

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
May 18, 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. April 21, 2009

III. New Business

- A. BZA09-07V Brian Benson
 6239 Germantown Road
 Middletown, Ohio 45042
- B. BZA09-08V Robert W. Bailey
 5353 Hamilton Middletown Road
 Hamilton, Ohio 45011

IV. Adjournment

REGULAR MEETING: Tuesday, May 18, 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. Gary Salmon
Ms. Lee Steenken

MEMBERS ABSENT: Mr. Henry W. Philpot

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

APPROVAL OF MINUTES:

Mr. Salmon motioned to approve the minutes of the April 21, 2009 meeting. Ms. Steenken seconded. Motion carried.

AYES: Salmon, Steenken, Salmon, Bevington, Daniel

NAYES: None

I. NEW BUSINESS

BZA09-07V

Brian Benson
6239 Germantown Road
Middletown, Ohio 45042

Mr. Fox said before this case starts he needs to make a revision to this specific case because he actually misread one of the applicant's requests for this variances as the applicant is also requesting that they be allowed to construct a pole sign on their property, which the applicant will discuss, however, he forgot to include that in the request which

was mailed out to the Board members. He added that when he reads Staff Comments there will be two items, one for the business he is asking for, and the other will be for the pole sign – and asked the Board to keep in mind to ask questions that they may have about a pole sign, and reminded the Board that in 2006 the County did change the Zoning Code to reflect ground signs and this applicant is asking for a variance to put a pole sign up.

Mr. Fox apologized for overlooking the applicants' initial request and wanted to state this for the record so that it can be heard today.

Mr. Brian Benson, 7123 Middlemore Lane, Middletown, Ohio, said he is in the process of purchasing a building at 6239 Germantown Road, formerly the Chrysler Building, and owns a landscaping company in Hamilton and tried to move the business up there and potentially start a garden center down the road and would need outside storage for his trailers, mulch, top soil and things of that nature and if he does decide to do a garden center, he would construct maybe an arbor, pergola and some greenhouses.

Mr. Benson said when he submitted his paper work he did not have the Health Departments' approval but has received that since and also there is a letter from a next door neighbors stating his approval as well.

Mr. Benson said all storage would be behind the building, on the side to the rear is a fenced in area behind the existing building that he would use to keep his materials secure.

Mr. Benson said as far as the sign goes, companies on both sides of this property, Blair Heating and Cooling and the other (he was not sure of the name) have full signs but was not sure how high. He said his sign would be done in a tasteful manner and will have a sign in front of his building but because the property is recessed in elevation compared to Route 4, it would be more beneficial for traffic to be able to see the sign and maybe a little advertising – flowers or something along those lines.

Mr. Bevington asked Mr. Benson, regarding proposed customer parking, what type of parking lot will it be – concrete, blacktop or gravel.

Mr. Benson said the entire lot is asphalt and will remain asphalt.

Mr. Salmon asked what type of trailers will be parked there.

Mr. Benson said just flatbeds.

Mr. Daniel asked Mr. Benson how many employees he will have.

Mr. Benson said probably 7 employees.

Mr. Daniel asked if there will be mulch bins in the back.

Mr. Benson said yes.

Mr. Salmon asked if Mr. Benson would keep stone top gravel.

Mr. Benson said there could be an occasional pile of gravel in the fenced-in area but the stone would be palletized wall stone or something like that.

Mr. Bevington asked Mr. Benson if, by going up there, will he close his present business here in town.

Mr. Benson said yes and added that he just leases space currently.

Ms. Steenken asked Mr. Benson if he anticipates retail sales from the property as well as his business.

Mr. Benson said yes, that is one of the motivating factors of moving up there as there are very few garden centers on that side of town.

Ms. Steenken asked Mr. Benson if he will have demonstration gardens.

Mr. Benson said yes he will. He added there is a grass strip of land between the access road and this lot about 10 – 12 feet wide, and that would all be landscaped and part of dressing up the property – anything to draw business in.

Mr. Daniel asked Mr. Benson what is the size of the proposed sign.

Mr. Benson said he does not have the measurements of what Blaire's is (next door) but guessed a 15 – 20 foot pole and with an 8x10 foot (sign). He added that it would not be a message board, just something to draw attention to it and because of the recessed elevation he wants to draw a little more attention to the eye and would like to raise it up as opposed to current zoning.

Mr. Fox asked Mr. Benson how big would his "heel in" beds be, approximately – it looks like from the fenced in area to the property line there is somewhere in the neighborhood of 150 feet, and does he anticipate using that whole space.

Mr. Benson said it would be nice to, some day but generally he plans to have stuff that he can unload throughout the year and stuff that he would use on his own gardens that he designs and whatever people can carry in their cars with them – ball and burlap and container-type.

Mr. Bevington asked Mr. Benson if he would do landscaping around his border.

Mr. Benson said he has thought about cutting up some of the asphalt to create some more landscaped areas but will leave a fair amount of parking area but does want to soften the look of the property.

Mr. Salmon asked Mr. Benson, regarding the asphalt, has he thought about the drainage and the watering of all this stuff – there is a drain there but did not see any others.

Mr. Benson said he did not know if there are any in the “heel in” area or not – and it is probably best if not to keep the mulch from running into the drainage and to protect the balls.

Mr. Fox asked Mr. Benson if he is planning on painting the building and doctoring up the front (where the existing grass is) to make it more attractive and attract his customers.

Mr. Benson said yes.

Mr. Salmon asked if the access road to Route 4 is state property.

Mr. Fox said Mr. Benson will definitely have to find out what the right-of-way is and get approval on that.

IN FAVOR: Alan Wise, 440 Vincent Court, Middletown, Ohio

Mr. Wise said he owns the property on the north side of this property and wanted to express his full support for whatever he needs to do, and he is okay with this.

IN OPPOSITION: None

NEUTRAL TESTIMONY: Mr. Alan Daniel

Mr. Daniel said the Township Trustees are not opposed and the best interest is to have a business going in versus an empty building.

IN FAVOR: None

IN OPPOSITION: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said this is for BZA09-07V, Brian Benson, 6239 Germantown Road, Middletown, Ohio 45042. The applicant is requesting to allow the service for processing and materials used in a business to be stored outside of an enclosed building and to have a pole sign on site.

Staff Comments:

1. The property is zoned B-2 Community Business District.
2. This 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 activity from a business district, but since this will not change the character of the area the staff will recommend approval on the storage service for processing and materials used in a business to be stored outside of an enclosed building.

Mr. Fox said staff does recommend denial for the pole sign request.

Mr. Bevington said the first thing the Board needs to do is entertain a motion on the variance for the process and storage of materials.

Mr. Daniel made a motion to approve for the service and processing materials used in a business to be stored outside of an enclosed building, with any stipulation that the Board feels they may have.

Mr. Fox said he has just one, which Mr. Benson is aware of, he needs a special inspection with a Certificate of Occupancy before he can move in and would like to make that a condition. Basically it will require it be inspected to ensure that everything is up to code since the building has been vacant for so long.

Ms. Steenken said she felt that was an appropriate condition and seconded the motion.

AYES: Daniel, Steenken, Bevington, Salmon

NAYES: None

Mr. Bevington said they will entertain a motion on the pole sign request.

Mr. Steenken asked Mr. Fox what is the basis as suggested for denial.

Mr. Fox said staff has worked in the past with the Township Trustees and back in 2006 the Township Trustees, along with the County Planning Department and himself, wrote a new code and are trying to eliminate what, in some aspects, are “eye sores” of pole signs and have more nicely-looking ground signs and in 2006 it was pretty much unanimously voted on to approve that change and we do not want to go against the 2006 change.

Mr. Fox said typically with variances you need to see a hardship and not sure how many people have been out there, but for Mr. Benson’s sake, he was not sure if the factor of his business sitting a little bit lower than the road and the Zoning Board may want to take that in to consideration, but staff recommends denial of it as the ground signs are more attractive and part of current code.

Mr. Bevington asked how close is that other sign to the property.

Mr. Fox said there are pole signs all along that area – just about every business out there has got one, and were all built prior to our Zoning Code change.

Mr. Steenken said she has not been out there lately, and asked what the difference in elevation is.

Mr. Benson said 4 – 5 feet.

Mr. Daniel said there are three buildings with a downward slant. – you can drive by and not notice there and Score had a very large sign and understands where Mr. Benson is coming from.

Mr. Daniel asked Mr. Benson if he were to be able to put a little bit bigger sign and leave it down at ground level (but make it bigger so cars and trucks could see it), would it be an alternative.

Mr. Benson said he thought so, and asked what the current maximum sign size is..

Mr. Fox said from the elevation of the ground to the top of the sign can not exceed four feet.

Mr. Daniel said there is a 4-foot slant and it would be below that as far as eye-level from a car. elevation and it would make a little bit of difference and said that the Board could maybe split the difference a little bit – whatever the Board decides, maybe allow him a little ground and but maybe a happy medium.

Mr. Benson said he agrees but this is his livelihood here but would be content with a compromise.

Mr. Steenken asked, regarding where the sign would be located, is there a possibility of some sort of adjacent, spectacular landscape to draw the attention to it.

Mr. Benson yes, obviously it will be landscaped all around and if only four feet up it will not allow for anything really creative as far as plant material.

Ms. Steenken said what if the Board were to approve a taller sign, but not a pole sign, and asked Mr. Benson if that would that allow him more creativity.

Mr. Benson said yes.

Mr. Daniel said maintenance-wise it is smarter to have a sign on the ground as well.

Mr. Salmon asked Mr. Benson if they were to allow eight foot for the top of the sign would that work.

Mr. Benson said yes it could and if his name could be toward the top and the message board below, his name would be drawing the attention.

Ms. Steenken asked if they need to defeat a motion on the pole sign with the understanding that it will be replaced by a request for a variance on the size of the ground sign – and asked how that is done.

Mr. Bevington said they can approve it but just state it can be a sign but not on a pole.

Mr. Fox said the Board could approve it with the condition that the sign can not be any taller than eight feet from the elevation of the ground to the top of the sign and also add a condition that the ground sign must meet all other code restrictions since the code restrictions were just updated.

Ms. Steenken made a motion to approve a sign that can not be more than eight feet high from the ground level elevation to the top of the sign. Mr. Salmon seconded. Motion carried.

AYES: Steenken, Salmon, Daniel, Bevington

NAYES: None

BZA09-08V

Robert W. Bailey
5353 Hamilton Middletown Road
Hamilton, Ohio 45011

Mr. Robert Bailey, Bayer & Becker, 6900 Tylersville Road, Suite A, Mason, Ohio, said right now the existing Lithko site is within the split of Route 4, just south of Rout 63 and within that split they operate concrete contract work. They have offices there now that house their estimating business as well as their facilities for trucks, storage, materials and equipment. At this point in time with the economy slowing they see it as an opportunity to take down the existing building where the offices are and build a new and larger office area to allow for further expansion and better working conditions for the office staff there. As a result of the continuation of property, the configuration of it where it is end to end within the north and southbound traffic on Route 4 and so the applicant is requesting a variance to construct a building encroaching on the 25-foot setbacks and the existing metal building is also encroaching so we request a variance to construct within that setback.

Mr. Daniel asked Mr. Bailey if the improvement will be back toward Hamilton or towards Monroe.

Mr. Bailey said it would be towards Hamilton. On a map, he showed the existing building location and where the proposed building would be located.

Mr. Daniel asked then if the area of improvement is not going to be in the back area.

Mr. Bailey said that is correct and said the existing metal building, the steel structure is going to remain so the office building that is attached to front of the building now, that office is going to be removed and the only one remaining will be the main frame on the existing metal building.

Mr. Bevington asked Mr. Bailey how long this work would take.

Mr. Bailey said he does not know the exact schedule – but he anticipates that they would have it up and run by the end of the year.

Mr. Salmon asked if there will be two buildings left on this site – the one that is attached to the office site and there's that other building.

Mr. Bailey reiterated the applicants proposed plan pointing to the drawing and so those will remain – the only section we're dealing with now is the existing building in the front and just taking that office building and replacing it.

Mr. Salmon asked if the expansion is the cause for encroachment.

Mr. Bailey said yes it will encroach this 25-foot setback line here (as identified on the drawing) so they are actually at 19.29 feet.

Mr. Salmon asked if it would be on the north side.

Mr. Bailey said that is correct.

Ms. Steenken said if she recalls correctly there is an elevation change between the highway and that property by quite a bit.

Mr. Bailey responded and said yes.

Ms. Steenken said so the fact that this corner is close does not mean that you would be brushing it with a car because it is down in a hole.

Mr. Bailey said that is correct and they do not anticipate doing anything with the existing pavement and it will effectively become almost one way right there and it will only be employees going back there any way – not the general public.

Ms. Steenken asked about the ingress/egress.

Mr. Bailey pointed it out on the map.

Mr. Greg Exterkamp, 2648 Valley Trails Drive, Villa Hills, Kentucky, 41017, owner/representative for this project, brought up a photograph of the building to be demolished, and showed where how the new building will be situated deeper.

Mr. Exterkamp said the past 20 years he was a general contractor and Lithko asked him to help them navigate through this process.

Mr. Exterkamp said the piece of property is basically a diamond shape and they have themselves on one end and other property at the other side so both properties have just three sides – two front yards and then our common property line between the two properties with a setback of 25 feet on this side (as shown in the photograph) that he wants to encroach that front corner towards Hamilton by six feet. The existing metal building encroaches that same six feet and we are trying to fit a rectangular box on a diamond.

Mr. Fox asked if he could keep the photographs for the record.

Mr. Exterkamp said Mr. Fox may keep them.

Ms. Steenken made a motion to accept the documentation as presented. Mr. Salmon seconded. Motion accepted.

AYES: Steenken, Salmon, Daniel, Bevington

Ms. Steenken commented on the beautiful magnolia trees that will not be able to be saved.

Mr. Bevington asked if they would be putting a couple more in.

Mr. Bailey said yes, he did not bring the landscaping plan with him but it will not just be a rectangular box because they have to bring the building up about 2 ½ feet above the existing floor and so they will need a ramp going down to the parking area and that ramp will go east and west and come out of the vestibule area will go to the west to the parking area so the rest of the space will be all landscaped and will have some trees and lighting on the trees and it will be a tilt-up building on a tilt-up slabs and will have “Lithko” in the concrete to have identity.

IN FAVOR: Dave Bolden, 3939 Stockbridge Lane, Hamilton, Ohio

Mr. Bolden said he is one of the owners of the property adjacent to this and what they have done to date looks really nice and would like to let them move forward with it, they are not really changing anything that he can see and as long as it stays the same he will welcome it.

IN OPPOSITION: None

STAFF COMMENTS

Mr. Fox said, case Number BZA09-08V, applicant Robert W. Bailey, Bayer Becker, 5353 Hamilton Middletown Road, Hamilton, Ohio 45011, is requesting to erect a building closer to the front property line than zoning allows.

Mr. Fox said the following Staff Comments:

1. The property is zoned B-3 General Business District.
2. This 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 activity from a business district, but since this will not change the character of the area the staff will recommend approval

Ms. Steenken made a motion to approve BZA09-08V as presented. Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Daniel, Bevington

NAYES: None

ADJOURNMENT:

A motion was made by Mr. Salmon, seconded by Mr. Daniel 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
May 18 2009

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf