

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
January 18, 2011

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. October 19, 2010
- B. November 16, 2010

III. New Business

- A. BZA11-01V Linda D. Revis
 4956 Long Farm Lane
 Trenton, OH 45067
- B. BZA11-02V Westys Unlimited DBA Eli's Sports bar & Grill
 3730 Hamilton Cleves Road
 Hamilton, OH 45013
- C. BZA11-03V Kathryn King Leacock
 5384 Coulter Lane
 Oxford, OH 45056

IV. Adjournment

REGULAR MEETING: Tuesday, January 18, 2011
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
Ms. Lee Steenken

MEMBERS ABSENT: None

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

APPROVAL OF MINUTES:

October 19, 2010 Meeting Minutes

Ms. Steenken made a motion to approve the minutes from the October 19, 2010 meeting.
Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Daniel, Philpot, Bevington

NAYES: None

November 16, 2010 Meeting Minutes

Mr. Daniel made a motion to approve the minutes from the November 16, 2010 meeting.
Mr. Salmon seconded the motion. Motion carried.

AYES: Daniel, Salmon, Steenken, Philpot, Bevington

Case No. BZA11-01V

Linda D. Revis
4956 Long Farm Lane
Trenton, OH 45067

Ms. Revis said they are building a shed on the property which is eight (8) feet away from the property line which is closer than zoning allows.

Mr. Bevington asked the applicant if she has spoken with her neighboring property owner.

Ms. Revis replied yes, and she wrote a letter indicating she was fine with where we were putting the shed.

Mr. Daniel asked what they will put in the shed.

Ms. Revis replied a tractor and mowing equipment.

Mr. Daniel asked if that is the only place they will store those things.

Ms. Revis said most of the property has woods and trees and this is the only place that is not on a hill.

Mr. Salmon asked if they intend to build it themselves.

Ms. Revis replied no, they are having a contractor do it.

Mr. Salmon asked the applicant if they intend to run a business out of it or live in it.

Ms. Revis replied no.

Mr. Bevington asked the applicant how long she has resided there.

Ms. Revis replied ten (10) years.

Mr. Philpot asked if they plan on putting in any utilities.

Ms. Revis said they do not plan on any right now.

No further questions.

TESTIMONY IN FAVOR: None

TESTIMONY IN OPPOSITION: None

NEUTRAL TESTIMONY: None

Mr. Daniel said he spoke with the Madison Township Trustees and they have no objection to this.

STAFF COMMENTS:

Mr. Fox said BZA11-01V, Linda D. Revis, 4956 Long Farm Lane, Trenton, Ohio, 45067, the request is to build an accessory structure closer to the side property line than zoning allows.

Mr. Fox said 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 the staff will recommend approval with the following condition:
 - a. A Building Permit is required.

Mr. Daniel made a motion to approve the request for the variance, Case BZA11-01V, for which a building permit will be required. Mr. Philpot seconded the motion. Motion carried.

AYES: Daniel, Philpot, Steenken, Salmon, Bevington

NAYES: None

BZA11-02V

Westys Unlimited, Inc. DBA Eli's Sports Bar & Grill
3730 Hamilton Cleves Road
Hamilton, Ohio 45013

Mr. Steven Tooman, Millikin & Fitton Law Firm, said he is here on behalf of Westys Unlimited, Inc. and said Mr. Dave Westerbeck, a Principal of Westys, 4210 Endeavor Drive, Cincinnati, OH 45252, is also here.

Mr. Tooman said Eli's seeks a variance for a directional sign located near their business in Ross Township and they also erected in August 2010 on a neighboring property, a small directional sign and they have submitted photographs with their application, which is a relatively small directional sign, so the Board can see what it looks like and they have also submitted exhibit for the application and has a letter supporting the variance and said he'll address a few of the main points.

Mr. Tooman said Eli's has encountered difficulties in using the property without the variance and these are unique circumstances. Eli's was open in January of 2009 in a relatively new strip mall. That strip mall is otherwise vacant and the landlord had to put up a sign for the strip center, and as a result customers and potential customers had difficulty in locating Eli's. We submitted a letter from a Miami University Marketing instructor stating he did a study that identified a problem in locating Eli's and this sign is an attempt to alleviate the problem.

Mr. Tooman's said Eli's only seeks a variance from the size and height restrictions, otherwise the sign complies with zoning and it will not change the character of the neighborhood and the sign will be done in a tasteful manner. This would be identical in size to the NAPA sign on the property and it would alleviate the practical difficulties of locating the business and it addresses some issues with the small signage that is currently (inaudible).

Ms. Steenken asked if the sign will be a lighted sign.

Mr. Tooman replied that it is not electric.

Mr. Fox said he made a call when this came in. They applied for their permit, we denied it and he called the State and they came and measured it and checked it out and it is not in their right-of-way.

Mr. Fox said he has also received correspondence from the actual property owner and they gave Eli's permission to site the sign there as well.

Mr. Philpot asked if there have been any complaints about the sign.

Mr. Fox said we had one (1) person contact us asking if they had a permit, and that is why we notified Eli's about the issue. It was not really a complaint about the sign per se and we have not received any additional inquiries and no one else has called to follow up with the initial inquiry either.

Mr. Salmon asked Mr. Fox if NAPA were to replace their sign, would they be apt to come for a variance.

Mr. Fox said NAPA would be grandfathered in and that sign has been there since he's been around and they could replace it with a sign the same exact size but would need to apply for a variance if they wanted to go with a higher or larger sign.

Mr. Fox said if you look in our code we have a directional requirement – with a certain height, square foot.

Mr. Salmon said right now they are building essentially the same measurements as NAPA's, and if NAPA were ever to decide to replace theirs we would have to let them do it.

Mr. Fox said right.

Mr. Tooman said he believes they may have had the same issues as Eli's.

Mr. Fox said he has been here almost 13 years and that sign has always been there.

Mr. Salmon asked the applicant if he feels the sign has helped his business.

Mr. Westerbeck replied he does and he actually went further and put up a highway sign to try to help because he has had drivers say they had a heck of a time trying to find the place.

Mr. Philpot said he would imagine it would be hard to get in and out of there.

No further questions.

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said BZA11-02V, Eli's Sports Bar & Grill, the request is to have a directional sign that does not meet zoning requirements. Staff Comments are as follows:

1. The property is zoned B-PUD.
2. This area is Business in character.
3. The applicant is seeking a variance, said applicant shall be required to establish to the Board, proof by a preponderance of the evidence that an unnecessary hardship will prevail unless the variance is granted.
4. The spirit and intent of the zoning resolution is not to allow this type of 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 and must be picked up
 - b. Foundation plantings must be installed by spring of 2011

Ms. Steenken made a motion to approve the request for a variance, BZA11-02V, Westys Unlimited, Inc., DBA Eli's Sports Bar & Grill, with the stipulation a Building Permit is

required and foundation plantings must be installed in the spring of 2011. Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Philpot, Daniel, Bevington

NAYES: None

Case No. BZA11-03V

Kathryn King Leacock
5384 Coulter Lane
Oxford, Ohio 45056

Ms. Kathryn King Leacock, 5384 Coulter Lane, Oxford, OH 45056, said she trains horses and riders and had a boarding and training facility in Oxford, OH for the last five (5) plus years and managed others barns. This past June, the private boarding facilities where she has been working decided they no longer wanted to have traffic coming and going from shows and students because both house members had retired and they wanted to keep it a private family farm again. She was left without an indoor ring, and a place for multiple lesson horses, including these two (2) small ponies. Ponies have special needs compared to regular horses and they do not need large acreage and in fact can not be left out on rich grass or it can be fatal.

Ms. King Leacock said ponies are used for therapy work in Oxford and her other lesson horses have since been moved to the Lebanon area and this is her livelihood and income and most of her students riding the two small ponies were in the Lebanon/Waynesville area with the exception of their students in Oxford. She added they also take them to Woodland Manor Nursing Home and they have gone to schools for volunteer work and community awareness so their work is here in Oxford.

Ms. King Leacock said she could not find an appropriate boarding facility in Oxford and they had very small stalls and they turned them out with large horses and she could not risk having valuable show ponies kept in that situation for fear of breaking a leg or worse and they can not be left out on rich grass.

Ms. King Leacock said that is not to say she is not still looking for a place but with loosing the facility last June, and boarding for an average horse is \$350 to \$800 dollars, that would put an extreme hardship on her business and livelihood to do that, and she has not found an appropriate place for them close to the students who use them.

Ms. King Leacock talked with the Oxford Township Police and they looked at the area before she had brought the pony's home and they said they did not care, in fact it was fine by them if she brought horses on the property but that was not something she wanted to do. She has a large area, 15' x 30' with a six-foot privacy fence – whereas a normal

boarding facility would be 10' x 12' or 8' x 10' and with the fact they can not be on rich grass, she did not want to have them on a small area.

Ms. King Leacock said she made some minor improvements to the area to keep them there and they have a temporary shelter and if permission is granted for her to keep them there she would like to convert a part of her garage as a stall because this time of year the manure does freeze and it is difficult to get it up down from the ground however in a stall that is not a problem.

Ms. King Leacock said she has talked with neighbors who are interesting in manure for their gardening and Rumpke has given her permission to haul away solid waste and she has talked with Butler County Health about it and she is on city sewage and water. She added that most of her neighbors are thrilled with having them there and they are very quiet and have not caused any problems and does not feel it will impact the neighborhood in any way and if she does find a place close to home she would consider moving them to a boarding facility and unlike horses, these ponies are now being used as service animals as well as assisting the blind and (inaudible) and can be kept on very small properties.

Mr. Philpot said if the variance is granted, the applicant spoke of building stalls in the garage and asked if this is correct.

Ms. King Leacock said yes, as explained in her letter. On the opposite end of the house and away from the neighbors and she would put rubber mats down there.

Mr. Philpot asked Ms. King Leacock if she would continue to use the current corral if she had the stalls.

Ms. King Leacock replied that it would not be necessary to use it and did not want to go to the expense of building unless she was approved of this zoning variance. She said she does have a large backyard with privacy fencing around one side and then the house on another and then two (inaudible) farm fencing around that.

Mr. Daniel asked the applicant if she uses straw.

Ms. King Leacock said they are on crushed limestone now so she does not use straw or sawdust because that would retain odors and if they were indoors she would use sawdust if she could convert part of the garage but if straw or sawdust outdoors would make a mess. Most people want to keep horses on a dry lot in the winter as it is not good for their tendons.

Mr. Daniel asked if they lie directed on the limestone when they lay down.

Ms. King Leacock replied they rarely lie down and they do have shelter. There is a product used in the winter called "Stall DRY" that helps absorb odor of urine and she tries to keep that down.

Mr. Philpot said he went out to the property today and said the applicant did not know he was coming, and it was clean today and (the smell) was not overbearing or anything like that.

Mr. Fox said the applicant mentioned contacting the Police Department and asked her if she remembered who she had spoken with.

Ms. King Leacock said she did not.

Mr. Fox said he has a letter from Mr. Michael Goins, Police Chief, Oxford Township, which he gave a copy of to the Board, stating he remembers having a conversation with a lady asking questions about keeping horses on her residence and basically he refers all zoning matters to the County Zoning Department or the Township Trustees and he can not speak for any other patrol officer she may have spoke with.

Ms. King Leacock said it was someone that was actually on her property and could probably find out in a Police Report.

Mr. Fox asked what the officer looked like.

Ms. King said he was tall, blonde hair and she did call them too and then talked with Jim Fox after that.

Mr. Fox said he is Jim Fox.

Mr. Salmon asked the applicant what the size is of her horses.

Ms. King Leacock said her lesson horses are anywhere from 14 hands, which is technically a pony, to 18 hands and probably about 900 to 1,700 pounds in weight.

Mr. Salmon asked the same about the ponies.

Ms. King Leacock said probably 250 to 275 pounds and they are 42" tall.

Mr. Salmon said Mr. Greg Tharp is actually the owner of the property.

Ms. King Leacock replied yes, she owns and he financed it.

Mr. Salmon said no place in this do we have anywhere he supports this.

Ms. King Leacock said he is in favor.

Mr. Salmon said he contacted him, as Township Trustee, and he was not in favor after the notice of violation.

Ms. King Leacock said she had talked with him after that.

Ms. Salmon said he is just going on what he told him.

Mr. Bevington asked the applicant if the ponies are larger or smaller than a couple of her dogs.

Ms. King Leacock said they are exactly the same size as her Scottish terrier – 42 inches high.

Mr. Bevington asked the applicant how many people has she had come there to ride.

The applicant said they trailer the ponies to a ring for one girl which is four minutes from the house to her grand parents' house; the other girl, who survived brain cancer and is recovering from an operation and, is not riding right now, and then the neighborhood kid.

Mr. Bevington said so it is not a set schedule and there is no traffic at all.

Ms. King Leacock replied no, not at all – in fact that is why she could not justify boarding them because she is not using them as much as the regular lesson horses who are used quite regularly, and they teach 10 to 12 lessons a week.

TESTIMONY IN FAVOR OF: Ms. Susan Frazier, 5385 Coulter Lane, Oxford, OH; Ms. Marilyn Edwards, 5431 Tallawanda Lane, Oxford, OH; Sharon Edwards, 5361 Hillcrest Drive, Oxford.

Ms. Frazier said she lives across the street from the applicant. Ms. Frazier said she moved to Coulter Lane in 1962 and moved to her present house in 1968 so she is a long time resident in the area.

Ms. Frazier said shortly after she moved there, down the hill there was a horse and a pony and she said her daughter thoroughly enjoyed that. These days they have goats down there across the street from where that was and kids periodically stop to see the goats so it has become a community and still has a rural area between us and Oxford and it retains some flavor of what it had been like with the agriculture there.

Ms. Frazier said her granddaughter is one of those people who have ridden one of those ponies when the ponies were still at the barn where they used to be and she has visited them since being across the road and enjoys leading them and hopefully will be riding them in the lot. They are very personable animals, charming and are engaging and do attract children and are not noisy creatures.

Ms. Frazier said she thinks it can be true that in any neighborhood 99% of the people 99% of the time can be happy with conditions and not distressed by what other neighbors are doing, and then once in a while you can have someone that will be unhappy that does not alter the essential nature of what it is that is taking place. Generally speaking, the

people are content with the ponies and to ask the people they would be much more inclined to say that these ponies are assets more than they are liabilities.

Mr. Philpot asked Ms. Frazier if she finds the odor offensive.

Ms. Frazier said she is not aware of it unless she sniffs real hard when she is down the driveway or something, otherwise no.

Mr. Philpot said he couldn't find the ponies from the front at all.

Ms. Frazier agreed and added that you can not smell them.

Mr. Daniel asked Ms. Frazier how many houses and how many children are on Coulter Lane.

Ms. Frazier replied eight (8) houses and one (1) small child.

No further questions asked of Ms. Frazier.

Ms. Marilyn Edwards said she has lived there for 65 years and also owns a lot on Coulter Lane two (2) doors from the applicant and sees no reason not to permit Ms. King Leacock to graze and exercise her ponies on her lot and thinks the applicant is a responsible person and will not make any problems for her.

Ms. Marilyn Edwards said having ponies in the neighborhood is nothing new. When her children were younger they enjoyed riding a pony owned by a neighbor on many occasions in the neighborhood and all of this pony business reminds her of her memorable childhood. She said she had her picture taken and still has it and she still remembers the marvelous feeling she had sitting on that pony in front of the house.

Ms. Sharon Edwards stood up to give testimony and said lived the aforementioned childhood and without her dad she would go over and just talk to the ponies and there was also a horse there so there is a precedence for animals there. There are 7 – 8 grand children that visit regularly on the other side of her now and there are 4 young boys on Hillcrest Drive so there are lots of grand children that are in the neighborhood and it is a nice neighborhood where Hillcrest Drive backs up to Coulter Lane the grand children of neighbors enjoy them and a couple of neighbors said they have no problem with them and another asked to bring them back to take pictures of them and it is fun having the ponies around.

Mr. Bevington asked Ms. Sharon Edwards if she would have any problem if those ponies lived next to her.

Ms. Sharon Edwards replied no.

Mr. Philpot asked Ms. Sharon Edwards if she lived behind Coulter Lane.

Ms. Sharon Edwards replied she lives behind a lot which is one house away from Ms. King Leacock.

Mr. Bevington asked Ms. Sharon Edwards long she has lived there.

Ms. Sharon Edwards replied 12 years but grew up on Tallawanda Lane.

Mr. Bevington asked Ms. Sharon Edwards teacher.

Ms. Sharon Edwards said she is a Naturalist at the Environmental Mobile Unit, a non-profit organization 501(C)3 and she brings in materials to the classroom and the teacher does follow-up activities with the children to learn more about it.

Mr. Philpot asked Ms. Edwards where the company is based at.

Ms. Sharon Edwards replied it is at her mom's house, which is where we started.

No further questions from the Board members.

TESTIMONY IN OPPOSITION: Mr. Harrison Green, Attorney, (no address given) representing Cheryl Smyser; Cheryl Smyser, 5372 Coulter Lane, Oxford Township, OH

Mr. Harrison Green said he is an Attorney and represents an adjacent homeowner, Ms. Cheryl Smyser.

Mr. Green presented an original plat from 1947 of the whole subdivision which was approved by Butler County and has many restrictive covenants in it and they have expired due to the length of time. This was intended to be a Single Family Residential area just as it is zoned today and was not to be for businesses, which were prohibited in the original plat.

Mr. Green said what he is hearing here is going from having a few animals on the property to a business, changing the structure on the property to a barn, or at least a part of it, and have already been approved several dogs for this location, and he understands there are seven (7) dogs at that location. With a lot of animals comes a lot of deliveries, feed, excrements and can assure you that it will not smell very good come July or August – so it is a noxious thing.

Mr. Green said he is concerned by the testimony of the proponents of its attractive uses – kids want to go to the pony pen and one of our major concerns is this pony pen abuts right on the property line of his client so it has effectively taken away setbacks and this is something where the applicant has asked for a change saying she wants to do this to protect her animals that are valuable in her work and is looking for another location; then you hear she wants to change the characteristics of the garage to house these animals – how many will wind up there?

Mr. Green said he is concerned about their safety and health under this current condition and should not be on the property. We have had some severe weather and the applicant says they are valuable – he feels she should be concerned about spending money to protect her animals and use them properly for a business. He does not think anyone has any objection to bringing the ponies at an appropriate time when children are going to be there and have an annual Coulter Lane picnic but not an every day use.

Mr. Green said there is a reason why they have R-1 zoning and it is to protect the property value and what if his client chooses to sell her property – they will say, there is a pony pen there and lots of dogs there. Your zoning forbids a farm and this is only a half-acre lot - not a large lot. If this were a five (5) acre lot we would be talking differently about this, but it is not and it is in a subdivision and only a half acre and you already have an excessive amount of dogs on the property.

Mr. Green said we think it impacts negatively on the community although there may be some neighbors who say they appreciate having them there, it impacts on value and that is important. Mr. Green said he has spoken with one of the property owners and he is not in favor of the application and has great concerns that the applicant is only a tenant and is making permanent changes to the property by placing the fence, the limestone and now changing the character of the home and like Mr. Salmon said, the owner of the property, has not presented anything favorable to this variance. He added that he believes if you give a little, a lot will be taken and it is his understanding that variances are extremely limited, if it is granted, and here they will take control on what happens and we need to protect the integrity of this subdivision of what it was meant to be and what it is to be forever.

Mr. Fox asked Mr. Green if he knows how close (number of feet) these ponies are to his client's house.

Mr. Green said it would be about nineteen (19) feet and the applicant spoke of a privacy fence and that is his client's, who spent \$6,000.00 on a fence.

Ms. Cheryl Smyser, 5372 Coulter Lane, Oxford Township, OH, said she wanted to make a few points based on what she heard from the applicant.

Ms. Smyser said Mr. Philpot stated he was at the residence today and could not smell the ponies. She said she could detect a fairly strong odor in her back yard and wanted to state that for the record.

Mr. Philpot responded and said he did not say he did not smell the ponies, he said it was not a strong odor.

Ms. Smyser said the ponies are generally pretty quiet and are much quieter than the dogs and she likes that.

Ms. Smyser said she grew up on a 12-acre horse farm north of Columbus Ohio in an Agricultural area – it was not a half-acre in a Residential area and said she finds this extremely distressing because she has to live next to the two (2) ponies and her bedrooms face the north so they are 19 feet from the ponies and she likes to keep her windows open and enjoys fresh air but knows the air is contaminated and she is concerned about what will come next if this variance is granted for farm animals.

Ms. Smyser said she has lived there since 2000 and initially she was very pleased with Coulter Lane and does have friends on the Lane who live pretty far away from this location and they too do not think the ponies are an appropriate use of Residential property. Conditions degraded approximately half a year from when a variance was granted to her neighbor to have more than four (4) pets and they are not pets, they are show dogs and it is a business like the ponies and when she moved in the area she wanted to live in a place that had the character of a quiet neighborhood, where she could enjoy her property and did not expect that she would be living next to a farm or a dog kennel and hence, that is what she has come to live next to since November 3, when the ponies arrived and it has been a little distressing and wanted to state that for the record.

Mr. Bevington addressed Ms. King Leacock, and said, during her testimony, she said she had the fence put up.

Ms. King Leacock said has a pen she put in herself. Shortly after she moved there, Ms. Smyser built a privacy fence from the edge of her pony fence up to the road. The fence in the backyard was built by the previous owner, so Ms. Smyser actually built the fence from the edge of the pony fence up to the road and put one on the other side of her house. The rest of the privacy fence from other end of the pony fence to the back of the yard was preexisting.

Ms. King Leacock said she added that she actually has three (3) dogs. She normally has three (3) dogs – she did show dogs and one of the three (3) is 12 years of age and she is busy with the ponies and horses and it does not permit her to show the dogs and added there are other dogs in the neighborhood and hers do not bark.

Mr. Bevington asked the applicant, regarding her show dogs and running a business, does she have dog shows at her property.

Ms. King Leacock replied no, she does not show the dogs, they work as hired show dogs but she does not show them at all.

Ms. King Leacock continued to speak but the recording is inaudible.

Mr. Daniel asked Ms. King Leacock how often she takes the ponies to wherever (events).

Ms. King Leacock said a couple times in the summer she has them do volunteer work and does not do much in the winter – they were being used on less-than-a-weekly basis.

Mr. Green said in the Butler County code, under Section 8.0405, the keeping of animals, there is language in there that relates to the size of the lot; what the set backs are; and here he has indicated that it is right at the line and only 19 feet from his client. The code says, it can not be anything less than 75 feet and that is considerable and this variance is way beyond what the Board should be permitting.

Mr. Fox said, for the record Mr. Green has the right to cross examine, and asked Mr. Green if he has any questions for the applicant.

Mr. Green addressed Ms. King Leacock and said Ms. King Leacock indicated this is part of her work of training horses.

Ms. King Leacock replied yes, this is related to her work.

Mr. Green asked Ms. King Leacock if that work was located in the Oxford area.

Ms. King Leacock said yes it was.

Mr. Green asked Ms. King Leacock if she agrees there are several facilities for horses in the Oxford Township area.

Ms. King Leacock said very few that can (inaudible). She was on a waiting list at a barn and as stated the board per pony is \$350.00 per month and she is not teaching on them and they can not be left on a pasture and it is not safe for them to be left in a horse stall.

Mr. Green asked Ms. King Leacock if her ponies are registered.

Ms. King Leacock said one (1) is registered in the State of Kentucky as a registered Sheltie.

Mr. Green asked who the owner of both ponies is.

Ms. King Leacock replied she is.

Mr. Green asked Ms. King Leacock if she intends to house any other ponies there.

Ms. King Leacock said absolutely not.

Mr. Green asked Ms. King Leacock if she had anything to indicate that Mr. Tharp was in favor of this.

Ms. King Leacock said he called her and said he received a letter from the Zoning Board; he knows the zoning and asked his granddaughter to meet them, but he did not realize that when he received the letter they were (inaudible).

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said Case BZA11-03V, Ms. Kathryn King Leacock, the request is to keep farm animals on property without proper acreage and road frontage and some other assorted violations. Staff Comments are as follows:

1. The property is zoned R-1 Residential.
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, and since there is no evidence of an unnecessary hardship the staff will recommend denial.

Ms. Steenken said as appealing as the ponies are, this is too great a variance to be allowed and would set precedence. Ms. Steenken made a motion to deny the variance for Case BZA11-03V, Ms. Kathryn King Leacock, 5384 Coulter Lane, Oxford, OH, Mr. Salmon seconded the motion.

Mr. Bevington said the way he sees it is the Butler County Health Department had no objection and did not see a problem with this request; he looked and sees three community members/neighbors that are here in support and one in opposition of it and he votes no. Motion carried to deny request (4-1 vote).

AYES: Steenken, Salmon, Philpot, Daniel

NAYES: Bevington

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
January 18, 2011

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf