



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

February 16, 2016

I. Opening

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

II. Approval of Minutes

- A. November 17, 2015
- B. December 15, 2015

III. New Business

- A. BZA16-01V    GBT Realty Corp./Jason Horowitz  
                         2600 Millville Oxford Road  
                         Oxford, Ohio 45056
  
- B. BZA16-02V    FD Ross Ohio Hamilton Cleves Road LLC  
                         4150 Hamilton Cleves Road  
                         Fairfield, Ohio 45014

V. Adjournment



**REGULAR MEETING:** Tuesday, February 16, 2016  
Butler County Government Services Building  
Conference Room 1  
315 High Street, 1<sup>st</sup> 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  
Alan Daniel  
Mr. Henry W. Philpot  
Mr. Gary Salmon  
Ms. Lee Steenken

**STAFF MEMBERS:** James Fox, Zoning & Floodplain Manager

---

**Approval of Minutes:**

**December 15, 2015 Meeting**

Ms. Steenken made a motion to approve the December 15, 2015 meeting draft Minutes. Mr. Salmon seconded the motion. Motion carried 5-0.

AYES: Steenken, Salmon, Philpot, Daniel, Bevington

**November 17, 2015 Meeting**

Ms. Steenken made a motion to approve the November 17, 2015 meeting draft Minutes subject to the changes noted by staff. Mr. Salmon seconded the motion. Motion carried 5-0.

AYES: Steenken, Salmon, Philpot, Daniel, Bevington



## **NEW BUSINESS:**

### **BZA16-01V**

GBT Realty Corporation/Jason Horowitz  
2600 Millville Oxford Road  
Oxford, Ohio 45056

Mr. Ray Flake, Civil Engineering Services, 7705 Spicer Farm Lane, Fairview, TN introduced himself as the Civil Engineer on this site, representing GBT Realty, and said they are requesting two (2) variances for this site. They are requesting a variance from the allowed 10% in the front and asking for eight (8) parking spaces instead of the allowed three (3) spaces; and a second variance to waive the required cross access with the adjoining property due to the difficult arrangement in their situation and offered to answer any questions.

Mr. Bevington asked about access going straight out on to State Route 27 rather than going through the Marathon (Gas station) and Mr. Flake replied yes that is correct and added they have a joint access arrangement currently with the golf course that they would rather continue to maintain and help with instead of having another access.

Mr. Fox said the applicants have access through the golf course's main entrance and is where their main access is coming from. The County Zoning Code states if a business abuts another business district they must supply cross access from that business use to the other business use, so it isn't a separate access – ultimately there will be one main access from State Route 27 through the golf course's driveway to this site. The cross access is simply for the benefit if a person wants to go from the Marathon gas station to this business they will not have to get out onto State Route 27 traffic then fight to get into the second business and that is a condition added to the County Zoning Regulations in around 2010 as a required condition within this zone district this property is located – so it doesn't really have anything to do with their main access point and that main access point will stay there.

Mr. Daniel asked Mr. Flake what is the reason why they did not want that and Mr. Flake replied this retail store did not want to assume the additional liability of traffic coming through especially with the delivery trucks coming through and would make it more difficult for circulation of traffic flow as well.

Ms. Steenken asked if there is any safety concern with not having the cross access there such as emergency vehicles or the like. Mr. Flake replied they have not submitted plans to the fire Marshall as far as access but everything that they have submitted has not generated any feedback stating concern for lack of fire protection.

Mr. Salmon asked what the rationale is between requesting eight (8) parking spaces instead of three (3). Mr. Flake replied it would be difficult with only three (3) spaces when delivery trucks are there and there would be more on the sides and allows for more asphalt for delivery trucks to



back up and deliver. This retail developer has approximately 10,000 stores and this layout has worked well for their operation.

Mr. Salmon asked if the side facing State Route 27 is considered the front yard. Mr. Fox replied yes, the frontage is considered the frontage toward State Route 27.

Mr. Bevington asked Mr. Flake if his office is in Tennessee and Mr. Flake replied yes, just outside of Nashville.

Mr. Salmon asked if the realty company has purchased the land and Mr. Flake replied he believes they are currently in negotiations.

Mr. Bevington asked Mr. Flake if he knew what type of business they are going to bring in and Mr. replied it is a 9,100 square foot retail building like a Family Dollar/Dollar Store- type of merchandise.

Mr. Fox told the Board the Township has no issues with the variance requests.

**TESTIMONY IN FAVOR OF:** None

**TESTIMONY IN OPPOSITION OF:** Stephanie Harris, 3715 Shank Road, Hanover Township, Ohio 45013

Ms. Harris said she owns the property across the street at 2613 Millville Oxford Road, and she asked about the type of surface for parking in the front yard and about the entrance. Mr. Fox said the parking is required to be hard surfaced with concrete, poured cement or black top and the front yard is anything between the building and the street. Ms. Harris said she objects to the entrance being directly across the street from her driveway and thinks it would be in her best interest to not have the traffic going in and out of there.

Mr. Philpot asked Ms. Harris if she has a problem with the traffic from the golf course and she replied no.

Mr. Philpot said sharing the entrance with the golf course really doesn't make a difference. Mr. Fox said the zoning is already in place for any business-type of use on the property – the entrance has been approved for the golf course and is a good question for Mr. Flake to see if he has received any approvals from Ohio Department of Transportation (ODOT) and Mr. Fox said he is not sure if there would be any necessary improvements on State Route 27 or not and he added he doesn't have anything in his file from ODOT but a letter of consent from them will be required at the Building Permit stage. Something in writing from ODOT will be required for approval and he believes ODOT would likely prefer they use an existing driveway cut rather than creating a new one out on to State Route 27.

**NEUTRAL TESTIMONY:** None



**STAFF COMMENTS:**

Mr. Fox said the request, BZA16-01V, GBT Realty Corporation/Jason Horowitz, 2600 Millville Oxford Road, Oxford, Ohio is requesting a variance to allow more than ten percent (10%) of parking in the front yard and not require paved cross-access to adjoining business uses. Staff comments are as follows:

1. The property is zoned B-3 General Business.
2. This area is business in character with some residential homes in the area.
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 this will not change the character of the area the staff will recommend approval of the parking Variance only.

Mr. Fox said staff wants the cross access from the gas station to the new retail store for safety purposes on to State Route 27 and it must be hard surfaced.

Mr. Bevington said what if the Marathon gas station says they don't want it. Mr. Fox said it has nothing to do with the type of easements; staff wants the retail store to abut the concrete up to the property line and it is not a requirement for the gas station to extend it their way.

Mr. Daniel asked how many cases have been seen like this since the requirement. Mr. Fox replied none so far, this is the first variance being asked for.

Mr. Daniel asked if it was a safety reason when the committee made this decision or was it to keep traffic circulating between businesses. Mr. Fox replied it was a little of both and makes it simpler for traffic flow.

Ms. Steenken made a motion to approve the request for parking only per staff comments. Mr. Salmon seconded the motion. Motion approved 5 – 0.

AYES: Steenken, Salmon, Philpot, Daniel, Bevington

NAYES: None

Mr. Bevington asked if they needed to have a motion for the other variance request and asked if anyone would entertain a motion for paved cross access to adjoining business use.

Mr. Fox said the staff comments state the variance is for the parking only; the applicant has to provide the cross access and the wording in item #4 covers that and does not require an additional motion.



**BZA16-02V**

FD Ross Ohio Hamilton Cleves Road LLC  
4150 Hamilton Cleves Road  
Fairfield, Ohio 45014

Mr. William Tippmann, 7533 Pinehurst Drive, Cincinnati, Ohio 45244, said he is with the Atwater Group, headquartered in Chicago, Illinois, and is here on behalf of his client, Family Dollar Store, (FD Ross Ohio Hamilton Cleves Road LLC), 4150 Hamilton Cleves Road, Fairfield, Ohio, 45014 want to own, develop and lease the finished store to Family Dollar (FD) and we have done about 50 stores like this across the country a year for FD.

Mr. Tippmann said they appeared before this board a little less than a year ago for this same project and they received one (1) variance for the stipulation that they have no more than 10% of the parking in the front yard; and it was approved in March of last year. That same variance we are reapplying for because instead of 35 parking spaces on the site they have 31. The reason we are requesting the additional variances is because at the time of conducting the survey and doing title search we learned the property is 21 feet narrower side to side than we thought it was when we submitted the site plan and applied for the variances. It is 144 foot wide but the current site plan shows we can fit the same number of parking spaces in the front yard but this site plan has 31 parking spaces total on it rather than the original site plan which had 35 spaces. He added they are providing the asphalt to the two side yard property lines to accommodate those cross access (inaudible) in the future.

The second is a variance request from the required 20-foot side yard because we abut a piece of residential property (shown on an aerial image) that is more commercial in character and it was purchased by Meadow Brook, the amusement facility behind this, they purchased a 50-foot (plus or minus a few feet) strip of property next to us years ago, with the intent to do a curb cut to Hamilton Cleves Road and he believes ODOT denied that request. That strip of land is technically zoned Residential district but it's a 50-foot buffer strip and rather than provide that 20-foot required side yard against that 50-foot we wish to reduce it to five foot (5') due to hardship of the narrowness of the site. Companion variance with that is a requirement that there be a 20-foot landscape because they abut Residential; but since they don't have 20-feet we are requesting it be reduced to a five foot (5') and those are the three (3) variances they are requesting. Mr. Tippmann offered to show an aerial image of the land on his computer.

Mr. Salmon asked if the applicant still intends to vegetate the five foot (5') strip mentioned and Mr. Tippmann said that is correct.

Mr. Fox said on the original site plan they indicated bushes but he spoke with a Mr. Mitch Phillips, their attorney, and they've agreed planting Arborvitae trees there would be more



suitable due to their height and width characteristics and it will be nicer than using bushes and less maintenance.

**TESTIMONY IN FAVOR OF:** None

**TESTIMONY IN OPPOSITION OF:** None

**NEUTRAL TESTIMONY:** None

Mr. Salmon asked Mr. Tippmann about the width and Mr. Tippmann confirmed it's the width that is short.

**STAFF COMMENTS:**

Mr. Fox said the request, BZA16-02V, FD Ross Ohio Hamilton Cleves Road LLC, 4150 Hamilton Cleves Road, Fairfield, Ohio, is requesting a variance to allow more than ten percent (10%) of parking in the front yard, reduce the side yard requirement and waive the landscaping requirement. Staff comments are as follows:

1. The property is zoned B-2 Community Business.
2. This area is business in character with some residential homes in the area.
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 this will not change the character of the area the staff will recommend approval with the following condition:
  - A. Arborvitae trees will be required along the east property line in place of the landscape buffer.

Mr. Salmon made a motion to approve the variance requests, BZA16-02V, FD Ross Ohio Hamilton Cleves Road LLC, 4150 Hamilton Cleves Road, Fairfield, Ohio, subject to staff comments. Motion approved 5 – 0.

**AYES:** Salmon, Daniel, Steenken, Philpot, Bevington

**NAYES:** None



**ADJOURNMENT:**

Mr. Daniel made a motion to adjourn and it was seconded by Mr. Salmon. Meeting adjourned.

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  
February 16, 2016

---

Tom Bevington, Chair

---

James M. Fox, Secretary

---

Lee E. Margraf