

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
February 15, 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. January 18, 2011

III. New Business

- A. BZA11-04V Richard & Peggy Bower
 4014 Hazel Drive
 Oxford, Ohio 45056
- B. BZA11-05C K & A Architecture, Inc. / St. Matthews Lutheran Church
 4411 Hamilton Richmond Road
 Oxford, Ohio 45056 450h13

IV. Adjournment

REGULAR MEETING: Tuesday, February 15, 2011
 Butler County Government Services Building
 Conference Room 1
 315 High Street, 1st Floor
 Hamilton, OH 45011

CALL TO ORDER: Mr. Salmon called the meeting to order at 7:00P.M.

ROLL CALL: Mr. Henry W. Philpot
 Mr. Gary Salmon
 Ms. Lee Steenken

MEMBERS ABSENT: Mr. Thomas Bevington
 Mr. Alan Daniel

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

APPROVAL OF MINUTES:

January 18, 2011 Meeting Minutes

Ms. Steenken made a motion to approve the minutes from the January 18, 2011 meeting as presented. Mr. Philpot seconded the motion. Motion carried.

AYES: Steenken, Philpot, Salmon

NAYES: None

Case No. BZA11-04V
Richard & Peggy Bower
4014 Hazel Drive
Oxford, Ohio 45056

Mr. Fox stated to the applicants they will need all three (3) Board members to approve the variance; if one (1) of them does not approve it, it will be denied with a 2-1 vote and wanted to make sure the applicants understand this.

Mr. Bower, 4014 Hazel Drive, Oxford, Ohio, said they would like to split their property for a single family home without the proper road frontage and it is on a cul-de-sac.

Mr. Bower said they purchased the property back in 1990 and in 1997 they hired a surveyor (name inaudible) and hired (name inaudible) as an attorney to represent them. They had also dealt with Butler County Zoning at that time, including Mr. Steve Soltis and some other people he dealt with and had total approval back in 1997. A few months ago they were preparing to build a home and learned that it was not recorded or some paperwork was not properly done.

Mr. Bower said Peggy's 78-year old mother has bad eye sight and poor health. They recently moved her out of her existing house and moved her in with them a few months ago. He added that the steps are difficult for her including steps outside and the bedrooms are upstairs. They are struggling with this and felt it was time for them to go and build this home. They have invested alot in the property since 1997: a driveway has been installed, they got the permits, the water lines and septic got approval from the county in 1997 and he thought everything was complete until a few months ago and got smacked in the face with this.

Mr. Bower said he sent a packet and some of the other neighbors are here to speak also.

Mr. Bower presented an image from Google to show how secluded this property is and is totally surrounded by woods. He pointed out where the existing driveway is, the location of the proposed house and said it is not really visible except for the neighbors up here (pointed to on image).

Mr. Salmon asked the applicant what will become of their current house.

Mr. Bower said they are selling their existing house to their son and daughter-in-law. The daughter-in-law is a registered nurse and the intention is she will help out with family issues concerning his mother-in-law and Rusty (last name not provided) is a realtor and has a lawn business so he could help out with the mowing but we are trying to keep the family together and that has been our plan all along.

Mr. Salmon asked Mr. Bower if there are any intentions of building additional houses after this.

Mr. Bower replied no.

Mr. Salmon asked Mr. Bower how many acres he owns.

Mr. Bower said they started out with almost 35 acres (34.888).

Mr. Philpot asked the applicant if this is the first division they have done.

Mr. Bower replied yes and said the driveway splits here and it is made of asphalt up until you get past the existing house and that portion is gravel and has not been asphalted yet.

Ms. Steenken asked if a fire truck would be able to access the rear property from the driveway.

Mr. Bower replied yes.

Ms. Steenken asked Mr. Bower what sort of a time line was he thinking about with building the home.

Mr. Bower said they are hoping that if all goes well here they will move right ahead with it.

Mr. Philpot asked Mr. Fox if the applicant will have to ask for a waiver of the ten (10) day waiting period.

Mr. Fox said the applicant will have to have a surveyor come out and survey the property because that will be well over the ten (10) day waiting period.

Mr. Fox asked the applicant if they are planning on giving this property a little bit of road frontage, say ten (10) feet, based on the odd shape of the property (one having 40 feet frontage and then another 10 feet of frontage) and is that ultimately what they are doing from a surveying standpoint. Mr. Fox pointed to the image to indicate what he meant.

Mr. Bower said from what Mr. Fox is asking, he would say yes, that is the way it would be.

Mr. Fox said it does not matter to him or staff but wanted clarification as to whether it would have any frontage and having an ingress/egress easement attached to this property so in the future, regardless of who owns it, they will have access back there.

Mr. Bower said that was the original agreement was to have this easement that would go back to those properties.

Mr. Fox asked the applicant if he has a draft of that ingress/egress easement states and who maintains it?

Mr. Bower said he does not have a copy of that but there was something drawn up on that and the way it was that all three (3) property owners would agree on, but that is only back to a certain point because this driveway goes totally with that and there was only so much footage that they have to maintain.

Mr. Fox asked who maintains the driveway now.

Mr. Bower replied and said we share with our neighbors equally. We asphalted it.

Mr. Fox asked what the width of the asphalt driveway.

Mr. Bower said he thinks it is 12-feet wide and is asphalted all the way back to this house and then it splits so far back.

Mr. Fox asked Mr. Bower if it will continue to be asphalt.

Mr. Bower replied hopefully.

Mr. Fox said it is a 20 foot wide ingress/egress easement and then gets bigger to about 30 feet down here.

Mr. Bower said that is correct.

Mr. Fox asked if those people are any relation to him.

Mr. Bower said no they are not.

Mr. Fox suggested the Board can require, as a condition, the applicant to submit an ingress/egress easement because even though the Bowers own the property now, no one knows who will own it 75 years from now and wants to make sure they see maintenance on it.

Mr. Russell Bower, 700 David Drive, Oxford, Ohio said he and his wife will be purchasing the existing house and he grew up in the house since they moved in when he was about 10 years old.

Mr. Russell Bower said it has been his parent's dream to retire and move to the back of the property (remaining 26 acres) that is there. He wants the opportunity for his children to grow up with ponds and creeks and would be very fortunate to have that opportunity to move out there. Being in real estate, he understands zoning issues and concerns but this would be strictly in the family.

Mr. Philpot asked Richard Bowers if he plans on running a business from back there.

Mr. Richard Bowers said no sir.

TESTIMONY IN FAVOR: Sean Foley, 4818 Hazel Drive, Oxford, Ohio; Ms. Alisha Bower, 700 David Drive, Oxford, Ohio

Mr. Foley said we bought our house which is the first division out there in 2004 and we saw the original plan of the lot split and to put a house back there ever since we looked at the house and we also thought this was pretty much a done deal. We would be the worst impacted as far as the driveway and we are 100 percent (100%) in support of this.

Ms. Alisha Bower said she had been with the Bower family for nearly a decade and the entire time that she has been with this family they have expressed to her that their original goal is to retire and move back there into that home. She said he walked me out to the

property and explained that this is where they would like to build their house and wanted to if she was on board with it and how she felt about it to make sure she felt pressured with his decision and that she would also be a part of it and she feels it speaks volumes that Rusty and she both want to live in such proximity their parents – it speaks volumes about the character and the type of people that they are.

Ms. Alisha Bower said she has been the Assistant Charge Nurse for the Butler County Detention Center and the children at the Detention Center are lacking parental involvement and family support for her children to have the opportunity to be raised with their parents, grandparents, and great grandmother would be wonderful to keep that sense of family unity.

An unspecified speaker said when it comes to the driveway agreements and easements, he just wants the Board to know there is no problem with that and feels all three (3) of them can get it all worked out and that will not be an issue.

Mr. Salmon asked if there was an easement agreement.

Unspecified speaker said there is an agreement for the first part and they have been looking for the documents.

Mr. Fox asked for details for what is in it.

Unspecified speaker said he knows that on the plat itself it shows the egress/ingress and to be honest he does not know the exact wording on it, but they have sealed it twice since he has lived there and they all just split the cost and it's been that way for six (6) years now.

Mr. Fox asked the applicant to confirm right now the easement is for his property, the ingress/egress and the whole 30 acres and he is just going to extend the ingress/egress back to the new property and incorporate that in to his deed.

Mr. Richard Bower replied that is correct.

Mr. Fox said it is pretty far in from the road and asked Mr. Salmon, as a Township Trustee, if 12 feet typical for a fire engine.

Mr. Salmon said yes, it is adequate. It is an open driveway and no trees are there to be in the way.

TESTIMONY IN OPPOSITION: None

NEUTRAL TESTIMONY: None

Mr. Salmon said Mr. Bower has talked to him (as a Township Trustee) twice about this matter and brought it up at our Board meeting on Monday and our Township Trustees have no objection with this.

STAFF COMMENTS:

Mr. Fox said case BZA11-04V, Richard and Peggy Bower, the request is to split property without proper road frontage.

Staff Comments are as follows:

1. The property is zoned A-1 Agricultural.
2. This area is rural in character.
3. The applicant is seeking a variance, said applicant shall be required to establish to the Board, proof by a preponderance of the evidence that 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:
 - An ingress/egress easement must be recorded with the new and existing property.

Ms. Steenken made a motion to approve the request for a variance in case number BZA11-04V, Richard & Peggy Bower with the condition that an ingress/egress easement is recorded on all Deeds.

Mr. Philpot asked if the Board can request that the easement be necessary before the construction starts.

Mr. Fox said it will be because it is a condition and when they come in to get it recorded, part of it being recorded is submitting the Deed and reviewing the Deed and we'll look for the ingress/egress easement to be attached at the time of recording.

Mr. Philpot seconded the motion. Motion carried.

AYES: Steenken, Philpot, Salmon

NAYES: None

Case No. BZA11-05C

K & A Architecture, Inc. / St. Matthews Lutheran Church
4411 Hamilton Richmond Road
Oxford, Ohio 45056

Mr. Donald Kiley, 1204 East Dorothy Lane, Kettering, Ohio, said he is here for an addition they are proposing at St. Matthews in Darrrtown, Ohio. It is a fellowship hall addition and also new handicap-accessible restrooms, which they presently do not have and they are trying to “kill two birds with one stone” and bring it up closer to building code. The building is accessible with a ramp in front but they do not have any handicap-accessible restroom facility. A lot of fellowship halls now are becoming a more social atmosphere to get people involved and provide a place to socialize and currently they only have a small room and it is used for Alcoholics Anonymous meetings and stuff like that but the room is not very conducive to that and the addition would allow them to have that and the church could be kept locked and the other portion could be used separately and opened up to the public and it is a small corner lot that has off-street parking and we do not see both the church and fellowship being opened simultaneously – it will be one or the other so we do not see a huge jump in the parking facility.

Mr. Kiley said the property is zoned Residential and a church is a permitted use but a fellowship hall is a conditional use and so we have to ask for the conditional use as well and parking requirements (inaudible). Plans are completed and in to the County and they are working with the County. The septic system is older and the addition will be built on top of that so we have paperwork filed with Ohio Environmental Protection Agency (OEPA) to put in a new septic system/mound system to modernize it and that would be part of this project as well and eliminates that option of where they could add parking because they have to have a septic system and a relocation area identified for the septic area in case one goes bad and they need to build a new system, so that eliminates the back portion of the sight for any parking.

Mr. Kiley said they are working over this with the Storm Water Engineer at the County and have that pretty well worked out and numbers on paper so this is the last piece of the puzzle they have to work out.

Mr. Philpot asked Mr. Kiley how many parking spots they will lose.

Mr. Kiley replied they will lose none.

Mr. Salmon asked Mr. Kiley if the plan is this will be used mainly by the church members.

Mr. Kiley said for the church and the community, and other events such as Alcoholics Anonymous meetings and community gatherings.

Mr. Kiley said they sent out notices to all of the surrounding neighbors and he assumed that someone was already upset with people parking in their driveway or something.

Mr. Chuck Foust, a Board member of the church, 4445 Hamilton Richmond Road, Oxford Ohio, was sworn in.

Mr. Fox stated he did not have a chance to look at the plans and asked Mr. Foust if there would be a gymnasium, basketball or stuff like that. And, is the current parking ample for church services.

Mr. Foust replied no. The current worship space holds about 125 people and the new addition also holds about 125 people.

Mr. Fox asked Mr. Foust if there is ample parking space during church services and if there any problems with parking.

Mr. Kiley said they actually have five (5) extra spaces for handicap.

Mr. Fox said that was a concern of staff, if church service was going on and an activity in the fellowship as well, would there be parking issues and would he start getting complaints.

Mr. Philpot said there is an overflow right across (inaudible).

Mr. Fox said he just wanted it to be understood the applicant could have issues with parking but if they are not having issues then it is fine.

Mr. Foust said this is critical to our church because it is a small congregation, it is 170 years old with about 85 members and there is a critical point where the congregation is under 100 members it would have a pretty good failure rate than one that has over 100 members and in order to triple the survival rate we need the congregation to grow.

Mr. Salmon asked if the church has anyone to construct it yet or are they doing the architect work right now.

Mr. Kiley and Mr. Foust replied at the same time, however, it was inaudible.

TESTIMONY IN FAVOR: None

TESTIMONY IN OPPOSITION: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said Case No. BZA11-05C, K & A Architecture, Inc., for St. Matthews Lutheran Church, 4411 Hamilton Richmond Road, Oxford, Ohio, is a request to construct a fellowship hall and waive any additional parking requirements.

Staff Comments are as follows:

1. The property is zoned R-2 Residential.
2. The area is residential in character.
3. The applicant is requesting a Conditional Use. A Conditional Use process is to allow appropriate users which have been identified where they are compatible with their surroundings. The staff feels that this use meets all Conditional Use requirements & staff will recommend approval.

Mr. Salmon asked Mr. Fox if the Board makes a motion to approve the variance to construct the hall do they need to waive the parking.

Mr. Fox said since the request is for the fellowship hall and the waiving of additional parking, and no one has contested it, we'll just lump it into one (1) and he will write it up accordingly.

Mr. Salmon said that was what he was thinking.

Mr. Philpot asked Mr. Fox why would there be additional parking.

Mr. Fox said under the County Zoning Code, we require a certain amount of parking spaces for the actual church and then the fellowship hall would require a certain amount of spaces depending on the use of the fellowship hall.

Mr. Fox said he wanted to make sure they understood there are other parking requirements and we can not tell them to not use the church and fellowship hall at the same time, so we want to make it clear there are other parking requirements because we can not guarantee it and they could rent it out for a Christmas party and we have to protect the parking.

Mr. Philpot made a motion to approve the request for a conditional use for BZA11-05C, K & A Architecture, Inc. / St. Matthews Lutheran Church to construct a fellowship hall and waive any additional parking requirements. Ms. Steenken seconded the motion. Motion carried.

AYES: Philpot, Steenken, Salmon

NAYES: None

ADJOURNMENT:

A motion was made by Mr. Salmon, seconded by Mr. 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
February 15, 2011

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf