

AGENDA  
BUTLER COUNTY BOARD OF ZONING APPEALS  
BUTLER COUNTY ADMINISTRATION CENTER  
130 HIGH STREET  
HAMILTON, OHIO 45011  
November 17, 2009

I. Opening

- A. Roll Call      Mr. Gary Salmon  
                         Mr. Thomas Bevington  
                         Mr. Alan Daniel  
                         Mr. Henry W. Philpot  
                         Ms. Lee Steenken

II. Approval of Minutes

- A.                      September 15, 2009

III. Old Business

- A.      BZA09-13V    Speedway Super America LLC  
                         461 Oxford State Road  
                         Middletown, Ohio 45042

IV. New Business

- A.      BZA09-14V    Charles & Tosha Wolf  
                         8164 Keister Road  
                         Middletown, Ohio 45042

IV. Adjournment

REGULAR MEETING: Tuesday, November 17, 2009, 7:00 p.m.  
Butler County Government Services Building  
Conference Room 1  
315 High Street, 1st Floor  
Hamilton, OH 45011

CALL TO ORDER: Mr. Bevington called the meeting to order.

ROLL CALL: Mr. Thomas Bevington  
Mr. Alan Daniel  
Mr. Henry W. Philpot  
Mr. Gary Salmon

MEMBERS ABSENT: Ms. Lee Steenken

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

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**APPROVAL OF MINUTES:**

Mr. Salmon motioned to approve the minutes of the September 15, 2009 meeting.  
Mr. Daniel seconded. Motion carried.

AYES: Salmon, Daniel, Philpot, Bevington

NAYES: None

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**I. OLD BUSINESS**

**BZA 09-13V**

Speedway Super America LLC  
461 Oxford State Road  
Middletown, Ohio 45042

Mr. Bill Oerther, 1007 Twilight Trail, Frankfort, KY, said they have a location at 461 Oxford State Road, Middletown, Ohio, and we are asking for a variance to install a 5foot by 8 foot sign on the north-face of the building which is on the back side from Oxford State Road.

Mr. Oerther said they recently did a remodel and during that time they added additional parking and an additional entrance (a secondary entrance) for the facility there and we would like to have the sign to add focus to that entrance door and the intent is to try relieve some of the traffic in the front of the building and direct it towards the rear of the building to make it safer for their customers.

Mr. Oerther said the proposed sign will be consistent with the businesses adjacent to their facility and right now there is a Gold Star Chili to the west and across the alley way it has multiple signs, facing the alley way, and across the street, possibly South Main Street, there is a McDonald's which has multiple signs on the building face which is on the north side which faces the main highways there, so their proposed sign would be consistent with the businesses adjacent to it as well.

Mr. Oerther showed photographs of the building and said the standard entrance is glass and the reader board on the front, which is very plain and lacks focus and they have a little trouble getting their customers to use the newer entrance on a regular basis and they feel adding the reader board there will help some to add focus to that entrance and help redirect traffic and parking toward the rear better and allow better traffic flow and utilize parking better in the front.

Mr. Oerther said they currently do not have a sign on the end of the building that faces South Main Street, and they would be open for suggestions.

Mr. Bevington asked if there is a door on the back side of the building and it will be a primary entrance.

Mr. Oerther said they already have that entrance there and it is the secondary entrance and full in and out - not an emergency exit. He added that it is difficult to get the customers familiar with that type of double access and they did not have the ability to add glass or glazing on both sides because the existing building had a cooler and storage rooms and they were just able to get the glass store front door in there only.

Mr. Salmon asked Mr. Oerther if he had said they just added more parking over there.

Mr. Oerther replied yes.

Mr. Salmon commented that is the reason why they want to really use that door.

Mr. Oerther said they are trying to redirect traffic because right now they are all parking out in the front and they are trying to retrain them to use the back entrance.

Mr. Bevington said another words if a customer wants gas go to the front, if you want to go inside then go to the back (entrance).

Mr. Oerther said yes, and this would allow them to get in and out quickly and typically people try and park as close as possible to the door.

Mr. Oerther said once they get used to that, if they get in and out of the door quick, they will be more likely to utilize the backdoor.

Mr. Daniel asked if it was pay at the pump or after.

Mr. Oerther said you can pay at the pump or after, but was not sure if this is a pre-pay system or not – some stores are pre-pay and some are not and he was not familiar with that.

Mr. Oerther said this helps to clear some of the congestion up front and that is what they are trying to do and we are getting more of the food sales and hopefully people that use that for convenience or food sales will become familiar with the back entrance as well.

Mr. Bevington said a lot of the mini-marts on the interstate highways have two doors that customers can use.

Mr. Oerther said they used to have some two-sided – and from an operating stand point there are pros and cons to both but this location here will work well and we decided to have the two entrances and we have them and now we are trying to improve the use of it.

Mr. Salmon asked Mr. Oerther how many parking spaces there are in the back.

Mr. Oerther said there are ten.

Mr. Fox said to keep in mind that you can get to the back entrance from another entrance to the north that is not shown on that plan. Mr. Oerther added that we are referring to it as an alley way, but it is a well-developed alley way that has two lanes of traffic, is nicely paved and well maintained and not only does it give access to their entrance, but also gives access to Oxford State Road to South Main Street, so it is not a standard alley way from my perception although they are listed as alley ways here.

IN FAVOR: None

IN OPPOSITION: None

NEUTRAL COMMENTS: None

## STAFF COMMENTS

Mr. Fox said BZA09-13V is requesting a variance to install a 5' x 8' Reader Board on the side of the building.

Mr. Fox said Staff Comments are as follows:

1. The property is zoned B-3 General Business District.
2. The area is business 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 sign, but since this will not change the character of the area staff will recommend approval with the following conditions:
  - A. Each separate message copy must be displayed a minimum of five seconds.
  - B. This message board shall not incorporate motion while the message is being displayed.
  - C. The total amount of the square feet permitted for this message board shall not exceed four percent of the total square footage of the building wall elevation.
  - D. The use of animated sign that employees flashing, blinking or other elements that revolve, rotate, whirl or spin are not permitted.

Mr. Philpot asked Mr. Oerther if he had read the Staff Recommendations.

Mr. Oerther said he knows they discussed some of the conditions and understand what he said as far as a motion sign and so forth.

Mr. Bevington asked the applicant what type of sign they are proposing.

Mr. Oerther said it would be just a changeable copy – then showed a picture of one similar to what they will use.

Mr. Fox asked if they would just be changing the letters on the sign.

Mr. Oerther said that is correct and they are individual letters that they would slide in to the slot.

Mr. Fox said when you hear the term “reader boards” – this is a reader board but we wanted to cover ourselves in case they decide to do an electronic one and go in and type in their message and then send it from the store.

Mr. Oerther said this is a manually-lettered sign.  
Mr. Salmon thought it was going to be electronic.

Mr. Oerther said they have electronic pricers in the front, which get confused with an electronic LED board – the pricers only display digits and only when they are manually programmed in.

Mr. Fox said he was aware that they would have their employees go out and slide the letters in there specials, but wanted to include it because the request was for a reader board and there are all kinds of types of reader boards and they may go and change their minds and put an electronic one in the future but this way they are covered with these conditions.

Mr. Philpot asked Mr. Oerther if he would have a problem with this being approved subject to these conditions.

Mr. Oerther replied no and that he was fine with what was just discussed.

Mr. Salmon made a motion to approve Case BZA09-13V subject to the (4) conditions in Staff Comments. Mr. Philpot seconded the motion. Motion carried.

AYES: Salmon, Philpot, Daniel, Bevington

NAYES None

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## **II. NEW BUSINESS**

### **BZA09-14V**

Mr. Charles and Mrs. Tosha Wolf  
8164 Keister Road  
Middletown, Ohio 45042

Mr. Charles Wolf, 8164 Keister Road, Middletown, Ohio, said they are here to request a variance to keep their horses at the house which they just purchased, and he was notified that he was in violation of frontage requirements.

Mr. Wolf said they hired a realtor to help guide them and to ask the questions they did not really know and weren't really aware to ask and apparently a property search was not done and we were kind of misled.

Mr. Wolf said his wife has history on the property, there is an existing fence on the property and there has been livestock on the property and they took that to being first-time home buyers.

Mrs. Wolf said Madison Township requires 200 feet of frontage and we have 166 feet, so at the road we are short and we have seven and a half acres and since we were buying and there are horses across the street and everywhere around us, we just assumed that its common in the area and we are not out of character so it was fine and then once we got in and got the horses there, we got the letter from. Mr. Fox, stating that they were 33 feet short so what we are asking is to keep our horses without the 33 feet.

Mr. Bevington asked if the applicant knows how many horses they are allowed to have per acre.

Mr. Wolf replied one her acre and said when they first starting looking they looked in both Preble County and Madison Township and there was never any mention from the realtors from either side; Sibcy Cline or Huff, about the 200 (feet) of frontage and the Wolf's did not even know they were in violation until after they had already purchased the home and they specifically went looking for horse property and they bought there property specifically for horses and now (inaudible).

Mr. Bevington asked how many horses the Wolf's have.

Mrs. Wolf said they have two, there are six on the property and four are temporary as a favor to her great aunt and uncle, which is how she has history with the property – those horses were there years ago and one of them is actually 30 years old. Mrs. Wolf said with the existing fencing and her riding there as a child, she really never questioned whether farm animals would be a problem because her first introduction to horses was there through her aunt.

Mr. Wolf said they are asking for this variance because horses are a way of life for them and they are not just “in” to horses, they did not buy the horses because they had the proper amount of land, they've had these horses for a number of years and want to raise their kids close to the herd with hard work and in an honest way – closer to earth rather than computers – and said he feels it helps build character and work ethic and it is really important to them and that is the way they want to live and what they want to share with their children.

Mr. Bevington asked if the applicant had said some of the horses were not theirs.

Mr. Wolf replied no, four of them are not theirs.

Mr. Bevington said so that would leave the Wolf's with only two horses on seven acres – and asked if they had ever considered increasing the number of horses.

Mr. Wolf said no.

Mr. Bevington asked the Wolf's if that meant they would never had more than what they have now.

Mr. Wolf said no, because it is important to them to maintain the property in a nice way and said they just bought it and said the Board probably knows the history of the property and they were kind of left to pick up thirty years of junk, rubbish left there. He added that he is finding things there that he never thought he would find, and they are trying to clean it up.

Mrs. Wolf said the horses are an improvement to the entire area because nobody cared about this before they bought it. And they are making it clean and nice and taking care of it and so they are improving the area and everyone around us is okay with that and we are shocked, how could someone complain about horses when they are everywhere, and she explained that they are lacking in footage, which they were not aware of before, but are aware that they are breaking the rule, and it was unintentional but they are here to say, "oops, we're very sorry, but without this variance, our home... we bought it for the kids and horses and it is not just something that we could put in the paper. It is something that they would probably need to resell the home, board the horses, and with us being a veteran's loan, they will have to wait five years to be able to sell their home, and this is their first home – they left the military to buy land in this area, and this has been a long process in getting into this house and it would be devastation to their family, not like selling a car or a four-wheeler.

Mr. Wolf said boarding those horses would be a big hardship for them financially because he worked in construction and got laid off earlier this year, and it costs more to board horses that it does to have them in their backyard and you can tend to them. He added that they intend on having rotating pastures, having grass, having a nice place, and when you do it that way.

Mr. Bevington said he went to the property and walked it and he saw some tires here and there, and some of them were half buried, and then asked how long it is going to take to get them out of there.

Mrs. Wolf said they were given one year to make the improvements on the property.

Mr. Fox said he and Mr. Balsinger, Butler County Building and Zoning Administrator, and talked with the Wolf's and, understanding that the property has been in disarray for approximately twenty to thirty years, and said, after talking with the Wolf's, thirty years of garbage and that they just bought the property, that giving them a year is pretty lenient, and he wanted to give them more, but the Wolf's said they could get it done in a year, and in talking with the Wolf's he understands that they have already taken 100 – 200 tires away to the tire recycling drop off event that was held at Ross High School. There is also a yellow bus on



the property that Mr. Wolf has said he will chop it up and try to pull it out – it is probably three to four feet buried in the ground and it's been there for a long time.

Mr. Fox said there is also a building on the property which they would like to use for hay, if it gets approved and that is why they have not really done anything more with the property, making another pasture, because if they have to get rid of the horses they do not want to waste their time and money until they find out here what is going to happen here before they really move forward with it.

Mrs. Wolf said Mr. Fox and Mr. Balsinger came out, maybe a month and a half ago, and the three main things were the tires, the house and the bus. And in just a month and a half, they have taken away almost 200 tires, took the roof off of the house, and the bus will involve cutting out there – and there are trees growing in there, and it was there when she was a child and she played in it as a child, and it will take cutting it apart and digging it up and that will be a big project, but they realize that the money that the metal could provide more fencing or for things to make the horses more comfortable. She added that it will be gone and that they are that dedicated and they've been in the home since July and everyone around is amazed at the changes that have already taken place.

Mr. Philpot asked if it is 166 feet in the back too.

Mrs. Wolf replied no, that it doubles in the back.

Mr. Philpot said he saw about 330 feet in that area.

Mrs. Wolf said they have plenty enough of land, but she just didn't know about this frontage.

Mr. Bevington asked the applicants if they were going to try and salvage the old concrete house there on the property.

Mrs. Wolf replied yes, they removed the roof and plan to put a tin roof on and use it to store the feed, hay, saddles and stuff like that.

Mr. Philpot asked Mr. Wolf if he had said he was a veteran.

Mr. Wolf replied yes.

Mr. Philpot thanked Mr. Wolf for being a veteran and said he appreciates him.

Mr. Salmon asked how long the four temporary horses will be there.

Mr. Wolf said they are helping out until they get back on their feet, and they got behind in board where they were at and her uncle is terminally ill.

Mrs. Wolf said she wanted to “give back” to her aunt, who is the one who introduced her to horses, and that means free board for a while until she can get experimental treatments going with him.

Mrs. Wolf said she brought a digital photo frame with 15 pictures to show the Zoning Board to show that it isn't a “briar hopper” house – for their first home it is a really nice house and horse farm and they are very proud of it. She added that it had been forgotten and really needed a family to come along and call it home.

Mrs. Wolf showed the Board the digital photographs of when they first bought the property, images showing the work they have done to the house and the property, the building supplies they have purchased for fencing and pictures of the horses as well.

Mr. Wolf said the horses are actually 260 feet off the road and they will be moved further back as they clear the land.

Mrs. Wolf added that they want to move them further away from the house for the horses and to create more yard space for the kids.

Mrs. Wolf said they have a temporary shelter for the horses with a roof.

Mr. Wolf said they have stalls, somewhere they can put the horses, but they got the notice in the mail and he did not want to continue building stalls because he did not know if they would be able to keep the horses or not so he wanted to wait until he knows.

Mrs. Wolf said even with the fifth Zoning Board of Appeals Board member here, Mr. Fox let her know that it was a risk, but she said it was a bigger of a risk for snow to fall.

Mrs. Wolf said, being from this area, they didn't know this was the same place that she had connections to until after they had already put the offer in on the house and her aunt said, “don't you remember playing there as a kid”, so we did not have a family farm that we could have inherited, but this place we would have to sell it after ... feeling like God put us there in a way and it would be (inaudible).

Mr. Philpot asked the applicants if the horses are their incentive for them to get the place cleaned up.

Mr. and Mrs. Wolf replied yes.

Mrs. Wolf said if you know the history of this land – outside of livestock or four-wheelers, you could not use it for a crop – it is all overgrown vegetation and a lot of it was honeysuckle and so horses are ideal, either that or our neighbors have the same type of lot and they use it for four-wheeler trails – otherwise someone could

not have bought it and tried to grow crops – it would have pretty much been forgotten. They were told that a lot of investors, people were looking to buy it and it would sit until the market picks up and it would have been forgotten in another three or four years and the trash would just be buried even more and more and more.

Mr. Salmon said there is a letter from Thomas Inspections says the property is on five acres.

Mr. Wolf said it is two parcels.

Mrs. Wolf said regarding the Veterans Administration (VA), anything over five acres is considered a farm and they will not fund a farm, so we had to buy the house on five acres and then the other two and half acres were one dollar – so that we paid cash for it, so the VA would sign and that is why it is split up on two parcels.

Mr. Salmon asked the applicants then if they do own seven and half acres.

Mrs. Wolf replied yes.

Mrs. Wolf said she knows the frontage rules is because of how close your horses may be to your neighbors, and they are leaving the entire perimeter of the property woods for trail riding reasons so that we can ride the whole seven and a half acres and it still would feel like they are inside their own place instead of the horses being up on anyone else.

IN FAVOR: None

IN OPPOSITION: Richard Blevins, 8126 Keister Road, Middletown Ohio

Mr. Blevins said he lives at the adjoining property and he has five acres and has been there for seven years and he has been told that he can not have horses there. And he was told that probably two to three weeks before they got a letter, so he is wondering why he is not allowed to have horses because he was told that.

Mr. Fox asked Mr. Blevins when he told Mr. Blevins that he could not have horses.

Mr. Blevins said Mr. Fox told him that probably about a month before this ah ....

Mr. Fox asked Mr. Blevins was there a reason why Mr. Fox told Mr. Blevins could not have horses and did Mr. Blevins have 200 feet of road frontage.

Mr. Blevins said no, he does not.

Mr. Fox said he just wanted to understand why he told Mr. Blevins that.

Mr. Blevins said he was told he was not allowed to have horses on his property and he has researched and the next thing he knows the new people buy the house next door and they come in with horses and someone else's, and that is why he is confused.

Mr. Blevins said that he was then told, they have horses, then they don't have horses, and we can't have them because there is too much trash back there on the property". He added that he knows there is none on his side because he lives there and he is really confused because they may have seven acres, but because of trash and no fencing ... where would you put them other than where they are at now on about three acres of property and that is where the house is and the next thing he is hearing is its' going to be December something of 2010 before they are obligated to do anything.

Mr. Blevins asked so does that mean six horses, and some of them don't even belong to them, are going to be living on  $\frac{3}{4}$  of an acre next to the houses and he said he already smells the manure and has some concern about that. He had a cookout with his friends on his property and the stench made them go in the house and he said he is not exaggerating.

Mr. Blevins said to Mr. Wolf that he does not have anything against them, and that Mr. Wolf might think so...

Mr. Wolf started to speak and Mr. Blevins told him to just lie down.

Mr. Bevington told Mr. Blevins that he will control the meeting and requested that Mr. Blevins not address Mr. and Mrs. Wolf.

Mr. Blevins said he understands.

Mr. Blevins said in other words there were six horses on probably  $\frac{3}{4}$  of an acre of property if you measure it, he said he would have to think of six German shepards on  $\frac{3}{4}$  of an acre and they come in there with two horses, without someone else's horses who probably aren't allowed to have horses on the property they live, so they bring them in where they already are not supposed to be, and with the stench he has a problem with that but doesn't have a problem with some people and thinks things should progress in a good way and we talked about 25 years ago, and he is aware of that and lived and grew up on the next road over, so he knows pretty much about the property and spoke of a faulty septic system – and there are health issues that concern here and he is concerned with the health issues, but he does not have a problem with these people – he has a problem with something he was told he could not have, he has a problem with after being told that – then they have six horses and admit that they only own two of them and four belong to someone else.

Mr. Blevins said he just doesn't think it is right and we all are trying to better ourselves and move forward and said out in the neighborhood where we're at we have problems with septic systems and so forth to get it approved and after you get it approved you have a hard time keeping it under control – well, he's got human waste under the ground and you've got six horses on top of the ground and he has concerns about that.

Mr. Bevington asked Mr. Blevins how long has he been there, seven years?

Mr. Blevins said yes sir.

Mr. Bevington asked Mr. Blevins if he was told, seven years ago, that he could not have horses there.

Mr. Bevington asked Mr. Blevins who told him that seven years ago.

Mr. Blevins said it was (name inaudible), the attorney. He added the reason being because he did not enough frontage.

Mr. Bevington spoke to Mr. Blevins and said so an attorney told him that he could not have them seven years ago and that is why you did not do anything..

Mr. Blevins said he thought about having some himself, and he has a cousin that lives next door and have eighty-something acres and its rural I could maybe challenge and maybe just have some and join up with him but he did not even want to do that, but, this come up and he asked Mr. Fox, 160-something frontage on Keister Road, Madison Township, are you allowed to have horses with five acres, and the gentlemen said no. So, I'm here tonight and would rather be somewhere else.

Mr. Bevington asked Mr. Blevins if there is another property in between his house and the Wolf's house.

Mr. Blevins said 8146 Keister Road is two and half acres so half the distance of his and half the distance of theirs.

Mr. Bevington said so there is property in between Mr. Blevins property and the applicants' house.

Mr. Blevins said it is L-shaped.

Mr. Philpot said if there are 600 back, so the first 600 feet you have about 167 feet between your place and theirs.

Mr. Salmon asked Mr. Blevins, regarding the problem mentioned about the sewage, is that in between his property and the applicants.

Mr. Blevins said yes.

Mr. Salmon asked if this could be the odor instead of the sewage problem.

Mr. Blevins said no, there is no one living there right now and he was there when people were living there.

Mr. Salmon said even though no one is living there now, there could still be odors existing from an improper septic system.

Mr. Blevins said it is horse manure and he can tell the difference.

Mr. Bevington said that you (Mr. Blevins) lives out in the country and you don't have horses and cattle and you don't have this type of odor in town and he has lived in the country all of his life – the only time they had a problem was when there was a swine farm across the way and if you are going to smell something bad, it's a herd of pigs – and that was an awful smell and a nightmare every year because it smelled.

Mr. Bevington asked Mr. Blevins if that is all he has to say.

Mr. Philpot asked Mr. Wolf if he would care to show him where the fencing is on the drawing – fencing that is on the property and then the fencing for the horses also.

Mr. Wolf indicated on the drawing the location of the house, the shelter, and where there is a small pasture and indicated what they currently have fenced in right now.

Mr. Philpot asked the applicants if they are working their way back with the fencing.

Mrs. Wolf said yes, and added that they had to stop because they were unsure if they would be able to keep the horses so we did not want to build anymore once they received the notice.

Mr. Wolf said it is going to be permanent fencing, but while we're working it is temporary fencing.

Mr. Philpot asked if there is no fencing along the property lines.

Mr. Wolf said there is 30-year old fencing that is still behind the house and goes all around the perimeter of the house.

Mr. Fox said the Zoning Code states 200 feet of road frontage, is needed, a minimum of two acres for one farm animal per acre. It does not say, “fenced in acre” and he wanted to make sure that the Board members understand the difference, it says, 200 feet of road frontage, one farm animal per acre, you have to have at least two then you have one farm animal per acre.

Mr. Philpot said he could not see having horses without a fence.

Mr. Bevington asked if anyone else would like to speak in opposition of.

Mr. Blevins asked if he could speak.

Mr. Blevins said he comes from the old school and it is like putting the cart before the horse – and everything that he is seeing is “Well, we’re going to do this... and going to do that”, but he tries to get prepared before he starts having things and that is the way he does it on his property and they might have seven acres, but it is not usable because two and half acres that is between me and them is nothing but glass – glass jars in the weeds and could not put a human on it because of the conditions and he has seen it and walked it out and it is there and there is no question about it.

Mr. Bevington said he thinks Mr. and Mrs. Wolf did their research, and feels they tried to do their best, but we have a couple of letters here from one real estate man and one company that said they researched it and they screwed up – another words, they told the Wolf’s they could have horses there and it was no problem – from two different realtors – they did not do their homework. These people trusted two realtors that did not do their homework and they did not do their job. All of a sudden here they come thinking everything is okay and then they got stopped. So they started out doing their jobs exactly like they were supposed to. We have letters here from Sibcy Cline and Mr. Ray Waer, Sibcy Cline and another one by Mr. James Mitchell, senior Mortgage Consultant. He added that he believes that the Wolf’s are starting out to doing it and maybe they would have had the whole thing fenced if they could have continued working and how ever we vote for or against, they would have been violating the zoning laws and then they really could have had problems, but they did exactly what the zoning said, to stop and to come before this Board and find out what you have to do but right now you have to stop because you are violating the zoning laws – so they have done exactly what they were told to do. They started the research, they thought they had it, and then the Board tells them to stop so they stopped. In the past month or so, they could have had that whole thing fenced and if it got voted down and they had to tear it all out – they would have spent a lot of money for nothing – and they did what the Board told them to stop and they did what they were told to, they stopped.

Mr. Bevington said he is not saying that everything is 100% right, but right now they tried to do their homework and they got let down by somebody else... not their fault but somebody else’s but when the Zoning Board told them to stop they

did what were told, so you can not blame them for stopping and not putting more fencing up when they were directed not to.

Mr. Blevins said he thinks it gets down to the issues, and his way of thinking, he knows that he will have to put up with odors until December 2011 – if six horses are in ¾ acre patch, that’s like about six German shepards and he has a problem with that and it is a health issue and he would have to think about that, he has to think about the possibility and if it’s a problem then it’s a problem for everyone, not just him, and includes them and if they have six horses on top of leach lines that maybe should not literally be there because of being too close to that house.

Mr. Blevins said his house is directly across from the horses and if they use their back yard the way he uses his, their back yard would be (inaudible).

Mrs. Wolf said for deadline of 2011 that Mr. Fox has given us, which has nothing to do with the horses or how much land I have to have. The minute that they are approved the variance, they would start right in on their pastures because she does not like it either and those are her pets.

NEUTRAL TESTIMONY: None

#### STAFF COMMENTS.

Mr. Fox said BZA09-14V Charles and Tosha Wolf, 8164 Keister Road, Middletown OH 45042, have requested a variance to allow them to keep horses on property without proper road frontage.

Mr. Fox said Staff Comments are as follows:

1. The property is zoned A-1 Agricultural.
2. The area is rural in character.
3. The applicant is seeking a variance, said applicant shall 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 use, but since this will not change the character of the area, staff will recommend approval with the following conditions:
  - a. No more than seven (7) farm animals allowed on the property.

Mr. Daniel said he went out to look at the property as a Board member and also a Township Trustee and another Township Trustee looked at it also. He added that he knows Mr. Blevins and his wife pretty well and they are good decent people and so are these people here. The place was in shambles for about 30 to 40 years and they have cleaned it up a lot and it doesn’t say they were going to put seven (7) animals in a barn or (7) animals on a half acre, it just says seven farm animals on seven acres, and we, as Township Trustees, are not opposed to



this and would like for that to go on the record and compared to what it used to be, it is about 300% better than it used to be. Mr. Daniel also stated, for the record, that there will be no boarding of horses for other people for money.

Mr. Fox said, regarding Mr. Daniel's comment, from a standpoint of enforcement power, is he saying that the seven animals that they would be allowed to have on their property are strictly the Wolf's animals.

Mr. Daniel said he did not say that, he said he wanted to make a stipulation that there be no pay for horses, in other words, they are taking care of them from their hearts and he does not want any boarding of other people's horses and them paying them.

Mr. Bevington said in other words they can not operate a business.

Mr. Daniels said yes, that was his point.

Mr. Fox said he just wanted clarification.

Mr. Salmon made a motion to grant a variance for BZA 09-14V and feels that they have done everything they can do to accomplish what they are trying to accomplish, circumstances came upon them that they knew nothing about it and feels their hearts are pure and are trying to obey the law and feels there is a hardship here.

Mr. Daniel asked the applicant's if they said they would put the horses as far back as they can.

Mr. Wolf replied yes.

Mr. Daniel said putting the horses as far back would be a convenience to their neighbor and it would be better for the horses as well and seconded the motion. Mr. Fox said he did not hear any conditions with the motion or second and asked if the Board is going to do this and set any specific conditions in writing for the applicant.

Mr. Daniel said there will be a condition that there be no paid boarding allowed and also condition "A" in Staff Comments:

Mr. Fox asked to confirm the following conditions would apply: No more than seven farm animals allowed on the property and no paid boarding facilities.

Mr. Philpot replied yes.

Motion carried.

AYES: Salmon, Daniel, Philpot, Bevington

NAYES: None

**ADJOURNMENT:**

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A motion was made by Mr. Salmon, seconded by Mr. Philpot to adjourn. All in favor, motion carried.

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  
November 17, 2009

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Tom Bevington, Chair

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James M. Fox, Secretary

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Lee Margraf