

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
May 17, 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. April 19, 2011

III. New Business

- A. BZA11-10V Danny Welch
 1694 Millville Shandon Road
 Hamilton, Ohio 45013
- B. BZA11-11V Martin Gentry
 1778 Wayne Madison Road
 Trenton, Ohio 45067

IV. Adjournment

REGULAR MEETING: Tuesday, May 17, 2011
Butler County Government Services Building
Conference Room 1
315 High Street, 1st Floor
Hamilton, OH 45011

CALL TO ORDER: Ms. Steenken called the meeting to order at 7:00P.M.

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

MEMBERS ABSENT: Mr. Alan Daniel

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

Ms. Steenken said one (1) of the Board members is not present, any applicant may request to have their case tabled. If an applicant decides they would like their case to be tabled please let us know before we hear the case.

APPROVAL OF MINUTES:

Mr. Fox said the April 19, 2011 minutes were not yet available.

Case No. BZA11-10V
Danny Welch
1694 Millville Shandon Road
Hamilton, Ohio 45013

Mr. Welch said he is here to apply for a variance to put a garage up at his house – a barn, and move it over closer and to the side of the property line.

Ms. Steenken asked what the purpose of the structure is.

Mr. Welch replied storage – a spare garage.

Ms. Steenken asked Mr. Welch if he has any intention of running a business out of the structure.

Mr. Welch replied no.

Ms. Steenken asked if anyone would be living in the structure.

Mr. Welch replied no.

Ms. Steenken asked the applicant if he would have any utilities to the structure.

Mr. Welch said electric.

Mr. Bevington asked Mr. Welch if his neighbors on both sides are in favor of this.

Mr. Welch replied yes.

Mr. Philpot asked who owns the property over there (pointed to).

Mr. Welch replied his father does and his sister is over to the side of him.

Mr. Salmon asked what the true distances are that the applicant will be off of the property lines.

Mr. Welch said ten feet (10') from the side and twenty-five feet (25') from the back.

Mr. Philpot said the applicant has 22 in here.

Mr. Welch apologized and said they thought it was 25 but when it was all staked out.

Mr. Salmon asked the applicant if he will build it himself.

Mr. Welch replied yes.

Ms. Steenken said she noted from the application submitted it was pretty much dictated by the jet fuel line easement.

Mr. Welch replied yes, the gas line is why he wants to move it back a little bit and closer to the property line and over so that it falls in with the driveway that is already there and so it can go straight back.

TESTIMONY IN FAVOR OF: Mr. Ronnie Welch, 1698 Millville Shandon Road,
Hamilton, Ohio 45013

Mr. Ronnie Welch said he is in favor and knows some of the things being stored in his own yard will be moved to Danny Welch's new garage.

Ms. Steeken asked Mr. Ronnie Welch if he concurs that the proposed structure will be used for storage.

Mr. Ronnie Welch replied yes.

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

Mr. Fox said George and Frances Henson came in to his office two (2) weeks ago wanting to know what was going on and he has a couple of questions. Mr. Fox asked the applicant if he works for Welch Sand & Gravel.

Mr. Welch said he brokers trucks for Welch Sand & Gravel, which is his family.

Mr. Fox said he just wanted to make sure because they are a bit concerned that sometimes the trucks come home and they do not want to see this as a storage barn for the trucks so when he reads that condition in Staff Comments that is what its about – they did not think it was that big a deal and so they did not come tonight.

STAFF COMMENTS:

Mr. Fox said BZA11-10V, Danny Welch, 1694 Millville Shandon Road, Hamilton Ohio, 45013, the request is to build an accessory structure closer to the rear and side property lines than zoning allows.

Request: Build an accessory structure closer to the rear and side property lines than zoning allows.

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. 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 conditions:
 - A. A Building Permit is required.
 - B. No business activity from the property allowed
 - C. No storage of heavy equipment in or around the structure

Mr. Bevington asked Mr. Fox what he would consider “heavy equipment” to be, such as an end-loader to clean your driveway or....

Mr. Fox said the Henson's did not want to see a fleet of trucks that Mr. Welch brokers sitting in his barn or around the barn there, but they were not overly concerned. We have a load limit in the code, that says it can not be over one and a half (1 ½) ton and he does not want to see any truck business activity out there, period.

Mr. Bevington said what about semis and dump trucks.

Ms. Steenken said how about, "no storage of business-related heavy equipment."

Mr. Fox said that would be fine.

Mr. Welch said what about a skid-loader.

Mr. Fox said he is not necessarily saying that, what the neighbors were concerned about is they are aware of the business, and does not want to see the business come out to the house and start parking trucks out there. He might have an issue with a bunch of semi-trucks out there but not likely concerned over a bulldozer if they are doing yard work.

Mr. Welch said his shop is down in Ross and he rents from his family.

Mr. Fox said that is fine, how about "no business activity from the property" and forget item C.

Ms. Steenken said that includes no parking the fleet of trucks.

Mr. Fox said he wanted to revisit the conditions, and determined to remove item C and keep A and B as follows:

- A. A Building Permit is required.
- B. No business activity from the property allowed

Ms. Steenken made a motion to approve BZA11-10V, because of presence of the gas line which dictates the location of the structure and presents a hardship, and would like to add the following conditions: a Building Permit is required and no business activity from the property allowed. Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Philpot, Bevington

NAYES: None

The applicant inquired about the waiting period.

Mr. Fox said the Board can add as a condition that they waive the ten (10) day waiting period and he just applied yesterday – but it should be done officially as a condition.

Ms. Steenken said she motioned to add as a condition that the ten (10) day waiting period be waived for BZA11-10V. Mr. Salmon seconded the motion. Motion carried.

Mr. Bevington said the approval is now with three (3) conditions.

AYES: Steenken, Salmon, Philpot, Bevington

BZA11-11V

Martin Gentry
1778 Wayne Madison Road
Trenton, Ohio 45067

Mr. Martin Gentry, 1778 Wayne Madison Road, Trenton, Ohio said he is here to apply for a variance to get a bigger pole barn built than is allowed. The code only allows us to build a 24' x 24' and he is looking to get a 24' x 32' pole barn for storage.

Mr. Fox asked Mr. Gentry how big this porch is going to be off of that, because we are going to include that in the square footage because it is part of it.

Mr. Gentry replied 16' x 8'.

Mr. Fox said the variance is to build an accessory structure bigger than zoning allows, which is 32' x 24' plus an 8' x 16' porch-type scenario.

Mr. Bevington asked what the porch will be used for.

Mr. Gentry said for aesthetics and some where to sit.

Ms. Steenken said so that would be a recreational-type use.

Mr. Gentry agreed.

Mr. Bevington said the Health Department says that may be the applicant's only place if something goes wrong with his leaching – there will be no place except that to put his leaching field there.

Mr. Fox said the Health Department stated if allowed to construct the proposed barn will be located in the only available replacement area for the existing leach field. Future sewer nuisances may require an OEPA NPD system for abatement." And he would be looking at upgrading a septic system into something more expensive.

Mr. Gentry said he was aware of this and knows that the (inaudible) would have to upgrade the septic system if something goes bad.

Mr. Bevington asked Mr. Gentry if he had talked with his neighbors up there.

Mr. Gentry said yes and added that this is just for personal storage.

Mr. Salmon asked Mr. Gentry if he plans on having electric or water in it.

Mr. Gentry replied not from the start but eventually he will have some electric.

Ms. Steenken asked Mr. Gentry if he has any intention of running a business in it or having someone live in it.

Mr. Gentry replied no to both.

TESTIMONY IN FAVOR OF: Jesse McKeehan, 5102 (inaudible) Bridge Drive, Morrow, Ohio 45152

Mr. McKeehan said that the building, even though it is somewhat larger, will still meet the requirements for the setback for Butler County. The home and septic was built in 1996 and he referred back to one of their professions, (name inaudible), a well-known septic installer in the area, and he assured Mr. McKeehan that even with a system that old will likely not fail for many, many years to come and it is in the applicant's favor that he use that portion of land that has been set aside for another septic system.

TESTIMONY IN OPPOSITION OF: David, Proeschel, 3900 West Elkton Road, Hamilton Ohio

Mr. Proeschel said he owns the land behind this property and it is presently farm land and will eventually be additional subdivision land and would like to have the adjoining lots be restricted to the present zoning rules for a subdivision or residential housing.

Mr. Bevington asked Mr. Proeschel if he knew what size lots they are.

Mr. Proeschel said he thought they were 7.2 acres was divided into six (6) lots, so a little over an acre each.

Ms. Steenken asked Mr. Fox what the zoning classification is on this property.

Mr. Fox said the zoning is A-1 Agricultural but it is a recorded subdivision and we go by the residential standards.

Mr. Proeschel said he thought his property was in R-1 District.

Mr. Fox said he was looking at the wrong public notice and stated this property is zoned R-1 Residential and apologized for it.

Mr. Bevington asked how this barn would affect that.

Mr. Proeschel said the zoning rules call for the building to be smaller. It's going to have a porch on it that he envisions junk piled on the porch with firewood piled on the outside in view and is not a subdivision structure. When those lots were sold off there were other restrictions also filed with those lots by Mr. Pennington he believes.

Ms. Steenken said she knows this Board does not deal with Deed Restrictions, but, by the County restrictions, asked is he allowed to have this.

Mr. Fox said he is allowed to have one (1) accessory building, not exceeding 576 square feet as the County code is written today.

Mr. Philpot asked Mr. Proeschel if he thought that if the applicant doesn't get a building that big that he might still have stuff outside. If the applicant makes a smaller building then he would have more things outside.

Mr. Proeschel said all he knows is that of those lots along there, none of those have that large of an outbuilding.

Mr. Fox said he has to disagree with Mr. Proeschel as they issued a variance some time ago, about five or 6 (5 or 6) years ago to build a lot larger structure than what the applicant is asking for here.

Mr. Philpot said if we eliminate the porch the applicant can still store stuff.

Mr. Bevington agreed. If he has an outside building we can just say no outside storage, if we wanted to add that as a condition.

Mr. Philpot asked if he is correct in understanding that if the larger structure is not granted and the applicant goes to the regular building size, he can store anything he wants and there is nothing one can do about it.

Mr. Fox said as a zoning official he would not want to get involved with what is and what is not personal property. If the applicant chooses to store firewood next to his building for his own personal use, he would not have a problem with that but would prefer not have that as some type of condition because it would be difficult to enforce.

Mr. Fox said the applicant can still build a building up to 576 square foot building without a question.

Mr. Philpot said and the applicant can stack wood without us stopping him.

Mr. Proeschel said he would like to request that the building be limited to normal size.

Mr. Bevington asked Mr. Gentry, if the Board said they would not approve the porch but would approve the building, would he turn it down or take the offer.

Mr. Gentry replied the porch is strictly for aesthetics and does not know what he would store up there aside from his butt in a chair.

Unknown speaker said he feels that having a porch on the building would be a benefit and more aesthetically pleasing to potential buyers of property in the area.

STAFF COMMENTS

Mr. Fox said Case No. BZA11-11-11V, Martin Gentry, 1778 Wayne Madison Road, Trenton, Ohio, 45067, the request is to build an accessory structure larger than zoning allows.

Staff Comments:

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, but since this will not change the character of the area and that this Board has approved a variance for a larger structure on property in this area, the staff will recommend approval with the following conditions:
 - A. A Building Permit is required.

Mr. Bevington asked if they can include a condition that no business is to be conducted.

Mr. Fox replied yes.

Mr. Philpot made a motion to grant the variance subject to a Building Permit is required and no business is to be conducted on this property. Ms. Steenken seconded the motion. Motion carried.

AYES: Philpot, Steenken, Salmon, Bevington

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
May 17, 2011

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf