
AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
April 15, 2014

- 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. BZA14-02C
 - Brett Oakley
 - 8762 Thomas Road
 - Middletown, Ohio

- IV. Adjournment

REGULAR MEETING: Tuesday, April 15, 2014
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
Lee Steenken

STAFF MEMBERS: James Fox, Zoning & Floodplain Manager

Approval of Meeting Minutes:

March 18, 2014

Mr. Salmon made a motion to approve the March 18, 2014 Meeting Minutes as submitted. Ms. Steenken seconded the motion. Motion carried 5-0.

AYES: Salmon, Steenken, Philpot, Daniel, Bevington

NAYES: None

NEW BUSINESS:

BZA14-02C
Brett Oakley
1001 Mount Drive
Carlisle, Ohio

Mr. Oakley said the land they are presenting tonight is at 8762 Thomas Road, Middletown, Ohio and distribute a packet to each of the Board members.

Mr. Oakley stated they are currently running a paintball facility down on the back and presented a drawing of the area and said they do a paintball ride through the woods so they go on the A-1 property around and come back (shown on a map) and said they are trying to figure out ways to find other revenues. Land of Illusion runs for only 20 to 25 nights and they are trying to create revenues from the 110 acres they have and the last thing they want to do is to disturb their neighbors.

Mr. Oakley said they own the property across the road as well so they have a total of 145 acres and have acquired a couple of houses across the field fixed them up and are rental property and are making constant improvements to the area. He said they have already invested more than \$5,000,000 in the orange property and if he had this to do all over again he probably wouldn't have put all that money into this property but he has put so much in and has so much at stake that he's trying to make it.

Mr. Oakley showed a map of the property and said they had Mr. Fox join them out there deep in the woods and designed it based on the hills and showed it at 190 feet from the property line in Figure 2; and Figure 3 shows it at 150 feet from the property line where it drops down by the creek and it winds through the woods.

Mr. Oakley went on to describe the paintball product and netting used, both of which are environmentally friendly he said.

Mr. Fox asked what type of netting.

Mr. Oakley replied it is netting for paintball fields.

Mr. Oakley said they will continue to grow corn in the fields because of the height to help kill down the sound and said they basically drive military trucks through the woods for parties and described the activities there and how they do it, including characters dressed up like zombies. They load up 24 people and its designed to go and shoot zombies in the woods and is geared to the family event and teaches children to respect guns and not to fear them and this gives them a better understanding of weapons and guns.

Mr. Ryan Perry, 6338 Hursh Road, Middletown, Ohio said the paintball guns shoot about 200 feet and from the truck ride the guns are mainly being pointed eight feet (8') down and not up in the air and they have the capability to turn the guns on or off and drop the pressure down with each hopper holding 100 bullets and the ride lasts approximately 15 minutes.

Mr. Fox showed some of Mr. Oakley's pictures of the trucks and the guns used.

Mr. Oakley said they planned it to stay as far back on the property as they could and use the landscape and the woods back there and away from the house and they use the corn fields as a buffer.

Mr. Philpot asked the applicant if he had received any complaints.

Mr. Oakley replied no and stated they use the military trucks only during the evenings when Land of Illusion is running and for private birthday parties and it is not a full-time thing.

Mr. Oakley said he works with Middletown Police Department and S.W.A.T teams and they come here to do maneuvers during the day.

Ms. Steenken asked the applicant if he is saying they use this as a training facility.

Mr. Oakley replied ye they have tire courses set up as maneuverability courses for practice.

Ms. Steenken asked about the noise emitted by a paintball make.

Mr. Oakley said it shoots with compressed air and is not like the sound of firearms.

Ms. Steenken asked what other types of noise are involved and if the truck itself is noisy.

Mr. Oakley said the truck does have some noise to it and they do have muffler systems on it and make noise typical of a semi-trailer and not as loud as a train. He added they took Mr. Fox around the course to show him where they travel and everything.

Mr. Oakley gave more details on the paint product and said it is made of food-grade product and safe for the environment.

TESTIMONY IN FAVOR: None

TESTIMONY IN OPPOSITION: Tony Carpenter, 8890 Thomas Road, Middletown, Ohio; Christine Carpenter, 8890 Thomas Road, Middletown, Ohio; Mr. Bruce Clark, 8838 Thomas Road, Middletown, Ohio; Philip Perkins, 7195 State Route 4, Middletown Ohio; Colie Perkins, 7195 State Route 4, Middletown, Ohio

Mr. Carpenter referred to the Madison Township Land Use Plan and the current zoning map and shared his concerns regarding the increased traffic, safety, health and welfare of people and property values of the citizens who live nearby the

property involved in the Conditional use request and concerns about parking, decreased property values, buffering and landscape issues and said he feels paintball and sniper activity is an incompatible land use next to Residential district zoning. He is also concerned about the hours of operation and has experienced people wandering from Land of Illusion activities on to his property late at night and is concerned about his safety and the disregard for property owners like himself.

Mr. Carpenter shared photographs showing the views from his property.

Mr. Carpenter also voiced his concern about the existing permits the applicant has for sales of alcohol (as well as the request for the pending permit to allow Sunday and carry-out sales) and on the property in question and how it can impact the area.

Mr. Fox addressed the parking concern and stated back in 2004 this Board approved and allowed the applicant to use gravel as part of his Conditional Use approval back in 2004.

Mr. Carpenter said he feels Mr. Oakley has options including indoor facilities across the street in an empty warehouse which he could use for indoor paintball.

Mr. Salmon asked Mr. Carpenter to identify his property on the map.

Ms. Carpenter said she wanted to speak about the emotional toll this is on her family. She said she has children, a 10-year old and 13 year old, and there are plenty of other children along their street, and she is concerned about the noise and activity there until 2:00 a.m. on Fridays and Saturdays. She said they keep their windows closed however the vehicle the applicant uses, a military deuce and half vehicle, is a very large and noisy vehicle which they run every five (5) minutes and the noise echoes and is constant during operational hours and last year they had police vehicles equipped with sirens following the military truck so they had to listen to siren noise until 1:00 a.m.

Ms. Carpenter said she does not permit her children to go back there and feels they have to avoid their own property, even though they would like to use that part of their back yard for bonfires and such but the applicants activity interferes with that. She said she had called the police several times about the noise and they told her "It will be over in an hour so just wait", and it will stop so it is hard to get the police out there.

Mr. Carpenter said her children are at an age where she can start letting them stay home for an hour while she goes to the grocery store but she feels she cannot allow that during the fall months while these activities are going on because she has had drunken people show up at her back door and her front door. She stated

she was personally cornered on her own property between 9:30 p.m. – 10:00 p.m. and she was 150 feet inside of her own property when they were having a family gathering that evening and when she went to gather up the children she heard noise in their tree fort so she yelled for them to come down and as soon as she did there were men on two (2) four-wheelers who came out wearing camouflage clothing and faces painted black and black hats on and they were not very polite, and their first question to her was, “Who the (curse word) are you and what are you doing here?” and she didn’t appreciate that happening on her property and if they had come back earlier they would have hit the children because they cut through her neighbor’s yard to get to where they came to and there is a lot more to this that needs to be discussed.

Mr. Philpot asked about the occasions that people have come on to her property.

She said she was stopped on her property only once but she has had drunk people come up to the house on more than one (1) occasion.

Mr. Philpot asked if they drove the four-wheeler and were they aware that they were on her property.

Ms. Carpenter said there is no way they could have mistaken it and they knew they were driving between someone’s home and garage to get to her plus they had to driver over her property more to get there so there was no mistaking it. She pointed the area out on a map to show Mr. Philpot the vicinity of where it occurred. She thanked the Board for their time.

Mr. Clark showed the Board members where his property is located on a map in relation to the trail for the zombie thing and stated when he looks out his back door and sits on his back patio all he sees is the Land Of Illusion and the zombie trail once the corn is gone and it feels like it’s right in his own back yard. He and his wife were raised in Madison Township and chose to raise their children there and hoped to retire there and they like living in Madison Township because of the country setting and the peace and quiet and small amount of traffic, however, since the Land of Illusion came into play for eight to ten weekends a year, starting around Labor Day and going through to the first weekend in November they have actually given up their peaceful weekends due to the traffic, the noise, the trash left in the yard, the moving lights, and the noise is a big concern for him.

Mr. Clark said this year there were fireworks shot off one (1) weekend there and they were so loud that it rattled his windows, upset his dogs and it happened again and again and when he called the Butler County Sheriff’s office he got a similar reply as Ms. Carpenter did, he was told, “well it will be over by 10:30 p.m.” or something like that and people he knows who live a couple of miles away could hear the noise and he shouldn’t have to worry about that and has no sense of privacy now. He said he is not against the Land of Illusion he just wishes it

wasn't so close to his property. He voiced his concern about the year-round activities instead of just seasonal and said he didn't feel the financial revenues did anything good for Madison Township.

Mr. Clark said it is nothing personal against Mr. Oakley but he is totally against the conditional use request and will be back again to speak in opposition when it comes back up. He stated when he moved to Madison Township 18 years ago it was because there were farms all around and it was agricultural. If Mr. Oakley attempts to do anything there that is not agricultural he will be totally opposed to it because he did not move there to live next to a business.

Mr. Perkins said he has learned to live with The Land of Illusion but he is concerned about the activities becoming year-round events and the annoying noise that makes his windows rattle. He said he does not want to make trouble but fears it will get out of hand.

Mr. Oakley said he hears these complaints loud and clear and wants to address the concerns expressed here and appreciates the neighbors talking with him about their concerns. He said regarding the liquor license, Madison Township approved his liquor license but not on Sundays so he followed the correct procedure on that. Regarding the fireworks show – he hired professionals to do that one-time event which lasted 38 minutes and he had contacted the Fire Department and got the necessary permits.

Mr. Oakley said he is willing to limit the Zombie Sniper Patrol to the same times the Land of Illusion is running – Friday and Saturday nights only on the 9 -10 weekends, depending on the way the dates fall on the calendar.

Mr. Oakley said he had apologized to Ms. Carpenter and felt his security guys messed up, and added he also has the Sheriffs out there as well.

Mr. Oakley said as far as the corn fields – he did not cut them down until November 4th which was after the last night of Land of Illusion so that the buffering was always there during the events.

Mr. Oakley said the property is B-3 zoned and it has not changed since he bought the property – which was an old pig farm and full of hazards like junk cars leaking fluids until he cleaned the whole place up and so he has actually increased the value of the property and does not want to bother neighbors or depreciate the property value.

Mr. Oakley said regarding traffic, people used to come in from State Route 4, but with GPS equipment and Google Maps, it is his worst nightmare and people are driving there from the back way. He said he has called Google but has not been successful in getting them to reroute the mapping.

Mr. Philpot said it states there are 2,500 to 4,500 people visiting there per night and asked if there was enough parking for that many people.

Mr. Oakley replied yes, and stated that he has the Boy Scouts, Athletic groups and other non-profit organizations handle that as a way for them to earn proceeds and ispart of the reason he allows that.

Mr. Bevington asked the applicant if he could baffle the trucks to reduce the noise.

Mr. Oakley said he has already baffled them as much as possible and it did reduce the amount of noise.

Ms. Steenken asked if the Zombie Sniper Patrol is a separate business from the Land of Illusion.

Mr. Oakley replied they are both part of BAO Productions.

Ms. Carpenter said she wants to know where will it end – Mr. Oakley ran this last year illegally and without permission and now he is talking about concerts and who knows where it will stop.

Mr. Fox reminded everyone that in B-3 zoned districts having concerts and the current activities Mr. Oakley is doing are allowed uses, however, if he wants additional parking in the A-1 zoned district he would have to come before this Board of Zoning Appeals and apply for it.

Ms. Carpenter said they were told the traffic coming in and going out would be directed to Route 4 but that is not the case, and they were also told there would be a Sheriff there all the time it was open but that has not been the case.

Ms. Perkins said she lives directly across from the paintball activity and the people who have already spoken here tonight have said all of her sentiments except for the noise – her bedroom windows rattle with the loud noise and she has spoken with the applicant twice about it and her husband has talked with the applicant once. The loudness is unbearable and they have had nights when they have left their house because of the noise.

NEUTRAL COMMENTS: None

STAFF COMMENTS:

Mr. Fox said Case No. BZA14-02C, Mr. Brett Oakley, 1001 Mount Drive, Middletown, Ohio, the request is to operate a blast zone paintball business, at 8762 Thomas Road, Middletown, Ohio 45042.

Staff Comments are as follows:

1. The applicant is requesting a conditional use to operate a blast zone paintball business. This request requires Board of Zoning Appeals approval per Section 7.0301.
2. The property is zoned A-1 Agricultural.
3. The area is industrial/agricultural in character with many larger parcels to the north and business parcels to the south & west with residential homes to the east.
4. Section 26.52203 of the zoning regulations states requirements for this type of conditional use and staff comments are as follows:
 - a) The above uses shall have direct access to a major arterial or a collector street.
 - b) Where more than ten (10) parking spaces are required, there shall be a hard surface parking area provided.
 - c) A landscape buffer may be provided at the side and rear boundaries of the site at a height appropriate to the intensity of use. The front boundary may be required to be buffered in some way if the County deems it necessary.
 - d) Parking areas and general site lighting shall be designed and installed to avoid casting direct light or glare onto surrounding properties.
 - e) All associated buildings, pools and playing fields shall be a minimum of one hundred (100) feet from any other lot in an R-District or a recorded residential subdivision.
 - f) The use shall not be in conflict with the Comprehensive Development Plan for Butler County.
 - g) Uses shall be located in districts where they are designated as conditional uses by these regulations.
 - h) Uses shall not adversely impact the health, safety or welfare of the surrounding area.
 - i) The staff will recommend approval of this request subject to the following conditions:
 - 1) Applicant does have direct access to a major arterial street.
 - 2) The applicant needs more than ten (10) parking spaces. Therefore it would be impractical to have hard surface parking areas. The existing parking area provides sufficient surface for parking.

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- 3) The blast zone paintball business must be 100 ft. from any property line zoned residential or recorded residential subdivision.
 - 4) All parking should be maintained totally on applicants' property. No parking on side streets or other neighbor's property. Applicant needs to install "No Parking" signs on Thomas Road and direction signs so patrons know where to park.
 - 5) The conditional use is for Mr. Brett Oakley. Any changes in ownership or operator of the paintball business require Board of Appeals approval.
 - 6) Hours of operation Sunday -Thursday 10:00 PM through 11:00 PM & Friday through Saturday 10:00 AM – 2:00AM.
 - 7) The conditional use is only for the site plan submitted with this application and the acreage to the south cannot be used for paintball.
 - 8) The conditional use can take place on the northern property known as Parcel #E22100420000031, 15.148 acres.
 - 9) Paintball netting must be placed in the area where the trail encroaches the properties zoned R-1 Residential four feet (4') above the ground and twelve feet (12') high and will be maintained as needed.

Mr. Fox said he received a letter today dated April 9th which he received via facsimile as they had mailing issues, of which a copy was given to each Board member, from the Township Trustees, by their Town Administrator, Mr. Tom Fowler.

Mr. Fox pointed on a map what activities can be done and allowed on each parcel.

The Board of Zoning Appeals members had discussion and made revisions to or added conditions including the following:

- The paintball netting must be maintained and repaired as needed;
- Operating hours for paintball activities are allowed all year long, however, zombie sniper patrol truck rides will only run during the Land Of Illusion dates season, Friday and Saturdays only (no Sundays)
- Hours of paintball vehicle operation are limited to Fridays and Saturdays (22 days only during Land of Illusion season) 10:00a.m. – 2:00 a.m.
- Paintball business can take place year round

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- Paintball truck rides cannot take place except during Land of Illusion dates for 22 days only – no paintball truck rides are permitted to run in the evenings and no operations on Sundays,
 - Within one (1) year Mr. Oakley must plant tree buffer mix of evergreen trees and deciduous trees along top of detention pond on Mr. Oakley's property for a length of 250 feet and a tree line of 100 ft. from the Clark property to be determined by Mr. Clark and Mr. Oakley.

Mr. Fox, Mr. Oakley and Ms. Carpenter reviewed the map and Mr. Philpot suggested Mr. Oakley and Mr. Carpenter to be the ones to work together and to determine how and exactly where the buffering will be done to block the view of the paintball trucks on the trail.

Mr. Philpot made a motion to approve case number BZA14-02C, Brett Oakley, 8762 Thomas Road, Middletown, Ohio subject to all conditions as read. Ms. Steenken seconded the motion. Motion carried 4 – 1.

AYES: Philpot, Steenken, Daniel, Salmon, Bevington

NAYES: None

ABSTAINED: Daniel

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

April 15, 2014

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf