

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
September 18, 2007

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. August 21, 2007

III. New Business

- A. BZA07-19 PFB Architects - Jeff Black/Mike Finn
 3310 South Main
 Middletown, Ohio 45044

- B. BZA07-20 Angela Dowers
 2963 Millville Oxford Road
 Oxford, Ohio 45056

IV. Adjournment

BUTLER COUNTY BOARD OF ZONING APPEALS
Butler County Administration Center
Hamilton, OH

REGULAR MEETING: Tuesday, September 18, 2007, 7:00p.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. Gary Salmon
Mr. Thomas Bevington
Mr. Henry W. Philpot

MEMBERS ABSENT: Mr. Alan Daniel, Ms. Lee Steenken

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

APPROVAL OF MINUTES:

Mr. Salmon motioned to approve the minutes of the August 21, 2007 meeting provided the word "insurance" is inserted in front of the word "agency" on page 3, Case BZA07-17V – Sean Hurley. Mr. Philpot seconded the motion. Motion carried.

AYES: Salmon, Philpot, Bevington

NAYES: None

ABSTAINED: None

Mr. Fox advised the applicants that because there are only three Board Members present, applicants may opt to have their case tabled until all Board members are present, or they will need all three members to vote in favor for their case to be approved, if the vote is not unanimous, it will be an automatic denial.

NEW BUSINESS:

Case # BZA07-19C

PFB Architects – Jeffrey Black/Mike Finn

3310 South Main Street

Middletown, Ohio 45044

Mr. Black, 6769 Ludlum Road, Morrow, Ohio, 45152, said he is with PFB Architects and at this point he has done all of the design work for the project - it is very preliminary, and there is nothing carved in stone but would like conditional use for the property.

Mr. Black said the two gentlemen with him are more familiar with the workings of the facility and they could probably address any of the concerns about the facility, the operation and things like that.

Mr. Black said it is a vacant building right now that is not very attractive and just in order to meet building code and to make sure that the facility runs properly, it is going to be an improvement and feels that it will be a good thing for the community and the neighborhood.

Mr. Bevington asked Mr. Black if he got the variance, how long he thinks it would take to complete the project until they move in.

Mr. Black said he thinks it would take a couple of months to get the permit and then construction might take another four to five months.

Mr. Bevington asked Mr. Black what will be the advantage of doing a change on that property.

Mr. Black said it is an opportunity to make an improvement on that particular piece of property and was not sure how long it has been vacant, but does not think there will be too many opportunities to make an improvement and this is the chance.

Mr. Bevington asked Mr. Black if he knew what the building was used for prior to now.

Mr. Black said he believes it was a Marsh grocery store.

Mr. Bevington asked Mr. Black if he knows how long the building has been there.

Mr. Black said he thinks it was built in the early 70s but was not sure as he could not get drawings for it so there are a few mysteries about it.

Mr. Philpot asked Mr. Black what are the age groups of those to be counseled.

Mr. Black said either of the gentlemen with him could answer the question better.

Mr. John Weith, 55 Kastrup Drive, Dayton, Ohio and Mr. Abraham Dahan, 2365 Section Road, Cincinnati, Ohio 45237 were sworn in.

Mr. Weith answered Mr. Philpot's question and said the age groups vary greatly – and runs from mid-20s to early-70s.

Mr. Philpot asked if the facility would be co-ed.

Mr. Weith answered yes.

Mr. Philpot asked what has determined their behavior problems.

Mr. Weith said a lot of the clients have been diagnosed with mental illness – and that is not a requirement to live in the facility but they need assistance with medication, they need reminders to get dressed and take showers, brush their teeth and activities of daily living.

Mr. Philpot asked if the clients ever have any brushes with the law, police or anything like that.

Mr. Weith said no, they do not take anyone that has a history of violence or sexual predators or arsonists.

Mr. Salmon asked if the clients could have a criminal record.

Mr. Weith said they could have minor offenses not related to violence or sexual activity or arson.

Mr. Salmon asked about any problems with drugs or alcohol.

Mr. Weith answered it is possible they might have had marijuana but generally speaking, our (client) population does not do drugs other than what is prescribed.

Mr. Bevington asked what is the primary diagnosis (of the clients).

Mr. Weith said schizophrenia.

Mr. Abraham said we do not want to bring in drugs or alcohol and have other clients to protect.

Mr. Fox said he faxed Mr. Black and/or Mr. Finn the code requirements for Penal Corrections Institution and there were three issues that could come up and Mr. Black's opinion is, that the three items have nothing to do with anyone who would be at your facility specific.

Mr. Black said yes, that is his understanding.

Mr. Fox asked Mr. Black if he turned the definition over to his client so they understood, by definition, what can and can not be there and if the applicants are somewhat familiar with the Butler County Penal Corrective Institution issues.

Mr. Abraham said he spoke with Mr. Fox and replied yes.

Mr. Fox said he wanted to make sure the Building and Zoning Commission Board members were aware of him notifying the applicants of the potential issues with that and will be part of the condition that those three items are adhered to.

Mr. Fox said in talking with the Prosecutor's office about this, not necessarily with this specific project, group homes can go in the County and typically we will not know if they have any of those types of people there until someone lets us know that – be it a neighbor or something, and the only thing we can do, to the best of our ability, is put it in as a condition and if for some reason these people do show up at their facility, they would be turned away because the Code will not allow it or someone would notify us and we would have to cite them in violation.

Mr. Bevington asked if the facility will be a locked unit.

Mr. Weith said yes, the clients will not be locked in, but locked from the outside for security reasons.

Mr. Philpot asked if the clients are able to get up and leave or check themselves out if the desire.

Mr. Weith said they can and would be counseled against that and we would notify the case managers – but it is possible and we have no right to detain them.

Mr. Abraham said they have clients that will go out to go to a job or workshops but we would prefer they stay in.

Mr. Philpot asked if there are curfews for the clients.

Mr. Weith said yes.

Mr. Bevington asked if the clients are normally on the green level.

Mr. Weith replied yes.

Mr. Philpot asked if the residents would all be from Butler County or would they be from other areas.

Mr. Weith said the great majority would be from Butler County and would be referred by the Behavioral Health and we would have a few that are from other Counties referred by other Mental Health Boards.

Mr. Philpot asked Mr. Weith if he is presently operating other facilities.

Mr. Weith replied yes.

Mr. Dahan replied one in Butler County, Middletown Pavilion.

Mr. Weith said Middletown Pavilion is about two doors down from this proposed facility.

Mr. Bevington asked how old the other building (current facility) is.

Mr. Weith said he believes it dates back to earlier than the 1900s and is the area called Engle's Corner and Mr. Engle lived in that building.

Mr. Salmon asked if, in other words, that some of the clients would just be moving within the neighborhood and that they are already there.

Mr. Weith said yes and they are already acclimated to the neighborhood.

Mr. Fox asked the applicants if, once this building is complete and if the applicant gets it approved and inspected, will they abandon the existing building that they are in now or continue to use it.

Mr. Dahan said they will probably not use it for the same use; we may either fix it up or try to sell it.

Mr. Fox asked Mr. Dahan if they would have two facilities.

Mr. Dahan replied no.

Mr. Bevington asked how many residents are currently there.

Mr. Weith replied 23 and at one time the capacity was 24.

Mr. Fox asked if the applicants are regulated by the State of Ohio.

Mr. Weith said yes, they are licensed by the State as a residential care facility – which lies somewhere between a group home and assisted living.

Mr. Fox asked if it is currently sprinklered.

Mr. Dahan said yes and it will need to be lowered.

Mr. Salmon asked how many residents will be assigned to one room.

Mr. Weith said they have some rooms that have four residents, a few rooms have three residents; two rooms that have one resident, and one room that has two residents.

Mr. Salmon said he noticed the applicants expect to have 25 rooms which would put occupancy to around 100 residents, and asked Mr. Weith if he has experienced personality conflicts within the residents when there are so many people to a room.

Mr. Weith said yes, it does happen and he tries to match certain personalities so that they will get along.

Mr. Salmon asked if men and women would be separate.

Mr. Weith said yes and added that they have had married couples before.

Mr. Salmon asked what is the expected time frame that the residents would be living there.

Mr. Weith said it runs the whole gamut – some have a very short stay, some are there only for a couple of months because they did not take their medication at home and when they are in our environment we make sure they take their medication and they are back on track and go home, then there are other residents that are long term and possibly for years. He added that they have a physician and psychiatrist come in every month and case managers almost daily and there is a lot of supervision.

Mr. Salmon asked Mr. Dahan, if they are regulated by the State, have they had any demerits or violations from the State when they come in.

Mr. Dahan said the facility itself has – maintenance/repair issues and nothing about the care. He added that it is an old building.

Mr. Salmon asked if there would be certain time frames when residents could have visitors.

Mr. Weith said within reason they allow visitors throughout the day and unfortunately a lot of the clients do not have much family support but the ones that do, we welcome them any time.

Mr. Salmon referenced a letter from the applicant that was sent to the architect – the facility is two blocks from several restaurants, a grocery store, pharmacy and two gas stations and on the bus line for transportation, so the residents could go to the restaurant if the desired.

Mr. Weith said residents go out on a daily basis – they go to the mall, they grab a bus and go all over town, so they are mainstream in the community.

Mr. Dahan said the residents sign out and the facility knows where they are going.

Mr. Bevington said that the applicant did not say that they were going to completely close the other building and said they were not sure at this time.

Mr. Dahan said the owner told him that the owner will put it up for sale.

Mr. Bevington asked Mr. Dahan if it was a rental building.

Mr. Dahan said he leases it and the owner owns the real estate and is going to sell it.

IN FAVOR: None

IN OPPOSITION: None

NEUTRAL: None

STAFF COMMENTS

Mr. Fox said the applicant's request is to use the property for residential use as a group home.

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 with a single family subdivision to the rear.
3. The following is criteria required for granting a Conditional Use:
 - A. The proposed use would be in conflict with the comprehensive development plan for Butler County; but the use is compatible.
 - B. The proposed use is in a district where there are designated as a conditional use.
 - C. The use does not adversely impact the health, safety or welfare of the surrounding area.

Mr. Fox said the staff will recommend approval of the Conditional Use with the following conditions:

1. Building and Electrical Permits are required.
2. The building must meet all Ohio Building Codes required of the 2007 code.
3. Applicant must meet Penal Codes under Section 4.100.5 "Penal or Corrective Institutions" of Butler County Rural Zoning Resolution, items 1 -3.

Mr. Fox said if this case is approved, he will spell out the details of the Penal Code for the applicant as the Conditional Use and they can refer to it at any time.

Mr. Salmon asked Mr. Fox if there will be hard surface paving.

Mr. Fox said it is already there and what they have is good enough to meet our Code Requirement for that specific facility so they are good.

Mr. Fox said Staff considered putting a landscape buffer and fence buffer in but when he went out to the site there was already landscaping and a 4-foot wall with a big privacy fence going down. He added that he would like the applicants to leave all the landscaping there to shield the subdivision.

Mr. Philpot motioned to grant Conditional Use for Case BZA07-19C subject to Staff Conditions and Section 4.100.5 must be followed. Mr. Salmon seconded the motion. Motion carried.

AYES: Philpot, Salmon, Bevington

NAYES: None

Case No. BZA07-120V
Angela Dowers
2963 Millville Oxford Road
Oxford, Ohio 45056

Ms. Dowers said she is requesting a variance to operate a photography studio from an accessory building.

Ms. Dowers said she started out with her studio in the basement and was here before the Board for a sign. She added that her business has evolved so well that she now needs a building to be able to have more room for backdrops and better lighting.

Ms. Dowers said the building will be a 32 feet by 48 feet studio and will be able to set up her lighting and back drops the way she would like to and she will have better light in the new studio.

Ms. Dowers said she wants the front of the building to be brick and have the pitch similar to the house so that it will look like the house and make it nicer.

Mr. Fox asked Ms. Dowers if the picture she submitted is relative to what she will be doing.

Ms. Dowers said yes.

Mr. Fox asked Ms. Dowers if she will do all of her work up in the loft or will it actually be done on the ground floor and partition it off from the garage portion.

Ms. Dowers said there will be a wall to the garage part and if it is pitched high enough for a loft she would like have her office up there.

Mr. Salmon asked Mr. Fox if the applicant will have to meet handicap requirements – doors, hallways, steps, etc.

Mr. Fox said as he was reviewing the case he never really asked that question.

Mr. Fox asked Ms. Dowers if she is planning to build an open garage and put a wall down the middle so that a portion will be for your personal storage and the other part will actually be the studio.

Ms. Dowers said yes and she has an assistant who comes in and helps but she would like it so that she can be able to shoot two different shoots at the same time, but generally she has only one client at a time.

Mr. Fox said to Ms. Dowers to keep in mind that once her plans are in, and our plan reviewer looks at it, she may have to do something a little above and beyond the normal pole barn or garage due to people actually being in the building. He added that he is not telling her that she needs to get it designed by an architect or anything like that, but when she comes in for the building permit he would like to sit down with the Building & Zoning Administrator, Mr. Bill Balsinger, and there may be things that you'll have to do different than what is currently planned. He added that it will be up to Mr. Balsinger and the Building Codes.

Mr. Bevington asked Ms. Dowers if she will have little partitions so that it would be like cubby holes with different backdrops.

Ms. Dowers said yes, it will be along the wall so that she can walk around and put her lights on casters and be able to move them around.

Mr. Fox said the applicant may have to do some specific dry wall to separate the garage portion from the studio – fire walling and that type of stuff.

Ms. Dowers asked what the difference is between having a fire wall there versus in a house.

Mr. Fox said if this does get approved, the best thing for the applicant would be to come in and meet with him and the Building & Zoning Administrator and he will be able to tell you what and how it has to be done correctly.

Mr. Salmon asked Ms. Dowers if she plans to have heat and air conditioning in the building.

Ms. Dowers replied yes.

Mr. Salmon asked Ms. Dowers if she will have water and restrooms in the building.

Ms. Dowers replied no and felt it would be too much of a hassle. She added that rarely do her clients use her bathroom.

Mr. Salmon asked Ms. Dowers if the storage space in the garage would be for personal use.

Ms. Dowers replied yes.

Ms. Salmon asked Ms. Dowers if she and her husband will build it.

Ms. Dowers said no, that her brother-in-law is the builder and her husband will probably help him.

IN OPPOSITION: None

NEUTRAL: None

STAFF COMMENTS

Mr. Fox said the applicant requests to operate a photography studio from an accessory building and Staff comments are as follows:

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 unnecessary hardship will prevail unless the variance is granted.
4. The spirit and intent of the zoning regulation is no to allow this type of activity from a residential area; but since this will not change the character of the area the staff will recommend approval with the following conditions:
 - A. A Building Permit will be required for the new accessory structure
 - B. Must continue to meet all Home Occupation requirements previously approved by the Zoning Department except for this change.

Mr. Salmon asked Mr. Fox if, when he meets with the applicant, he makes sure it will meet all necessary building requirements.

Mr. Fox said yes, we will make sure and does not want anyone to get hurt.

Mr. Salmon motioned to approve BZA07-20V with the conditions made by Staff. Mr. Philpot seconded the motion. Motion approved.

AYES: Salmon, Philpot, Bevington

NAYES: None

ADJOURNMENT:

Mr. Salmon moved for adjournment. Mr. Philpot seconded. All in favor.

AYES: Salmon, Philpot, 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

September 18, 2007

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf