AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATON CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
April 20, 2010

I. Opening:

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

II. Approval of Minutes:

A. March 16, 2010

III. New Business:

A. BZA10-03V Jesse Baker
3857 Riggs Road
Oxford, Ohio 45056

B. BZA10-04C Krista L. Jones
4450 Hamilton Richmond Road
Oxford, Ohio 45056

C. BZA10-05V James Levline
2461 Mardel Court
Fairfield, Ohio 45014

IV. Adjournment:

MEETING MINUTES

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

REGULAR MEETING:	Tuesday, April 20, 2010, 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. Gary Salmon Ms. Lee Steenken
MEMBERS ABSENT:	Mr. Alan Daniel Mr. Henry W. Philpot
STAFF MEMBERS:	James Fox, Zoning & Floodplain Manager Lee Margraf, Administrative Secretary

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APPROVAL OF MINUTES:

Ms. Steenken made a motion to approve the March 16, 2010 meeting minutes. Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Bevington

Mr. Fox said because there are only three (3) Board members present, and two (2) of the five (5) Board members are not present, this means an applicant will need approval from all three (3) members in order to have the variance approved. If the decision is not a unanimous approval, the case will be denied automatically. Mr. Fox asked all applicants to speak up before the meeting goes any further and let him know if they would prefer to have their case tabled to next month when all Board members are present. No applicants requested to have their cases tabled.

NEW BUSINESS:

BZA10-03V
Jesse Baker
3857 Riggs Road
Oxford OH 45056

Mr. Baker was sworn in and said he has eight (8) children and built a big house and the basement is all finished with all kinds of games in it and at one time his niece asked if he would rent it out to her for a party, and of course he let her use it and he thought the way things are, it might not be a bad idea to try something to keep the house.

Mr. Baker said five (5) years ago he built 64 houses and last year he built two (2), so his income has dropped dramatically and he is trying to find a way to make a few extra dollars to continue living where he is at.

Mr. Salmon asked Mr. Baker if he had talked with his neighbors about this prior to this meeting.

Mr. Baker said the ones he has talked to did not have a problem with this because it is all inside – they come in the back door through a separate entrance in the basement, and there is no partying outside. We don't drink and do not allow alcohol so that would not be a problem.

Mr. Salmon asked Mr. Baker if he then he has any intentions of having anyone do a grill out outside for an hour and then go inside and play.

Mr. Baker said he no, there is no intention of that.

Mr. Salmon asked Mr. Baker, regarding the covenants issues when he built the house (which is not enforced by the Board of Zoning Appeals Board) which Mr. Baker signed when he built the house, did he realize item #11, no commercial use of the property.

Mr. Baker replied that he was not renting it every day and never got to rent it out and was just trying to make a few dollars any way he can – its either that or loose the house and he is just trying to keep the house for the kids. He said his kids have parties there and have friends over and it's a place for them to go on the weekends and this is something to make a few bucks.

Mr. Bevington stated that Mr. Fox submitted some information - a facsimile and two (2) letters that need to be entered into the record.

Mr. Fox said he thought they should finish the testimony of Mr. Baker and then ask any questions of him, and then he will hit the highlights of those three (3) individual letters he received.

Ms. Steenken said Mr. Baker mentioned a party that his niece held there which was a family event. She asked Mr. Baker if he has had other parties so far.

Mr. Baker said just friends, no one that has paid. He has four (4) kids who have birthdays in February and each one had a party and has two (2) in high school and almost every weekend one or another has friends over to come and bowl and stuff and it is a busy place even without someone paying for a party.

Ms. Steenken said it is unfortunate that she was unable to drive past Mr. Baker's residence and asked Mr. Baker where do visitors park.

Mr. Baker said he has a 20-foot wide driveway that comes in to the house that is 140 feet long, there is circle parking, there is a driveway to the back where you could park another ten (10) cars around back and there is plenty of parking and he also owns the lot next door where there is a 250-foot long driveway there if needed and every year they have a Baker family dinner and there are 105 – 125 people and they have never had any trouble with parking. He added that he would never want that many people just for the basement as it is a decent size but not big enough for 125 people.

Ms. Steenken asked Mr. Baker to identify which is the adjoining lot he owns on the plat. Mr. Baker pointed out his properties on the map and indicated where his mother-in-law lives and the additional five and a half (5 ½) acres.

Ms. Steenken asked Mr. Baker, if this were to be granted, how many days a week would he anticipate there would be use.

Mr. Baker said probably on the weekends and in the summer time might be a couple times a week – but doubted any more than three or four a week total.

Ms. Steenken asked Mr. Baker if he would be limiting the hours of operation that people could be on the property.

Mr. Baker said yes, 10 o'clock at the very latest and the majority of people they did talk to wanted just a couple of hours on a Saturday afternoon or Sunday afternoon and wanted two hours at a time.

Mr. Bevington asked Mr. Baker if he had flyers made up advertising his business.

Mr. Baker said yes he did.

Mr. Bevington said to Mr. Baker, “so you are operating a business”.

Mr. Baker replied he is not now.

Mr. Bevington said that Mr. Baker was operating a business.

Mr. Fox said for the record he did receive an email around April 12, 2010 from Mr. Thomas and voiced his opposition to the variance. Mr. Fox said he got another from Mr. Doug and Debbie Ross, 4033 Hazel Drive and stated they do not mind if Mr. Baker does this type of use but they want everything to take place within the house and no commercial activity beyond that so that it does not compromise any of the surrounding neighbors; and another from Mr. Sam Woodruff, of Woodruff Farms, LLC, who is basically against it.

Mr. Fox said those are the three (3) communications he has received by mail or email.

TESTIMONY IN FAVOR: None

TESTIMONY IN OPPOSITION: Mr. James Gross, 6271 Hester Road, Oxford, Ohio; Mr. Terry Ponder, 3889 Riggs Road, Oxford, Ohio; Richard Bower, 4013 Hazel Drive, Oxford, Ohio; Sean Foley, 4018 Hazel Drive, Oxford, Ohio; Ronald Spivey, 4024 Hazel Drive, Oxford, Ohio.

Mr. James Gross said he has a 75-acre farm there and asked Mr. Woodruff to send in a letter and the reason why he is speaking is because he is the realtor that represented Mr. Woodruff in the development of that property and has sold those tracts through there – the one that Mr. Baker bought and several people have bought and he has about another 300 acres there that eventually he may divide up into maybe two- to five-acre tracks and they have an empathy and concern for the people that have already bought tracts there that this zoning request is going to change the physical makeup with the amount of cars and traffic of the area and he realizes it is not a commercial area and would like the Board of Zoning Appeals’ consideration here today – most people that buy a tract in the county buy it for privacy, a place to get away and they don’t want to move into a commercial zone and if Mr. Baker wanted to buy a commercial piece he should have bought a larger tract and developed it into commercial; you do not or should not come in to an existing area that is set up for housing where people buy in for peace and tranquility and that is why they are there and it is not fair to them to come in and change the physical makeup of a neighborhood like that because it is rural and we are concerned what it is going to do for the people that live there, they may want to sell or may want to leave and are concerned about the people who may not buy new tracts coming up in the future. Mr. Gross said there is nothing wrong with

commercial but there is a place for everything and it should be in a Commercial zone.

Mr. Gross said that they are also concerned what it will do to the value of the other properties and Mr. Baker did sign a three-page document that said what you can and can not do and realizes he is trying to change some of those things but he is in violation of Paragraph 12, dumping on the property; Paragraph 14, no obnoxious or offensive trade, and there is already printing on that and he realizes Mr. Baker is trying to change it to allow him to continue and not have to do that but he has to think about the people that already have homes there are those that have bought lots to be built and does not think it is the right place and the right time for that type of thing.

Ms. Steenken asked Mr. Gross if the document he referred to is a neighborhood covenant.

Mr. Gross said yes it is, when they sell a piece of property they ask those individual owners to read and sign it and not enter into a contract with them unless they have read it and understand and agree to all of the terms of those conditions.

Ms. Steenken asked Mr. Gross if this is known as a “Deed Restriction”.

Mr. Gross said yes it is a Deed Restriction and Butler County does file those separately from the Deed. He said Mr. Woodruff has another 300 acres and they do not want to discourage people from coming in and living in the country and this is what was signed.

Mr. Bevington asked if Mr. Gross has a copy of the Deed Restriction.

Mr. Gross said yes, and said that he actually had one for each of the three (3) parcels that Mr. Baker purchased and each one of those tracts had restrictions and the document is called “Woodruff View Phase One”.

Mr. Terry Ponder said he is an adjoining neighbor to Mr. Baker and opposes the variance and feels he will be most affected by the increased traffic and any commercial activity is against the Deed Restrictions and degrades the values of surrounding properties...

Mr. Bevington asked Mr. Ponder if he gets a lot of noise from the Baker property.

Mr. Ponder said he would not say there’s a lot, but there have been times and there is some traffic in and out of there but he understands that Mr. Baker has children and some of them are driving and he has no problem with that. He was speaking only of adding traffic and it is very peaceful in the evenings.

Mr. Richard Bower said he and his wife purchased 35 acres which adjoins the Baker property on the west side/back side of his property and has several issues and concerns as far as the zoning they are very much against this and they bought the property for piece of mind and the peacefulness and enjoyment of the land. Mr. Bower said he feels they are most affected by Mr. Baker's more than anyone else because they are on a hillside and Mr. Baker is on a hillside and they can see everything that Mr. Baker has done to the property – the trucks, the dumping, and they can hear voices carry from the Baker property to their property and things have changed over the years and knows with development that things are going to change but as far as the variance goes, he does not think this should be allowed and he and his wife are very much against it.

Mr. Bevington asked Mr. Bower what type of dumping he was referring to.

Mr. Bower said the year before Mr. Baker had a project up at Miami University and the dump trucks would start at six o'clock in the morning and it was all you heard was tailgates banging all through the day and he knows several neighbors that went and talked to Mr. Baker about it and he himself has spoke to Mr. Baker about the erosion problem and everything that he has developed and what he has caused on his property and Mr. Baker does not want to do anything about it. Mr. Bower said if it were inside Mr. Baker's house it would be one thing but he does not think you will be able to restrict that to inside the house and regarding the flyers that Mr. Baker sent out he does not know how you could control any way.

Mr. Bower said if Mr. Baker has financial problems then he feels sorry for him, but he is not going to let Mr. Baker take any of their property values down at the same time because of Mr. Baker's problems and that is his concern.

Mr. Salmon asked Mr. Bower how long he has lived there.

Mr. Bower said they have been there 22 years and built their house about half a mile in from the road back in from a cul-de-sac on Hazel Drive which looks directly in the back yard of Mr. Baker's property.

Ms. Steenken said people seem to be saying that we are considering a zoning change, and asked Mr. Fox for clarification that what they are asking for tonight is a variance.

Mr. Fox said yes, Mr. Baker is asking for a use variance and we are not considering changing the physical zoning of the property. Mr. Bake-r is asking for a straight use variance, meaning he wants to use the property for an activity that our zoning does not allow but it does not constitute a zone change and A-1 Agricultural is going to remain there.

Mr. Fox said if in the event Mr. Baker's request is denied and he continues, the only way Mr. Fox is going to know is if the neighbors will call Mr. Fox and if he would continue it (which Mr. Fox does not think Mr. Baker would do if it does not get approved), then the County would have to take him to court, and then get an injunction, and to make a long story short, a judge would tell him not to do it again and if he does he would be in contempt and potentially put in jail so anyone with complaints in the future will have to call him and let him know.

Mr. Fox said he wanted to clear another issue raised about Mr. Baker dumping on the property. If anyone wants to file a complaint with his office, we will send a violation for dumping junk and debris and give Mr. Baker a certain amount of time to clean it up as it is not really a concern for this Board today and he wanted to make sure people understood and he has never received a complaint about Mr. Baker's property and thinks they are just trying to be good neighbors.

Mr. Sean Foley said he shares a common driveway with Mr. Bower and so you pass his house which is directly behind Mr. Baker's property and his house is not directly behind Mr. Baker's house but probably offset by about 50 – 75 feet and the sound really travels and you can hear what someone is saying just at regular voice and so they hear the family parties and that kind of stuff but the concern is the increase in volume and the amount of and frequency as well of activity.

Mr. Foley said he is also concerned about the language of the request as it seemed real general: "operate a recreational business from his residence" and he wants to see that it stay inside and one of his personal concerns is the ability to control other people on the property as some of the stuff that has occurred, which is related to this but not directly which is maybe 50 -75 feet outside his door – the bobcat was clearing and when all-terrain vehicles goes through there, and other things like hunting on the property – he heard a gun shot about 15 feet away from his house and heard a bird shot pass his head bouncing off the siding on the house and he went over and spoke to one of the sons as no one else appeared to be home and they said it was probably someone else on their property so he did not file a report. Nine months later he found an arrow stuck in his side yard not far from the house and that is when he did call the Township Police and asked that something at least be mentioned and that was something that really concerned him – "recreational business" could be hunting, ATV or all kinds of things and he is very concerned, and feels Mr. Bower would be more affected by the traffic but there are definitely noise issues.

Mr. Bevington asked Mr. Foley how long he has resided there.

Mr. Foley said roughly five and a half years and came from downtown Riley and when they moved in there the property that we are talking about was a farm with cattle on it and it was nice to hear the cows and he worked for land developers for

13 years and understands that land gets developed but moved there because of the type of zoning and the commercial restrictions.

Mr. Ronald Spivey raised the following questions and asked for clarification on some things. Someone said there were no complaints about the dumping on the property, he himself did not realize it was not legal; we are not talking about a dump truck load – he hauled over 1,000 truck loads and there was constant banging of tailgates and everything and we did not know it was illegal so no one complained, and it would go from early in the morning until late in the evening.

Mr. Spivey said he does not have a problem with a man trying to make some money – and it is zoned agricultural and thinks it should stay that way, and if this variance goes through that will only be foot in the door – the man built the house for his family and kids, and it's a huge house and he is told it has a two-lane bowling alley in it, many games and all kinds of stuff going on in the basement. We just as soon kept it that way.

Mr. Spivey said there is a big pool outside and asked what if they want to rent the pool? Next thing you know they'll be outside too and then all over the place and Mr. Baker spoke if people renting it for two hours at a time, and he was going to do this to help save his house so he would not loose his home. He was not sure how much Mr. Baker would charge but two (2) hours is not a lot of money – and it would only be about eight (8) hours a week – so if that were $800.00 he does not know how that is going to save him and can not see how it would justify the cost.

Mr. Spivey said if it is illegal to be dumping then it should be looked in to that too because Mr. Baker definitely changed the watershed by dumping that many loads in there.

Mr. Salmon asked Mr. Spivey how long has he lived there.

Mr. Spivey said probably 26 or 28 years.

NEUTRAL TESTIMONY: None

STAFF COMMENTS

Mr. Fox said BZA10-03V, Mr. Jesse Baker, has requested to operate a recreational business from his residence.

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. Therefore, since a hardship can not be shown, staff will recommend denial of this request.

Ms. Steenken said she would like clarification and asked Mr. Fox whether personal finances constitute a hardship in a zoning case.

Mr. Fox replied no, it does not.

Ms. Steenken made a motion to deny application BZA10-03V based on the fact that a hardship referring to the property itself does not exist and this would change the character of the area. Mr. Salmon seconded the motion. Motion carried unanimously.

AYES: Steenken, Salmon, Bevington

NAYES: None

BZA10-04C
Krista L. Jones
4450 Hamilton Richmond Road
Oxford OH 45056

Ms. Jones said she lives at 6071 McCoy, Oxford Ohio 45056 and the property in question is 4450 Hamilton Richmond Road, Milford Township.

Ms. Jones said she has owned the property for 13 – 14 years and she had a small jewelry business in Millville that was open "by appointment only" and she is the mother of a four-year old daughter and twin boys that will be one-year old on Thursday and so she does not have regular hours because she is a mother.

Ms. Jones said she had the place rented for four (4) years and her renters moved out at the last minute so she made the choice to move the shop there with a long term to give her the availability to work and still raise her children and 90% of her business is done online at Ebay and the computer but she prefers a place to meet with customers and she does a lot of estate buying therefore it is a place where strangers are not coming to where they live and a place to operate and function a business and maintain the property and she keeps her horses there and she does not want the zoning changed to Commercial but wants to leave it Agricultural and would just like to operate a business and the availability to place a sign in the front yard, "Krista's Jewelry Shop and her phone number and by appointment", and that is how she started it in Millville and everyone knows her hours on the door says

“some times, hopefully, positively, maybe” and that is what she is asking for is that availability to leave it low-key and run her business and still raise her kids.

Mr. Bevington asked Ms. Jones how many cars, at the most, does she think would be there.

Ms. Jones said maybe 2 or 3 at one given time but she has built her business to where everyone calls ahead and she schedules it out as 90% of the people that come to her are coming to sell and liquidate an estate and when someone came to her in Millville she would lock the downstairs door to prevent someone else from walking in because it is a very personal nature and for some it is embarrassing and she plans to run it the same way and it also for the security issue – for insurance purposes doors have to be locked.

Mr. Bevington asked Ms. Jones if once she gets the estate jewelry does she then do Ebay in getting it out so that would be shipping it out.

Ms. Jones said she takes everything physically to the post office herself and she has been in the diamond wholesale industry for 17 years in Los Angeles and her main income is all from computer/phone and this is the business she started – her passion, her love and its Ebay as she is not one to deal with 20 people a day.

Mr. Salmon asked Ms. Jones if she is planning on moving to this residence.

Ms. Jones replied no.

Mr. Bevington asked Ms. Jones if she might have the kids there when she is working and would they be back in a different space when people are coming in, so they could be with her but not directly with her when people come in.

Ms. Jones said if she has her kids with her she would not put them in another room and walk away – and eventually she plans on fencing in the back yard when they are old enough to be outside and play.

Ms. Jones said she knows everybody in town and has lived there and has taught every kid in Darrtown how to ride a horse.

Mr. Fox asked Ms. Jones why she is moving from Millville to Darrtown when she has her client base in Millville and everyone knows where you are.

Ms. Jones said she really does not have a client base in Millville, she built her business by word-of-mouth and it is not a matter of location for her, when you are good, people will come.

Mr. Fox asked Ms. Jones if she owned the property in Millville or did she rent it.

Ms. Jones said she rented it and her contract was up at the end of February – the day before she got word her renters moved out.

Mr. Fox asked if this is a pawn shop where people come in and bring gold to her.

Ms. Jones said no, she does not have a pawn license.

Mr. Fox asked Ms. Jones again why she is moving – is it so she won't have to pay rent.

Ms. Jones said she figures she can save $300,00.00 between now and thirteen years in babysitting.

Mr. Fox said he has a couple of issues for the Board – regarding the Home occupation, which may require a variance if you decide to approve it, Section D of the conditions for a Home occupation states, "*Home occupations shall be carried on solely by the occupants of the residence but may employ no more than one (1) non-resident of the dwelling.*" And if Ms. Jones is not going to live there, that is a potential issue.

Ms. Jones asked what they consider "living there" – if she is there eight (8) hours a day, her horses are there, her lawnmower is there – how do you know she is not sleeping there.

Mr. Fox replied that Ms. Jones said she was not living there herself.

Ms. Jones said she was not going to lie.

Mr. Fox said to Ms. Jones, a condition of the variance for a Home occupation shall be carried on solely by occupants of the residents – and she said you were not going to live there. That is an issue that he wants the Board of Zoning Appeals to be aware of.

Mr. Fox said he heard Ms. Jones say she did want to put a sign out.

Ms. Jones said she would like to put a wood sign in the front yard, nicely like the old jeweler in Darrtown used to have.

Mr. Fox said one sign is allowed no larger than one (1) square foot and it needs to be flat against the building – that is the condition requirement of a Home occupation. If Ms. Jones wants a sign out in front, it would require a variance to do that and he wanted to make sure everyone understands the conditions of a Home occupation.

Mr. Bevington asked Ms. Jones if her horses are there 24/7 and who takes care of them.

Ms. Jones said they sure are and she takes care of them and is there most of the time or her neighbor does it if she can't be there.

Mr. Bevington asked Ms. Jones where the sign was for the little jeweler that she made reference to and how big was it.

Ms. Jones said it was in his front yard and it was about a mailbox-height post with a nice wood sign that hung all the way to the ground.

Mr. Fox said keep in mind that those properties are probably zoned Business and the signs are probably allowed for those types of uses – this is not zoned Business or we wouldn't even be here.

Ms. Jones said she bought the place at 20 years old and it is her dream home and she wants to retire there and wants a means to function and raise her children without having to sell the place to go buy a place to operate a business and it would allow her to raise her kids in a home-like environment.

Mr. Fox asked Ms. Jones how many clients she plans on bringing in on an average daily basis.

Ms. Jones said maybe three (3) as her hours are limited and she only works until 3:30pm and spends most of her morning on Ebay and only leaves about a three- (3) hour window to see customers although she really does not need to see them with everything else going on. She added that what she sells on Ebay is totally unrelated to the shop.

Mr. Fox asked Ms. Jones how much floor area she will be using for the business aspect.

Ms. Jones said the living room and a bedroom then said the kitchen and said she had to move 800 square feet of jewelry and fixture.

Mr. Fox said he wants Ms. Jones to understand that she is asking for a Home occupation and we are not asking you to open a jewelry business like EDB – a Home occupation.

Ms. Jones said she has been in the jewelry business all of her life and has been on the Board of National Pawn Broker Association, and she is not after a Pawn License and wants to work less in life.

Mr. Fox said they need to go over the Home occupation requirements because we need to find out whether Ms. Jones meets the criteria because there are conditions for Home Occupations.

Ms. Jones said her whole business is all about buying and is not about the retail end.

Mr. Bevington asked Mr. Fox to read the conditions and it will give Ms. Jones the opportunity to hear what we have. Mr. Fox read the conditions as follows:

- All Home occupations shall be carried on completely within the residence and shall occupy a maximum of one quarter (1/4) of one floor of the residence.
- Home occupations shall not require any alteration to the exterior of the residence.
- Home occupations shall not require use of any mechanical equipment not customarily used in a residential dwelling.
- Home occupations shall be carried on solely by occupants of the residence but may employ no more than one (1) non-resident of the dwelling.
- Accessory buildings shall not be used as space for Home occupations.
- One (1) sign no larger than one (1) foot square shall be permitted, provided that it is attached flat against the building.
- All uses, customers, clients, drop-off or pick-up activities shall be conducted between 7:30 A.M. and 9:00 P.M. local time.
- No more than six (6) customers or clients may be brought into the premises daily for the purpose of conducting business.
- No more than (5) drop-off or pick-up deliveries are allowed on a daily basis.

Ms. Steenken asked Ms. Jones if she thought she would be compliant with those conditions.

Ms. Jones said yes, the only difference is to consider the space in which she would plan to use for her buying so she provides her customer a chair and a table – and she has consumed the place with Ebay which has absolutely nothing to do with this because it is all online.

Mr. Fox asked Ms. Jones if she will have a showroom in there because she said she had brought in her showroom stuff there.

Ms. Jones said she has show cases.

Ms. Steenken asked what their purpose was for.

Ms. Jones said she has certain second-hand jewelry showcased that is for sale and then she has a separate showcase of her personal collection of jewelry that is not for sale but is for education – different types of rhinestones.

Ms. Steenken asked does that occupy more than a quarter of the main floor of the building.

Ms. Jones said no – it's a small place.

Mr. Fox said she should be o.k. with that unless she starts moving stuff upstairs and downstairs – a Home occupation typically is an attorney working out of his home office and having a couple of clients come in.

Ms. Jones said she also travels to buy so not all of her hours are on the premises. She does a large amount of buying on the road and is out in the field going to people's homes and travels a one-hundred mile radius doing what she does and it is not that she is in there every single day.

Mr. Fox asked Ms. Jones if should would be o.k. with it if the Board put on a condition, no more than six (6) customers or clients to be brought on the premises daily for the purpose of conducting business and if they wanted to lower the quantity to three (3) clients would she be o.k. with that.

Ms. Jones said yes that would be fine.

Mr. Fox said he wants Ms. Jones to understand that it is a Home occupation – when she first started to explain it, it sounded like she wanted to have a showroom and it is not to that affect – not a full fledged business.

Ms. Jones said there is not a fine piece of jewelry on display and she does not show diamonds or pieces of gold – it is all vintage costume jewelry – she does not need to sell diamonds to the public.

Mr. Fox said we just had a case, that was a little bit different, but a man wants to run a business from his basement and he wants to make sure that this is not getting into the same type of issue – if she is selling jewelry that is fine but it has to be a Home occupation – it has to take place in a little room that does not exceed one-quarter of the floor area, and if it is approved, that the applicant will follow these regulations. We just turned a request down for man wanting to run a full-fledged business from his basement and he wants Ms. Jones to understand this has to be a Home occupation and this is different than what Mr. Baker wanted to do.

Mr. Bevington said he understands what Ms. Jones is doing because his agency deals with the state and sometimes you'll go into somebody's home where the

family is deceased and you have so much of this jewelry that you can't get everything bought so you would have an individual like that come there, purchase what they wanted, would take it back and it would go out somewhere on Ebay or something like that.

Ms. Jones said there were times in Millville that she would have trays that would consume the whole area and it's the sorting nature that can consume an area but not for a permanent time – it comes and it goes.

Ms. Steenken said she understands what Ms. Jones is trying to do.

Mr. Fox said the more Ms. Jones talks the more he feels it is a full-fledged business and it should not be approved to be honest. He made his Staff Report and if Ms. Jones is in violation with any of these conditions or if anyone has problems with that they can file a violation and he will go out and investigate it.

Ms. Bevington asked Ms. Jones if she understands the Staff Comments.

Ms. Jones said yes she is comfortable with that. She wants Darrtown to stay Darrtown and she would like to preserve it but for what she does she could have not mentioned a word to anybody and gone and done it but she wants it done properly and for the correct reasons and understands it is agricultural but has her horses on it and it is her piece of the earth and wants it to exist and do it properly.

Mr. Fox said that is what we want her to do and said she is doing the correct thing by coming here.

Ms. Steenken asked if Ms. Jones would be employing another person.

Ms. Jones said no – she is a graduate gemologist and can not employ someone else to handle her money.

Mr. Salmon asked Ms. Jones if nobody is going to live in this house except for her.

Ms. Jones said no, for insurance reasons.

Mr. Fox Ms. Jones if she would be putting a security system in.

Ms. Jones said there has been a security system in since the day she bought it.

Mr. Fox asked Ms. Jones if she is concerned in any way, shape or form that she is not living there that someone would break in there and steal all of your stuff.

Ms. Jones said she has insurance and she's been doing this for a long time and slept for ten (10) years with a million dollars worth of diamonds under head and here she's got $5,000.00 worth of rhinestones sitting there so she is not concerned.

TESTIMONY IN FAVOR: None

TESTIMONY IN OPPOSITION: Russell McMillan, Milford Township Trustee, 1861 Harris Road, Hamilton Ohio

Mr. McMillan said he got a letter about this Home occupation request and was not too concerned at first and heard from neighbors that Ms. Jones had not lived there for quite some time and said the property in question is not in Darrtown it is in Milford Township.

Mr. McMillan gave a little background on the property going way back and said there were issues with water going into basement homes and one of the ditches went through this piece of property and said something about block grants to keep the water out (inaudible) and the Board agreed when the property was to be split with a condition that 25 foot easement, to maintain this ditch by the Township and it be kept open so the Township could get in there and maintain it and Ms. Jones came and asked about building a fence (inaudible) and there were 5 – 6 trees planted at the time in the right-of-way easement and the Trustees said those trees will have to be moved in order for it to be maintained and the trees have grown quickly and you can't get a tractor in there to maintain that ditch and said Ms. Jones did not abide by the variance which was on the deed that it had to be a 25-foot easement to the Township and she agreed to keep everything off of the easement and did not comply.

Mr. McMillan voiced his concern, on behalf of Milford Township, for the risk of high water that will cause another back-up of water and create a bad situation.

Mr. Bevington asked Mr. McMillan what year was that other variance.

Mr. McMillan said approximately twenty years ago and is on the Deed of the property.

Mr. McMillan said Ms. Jones has admitted that she is not going to live in the house and for the reasons that were stated the Township would appreciate the Board of Zoning Appeals' consideration that the Township is opposed to this.

Mr. Bevington asked Ms. Jones how long she has owned the property.

Ms. Jones said 14 years she believes.

Mr. Fox stated that this Board is not concerned with the ditch issue, that issue is between the Township and the property owner and we understand that the Township Trustees have issues with and trust that whoever will fulfill these requirements – and we can not do anything about the ditch and can not put a condition on it because the ditch has nothing to do with this variance.

Mr. Bevington said his thought was, if Ms. Jones if she owned the property twenty years ago then he would have no sympathy for her, but she said she has only owned the property for fourteen years – six years before that she did not know about a variance.

Ms. Steenken said if it was on the Deed Ms. Jones should have known it.

STAFF COMMENTS:

Mr. Fox said he would read the Staff Comments and reminded the Board that they still need to address item "D" – and said he would read Staff Comments and then the Board could decide.

Case No. BZA10-04C, Ms. Krista L. Jones, 4450 Hamilton Richmond Road, Oxford, Ohio 45056, the request is to operate a Home occupation.

Staff Comments:

1. The property is zoned A-1 Agricultural.
2. This area is rural in character.
3. Home occupations require a Conditional Use from the Butler County Zoning Resolution and since this use will not change the character of the area the staff will recommend approval with the following conditions:

    a. All Home occupations shall be carried on completely within the residence and shall occupy a maximum of one quarter (1/4) of one floor of the residence.
    b. Home occupations shall not require any alteration to the exterior of the residence.
    c. Home occupations shall not require use of any mechanical equipment not customarily used in a residential dwelling.
    d. Home occupations shall be carried on solely by occupants of the residence but may employ no more than one (1) non-resident of the dwelling.
    e. Accessory buildings shall not be used as space for home occupations.

f. One (1) sign no larger than one (1) foot square shall be permitted, provided that it is attached flat against the building.
g. All uses, customers, clients, drop-off or pick-up activities shall be conducted between 7:30 A.M. and 9:00 P.M., local time.
h. No more than six (6) customers or clients may be brought into the premises daily for the purpose of conducting business.
i. No more than five (5) drop-off or pick-up deliveries are allowed on a daily basis.

Mr. Bevington read item D, and said Ms. Jones could be the employee of the non-resident of the dwelling.

Mr. Fox said that is not the way it is reading and as a staff member he would have to disagree with Mr. Bevington and Ms. Jones has to live there to get the Home occupation approved, unless Ms. Jones asks for a variance to that and the Board can decide if they want to approve it. Or, she moves in and there are no questions. Or, if she does not want to move in, then she can not do it.

Ms. Steenken asked is an Occupant defined as one whose legal address is at that property.

Mr. Fox said, as a Zoning Inspector for Butler County, for item D, the property owner has to live there in the house; not own the house, not live next door, but at the location where the Home occupation has taken place. Mr. Fox said they had a similar case recently (a Bed and Breakfast) where the Applicant is going to move in to that because we asked her that question – and it was similar and part of the condition is that she has to live there.

Ms. Steenken asked Ms. Jones if she would be willing to move there.

Ms. Jones replied, if that is what it took then that is what she would do. She did not know what the Board considers living there. She has owned the house for ten (10) and lived there and spent 90% of her life traveling the world but she was a resident.

Ms. Steenken replied to Ms. Jones and said the point is her legal residence, not where she spends her time.

Mr. Fox said as far as he is concerned, if the Board approves it with all of these conditions and Ms. Jones says she will move there, but does not move there, but spends eight or nine hours a day there, and if someone calls to complain that she

does not live there and files a complaint, then he will investigate it. If she moves there then there is no issue and it comes down to enforcement on his end and there is no way that he could ever tell whether she is living there just by driving by and added that he can not police that – but the requirement is that she must live there and if she is willing to live there. If the Board approves this, and next month Ms. Jones wants to come back to the Board of Zoning Appeals and asks for a variance to modify condition D here to do away with condition D as a condition then she can do that and ask for it, but he does not think it is proper to do that here.

Mr. Salmon asked if Ms. Jones can come back and re-file to operate a business in A-1 District.

Mr. Fox said yes, she could come back for a use variance to operate a business but it will be just like the last case.

Ms. Jones said she does not understand.

Ms. Steenken said they worried about precedent and that is what we are discussing.

Mr. Salmon said this is different than the first case heard.

Ms. Steenken said her concern tonight is the precedent they would set by denying one and approving another (Home occupation), but Mr. Salmon is correct that it is substantially different.

Mr. Bevington said the other one had already put advertising material out inviting people to come there and did not say to how many it opened it up to the whole area.

Mr. Fox reminded the Board they can approve the Home occupation per any conditions they see fit – including D, and if Ms. Jones wants to take place she must move there or ask for a variance to modify Item D at a later date, if that is the way they are leaning, and if they are not going to approve it because they think it is a full-fledged business and not a Home occupation, then that is their choice to deny it. If Ms. Jones does not move there then she does not get the Home occupation.

Mr. Salmon said he believes it is a Home occupation but the fact that she is not residing in the house is the issue he has. Ms. Jones meets all of the requirements if she were to move in there.

Mr. Bevington said one of the things that Ms. Jones needs to state is that she would be willing to move in there.

Ms. Jones said she would be willing to move in there, if that is what it takes. She said she does not understand the definition of living there – to her, being at a place

eight hours a day – that is more than she gets to stay in my own home, so if she physically needs to take showers there and put a bed in there, then yes, she will do that.

Ms. Steenken made a motion to approve the request for a conditional use, BZA10-04C, Krista Jones, subject to all of the staff conditions stated by Staff Comments and that includes residency – a Home occupation by natures means it is conducted from one's home, which means you should live in the structure. Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Bevington

NAYES: None

Case No. BZA10-05V James Levline
2461 Mardel Court
Fairfield, Ohio 45014

Mr. Levline said he applied for a variance to build a garage behind his residence for that fact he has two (2) boats, has only one at the house now, and wants to build the garage to move the boat out of his driveway and feels it is an eyesore.

Mr. Fox asked Mr. Levline if the pine trees there on his property or on the adjacent neighbors.

Mr. Levline said they are on his neighbors' property.

Mr. Bevington asked if the red flags out there are where Mr. Levline wants to put the garage.

Mr. Levline replied, yes – pretty much.

Mr. Salmon asked Mr. Levline how will he get in and out of there and will he put in a new driveway in.

Mr. Levline said he applied for a permit from Butler County and they did accept it.

Mr. Bevington asked Mr. Levline how long he has owned the property.

Mr. Levline said it will be five (5) years in September.

Mr. Salmon asked Mr. Levline if he will build this himself or having someone else build it.

Mr. Levline said he is going to have it built by contractors.

Mr. Salmon asked Mr. Levline if he will have water or electric in it.

Mr. Levline said electric for sure, possibly water – they have not decided.

Ms. Steenken asked if this is for personal storage and not for residential use.

Mr. Levline said yes.

Ms. Steenken asked Mr. Levline if he plans to run a business located in this structure.

Mr. Levline replied no.

Mr. Salmon asked if there will be enough room for leach lines.

Mr. Levline said yes he actually met with the Board of Health and the paperwork should be there.

Mr. Bevington said they wanted it over closer to the property line as he could get so he would have enough room for (inaudible).

Mr. Levline said yes sir and he actually met with someone out there, he thinks his name was Brad (no last name mentioned), and went over it.

STAFF COMMENTS:

Mr. Fox said case BZA10-05V, Mr. James Levline, has requested to build an accessory structure larger than zoning allows.

Staff Comments:

1. The property is zoned B-1 Neighborhood Business District.
2. This area is residential 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 the staff will recommend approval with the following condition:
A. A Building Permit is required.

Mr. Salmon made a motion to approve the variance subject to a Building permit is required; the building will not be used for residence or for any commercial uses. Ms. Steenken seconded the motion. Motion carried.

AYES: Salmon, Steenken, Bevington

NAYES: None

ADJOURNMENT:

A motion was made by Mr. Salmon, seconded by Ms. Steenken 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
April 20, 2010

_____
Tom Bevington, Chair

_____
James M. Fox, Secretary

_____
Lee Margraf