
AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
February 21, 2012

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. BZA12-03V Sturgill Napier
 7062 West Alexandria Road
 Middletown, Ohio 45042
- B. BZA12-04C Tom Uhl
 6895 Morning Sun Road
 Middletown, Ohio 45042

IV. Adjournment

REGULAR MEETING: Tuesday, February 21, 2012
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

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

APPROVAL OF MINUTES:

September 20, 2011 Meeting Minutes

Ms. Steenken made a motion to approve the September 20, 2011 Meeting Minutes with some minor corrections as noted. Mr. Salmon seconded the motion. Motion carried 5-0.

AYES: Steenken, Salmon, Daniel, Philpot, Bevington

NAYES: None

December 20, 2011

Ms. Steenken made a motion to approve the December 20, 2012 Meeting Minutes as submitted. Mr. Daniel seconded the motion. Motion carried. Motion approved 5-0.

AYES: Steenken, Daniel, Salmon, Philpot, Bevington

NEW BUSINESS:

BZA12-03V
Sturgill Napier
7062 West Alexandria Road
Middletown, OH 45042

Mr. Napier, 105 (street name inaudible) Middletown, Ohio, said he is here tonight to seek a zoning variance to the side yard offset requirements to build a pole barn.

Mr. Bevington asked Mr. Napier what the barn will be used for.

Mr. Napier replied for personal use to store vehicles and maintenance of the vehicles.

Mr. Bevington asked the applicant if there is electric in the building.

Mr. Napier replied no sir.

Mr. Bevington asked if there would be water in the building or run a business from it.

Mr. Napier replied no to both.

Mr. Bevington if anyone will be living in the building.

Mr. Napier said no.

Mr. Bevington asked Mr. Napier if he plans to store any gas or oil in the building.

Mr. Napier replied no more than what would be needed to maintain the vehicles – like oil changes.

Mr. Bevington asked what type of vehicles.

Mr. Napier said just a few personal antique vehicles.

Mr. Salmon asked Mr. Napier if he lives at this residence.

Mr. Napier replied no, he does not live at the address.

Mr. Salmon said but the vehicles Mr. Napier owns will be stored there.

Mr. Napier said yes, they are moving to that address.

Mr. Salmon asked Mr. Napier if he plans to build it himself.

Mr. Napier replied no sir.

Mr. Bevington asked the applicant what he plans to do with the old barn.

Mr. Napier said it will be used for storage lawn and farm equipment.

Mr. Salmon commented the building will be hardly visible from the road.

Mr. Napier said it won't be visible from the road and a person would have to be looking for it to see it.

Ms. Steenken said she noticed Mr. Napier indicated that the natural drainage divides the lot and a typical vehicle would not be able to make it across.

Mr. Napier said absolutely not.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

Mr. Daniel said he speaks on behalf of the Township Trustees and appreciates the cleanup that the applicant has done to the vacant property.

Mr. Napier asked if this is the time he would be allowed to ask the ten (10) day waiting period be waived.

Mr. Bevington said he can do that.

STAFF COMMENTS

Mr. Fox said BZA12-03V, Sturgill Napier, 7062 West Alexandria Road, Middletown, Ohio, the request is to build an accessory structure closer to side property lines than zoning allows.

Staff Comments are as follows:

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 variance is to show a hardship with the property and due to the hardship that exists with the land staff will recommend approval with the following condition
 - A. A Building Permit is required.
 - B. Waive the ten (10) day waiting period

Ms. Steenken made a motion to grant approval of BZA12-03V subject to conditions recommended by staff. Mr. Daniel seconded the motion. Motion granted 5-0.

AYES: Steenken, Daniel, Salmon, Philpot, Bevington

NAYES: None

Case No. BZA12-04C
Tom Uhl
6895 Morning Sun Road
Oxford, OH 45042

Mr. Thomas Uhl, 6637 Contreras Road, Oxford, Ohio and Mr. Greig Rutherford, 6140 Vereker Drive, Oxford, Ohio Architect and stated agent for Mr. Thomas Uhl were sworn in.

Mr. Uhl said he is here for a permit to run and bed and breakfast at 6895 Morning Sun Road, Oxford Township, Ohio.

Mr. Rutherford added the request is for a Conditional Use and it is an A-1 Agricultural setting and as stated, the request desires to maintain agricultural zoning. Within the Butler County Zoning Resolution, under A-1, a conditional for a bed and breakfast is a stated conditional use and it is that conditional use that is being sought.

Mr. Rutherford said Tom acquired the farm several years ago and they have been here before.

Mr. Rutherford said he was asked to look at the project and to assist them with what was a permissible use within this agricultural zoning. When Oxford Township was engaged in developing their Comprehensive Plan, he was the City Councilman in the City of Oxford and they were concurrently preparing our Comprehensive Plan so there was a great deal of sharing between Township Trustees and the Councilman.

Mr. Rutherford said he recognizes the Bed and Breakfast was one of the stated Conditional Uses, stated within the Oxford Township Comprehensive plan was one of the stated business types that the Township Trustees and the citizens of Oxford Township were actually encouraging family farms to take advantage of to promote the Oxford Township area and the City of Oxford agriculture and agritourism. So, his advice to the Uhl's was a bed and breakfast meets the goals and objectives of Oxford Township and also fits properly within the Butler County Zoning Code.

Mr. Rutherford said prior to his involvement with this, the Uhl's had the renovation of an existing barn to become a residence that would ultimately house the bed and breakfast.

Mr. Rutherford said they've had a great deal of discussion about this, and when the renovation of the barn is complete and is a habitable structure as a dwelling, it will become their residence and they will live there at the Morning Sun Road property and they will be the Proprietors of the bed and breakfast. He added they realize there is a "chicken and egg" issue, and that is: to have the bed and breakfast you have to have (inaudible) so the barn becomes the residence and as soon as they receive the Occupancy Permit from Butler County, then a bed and breakfast the Conditional Use permit should be able to be granted.

Mr. Rutherford said the plan calls for four (4) bedroom suites, one which will be for the Uhls and the other three (3), located on the second floor, will be guest accommodations and the entire property is ADA accessible and will include an elevator.

Mr. Rutherford said the farm is part of the Uhl's goal to reclaim the family's heritage in agriculture, farm land that was lost in Camden during the great depression and Mr. Uhl is restoring this to the family and he, along with the Township Trustees, recognize the same thing.

Mr. Rutherford said the Uhl's will restore agriculture at the farm, which is held in a trust so it passes along to generations and the goal is to get the building completed for a residence, get them moved in and get the bed and breakfast operating.

Mr. Rutherford said the letter from staff recommends approval and acknowledged the comments on the parking and site plan shows the parking utilizing part of the historic farm yard and the landscape indicates trees for the parking and he has suggested to the Uhls some sort of evergreen screening and seven (7) parking spaces.

Mr. Rutherford said it appears to be an appropriate location for the parking because the historic barnyard is a hard packed gravel surface rather than (inaudible).

Mr. Rutherford said the ridge line and eaves are perfectly straight, and the Township Trustees stated was "rural character" and they commented on maintain rural artifacts and the appearance of our viewsheds within the Comprehensive Plan and what they are doing here deserves a lot of merit by maintaining that barn and wanting an agricultural setting.

Mr. Daniel asked about the parking (but not audible).

Mr. Rutherford replied and said far enough from the road and moving the cars away so they do not obstruct the barn and allow for emergency crews to have access and planting tree screening.

Ms. Steenken inquired about bedrooms (suite #2 and #3 on the second floor) and she did not see any doors.

Mr. Rutherford said they are there, he did the measured drawing and he did not drop them in.

Mr. Uhl said for the record the barn was finished December 11, 1913 and the barn is remarkably strong and has held up very well. He added the beams are still exposed and welcomed the Board members to come up.

Mr. Rutherford said they did take the opportunity to present it to the Township Trustees and he left the meeting feeling very encouraged, and there was a lot of enthusiasm at the meeting, even though the Trustees could not make a recommendation either way on it.

Mr. Uhl said it will continue to be an active farm and will be a class operation.

TESTIMONY IN FAVOR OF: Jay Bennett Esq.; Sandra Douglass, 6925 Morning Sun Road, Oxford, Ohio

Mr. Bennett said he is here representing Ms. Smucker who could not be here tonight and wanted to say she is not opposed to a bed and breakfast, however, she does have some specific concerns, including the impervious surfaces however upon touring the property, which was very impressive, his understanding was the surfaces for 7 maximum parking spaces was going to be gravel so there impervious materials to be there but his client was concerned about runoff. They are pleasantly surprised to see proposed vegetative screening and what the degree of opacity is, whether it will be bermed, staggered, or what materials will be used, but the screening of the parking spaces and where they are is very much a smart way to go about it. Mr. Bennett said contents within the packet Mr. Rutherford gave him raised some concerns including the drawing says “existing barn being converting to a vacation home”, which was attached to the application.

Mr. Rutherford said when they met with the Board of Health, a gentleman named Brian attached his drawing of the sanitary system and it is his drawing, strictly for the purpose of where the leach fields are located relative to the barn. He added this is a valid and proper question but this was for EPA approval.

Mr. Bennett said the other concern was whether or not the letter that Mr. Rutherford sent to the Board of Zoning Appeals that explains the project mention because it mentions that this is a very productive family farm and only 4 or 5 times that it referred to a bed and breakfast and he looked at the code and a couple of the definitions that this could fulfill, and the definition of a “Bed and Breakfast” and the definition of a “Farm Dwelling” and everyone had a different concept of that and when we were here last time with a Variance Application there was a lot of discussion about a laboratory farm or various groups doing organic farming and classes and that type of thing and it was mentioned quite a bit to this body it was a working farm, his client is all in favor of a bed and breakfast but is concerned that it might morph into something else. He added it is quite obvious what the Uhl’s plan on doing here but you can never tell what your kids are going to do.

Mr. Bennett said aside of the details of screening and impervious surfaces or not impervious surfaces, the other concern is whether or not the agricultural activities that will be conducted on the farm will be traditional farming or farming for use in restaurants, etc. and he wonders, given his client’s concerns, whether there be anyone out there farming other than family and whoever the family hires – those are the major concerns and questions of his client as to what is going to go on at this bed and breakfast and working farm, and obviously there are two (2) different aspects to this and his client is not opposed to the bed and breakfast just worried about other possible activities.

Mr. Fox asked Mr. Bennett if he has seen the Staff Report and indicated one of the conditions is the property/structure will have to be owner occupied and it also says the building can only be used as a bed and breakfast and no other use will be permitted.

Mr. Bennett said when you have a merger of these two (2) concepts, a bed and breakfast and a working farm occupying the same ground.

Mr. Fox asked isn't the bed and breakfast incidental to the permitted use of the structure being a single family home.

Mr. Bennett replied yes it is, but when you talk about a farm dwelling, the definition basically makes this a principal permitted use subordinate to the barn.

Mr. Philpot asked what would be the conflict then.

Mr. Bennett said the only conflict is his client is concerned as to some of the activities – other people coming there, classes coming there and an influx of people. He added it was the conflict of definitions that his client was concerned about.

Mr. Philpot said he recalls when there was talk about having the gardens and cooking classes and asked if those things have been abandoned.

Unknown women replied only in the home.

Mr. Bennett said there was one (1) other thing that raised some concern with his client, and it was Mr. Rutherford's last sentence, "the bed and breakfast will not only help support the farm, it will also promote the Township to provide an opportunity to (inaudible) near and far to learn about food production and where our food comes from."

Mr. Fox said he can see where Mr. Bennett is heading with this, and he has had numerous meetings with Mr. Robinson and Mr. Rutherford and they understand if he gets a complaint from anybody about something different than a bed and breakfast there will be trouble.

Mr. Bennett said all he is trying to do is clarify that and the perceived differences in the two (2) definitions and his client's concern who is out of state right now and unable to be here so he is basically telling him of her concerns.

Mr. Fox said he understands and he has made it clear for the applicant to understand that if they are thinking of doing any type of business, including growing stuff, classes, cooking or selling, then they need to come in here and the only thing he can say to this Board is if it is approved per the conditions written here, and anything else they would like to add as a condition, if the applicant does something other than what is permitted out there, we will have to follow through with our legal process. He added it is a long process but nothing out of the ordinary.

Unknown speaker asked if this will follow the building.

Mr. Fox said the conditional use runs with the property, and they could sell it tomorrow to anybody and it will run with the property. If they do not own or occupy the structure,

they cannot run a bed and breakfast and feels the staff comments covered many valid conditions and attempted to stop the concerns of any other activity besides bed and breakfast activity there.

Mr. Fox asked, for the record; if Mr. Bennett would like to cross examine the first two witnesses for anything.

Mr. Bennett replied no, he has talked with them at length with them and remarked how impressive a project it is.

Mr. Fox asked Mr. Robinson if he would like to cross examine Mr. Bennett for anything.

Mr. Robinson replied no.

Ms. Douglass said as long as it remains a bed and breakfast they are fine with it.

TESTIMONY IN OPPOSITION: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said Staff comments are as follows:

Case No. BZA12-04C, Tom Uhl, Morning Sun Road, Oxford, Ohio 45056 is requesting approval to operate a Bed and Breakfast.

Staff Comments are as follows:

1. The property is zoned A-1 Agricultural.
2. This area is rural in character.
3. The applicant is seeking a Conditional Use to operate a Bed and Breakfast.
4. The intent of the Conditional Use is to allow appropriate uses, which has been so identified by the zoning code, in locations where they are compatible with their surrounding. Therefore the staff will recommend approval with the following conditions:
 - A. All bed and breakfast facilities shall be consistent in character with their surrounding land uses.
 - B. Uses shall be permitted one home occupation sign.
 - C. The property/structure will have to be owner occupied.
 - D. Building Permits will be required.
 - E. The building can be used only as a bed and breakfast. No other commercial use will be permitted.
 - F. The parking shall require no more than 7 parking spaces and can be in front or side of the home.
 - G. Parking spaces shall be landscaped per plans submitted.

Ms. Steenken made a motion to approve BZA12-04C Tom Uhl, 6895 Morning Sun Road, Oxford, Ohio, 45042 conditional use subject to the conditions states by staff. Mr. Philpot seconded the motion. Motion carried 5-0.

AYES: Steenken, Philpot, Salmon, Daniel, Bevington

NAYES: None

ADJOURNMENT:

Mr. Daniel made a motion to adjourn, which was seconded by Mr. Salmon. 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
February 21, 2012

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf