

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
October 19, 2010

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. September 21, 2010

III. New Business

- A. BZA10-13V Madison Local Schools
 1366 Middletown Easton Road
 Middletown, OH 45042
- B. BZA10-14V Ralph Jester/Elizabeth Bressler
 2140 Minton Road
 Hamilton, OH 45013
- C. BZA10-15V Ralph Jester/Elizabeth Brosius
 2550 Stillwell Beckett Road
 Hamilton, OH 45013

IV. Adjournment

REGULAR MEETING: Tuesday, October 19, 2010
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 at 7:00P.M.

ROLL CALL: Mr. Thomas Bevington
Mr. Alan Daniel
Mr. Henry W. Philpot
Mr. Gary Salmon

MEMBERS ABSENT: Ms. Lee Steenken

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

Mr. Bevington stated that there are only four (4) Board members present which means there must be a minimum of three (3) votes in favor in order to pass a motion and asked if there are any applicants who wish to table their variance request until all five (5) Board members are present.

No applicants responded to Mr. Bevington's announcement.

APPROVAL OF MINUTES

There were no minutes to be approved at this meeting. Minutes from the September meeting have not yet been reviewed.

Case No. BZA10-13V
Madison Local Schools
1366 Middletown Eaton Road
Middletown, Ohio 45042

Mr. Fox announced there was a typographical error on the request as well as the Public Notice and the variance is for a sign to be taller and larger than zoning allows and wanted that to go on record.

Mr. Ed Dulle stood and said we erected a new elementary school and demolished the high school that had been there since 1959 and the last 25 years there was quite a large sign and 12 feet in height and probably 10-feet wide, was taken down because of relocation of practice fields and that sat on Route 122 and we no longer wanted to use that and of course it does not fit with today's zoning and we would like to purchase a new Madison District School electronic sign. In reference to Route 122, it would be a little east by about 60 yards set on the drive way that comes in and it is approximately 48 square feet too large and what throws it over the square footage (limit) is the brick columns but the sign itself is not above the square footage requirement and it would be an electronic sign viewable from both east and west saying "Madison Local School District".

Mr. Bevington asked Mr. Dulle if both sides will be identical.

Mr. Dulle replied yes, it is not staying out longer than whatever the requirements are and all that but it is 48 square feet too large due to the brick columns by the sign.

Mr. Philpot asked if the brick columns were for protection.

Mr. Dulle said yes and they are for aesthetic purposes as well because it would look kind of bare with out them.

Mr. Fox said the sign would also be a little more than two (2) feet taller than our zoning – four (4)-foot signs are allowed now and he is asking for a little more than six (6) feet.

Mr. Salmon asked if the top part will be solid and are they just changing the bottom as far as the electronics, which will just be in the bottom part.

Mr. Dulle replied yes.

Mr. Bevington asked how far from the right-of-way will the sign be.

Mr. Dulle said from the right-of-way about 20 feet.

Mr. Fox asked if that is from the state route or from their entrance way.

Mr. Dulle said they are off the state route more than that but the right-of-way comes up to the electric pole and then it's another 20 feet in to their property.

Mr. Bevington asked how far from the center of the road then.

Mr. Dulle apologized he did not know that he had to bring all of this information and did not bring a set of measurements with him. This one is actually further back than the previous one.

Mr. Fox said they had plenty from the right-of-way.

Mr. Dulle stated they are not close to the right-of-way from the center road out and is further back than the previous one. The old one was a sign board that you had to change the letters and this one they want it electric.

Mr. Salmon asked Mr. Dulle if the new sign will have a different location.

Mr. Dulle said it will be east – the other one was set in the middle of the property set between the west driveway and the east driveway. The west driveway is no longer permitted by Ohio Department of Transportation to be an access/entry, but an egress only and it should have always been that way is what they found out so they moved it down to their entrance approximately forty feet from the driveway and on the other side of the driveway they own another 50-60 feet, so its not near the property line.

Mr. Salmon asked if it would be all illuminated from the inside – another words, there will be no lights shining up on to the sign.

Mr. Dulle said it will just be a message that changes inside a computer that is programmed in – approximately every three (3) seconds.

Mr. Fox said he would have to see the code book for the exact requirement but will make sure it is taken care of and believes it was a minimum of five (5) seconds.

Mr. Bevington asked where the old sign was out there.

Mr. Dulle pointed to it (on a map) and said it was 12-feet up in the air.

Mr. Fox said it is a minimum of five (5) seconds and can not incorporate motion.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS

Mr. Fox said BZA10-13V, Madison School District, Middletown, Ohio has requested to erect a sign taller and larger than zoning allows. Staff Comments are as follows:

1. The property is zoned A-1 Agricultural.
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. Philpot made a motion to approve BZA10-13V, Madison Local Schools, 1366 Middletown Eaton Road, Middletown, OH 45042 and said he feels it would be an improvement, and that a building permit be required. Mr. Daniel seconded the motion. Motion carried.

AYES: Philpot, Daniel, Salmon, Bevington

NAYES: None

BZA10-14V

Ralph Jester/Elizabeth Bressler
2140 Minton Road
Hamilton, Ohio 45013

Mr. H. J. Bressler, 2140 Minton Road, Hamilton Ohio, 45013, said we own 23 acres and originally thought the property was zoned Agricultural and was bought back in 1976 and he found out later that it is zoned Residential and said if you look at the property (facing it) on the left side it's got deep woods all the way down between the property and the five acres owned by the Carr's and on the right side there are deep woods until you get to the pasture area that borders the Darner property and in the back there are woods that go all the way down into a gulley on the other side and at the back end of the property is the ten (10) acres that is owned by the Ramsey's. We are trying to put a pole barn and it is absolutely out of the view for any body except us and it will go directly from the horse farm and he is boarding a horse and could have likely applied for a CAUV but is boarding his daughter's horse out there and the horse barn is needed for hay and straw and he does not have room to store the mechanical equipment used to maintain the property and their garage is full and when he retires in a few months he will be bringing all of his furniture and will need a place to put that as well so he is asking to build a building for storage and is probably 150 feet back from their house and you can not even see the house from the proposed location of the barn and the only other person who could see it would be the Darner's when they are out by the pigs and cows otherwise they are surrounded by woods on every side.

Mr. Bressler said photographs have been given to the Board and said there is one picture that just shows an empty area with some shrubs in the back and that is the proposed location of the pole barn and it will parallel where the stable is now – about 30 – 50 feet across from the existing barn in the same set up and at the same exact angle.

Mr. Bressler said there is a separate driveway that goes back to that area and the house sits back 500 feet from the road so you can not even see the house.

Mr. Daniel asked Mr. Bressler if they intend to use the barn for any commercial use.

Mr. Bressler replied no and that his wife would skin him if he did.

Mr. Fox asked Mr. Bressler if he could keep the photographs.

Mr. Bressler said yes.

No further questions.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said, BZA10-14V, Elizabeth Bressler, 2140 Minton Road, Hamilton OH 45013, has requested a variance to construct a second accessory structure on the property. Staff Comments are as follows:

1. The property is zoned R-1 Residential.
2. This area is Residential and 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 the staff will recommend approval with the following condition:
 - a. A Building Permit is required.

Mr. Daniel made a motion to approve BZA10-14V and that a building permit is required. Mr. Salmon seconded the motion. Motion carried.

AYES: Daniel, Salmon, Philpot, Bevington

NAYES: None

BZA10-14V

Ralph Jester/Elizabeth Brosius
2550 Stillwell Beckett Road
Hamilton, Ohio 45013

Ms. Brosius, 2550 Stillwell Beckett Road, said she is here today and hoping to build a garage in the back of the house. There is a small shed out there now which they have outgrown and feels the new one would be more aesthetically appealing to the rest of the property and it will be a little larger to store all of the tools and outside furniture, which is currently outside because there is no room to store it. Ms. Brosius said they will need to build a little closer to the property line than what is allowed because their leach line is on the other side and needs a variance to do so, but wishes they could go on the other side.

Ms. Brosius presented pictures and said the stakes in the pictures are pretty close to where it is going to be and also images of the old shed.

Ms. Brosius said it can not be seen from the property in the back.

Mr. Fox asked if that is the old Mormon right-of-way that has never been built that runs down the property line, and isn't there a creek, valley or hill that runs down the property line as well.

Ms. Brosius said there is a pond on the property next to her but not on hers.

Mr. Salmon asked the applicant is she would keep the old shed.

Ms. Brosius replied no, they will take it down.

Mr. Bevington asked if the applicant did have to put in a new leach line what would they do then, come in front of the house.

Ms. Brosius said she did not know.

Mr. Ralph Jester, Jester Pole Barns, 2474 Stalheber Road, Hamilton Ohio, said that was one of the questions asked by the Board of Health when he went over to get approval from them for the variance, and they wanted to make sure that they got that spot back behind here (on map) that would go just behind the leach field because they wanted to make sure they had a secondary field and said there is all kinds of new EPA (Environmental Protection Agency) stuff coming for septic systems and they want to make sure of that. He added that he did not think there was a creek in there but there is a low area out there and that is on that whole other side.

Mr. Jester said the applicant also wants to use the storage area for vehicles. They have a one-car garage on the end of the house which they can not go any further because of the property line restrictions on the side too and they want to store their other vehicle.

TESTIMONY IN FAVOR: Lewis Bressler, 2550 Stillwell Beckett Road, Hamilton Ohio, 45013.

Mr. Bressler said he is in favor of this variance and they really need space for their second vehicle as well as their garden equipment and such things.

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: Joseph Pierson 2526 Stillwell Beckett Road, Hamilton, Ohio, 45013.

Mr. Pierson said he is not exactly where the property line is – there are some old stakes there, and not that he is against it, he likes his neighbors and he is the one to the right that has the pond and does need to have access to clean it out and his problem is getting a piece of equipment there and wants to make sure he can get a piece of equipment in there while staying on his own property. He then said he is in favor of it because the applicant does have all kinds of stuff that they need to put away but he is not sure exactly where the property line is.

Mr. Philpot asked Mr. Pierson how long has he been there.

Mr. Pierson said three (3) years.

Unknown speaker said they found the pins and there are two (2) pins there – one kind of under the tree right up close to Mr. Pierson’s house, then there is another along the back.

Mr. Pierson asked how far the floor of the garage is from the property line.

Mr. Fox answered seven (7) feet from the property line.

Unknown speaker said but the property line is probably 8 or 10 feet from the pond.

Mr. Pierson said he will have to bring his 10-foot wide tractor out there in the spring and does not want to be in the applicant’s way nor for them to be in his way.

Mr. Fox said they are showing seven (7) feet, the closest corner will be seven (7) feet. Mr. Fox asked Mr. Jester if he tied a string on to the two (2) pins and measured it to get the seven (7) feet.

Unknown speaker said they are survey pins that have been set.

Mr. Fox asked to see the survey someone had shown and asked if the person had located the iron pins – with caps on them. He added that the iron pins are not going anywhere – the ones with the orange caps and numbers on them.

Mr. Pierson said other than that he does not have any issues with this.

Ms. Brosius said those pins have been there ever since she has been.

Mr. Philpot asked the applicant if they were planning to run a business from the structure.

Ms. Brosius replied no.

STAFF COMMENTS

Mr. Fox said Case No. BZA10, Elizabeth Brosius, 2550 Stillwell Beckett Road, Hamilton, Ohio, 45013, the request is to build an accessory structure closer to the side yard than zoning allows. Staff Comments are as follows:

1. The property is zoned A-1 Agricultural.
2. This area is Agricultural 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 the septic system may cause other placement issues for the barn, staff will recommend approval with the following condition:
 - a. A Building Permit is required

Mr. Daniel made a motion to accept this variance and that a Building Permit is required. Mr. Salmon seconded the motion. Motion carried.

AYES: Daniel, Salmon, Philpot, Bevington

Start here???

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

October 19, 2010

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf