

AGENDA  
BUTLER COUNTY BOARD OF ZONING APPEALS  
BUTLER COUNTY ADMINISTRATION CENTER  
130 HIGH STREET  
HAMILTON, OHIO 45011  
August 19, 2014

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.      May 20, 2014 and June 17, 2014 Meetings

III. New Business

BZA14-06V  
Jack Grove, Attorney at Law/ Gerald Boeckmann Trustee  
3127 Kirchling Road  
Hamilton, Ohio 45013

IV. Adjournment

**REGULAR MEETING:** Tuesday, August 14, 2014  
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  
Mr. Gary Salmon  
Lee Steenken

Absent: Alan Daniel  
Mr. Henry W. Philpot

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

---

REGULAR MEETING: Opening

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

Approval of Minutes

A. May 20, 2014 Minutes

Ms. Steenken made a motion to approve the draft Minutes for the May 20, 2014 meeting. Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Daniel, Bevington

NAYES: None

---

B. June 17, 2014 Minutes

Ms. Steenken made a motion to approve the draft Minutes for the June 17 Meeting per corrections as submitted to staff. Mr. Salmon seconded the motion with the corrections noted on page nine (9). Motion carried.

AYES: Steenken, Salmon, Daniel, Bevington

---

Mr. Bevington said this is a five (5) member Board and because a Board member is absent, three or more members would have to vote in favor for a motion to pass; all applicants can have their case tabled until all Board members are present and they must declare their request to do so prior to presenting their case.

**NEW BUSINESS**

BZA14-06V

Jack Grove, Attorney at Law/ Gerald Boeckmann Trustee,  
3127 Kirchling Road  
Hamilton, Ohio 45013

Mr. Grove, Attorney /Gerald Boeckmann Trustee, provided details for the variance request on behalf of Mr. Boeckmann who was unable to be here tonight, and said Mr. Boeckmann's son Jeff, who lives at the property, is here tonight and can answer any site-specific questions.

Mr. Grove provided details and background history on this property and said in July Mr. Boeckmann sold the old farmhouse and acreage to the south of the farm to (names not audible) and we are here to discuss the remainder of the Boeckmann farm and the applicant is looking to derive the benefit of this long-term investment and that is his motivation for selling the property.

Mr. Grove stated the applicant is requesting a three-way split of the remainder of property without proper road frontage for the properties in the back due to topographical difficulty and the complicated configuration of this property, and gave details on the area variance request and each proposed section.

Mr. Fox asked Mr. Grove if the three (3) houses were always on the original 90 acres to which Mr. Grove replied from the Boeckmann's original purchase their home was on a 10-acre parcel and when they moved there they only had the ten acres, no road frontage subject to the common driveway then they bought the Lightfield farm which is the surrounding acres and those two (2) houses in front that are still there were on the property when they acquired it from the Lightfields.

Mr. Tyler Minges, 1656 Millville Shandon, Hamilton, Ohio 45013, a Realtor, spoke to the Board regarding the real estate market with regards to financing options of small lots versus large lots

and said having the neighbor willing to buy this tract as a cash purchase makes the whole project work.

Mr. Grove said if the (inaudible) option goes through then Mr. Boeckmann will only own the two (2) front parcels.

Mr. Fox asked if there are any issues with maintenance of the private drive.

Mr. Minges said currently there are potholes and such.

Mr. Fox asked Mr. Minges if Mr. Boeckmann plans on selling the rental properties.

Mr. Minges said Mr. Boeckmann will try and sell them and is part of the whole plan here.

Mr. Grove said with the Brotherton/Bulach transaction they put on a new common driveway and so it is allocated and runs with the land so as the other parcels are sold they will have servitude and financial contribution for the upkeep and the Bulach transaction was complicated because the property line that was used went through the pond so they also had to have a pond maintenance agreement and set aside some restrictions for the pond so it avoids conflict with the neighbors down the road.

Mr. Fox said he received a telephone call from a neighbor and asked Mr. Grove if he is aware of or heard anything about any plans for a proposed subdivision development by the party who is buying the 28.5 acres. That was one of the neighbor's concerns.

Mr. Grove replied no, and he was told, second-hand, they wanted the property to build a residence for their son which will have access through the access easement, which is one of the benefits of a common drive. He added the driveway is gravel.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: Ronda Brotherton, 3131 Kirchling Road, Hamilton, Ohio;  
Steve Bulach, 3131 Kirchling Road, Hamilton, Ohio

Ms. Brotherton said she and Mr. Bulach just purchased their home last month and use the gravel driveway to get to their house and they bought it under the assumption this property couldn't be developed due to lack of road frontage and they wouldn't have paid what they did if there were going to be neighbors anywhere near their house. She voiced her concerns and said she is not in favor of the variance request.

Mr. Bulach said he and Ms. Brotherton live in the farm house, previously owned by the Boeckmann's and stated his concerns about the possibility of a subdivision being built there and had the understanding the property could not be split and fears development could decrease the value of his own property.

Mr. Fox advised Mr. Bulach the proposed tract of 28.5 acres is not going to be attached to the Schappacher property in any way – it will be its own parcel of land. Mr. Fox added as far as any possible subdivision development, they would have to meet a lot of requirements to even create a subdivision on that lot.

Mr. Fox asked Mr. Grove if there were any restrictions within the easement about disallowing future development of a subdivision.

Mr. Grove replied it is quite the opposite – the language he identified is a (inaudible) but it does run with the land and it is not a dedicated roadway, it is a private driveway and it would have to be a public road, and county standards in order for a subdivision development.

Mr. Fox added they would also need each individual's approval and wanted to make sure that Mr. Bulach understands it is a stand-alone tract, which could have a house built on it and will be using the access easement to come and go on that 28.5 acres and that is his understanding it. In reference to the actual subdivision going in there or other splits on that property.

Mr. Bulach said he is concerned about hearsay on development of a subdivision or putting in a road back there.

Mr. Fox said he put a condition on that property that there will be no future splitting of that property and if they want to come back for a variance they have the right to do so and the adjacent property owners would be notified of such. He added that the county cannot prohibit anyone from applying for zone changes or submitting subdivision plats, we can only look at what is presented here tonight and cannot make any comments until we know for a fact some sort of request or application is submitted.

Mr. Fox asked Ms. Brotherton and Mr. Bulach if they had seen the proposed variance that was approved in 1990 to which they replied they did.

Mr. Fox said he just wants everyone to understand that in theory, if Mr. Boeckmann wanted to he could come in with a plat with seven (7) lots there – which would be much more dense compared to the three (3) they are actually proposing. If this gets turned down, Mr. Boeckmann could come in with the plat done in 1993 and get it recorded and start selling up all these lots. The proposal for tonight is only creating three (3) lots.

NEUTRAL TESTIMONY: None

## **STAFF COMMENTS**

Mr. Fox said case number BZA14-06V, Jack Grove, Attorney at Law / Gerald Boeckmann Trustee, 3127 Kirchling Road, Hamilton, Ohio 45013, the request is to split property without proper road frontage, staff comments are as follows:

Staff Comments:

1. The property is zoned A-1 Agricultural.
2. This area is rural 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, but since this will not change the character of the area and that an area variance (BZA90-38V) was approved to allow a 12-way split of the property in the past, the staff will recommend approval with the following conditions:
  - A. A common driveway easement for ingress/egress must be recorded with all new property deeds.
  - B. No further splits of the property are allowed.

Ms. Steenken made a motion to approve the variance request for Gerald Boeckmann, Trustee, 3127 Kirchling Road, Hamilton, Ohio, subject to staff comments. Mr. Salmon seconded the motion. Motion carried 4 – 0.

AYES: Steenken, Salmon, Daniel, Bevington

**ADJOURNMENT:**

Ms. Steenken made a motion to adjourn and it was seconded by Mr. Salmon.

BUTLER COUNTY BOARD OF ZONING APPEALS  
August 19, 2014 Meeting Minutes

---

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

August 19, 2014

---

Tom Bevington, Chair

---

James M. Fox, Secretary

---

Lee Margraf