
AGENDA

BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
December 17, 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

- III. New Business:
 - A. BZA13-17V
 - James Cox
 - 2260 Stahlheber
 - Hamilton, Ohio 45013

- IV. Adjournment

REGULAR MEETING: Tuesday, December 17, 2013
Butler County Government Services Building
Conference Room 1
315 High Street, 1st 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
Ms. Lee Steenken

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

Approval of Meeting Minutes:

No minutes to approve

NEW BUSINESS:

BZA13-17V

James Cox
2260 Stahlheber Road
Hamilton, Ohio 45013

Applicant, Mr. Cox, 1405 Boyle Rd. Hamilton, Ohio 45013, said he has a 91 acre farm and his son would like to build on the very back lot but to take the utilities from Rural Road for that matter would really be expensive so he thought he'd see about buying the farm across the street and it's been about three (3) years.

First we worked on buying it then cleaning it up and had a friend that helped and the friend needed a place to live so he agreed to buy the place out front while Mr. Cox's concentration was on the backside. There were many tires there and it was a mess but we got them out of there and fixed the house up and ready. We dug a retention pond out back because we had a lot of problems with water and we did a lot of things to fix the house up and for him to get a handle on whether to buy the "whole enchilada" or just part of it. His friend took the house and (inaudible) me

the back acres and mainly so we can get this driveway back to a lot to build a house. The house is on 9.85 acres and there is already another parcel over in the corner and what we want to do is flip the line so my son would have six (6) acres in the back and then on this other lot he'd have four (4) if Mr. Cox wanted to build a house himself. When he went to the Health Department they told him the leach line for the house might have to be displaced and if that was to happen what would we do? So what we proposed was coming in to the six (6) acres where the easement would be for the driveway and that would be like an overflow for future if Jimmy needed it and we're all sharing the pond so that is like no man's land anyway so that is how we got around that and the Health Department said that would suffice. We might have to do an up flow but they said the next step would be a soil test to see what type of soil to recommend what they would put in.

Mr. Cox said his main thing is for his son to be able to build and hopefully he will be able to have this and this is why I'm here – mainly so that he can build a house. We figured if we got the ten (10) acres in the back; then he could take a piece off of it for the farm then add to that and then we won't have to redefine the farm. With the water conditions coming off of the property next there, there was a lot of water so we put in leach lines and that helped a little bit, but we thought if we could put this new driveway in then we could actually reroute the water and put it in the ditch where it belongs. We would share that lane and basically move the driveway up farther away from the railroad tracks. He said he wasn't sure if anyone has had the chance to go up there and drive, but if you go in that lane and try to come out, you face oncoming traffic and to veer to the right to get away from that track so it is really a dangerous situation the way it is now. So we are trying to reroute the water, make a new shared lane which would be safer and build a house back there, or two (2).

Mr. Philpot asked the applicant what makes him think he can get the 15 he is talking about.

Mr. Cox said you mean from the neighbor next door? I don't. He said he was on the phone with Mark Hane (not sure of spelling) from Union Savings bank because it is a foreclosed property and we made him a decent offer.

Mr. Philpot said to Mr. Cox that he is at least a year away from even having a possibility.

Mr. Cox said this is something he is trying to do now and his son wants to have the property before he would build so it's not like we want to do it tomorrow, but where the driveway is now, trust me, we will likely save someone's life and it would be like playing "Frogger" trying to get the mail across the street. He said he had to walk up to the railroad tracks, walk across and then walk to the mailbox then back around – you can't just walk across the street. The mail people won't let them move the mailbox up; if we move the driveway we can move that up and

that's not a problem and what he is proposing is to put a shared lane in, then it will be safe to do the mail and get back on; but right now they won't let us put it on the same side as the house right now.

Mr. Philpot said the applicant made mention of the Board of Health and they would have to be moved; it says right here that the front lot needs to have suitable replacement leaching lines; and has to be done.

Mr. Cox said that is not what they told him but it is not an issue and we don't mind to take the land they are proposing and the split and letting that be part of the easement for the driveway. The driveway would run along the fence and when it gets back to the six (6) acres his son wants, then they would cut across; so there would be kind of a divide there and his main thing was what we're going to do.

Mr. Salmon said what they are saying is if this fails, they have to have a replacement plan.

Mr. Cox said since we are sharing the pond we thought that would be the perfect strip and we are not going to do anything with it – all using it for enjoyment like a common area and can help with the future replacement concerns. He added that his son can't use that land anyway because it cuts across the triangular property which is an easement already and he is fine with that but was concerned about being able to build on the six (6) acres and taking a little piece off of the farm to add to that.

Mr. Cox said the four (4) acres that he himself would like to build on or to be able to build on down the road and he is trying to down-size from a two-story house that is 14 years old.

Mr. Salmon asked who presently owns the farm.

Mr. Cox said his father and his aunt – his uncle just passed away – but it's in a trust and goes to him, his sister and cousin. The three (3) of us will have it but you just never know what is going to happen down the road.

Mr. Bevington asked how many feet is it from Boyle Road.

Mr. Cox said it is not shown on this map, it's probably five (5) two-hundred foot lots and a couple of them go back to the farm, so about 1,000 feet and however far back to make the 91 acres – he's not sure. He said it would be a whole lot cheaper to go through Stahlheber Road and he spoke with Southwest Water and they actually talked about if they did this shared lane, they would move the utilities over for Jimmy – they would get them out of the front yard and move them to that same place, and he said what about a shared line for him and his son

and they would be responsible for that part back. He said to put two (2) sets of utilities would be kind of crazy and while they are digging it they could just put one (1) line for electric and they would have to be separated by so many feet; but then they could split it and meter it separately. That is what we are proposing to do and Southwest Water seems receptive but he doesn't want to do that now until they figure out what we are doing here.

Mr. Cox said if they are successful with the house next door we have no problems making that lane even further to the east to make it safer than what we have proposed and he has no problem with that.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL COMMENTS: None

STAFF COMMENTS:

Mr. Fox said case number Case No. BZA13-17V, James Cox, 2260 Stahlheber Road, Hamilton, Ohio 45013 is requesting a variance to subdivide property without road frontage to create two (2) buildable home sites.

Staff Comments are as follows:

1. The property is zoned R-1 Residential.
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, therefore the staff will recommend denial.

Mr. Daniel asked the applicant if he had conversed with any of his neighbors.

Mr. Cox said he did, with Linda Ross, but she lost her home to the Union Savings Bank and she was the immediate neighbor, and he was going to negotiate with her to try and buy that little sliver but she wasn't being truthful.

Mr. Daniels asked what about other neighbors.

Mr. Cox said there really aren't any other neighbors. Across the street is the railroad and he tried to track down another but the address he got was down in Louisiana so he never had the chance to speak with her.

Mr. Daniel asked Mr. Fox if this was granted would this change the nature of the neighborhood in any shape way or form.

Mr. Fox replied he knew this question would come up – and it is a fair question, however, in zoning staff has to go by what the Zoning Code dictates so that is why we made those staff comments and if you look at the area as a whole and you look at the second map attached (the Tax Plat Map), you already have a private lane already off of Old Oxford Road called “Deer Hill” he believed, and is pretty far away; you’ve got some lots on Boyle Road and Old Oxford Road with some smaller road frontage; and he is not sure if there are any houses on those or what, so, would it set a precedence? Yes it would, but there are others in the area that are similar in nature as to what he is asking for so he is asking the Board to look at the big picture, but staff would be against it due to the way the Zoning Code is written.

Ms. Steenken asked Mr. Fox, the safety concerns regarding the railroad and sight distance, would it be viewed positively if the entrance lane to this property were removed to allow safe access.

Mr. Fox said he spoke with Mr. Cox about this, and has his job to do (as Zoning Administrator). Will it be better if they move the driveway farther away from the railroad track? The answer to that question is absolutely yes, but honestly, you have two (2) more lots back there and you’re adding more traffic to an already tough intersection, and he spoke with Mr. Cox about that already, and though this Board would bring this up.

Mr. Daniel said to the degree of the (inaudible) how many cars go in and out (inaudible).

Mr. Fox replied he would say, yes – but he is not a traffic engineer and is giving his own opinion on it.

Mr. Philpot asked if there was any signage out there about hidden drives down that road.

Mr. Cox said he put signs out there and has asked the Sheriff’s office to put signs out there (the rest of it inaudible).

Mr. Philpot said to Mr. Cox, that he would not necessarily move that driveway unless the fence came up.

Mr. Cox said his son is paying for that.

Mr. Philpot replied if you can’t get it than obviously won’t happen.

Mr. Cox said that's right. He added he has put a lot of money into this and thinks having a shared lane it would (inaudible) frontage. He said he has never developed property so this is a learning curve for him.

Mr. Salmon asked if Mr. Cox buys the 50 feet will it be tied to the back lot.

Mr. Cox replied it would be part of that common lane which would give the back lot the right amount of frontage based on there being three (3) lots there – that is if he were to get Linda Ross' place and add it to the roster, then subdivide that and take that sliver off to make that the new lane and then that would add to the back lot.

Mr. Philpot asked Mr. Cox to come up and explain on the map what he intends to do. Mr. Cox came up and did so.

Mr. Cox also showed the Board Ms. Linda Ross' property on the map.

Ms. Steenken asked, in looking at the plat map, the triangular lot where there is a hope to build a home for Mr. Cox that is an existing lot of record.

Mr. Fox said correct but it is tied to the subdivision lot which is the other portion of this property. If you look at the deed it describes this parcel as well – on paper it is a separate parcel but in the deed it is not and cannot be sold separately. It is two (2) tracts on one (1) deed. Mr. Fox reviewed the deed.

Ms. Steenken said she asked the question to determine whether a hardship exists because there is no access to that tract.

Mr. Philpot made a motion to divide this where one (1) home could be built.

Ms. Steenken asked Mr. Philpot what would be his reasoning for allowing one (1) house.

Mr. Philpot said because of the neighborhood. He went on to say that staff recommended denial of this case, but he feels there is a hardship but when you look around there is just one (1) home on each tract and we don't want to change the nature of it too much.

Mr. Daniel asked Ms. Steenken what was her reasoning for asking that question.

Ms. Steenken said her thinking is if the Board allows a shared entrance to that back property, why limit it to one (1) rather allowing two (2) and she does not think it will change the character of the area any more than one (1) would.

Mr. Daniel thanked Ms. Steenken then asked Mr. Fox if a precedence will be set with one versus two (1 vs. 2) more so than two versus one (2 vs. 1) from a Zoning view point?

Mr. Fox said it doesn't matter if it is one, two or ten – what is set is set.

Ms. Steenken made a motion to approve the variance for case BZA13-17V, Applicant James Cox, 2260 Stahlheber Road, Hamilton, Ohio, and feels a technical hardship exists with access to the triangular tract, with the number of residents will be one (1) as presented with one (1) single-family residents per tract of land per the proposed split submitted with this Variance; an ingress/egress easement must be provided with each lot split and Maintenance Agreement must be submitted with the Deeds of the properties. Mr. Daniel seconded the motion. All in favor and motion approved 4 – 1.

AYES: Steenken, Daniel, Salmon, Philpot

NAYES: Bevington

ADJOURNMENT:

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

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

December 17, 2013

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf