AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
June 15, 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, June 15, 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

Mr. Salmon made a motion to approve the minutes from the April 20, 2010 meeting with a minor correction to page 23. Ms. Steenken seconded the motion. Motion carried.

AYES: Salmon, Steenken, Philpot, Daniel, Bevington

NAYES: None

Mr. Daniel made a motion to approve the minutes from the May 18, 2010 meeting. Ms. Steenken seconded the motion. Motion carried.

AYES: Daniel, Steenken, Philpot, Salmon, Bevington

NAYES: None

Case No. BZA10-07V
Robert Stein
2178 Beechwood Drive
Ross, Ohio 45014

Mr. Stein said he is here to ask for a zoning variance for his property and he would like to make two additions to an existing out building would violate current zoning regulations.

Mr. Stein said they want to convert an existing two-car garage into space that will displace two vehicles that they have and one addition would house those two vehicles and some lawn and garden equipment and the other addition would house that.

Mr. Stein made reference to a letter of explanation with everything he intends to do and there are also pictures of his property, adjoining properties and also properties throughout the neighborhood were presented.

Ms. Steenken asked Mr. Stein if he has any intention of operating a business out of this outbuilding.

Mr. Stein replied no, just for private storage use.

Ms. Steenken asked if there is currently and will there be electricity and/or water.

Mr. Stein said the existing out building has a water line and has its own electric and will probably extend the electric to the two (2) additions.

Ms. Steenken asked if Mr. Stein has any intention of anyone living in this structure.

Mr. Stein replied no.

Mr. Daniel asked if any of the neighbors have any objections to this.

Mr. Stein said no, he has talked with all of them and everyone seems to be ok with it. The trees pretty much block the view from the north and he has spoken to his neighbor to the south numerous times and he is fine with it.

Mr. Salmon asked how it will be serviced.

Mr. Stein said it will be serviced by the existing driveway.

Mr. Salmon asked if it will be just like on the drawing.

Mr. Salmon asked Mr. Stein if he will build this himself.

Mr. Stein replied no, he will have a contractor build it.

No further questions asked.

TESTIMONY IN FAVOR: None

TESTIMONY IN OPPOSITION: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS

Mr. Fox said the applicant is requesting to build an addition onto the existing accessory structure larger than zoning allows and have it closer to the side property line than zoning allows.

Staff Comments are as follows:

1. The property is zoned R-2 Residential Zoning District.
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 Building Permit is required.

Mr. Salmon asked Mr. Fox asked if the first building was built before zoning.

Mr. Fox said the zone code used to allow them to go to three (3) feet so it was probably built with those perimeters when they allowed three feet, but now we require them to meet the set back of R-2 Zoning which would be eight (8) feet and put that in there to make everything right and make it part of the variance.

Mr. Philpot made a motion to approve the request for the variance, BZA10-06V, and a building permit is required. Ms. Steenken seconded the motion. Motion carried.

AYES: Philpot, Steenken, Salmon, Daniel, Bevington

NAYES: None

Case BZA10-08V
Paul and Vicky Kroger
4724 Eck Road
Middletown Ohio 45042

Mr. Kroger said he is here for a variance for his fence and they bought the property last October and inquired at the County about a fence and got all of the information except for the height.

Mr. Kroger said he got an estimate from the fence company and went ahead and had the fence put up. This fence provides security, enhances the neighborhood and he is raising

two grandchildren and it's supposed to be a four (4)-foot fence but its five and a half (5 ½) foot and he apologizes but did not know he was doing wrong. Mr. Kroger showed pictures.

Mr. Fox said he received a complaint about the height (of the fence) and met with Ms. Kroger and measured the fence and explained to her what the code was and we sat down and she applied for the variance and this is how this all came to be.

Mr. Philpot asked if it was just the front that is in violation.

Mr. Fox said that is correct. The variance is for the front yard and anything in front of the house can not be more than four (4) feet tall. A fence on the sides and the rear can be up to eight (8) feet tall.

Mr. Fox asked Mr. Kroger if he may keep the photographs for the record.

Mr. Kroger replied yes.

Ms. Steenken made a motion to accept the photographs submitted by the applicant. Mr. Salmon seconded the motion. Motion carried.

Ayes: Steenken, Salmon, Daniel, Philpot, Bevington

Nayes: None

Mr. Salmon asked how far back from the road is the fence.

Mr. Kroger said it is 30 foot and he has pictures of the driveway to show that on either side there is plenty of clearance.

Ms. Steenken said so there is no site distance issue with it.

Mr. Philpot asked if the neighbors have any objections to the height of the gate – it's a little higher than the fence is.

Mr. Fox said the complaint was the fence in the front as a whole is taller than zoning allows.

Mr. Philpot asked how many neighbors Mr. Kroger has.

Mr. Fox said he notified ten (10) property owners and received one complaint that started this process.

Ms. Kroger said when they put the fence in they did not realize it was in violation and put it up for security reasons and for the safety of their grandchildren.

No further questions asked.

TESTIMONY IN FAVOR: None

TESTIMONY IN OPPOSITION: Clarence Kidd, 4750 Eck Road, Middletown, Ohio; Jackie Banks, 4750 Eck Road, Middletown, Ohio

Mr. Kidd said the fence is in violation with the code and when you come in to my house you feel like you're driving into a prison with such a high fence. He said the fence is five and half (5 ½) feet high, and his other neighbor's fence is 4 feet tall – and it looks odd. Mr. Kidd asked what it would look like if he were to put up a fence. With one next door that is four (4) foot and the other is five and half (5 ½) foot, and if he were to put a fence up on his property nothing is going to look even or flow. Mr. Kroger has put up gates - it just looks odd between the two of these. Mr. Kidd said Mr. Kroger could easily modify his fence to make it fit code and drop it down to the four (4) foot height.

Mr. Kidd said before you go and put something up like this and manage to call and find out how many feet in off the road, they could tell you right then how tall a fence you can put up and that is what they told him as soon as he made the phone call.

Mr. Bevington asked Mr. Kidd if the other one was a farm fence.

Mr. Kidd said yes.

Mr. Bevington told Mr. Kidd if he were to put up a farm fence then it would look like his neighbors. If one is a wrought iron fence and the other one is a farm fence, so, whatever goes up against a wrought iron is not going to look the same.

Mr. Kidd said he would put something up nice that would flow and look better.

Mr. Philpot asked Ms. Banks if she had any objections to the fence.

Ms. Banks said she does not like it, and you can hear it whistle when the wind blows and all she worries about is her property and they have never had anyone rob them or stolen anything and they have lived there for five (5) years.

Mr. Bevington asked Ms. Banks if she is on the right side of Mr. Kroger.

Ms. Banks said when you look at his house, hers is on the left.

Ms. Banks said a fence is one thing, but they have been doing extensive landscaping on their property and although Mr. Kroger has a fence, his animals are still coming over the edging and the cats are walking on the cars and so it is not doing what it is supposed to and she objects to that and his dog is forever in her yard. If he has this fence for protection, it would keep his animals inside the yard and she has had to chase that dog and cats every day and it gets very annoying.

STAFF COMMENTS:

Mr. Fox said the applicants are requesting a variance to have a fence in the front yard taller than zoning allows.

Staff Comments:

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.

Mr. Daniel asked the applicant what the distance is of his fence stakes (distance between the posts).

Mr. Kroger said he is not sure.

Mr. Fox said for the record the property line is 1,320 feet on the right and 1,729.02 feet on the left and they have approximately 7.092 acres.

Mr. Bevington asked Mr. Kroger what types of animals he has besides dogs and cats.

Mr. Kroger replied that is it – a Golden Retriever and a cat but there are a lot of neighborhood cats running around.

No further questions asked of Mr. Kroger.

Ms. Banks said there is no fence all the way to the backside of Mr. Kroger's property so that is all open back there and how and why the dog is in her yard.

Mr. Fox said for the record, we are only talking about the fence in the front of the house only, not the fence in the rear.

Mr. Salmon made a motion to approved BZA10-08V variance request. Ms. Steenken seconded the motion. Motion carried.

AYES: Salmon, Steenken, Philpot, Daniel, Bevington

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
June 15, 2010

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Tom Bevington, Chair

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James M. Fox, Secretary

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Lee Margraf