

## AGENDA

BUTLER COUNTY BOARD OF ZONING APPEALS  
BUTLER COUNTY ADMINISTRATION CENTER  
130 HIGH STREET  
HAMILTON, OHIO 45011  
October 15, 2013

### 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

September 17, 2013

### III. New Business:

1. BZA13-09V      Robert Carr / Robert McConnell  
                         2540 Morgan Ross Road  
                         Hamilton, Ohio 45013
2. BZA13-10V      Jonathan Hesselbrock  
                         3820 Hamilton Scipio Road  
                         Hamilton, Ohio 45013
3. BZA13-11V      Joseph Zeinner / Dave & Kim Finke  
                         4214 Chad Lane  
                         Ross, Ohio 45061

### IV. Adjournment

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**REGULAR MEETING:** Tuesday, October 15, 2013  
Butler County Government Services Building  
Conference Room 1  
315 High Street, 1<sup>st</sup> Floor  
Hamilton, OH 45011

**CALL TO ORDER:**

Mr. Bevington brought the meeting to order at 7:00 p.m.

**ROLL CALL:**

Present: Mr. Thomas Bevington, Chair  
Mr. Henry W. Philpot  
Alan Daniel  
Mr. Gary Salmon

Absent: Ms. Lee Steenken

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

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**Approval of Meeting Minutes: September 17, 2013**

Mr. Salmon made a motion to approve the September 17, 2013 Meeting Minutes as submitted. Mr. Philpot seconded the motion. Motion carried 4 – 0.

AYES: Salmon, Philpot, Daniel, Bevington

NAYES: None

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**NEW BUSINESS:**

**BZA13-12V**

Mitchell Dezarn  
63 Oxford State Road  
Middletown, Ohio 45044

Mr. Dezarn, 81 Oxford State Road, Middletown, Ohio, and Ms. Delores Dezarn, 81 Oxford State Road, Middletown, Ohio, were both sworn in.

Mr. Dezarn said he is here to request a variance to put in a small car lot on a piece of their property located at 63 Oxford State Road, Middletown, Ohio, and they had the process

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done for benchmarking since it is in a flood zone and have followed all of the rules so far that they need to do this. This will help them with their towing business and want to be able to get rid of the salvage vehicles that they get from the police departments because they can only sell them as salvage or crush them. He added that it would also create tax dollars from the sales tax on the ones being sold.

Mr. Bevington asked Mr. Dezarn how long he has owned that business.

Mr. Dezarn said since 2006 and prior to that he was in business for over 20 years next door to where he is asking for the variance which he leases.

Mr. Fox told the Board that moons ago somebody got a variance before his time, to operate a salvage yard or towing impound lot there which was approved by the County Board of Zoning Appeals. On the site plan they did it way in the back behind the house. There's a house up front and a long lane where they do it way back there as well.

Mr. Dezarn said that Mitchell's junk yard was his old location.

Mr. Dezarn shared pictures of the old office trailer prior to being torn down and said he moved to his location and it is very, very nice.

Mr. Salmon asked the applicant if the cars there were towed in originally by the applicant.

Mr. Dezarn replied yes and there will be roughly 10 – 15 cars kept on that property.

Mr. Salmon asked if he's only going to have 10 – 15 cars there, where will he store the rest of them.

Mr. Salmon asked Mr. Fox about this being in a flood plain.

Mr. Fox said he has been working with the applicant and the applicant is familiar with the flood plain situation and what he will have to do so ultimately there will be no issues or concerns and we are working towards that and this is the first step and he will be in good shape.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL COMMENTS: None

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STAFF COMMENTS:

Mr. Fox said case BZA13-12V, Mitchell Dezarn, 63 Oxford State Road Middletown, OH 45044, is requesting a variance to operate an automobile sale lot with office space.

Staff Comments:

1. The property is zoned F-1 Flood.
2. This area is commercial 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. Must meet all Butler County Flood Plain Regulations.

Mr. Salmon made a motion to approve the variance for case BZA13-12V, Applicant Mitchell Dezarn, 63 Oxford State Road Middletown, OH, 45044, subject to staff conditions.

Mr. Philpot seconded the motion. All in favor and motion approved 4 – 0.

AYES: Salmon, Philpot, Daniel, Bevington

NAYES: None

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**BZA13-13V**

Shannon Mancino  
5567 Mosiman Road  
Middletown, OH 45042

Ms. Shannon Mancino, 5567 Mosiman Road, Middletown, OH 45042, said she is here to request a variance to put a pool on the side of her home. She said the way her house was built was backward so they have a driveway up front and goes to a garage and back, through the middle of the yard, and the side is the only feasible location to put a pool due to the rolling property and backs up to a creek and they have a six foot (6') privacy fence on that side.

Mr. Salmon asked Ms. Mancino if she spoke to any neighbors.

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Ms. Mancino said no, they have a new neighbor but they don't really communicate, and if they were to put a pool in the back yard, which is really the front, the other neighbors, the Smith's would be staring into it and added their properties are far enough apart and spread out.

Mr. Bevington asked the applicant how long she has owned the property.

Ms. Mancino replied 13 years and stated they have approval from the Health Department that there is enough space for septic.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said Case No. BZA13-13V, Ms. Shannon Mancino, 5567 Mosiman Road, Middletown, Ohio 45042, is seeking a variance to construct an inground pool in side yard. Staff comments as follows:

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 with the following condition:
  - A. A Building Permit is required.

Mr. Philpot said to also waive the ten (10) day waiting period.

Mr. Philpot made a motion to approve the variance for said Case No. BZA13-13V, Ms. Shannon Mancino, 5567 Mosiman Road, Middletown, Ohio 45042 subject to Staff conditions and to waive the ten (10) day waiting period. Mr. Daniel seconded the motion. All in favor and motion approved.

AYES: Philpot, Daniel, Salmon, Bevington

NAYES: None

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**BZA13-14V**

Bret Seigel  
3621 Rossgate Court  
Hamilton, Ohio 45013

Mr. Seigel, 2086 Kings Knoll Blvd, W. Harrison, Indiana, said he is here to request two (2) variances for a proposed basketball gymnasium to be built at 3621 Rossgate Court, Ross Township, Ohio and said he coaches girls' basketball which consists of student athletes from Ross, Hamilton and Oxford and they are in need of a practice gym. The organization currently has teams in the 6, 7, 8 and 9<sup>th</sup> grades. He added he has spoken with athletic directors at Badin High School, Talawanda High School and Ross High School and they want to use this facility for their teams as well, given the current lack of practice space for the growing number of school teams.

Mr. Seigel said the first variance is for the 200 setback on the side and the rear of the proposed facility. After having the space surveyed it is 140 feet away from the residences on the side and 22 to 58 feet away from the rear property line which is buffered by heavy woods before crossing over a creek and another residential cul-de-sac over on the other side.

Mr. Seigel said the second variance he is looking for is for a ten foot (10ft) high, six foot (6 foot) wide buffer and is suggesting a privacy fence and staggered pine trees facing the residents on the side of the property to make a pleasing buffer as opposed to a mounding buffer due to the slope of the mound after having it surveyed it would be almost impossible to get a mower in there and mow that so it was suggested to put up a privacy fence and stager trees along that property line and that is what is on the drawings.

Mr. Fox stated any time a use is adjacent to a residential use, our code states for every 100 feet of road frontage you need a ten foot (10 foot) wide berm with trees on top of it to get the 3:1 slope talking to their surveyor, the berm would be humongous – almost 30 to 60 feet wide to get a 3:1 slope to mow it and then put the trees on top and things of that nature, so that is why he is asking for a variance to put a privacy fence up and put trees to buffer it – it is a required condition in our zoning code.

Mr. Seigel said he is also working with the Kohl's family, Charlie Kohl who coached for Miami University for approximately 20 years and he had the opportunity to coach with him right before he passed away suddenly and he has been working closely with his daughter and son-in-law and have put together a foundation and getting Miami University in support of this; which they are, and we will be having a meeting next week if this Board approves these variances to move forward with funding. They are founders of the (inaudible) foundation.

Mr. Philpot asked the applicant about parking.

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Mr. Seigel said at most he will have two (2) games going at one time and there are 15 spaces there now and had them take a look at that he said he would need 24 spots.

Mr. Philpot asked Mr. Seigel how he will keep the kids inside and not hang out in the parking lot and added that is something that he will have to consider.

Mr. Seigel said he actually went and talked with the neighbors about that ahead of time and we talked about it again and he wanted to know how late we would be practicing and I told him typically for middle-schoolers it is nine o'clock (9:00 p.m.) and get done by ten o'clock at the latest and he was fine with that.

Mr. Salmon asked how old the oldest children that will be playing here are.

Mr. Seigel replied ninth graders.

Mr. Salmon said none of these children would have their drivers' license so someone would be dropping them off and picking them up.

Mr. Philpot asked Mr. Seigel if he was concerned about kids hanging out in this place.

Mr. Seigel replied no – his son, a sophomore at university, will be helping to run the program and he is 6' 7", 320 lb, and in charge in his absence.

Mr. Fox asked the applicant if they have set hours of operation now.

Mr. Seigel replied 10:00 a.m. – 9:00 p.m. on the weekends; and 5:00 p.m. to 9:00 p.m. for afterschool on week days for practicing.

Mr. Fox asked Mr. Seigel if there will be lights in the parking lot.

Mr. Seigel replied yes.

Mr. Fox asked Mr. Seigel if he would be willing to not put lights in the newest parking lot that is closest to the newer portion on the site plan that is closest to the neighbors on Herman Road.

Mr. Seigel said absolutely.

Mr. Daniel said a lot of places have lower ground lights and that he understood the neighbors' concerns.

Mr. Seigel said he and Jim Welch were talking about that.

Mr. Salmon asked if this will be for basketball only.

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Mr. Seigel said there will be volleyball too there are some club teams up in Oxford that have shown interest.

Mr. Salmon asked if this will be a year-round facility and will it also include personal weight training in the smaller building.

Mr. Seigel replied yes to both and added he is a personal trainer.

Mr. Fox asked the applicant if he would be willing to do an eight foot (8') privacy fence instead of six feet (6'); and what about taller trees within the berm along the property line by the residents on Herman Road.

Mr. Seigel replied yes.

Mr. Fox asked the applicant what type of trees do they usually use and what size.

Mr. Seigel replied pine and they suggested six foot (6').

Mr. Fox asked the applicant if they would be willing to go with an eight foot high (8') privacy fence with taller pines.

Mr. Seigel replied yes.

Mr. Fox said so let's put down an eight foot high (8') privacy fence with eight to ten foot (8' to 10') pines.

Mr. Bevington asked the applicant if he will have the front of the building lit and the main parking lot; but the surrounding buildings could be soft light on like the side of the buildings for security on the side lines and heavy light at the main entrance.

Mr. Seigel replied yes that is correct.

Mr. Fox said he will write the following as a condition, "no lighting on sides of buildings that face Herman Road except for lighting on the building that is required by Building Code.

Mr. Bevington asked Mr. Seigel where he got his degree in personal training.

Mr. Seigel replied University of Cincinnati (U.C.) through National Exercise Trainers Association (NETA). NETA has a partnership with U.C.

Mr. Fox asked about the proposed business hours of operation because the neighbors were concerned about how late practices will be held and also asked if it would be limited to practices only and no games.



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Mr. Seigel said his primary use is for practices and they have not determined if there will be any league activity and all depends on gym time – if he fills it up with gym time there will be no time for leagues; but if he did, it would be in the middle of the summer when kids are on vacation and we don't have teams then yes he would consider that.

Mr. Fox said this hearing is to discuss a variance on the setbacks and not about the uses of the building. Then asked Mr. Seigel if they were to limit hours of operation from 7:00 a.m. in the morning to 11:00 p.m. year round would that be alright.

Mr. Seigel said that would be fine for the new facility and said some people may want to train in the existing building at 6:00 a.m. before they go to work and people do that.

Mr. Fox said he understands that but just wanted to get that information out there.

NEUTRAL TESTIMONY: Lawrence Fehrenbach, 3660 Herman Road, Hamilton, Ohio; Mr. Fehrenbach said he came to get some information because they saw a lot of activity back there and he and his wife have lived there for 20 years and it's been quiet and he has nothing against what is being done but is concerned about his privacy with a lot of kids going in and out and he would like to have a sound buffer from it and to keep the light from coming in. He also wanted to know what type of trees they will be planting.

Mr. Salmon asked Mr. Fehrenbach if he is satisfied with Mr. Seigel's proposals and has he heard the proposals – because the Board members wants to make sure they're listening to the neighbor's questions and concerns.

Mr. Fehrenbach said he is concerned about the potential vandalism with kids there and feels the eight foot (8') trees are good but he also wants to keep the noise out so they can enjoy sitting out and having campfires without hearing a bunch of noise but is fine with the buffering mentioned.

Mr. Fox said Mr. Seigel is a great guy and if there are any problems he will fix it and Mr. Seigel assured him that noise will not be an issue.

Mr. Fox said originally the applicant proposed a six foot (6') fence and six foot (6') tall pines and now we are adding a condition to require an eight foot (8') tall fence and pines that are eight to ten feet (8' to 10') tall; and there is to be no lighting on the sides of the building that face Herman Road except for lighting that is required per Building Code regulations.

TESTIMONY IN FAVOR OF: Jim Welch, 8953 E. Miami River Road, Cincinnati, Ohio

Mr. Welch said his company owns all of the property on Rossgate and the vacant property, the professional building adjacent to this property, the Heritage Health Alliance Building and the applicant's property is very attractive to them because retail has not been too successful in Ross Township or at least in the strip center. It is a great benefit

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for the community and the kids and has a lot of popularity the way people view the business and they have a pretty substantial investment in the rest of the property and it certainly would not detract from their property value and are hopeful the vacant property will be used for medical and professional and it will be a good fit and wish him all the success. The building is currently a medical building and was occupied by Queen City Physicians and was a multiple office pediatric business for four doctors, three retired and one moved to West Chester Township.

TESTIMONY IN OPPOSITION OF: None

STAFF COMMENTS:

Mr. Fox said Case No. BZA13-14V, Mr. Bret Seigel, 3621 Rossgate Court, Hamilton, Ohio 4501, 3the request is to obtain side yard and rear yard setback variance and landscape variance.

Staff Comments are as follows

- 1 The property is zoned B-3 General Business.
2. This area is business and 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 conditions:
  - A. Building Permits are required.
  - B. Site must be developed per site plan submitted with this variance application, with the following exceptions:
  - C. No lights on parking area closed to Herman Road
  - D. Requires an eight foot (8') privacy fence
  - E. Eight to ten foot pine trees planted within the buffer
  - F. No lights on side of building that face Herman Road except lighting that is required per Building Code.

Mr. Bevington asked the applicant if he had any problems with the stipulations.

Mr. Seigel replied no he doesn't.

Mr. Salmon made a motion to approve case BZA13-14V, Mr. Bret Seigel, 3621 Rossgate Court, Hamilton, Ohio 45013 subject to staff conditions. Mr. Philpot seconded the motion. Motion carried 4 – 0.

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AYES: Salmon, Philpot, Daniel, Bullington

NAYES: None

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**ADJOURNMENT:**

Mr. Daniel made a motion to adjourn and it was seconded by Mr. Salmon.

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

October 15, 2013

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Tom Bevington, Chair

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James M. Fox, Secretary

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Lee Margraf