

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
May 18, 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. April 20, 2010

III. New Business

- A. BZA10-06V Adam & Michelle Miller
 6008 College Corner Pike
 Oxford, Ohio 45056

IV. Adjournment

REGULAR MEETING: Tuesday, May 18, 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
Ms. Lee Steenken

MEMBERS ABSENT: None

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

APPROVAL OF MINUTES

Ms. Steenken made a motion to table the minutes approval until next month. Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Daniel, Philpot, Bevington

Case No. BZA10-06V
Adam & Michelle Miller
6008 College Corner Pike
Oxford, Ohio 45056

Mr. Miller said he is here to request a variance. His in-laws are giving him and his wife property on Gaston Lane, which is a private drive and there is not proper road frontage on it to build a new home.

Mr. Bevington asked who will be building a home.

Mr. Miller said he and his wife will have a builder do it.

Mr. Bevington asked Mr. Miller if he had talked with all of his neighbors up there.

Mr. Miller said yes, every except Ms. Mary Jo Crum and said he does not foresee a problem there.

Mr. Bevington asked Mr. Miller how much land the in-laws are cutting off from their property.

Mr. Miller said it is 2.18 acres.

Mr. Bevington asked how far back is that in off of the main roadway.

Mr. Fox said it is approximately 1,600 feet plus the 350 feet of road frontage on Gaston Lane.

Mr. Fox said he did not have a chance to get out to the property and asked if it is a gravel lane or concrete.

Mr. Miller said it is old asphalt and there is gravel on the back part of it.

Mr. Fox asked Mr. Miller if there is a maintenance agreement for Gaston Lane to allow for you to get in and out of the property and is there going to be an easement tied in to the Deed that gives them legal access to his property.

Mr. Fox said he looked up the preliminary legal and asked Mr. Miller if he has discussed it with his father-in-law and the other two (2) neighbors about a maintenance agreement on the lane – is there anything in place for that.

Mr. Miller said as far as anything in place as far as the maintenance of it, that he could not tell but he can tell as far as if some patching is involved everybody just splits the cost of it.

Mr. Fox asked if the others are also family members that live on the lane down at the bottom.

Mr. Miller said yes, Mr. Bill Long is, and then his sister-in-law and her husband are in the back.

Mr. Fox asked what about David and Margaret Lynn Butcher.

Mr. Miller said they are not family but they know them well.

Mr. Fox said he does not want to add any undue cost to Mr. Miller, but he has seen in the past on zoning end of it, we need to look toward the future in case for some reason all of these people move away or sell and we have a lot back there with a house on it and then this person sells the lot and they don't get along with the other and decides to place boulders there so the other can not have access. And it has happened and in twenty years he may not be here, and he feels that part of the condition should be that there be some type of access easement associated with the Deed that allows access through the private lane.

Unknown speaker said his understanding is that it was a Township road, it went on up here to the two (2) brothers that owned the property at the end of Gaston Lane decided that they did not need the road anymore and they closed it and this lane has been in existence back to the 1800's and the Land Use ever since he was a kid.

Mr. Daniel said he agrees with what Mr. Fox is saying to get it written down and that everybody agrees to and lives by it so it won't be an issue twenty years from now.

Mr. Fox said there should be some type of access recorded easement. In theory, the small acreage tracts that are owned by the Butchers and the Longs should also do that and would be his suggestion to them.

Mr. Fox asked who owns the 102 acres. Parcel 4, to the west.

Mr. Bevington said that should be the Crum's property.

Mr. Fox said if you look at the survey there is a line that runs right down the middle then you have Gaston Lane, which is approximately 16.5 feet wide on one side and potentially 16.5 feet on the other side, but does not show it, but technically the portion of Mr. Crum's property, unless there is some legal document, does not have allow these people to drive up and down his property.

Mr. Miller said when it was surveyed the lane is 16.5 feet wide and he assumed he would own half of it.

Mr. Fox said if you look at the private lane, where it is labeled "private lane", and then there is a dashed line and then you've got the center line of the private lane, he is not sure if that is the half which is owned by the Longs or the whole width of the whole thing.

Mr. Fox suggested that a condition be put on that Mr. Miller gets an access easement recorded and approved with this split.

Mr. Fox said Mr. Crum did not come and is sure he does not mind, but Mr. Crum might get mad at Mr. Miller in the future and say these people are driving on my property and they do not have a legal right to." And he said he would rather have the residents here along this access sign off on the access.

Mr. Miller said that makes very good sense and it will be clear down the road.

Mr. Fox told Mr. Miller that he would highly suggest that his relatives look at doing this same thing for their properties.

Ms. Steenken said it will just protect everyone.

Mr. Fox said he can get a surveyor or attorney write up an easement that all of you agree upon and record it with each specific parcel and said this is just a suggestion but would like to see it on Mr. Miller's property and the other two parcels.

STAFF COMMENTS

BZA10-06V, Adam and Michelle Miller, 6008 College Corner Pike, Oxford Ohio, are requesting to split property without proper road frontage.

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. Since the precedence has been set for these types of splits in the past, the staff will recommend approval of this variance with the condition that an ingress and egress easement be recorded for access from Route 27 to Mr. Adam Miller's new property.

Mr. Salmon asked if they can build the house and outbuildings or anything that meets code after we approve this. If he wanted to build an outbuilding in the future would he have to come back again?

Mr. Fox said that is a good question – if Mr. Miller had proper road frontage he would be allowed two (2) accessory buildings not exceeding 1,500 square foot in size each he believes, so he will also add a condition that Mr. Miller is allowed to have two (2) accessory buildings not exceeding 1,500 square foot each without property road frontage.

No further comments.

Ms. Steenken made a motion to approve the request for the variance, BZA10-06V subject to all of the staff comments and conditions, specifically that an ingress/egress easement be recorded as part of the Deed and that Mr. Miller will be allowed to build two (2) accessory structures not to exceed 1,500 square feet each. Mr. Salmon seconded the motion. Motion carried.

AYES: Steenken, Salmon, Philpot, Bevington, Daniel

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
May 18, 2010

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf