmon. Motion was denied 3-1.

AYES: Price, Salmon, Burgess, Bevington
NAYES: Bevington
ABSTAIN: None

BZA18-14V

Linda Dinkel
2043 Smith Rd.
Hamilton, Ohio 45011

Mr. Bevington swore in the applicant, Linda Dinkel, of 5727 Shady Meadows Dr. Hamilton, Ohio 45011. The applicant introduced the proposal of a variance to split a 98 acre lot into 3 difference tracts.

Testimony in favor of: Ms. Dinkel says one lot will be 72.35 acres and the other two will both be 12.5 acres. She has grandchildren and great nieces and nephews that she wants a house to be built for on this property.

Questions and Comments:

- Ms. Dinkel shows how she accesses the property currently.
- She is asked how wide the lane is; only one car can go on it at a time
- She explains the owning of the property currently again to the board. One new house is being built and the other house will be a replacement house
- Mr. Salmon discusses the road frontage to the south and the variances that they have been granted to Mr. Langdin in 1987. The deed book and the easement is passed around to show the easements from back then that is 60 feet wide.
- Mr. Salmon says that only one car can get through at a time and that he is unsure if a firetruck could get through

- Mr. Salmon asks if Ms. Dinkel if she had ever invested in easements and she said her dad did when he was alive
- There is no farm work being done currently but this lot will go back to a working farm if passed

Mr. Bevington swore in Mr. Schlenk 5850 Milikin Rd, Hamilton, Ohio 45011. He is the sister of Ms. Dinkel. He discusses the easement and how this has been here since the 1980s. His family has maintained the road since it has been there. He feels that this will maintain the area, what his father would have wanted to do. The paving of the road has already happened in part of the road (Smith Rd to the bridge). His property will stay gravel. Electric and growth has been maintained since his father has passed. The maintenance agreement will be reworked for the two 12.5 tracts.

Mr. Bevington swore in Mr. Eastem 2926 Water St. Hamilton, Ohio 45011. He will be the future land owner of this proposed variance. He wants his daughters to grow up on this land. He is asked could he have done this prior to the variance. He thinks he could have.

Mr. Bevington swore in Mr. Welsh 978 Vine Rd, Hamilton Ohio 45011. He states that his name has been brought up in the topic. His property adjoins this proposed property. He needs the lane access because he needs it for his farm and the water pressure on Smith Rd is higher than on Vine Rd. He is saying that well water is not that great.

Testimony in opposition

Mr. Salmon mentions a letter of opposition that is in place of people that were out of town and could not make it to the meeting.

Mr. Bevington swore in Mr. Wood, 2045 Smith Rd. Hamilton, Ohio 45011. He is saying he pays taxes on 15 foot of the easement. He is wondering how Ms. Dinkel can run water through easement that is not theirs and that he is paying taxes on.

Mr. Bevington swore in Mr. Doans 2025 Smith Rd. Hamilton, Ohio 45011. He is the owner of about 10 acres that is near this property in question. He has already had some of his land taken due to the easement that is in place. He says the water lines will be displaced if this variance passes.

Mr. Bevington swore in Mr. Link 2047 Smith Rd. Hamilton, Ohio 45011. He is another property owner near this proposed variance. He says that it can be used as a farm the way it is now and that it should not be changed.

No neutral testimony

A man that formerly spoke said that he had to make his road of road grade and that this proposed variance should have to do that as well.

Mr. Bevington swore in Mrs. Doans, 2025 Smith Rd. Hamilton, Ohio 45011. She decided to make a cement driveway in comparison to the gravel driveway.

Staff Comments

The request is to split the property into three different tracts without proper road frontage.

- 5. The property is zoned A-1 Agricultural.
- 6. This area is residential in character.
- 7. The applicant is seeking a variance, said applicant shall be required to establish to the board, proof by a preponderance of the evidence that an unnecessary hardship will prevail unless the variance is granted.
- 8. The spirit and intent of the zoning resolution is not to allow this type of variance, but with the precedent has been set with similar splits like these that are proposed that this will not change the character of the area, staff will recommend approval with the following condition:
 - a. New lot splits are subject to existing roadway maintenance agreement record as recording in book 1505 page 368 of the Butler County Recorder's Office.
 - b. No further splits of the property.

The letter says that Mr. Schlenk's family has never participated in the driveway for the last 23 years. The letter says that he has talked to the neighbors and they are totally against it and that the house has been abandoned since the father passed away.

Mr. Price made the motion to deny **BZA18-14V** because a hardship was not presented. Motion was seconded by Mr. Salmon. Motion carried 3-1.

AYES: Price, Burgess, Bevington
NAYES: Salmon
ABSTAIN: None

BZA18-15V
Brett Oakley
7441 Franklin Madison Rd.
Middletown, Ohio 45042

Mr. Bevington swore in the applicant, Brett Oakley, of 83 Dry Run Circle, Germantown, Ohio 45327. The applicant introduced the proposal to split of a parcel of land that he is trying to sell to a family member.

Testimony in favor of: Mr. Oakley stated that he wants someone to be on this property to keep watch of it when he is not there. The health department has already approved this change.

Questions and Comments:

- Mr. Bevington asked for easement access why Mr. Oakley is not just putting an easement in.
- He responded with there is not a lot of room there because the drive way in tight
- Mr. Salmon further explained what was happening on the lot
- Mr. Oakley reinstates that the lot already has some commercial use on it
- There needs to be a right of way to the road for the commercial and future use

Testimony in opposition
No neutral testimony

Staff Comments

The request is to split property without proper road frontage.

9. The property is zoned A-1 Agricultural.
10. This area is rural in character.
11. The applicant is seeking a variance, said applicant shall be required to establish to the board, proof by a preponderance of the evidence that an unnecessary hardship will prevail unless the variance is granted.
12. The spirit and intent of the zoning resolution is not to allow this type of variance, but since there are lots in the area with a 100 feet road frontage and it will not change the character of the area, staff will recommend approval with the following condition:
 - a. The septic area for the proposed split must be approved by the Butler County Health Department

Mr. Salmon made the motion to approve **BZA18-15V** subject to staff comments. Motion was seconded by Mr. Burgess. Motion carried 3-1.

AYES: Salmon, Burgess, Bevington
NAYES: Price
ABSTAIN: None

BZA18-16V

John Russo
1430 Morman Rd.
Hamilton, Ohio 45013

Mr. Bevington swore in the applicant, John Russo, of 1430 Morman Rd. Hamilton, Ohio 45013. The applicant introduced the proposal to have a variance change to commercial.

Testimony in favor of: Mr. Russo stated that he wanted to have his business on this property, which would be a holding ground and equipment storage on this property.

Questions and Comments:

- Mr. Bevington asked if the applicant had employees that come to this property; Mr. Russo said that only himself and one other employee work from this site.
- Mr. Russo says that it would be costly to move his business mid-season
- Mr. Russo discusses how he had his driveway blocked
- Mr. Salmon asks how long the previous variance had been there; the answer is 1987
- Mr. Bevington asks if the equipment is all licensable; Mr. Russo says it is
- Mr. Bevington asks why he needs equipment if he will have subcontractors; Mr. Russo says that it is because he may need it if people are unreliable and that he has spent a lot of money on the equipment
- Mr. Russo explains how he has family and employees that come each day to help
- The previous variance for this, according to Mr. Salmon, accounted for nine employees on the property

Mr. Bevington swore in Jeff Buddo 2436 Morman Rd, Hamilton, Ohio 45013. He is in favor for this because while this property used to be an eyesore, Mr. Russo has transformed the house with at least \$100,000. Mr. Buddo states that the old variance allowed numerous renters and that the amount of traffic has significantly decreased with his business. All three trustees of Hanover Township are in favor of this.

Testimony in opposition

Mr. Salmon states that there is a letter in opposition for this variance.

Mr. Bevington swore in Connie Bullis, 1427 Morman Rd, Hamilton, Ohio 45013. She has lived there since 1995 and states that the traffic with the previous renters was very minimum. However, with the traffic that Mr. Russo's business creates, there are semi-trucks that now travel on Morman Road. The lights come straight into her home window as late as 10:20pm. She says it also starts as early as 7am. She gives the board pictures that have dates on them. Mr. Bevington asked how many employees go to this property a day; she answers 3-5. The board asks if she has ever complained to the township trustees and Ms. Bullis says that she has and they informed her to come to this meeting.

Mr. Bevington swore in Clarence Bullis, 1427 Morman Rd, Hamilton, Ohio 45013. He objects to the variance that is wanted by Mr. Russo because it is too open ended. He says that having this variance will disturb the peace of his home because he can see vehicles coming and going into Mr. Russo's backyard. He complains that the headlights shine into his living room where he watches television. His concern is that Mr. Russo will add more equipment to his business and only expand

furthering his disruption of his home peace. Mr. Bevington asks how long he has lived there and his wife responds with "1995" and he then says that he built his home. He then states that the previous variance went to court to pass because so many people objected to it.

Mr. Fox says that there is another opposition letter from Patricia Young from 1461 Morman Rd, Hamilton, Ohio 45013.

Mr. Bevington swore is Scott Hoobler, 1433 Morman Rd. Hamilton, Ohio 45013. Mr. Hoobler states that he works during the day so he does not see the action around 5 or 6am. However, he says that it is a residential neighborhood and that he has ponds and large buildings on his property but that there is not a business on it. He states that putting a business in a residential area is not fair because if one were to put a business in the commercial district, it would cost millions of dollars. He states that is not fair again that a trustee is on Mr. Russo's side. Mr. Bevington states that township trustees are voted in.

Mr. Bevington swore in Robin Hoobler, 1433 Morman Rd. Hamilton, Ohio 45013. She states that she has an issue with the property value of her home. She has moved previously and when she moves in the future she does not want the value of her home to go down. She then states that the noise of a business across from her residential home is a concern. Mrs. Hoobler states that the character of the people that are in the business is a concern as Mr. Russo grows his business. She says that on Facebook she saw that Mr. Russo was trying to have snow plows on this property which will further traffic and noise.

No neutral testimony

Staff Comments

The request is to operate a landscape business from the property.

- 13. The property is zoned A-1 Agricultural.
- 14. This area is rural in character.
- 15. The applicant is seeking a variance, said applicant shall be required to establish to the board, proof by a preponderance of the evidence that an unnecessary hardship will prevail unless the variance is granted.
- 16. The spirit and intent of the zoning resolution is not to allow this type of variance, but since the board has approved similar businesses within the area in the past, staff will recommend approval with the following conditions:
 - a. No more than nine employees
 - b. No other storage of material permitted except the following:
 - i. Plant material
 - ii. Mulch
 - iii. Sand
 - iv. Gravel

- v. Area for palletized products
- vi. Stones and pavers for plans submitted
- c. Storage of this material must be in the rear of the 10 acres
- d. Storage of all equipment must be stored on the rear 10 acres
- e. No storage of unused, unlicensed and inoperable vehicles on the property
- f. There will be no job site waste materials or debris brought back to the property
- g. No signage will be permitted
- h. There will be no retail sales from the property
- i. No processing of mulch or other materials

Mr. Salmon asks Mr. Fox why this case is present if Mr. Brendel (the previous variance) had the variance and Mr. Fox states that his variance was for excavating businesses not for landscaping, like Mr. Russo is wanting.

Mr. Bevington asks if the board can set hours of operation. Mr. Fox says they can however it was not added in the staff comments because it is too hard to enforce.

Mr. Salmon calls Mr. Russo back up and then asks him some more questions. Mr. Salmon asks if he is still tied to Mr. Oakerson and Mr. Russo says he is not. Mr. Salmon then asks if he plans for snow removal to happen in his business and Mr. Russo says he does not plan for this.

While Mr. Russo is up, he then discusses some more points. He states that the piles of wood brought in to his house were free and given to him because he has a wood burning stove and that to keep heat he needs wood to make this happen. He also says that much of the traffic that has been at his property has been for personal upkeep of the property rather than his business. Mr. Bevington asks if Mr. Russo would have any issues with hours of operation. Mr. Russo says that he would not. However, he then states that he cannot be restrained for working early or late personally. Mr. Bevington brings up the headlight issue and that it is hard to control. Mr. Russo says that his driveway is on a hill so that if he wants to go right the headlights will go right and if he wants to go left then they will go left. Mr. Russo states that at 11pm and 12am the only trucks that are going out of his driveway are his personal vehicles and that it is not his business. Mr. Bevington asks if Mr. Russo works on Sundays. Again, the answer is he personally does around his house but that his business does not operate on Sundays. Mr. Russo clarifies that all of the equipment is brand new and has a license.

It is stated by a previous witness, Jeff Buddo, that Morman Road is zoned agriculture, not residential. He says that it is his concern because he is for all voters and also because it is down the street from him.

Mr. Price made the motion to approve **BZA18-16V** subject to staff comments and adding “no snow removal operations or equipment” and “delivery of materials restricted from 7am-6pm on Monday-Saturday.” Motion was seconded by Mr. Salmon. Motion carried 4-0.

AYES: Price, Salmon, Burgess, Bevington
NAYES: None
ABSTAIN: None

ADJOURNMENT:

Mr. Salmon made a motion to adjourn and it was seconded by Mr. Burgess. Meeting adjourned.
AYES: Salmon, Burgess, Price, Bevington

These minutes represent a summary of the proceedings and do not purport to be the entire record. A complete transcription of these proceedings was taken from an audio tape by James M. Fox under supervision of the Secretary and may be obtained upon written request. Any charges associated with preparing such transcript shall be borne by the person requesting such same and must be prepaid.

Hamilton, Ohio
July 17, 2018

Tom Bevington, Chair

James M. Fox, Secretary

Stephanie Foley, Administrative Secretary