

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

- A. February 21, 2012
B. March 20, 2012

III. Old Business

- A. BZA12-05V Jay Tincher
 6335 Browns Run Road
 Middletown, OH 45042

IV. New Business

- A. BZA12-06V Grant Neal
 6870 Dickey Road
 Middletown, Ohio 45042
- B. BZA12-07V Tim Harrison
 3248 Morgan Ross Road
 Hamilton, Ohio 45013
- C. BZA12-08V Ron Snelling
 7284 Mont Drive
 Middletown, Ohio 45042

IV. Adjournment

REGULAR MEETING: Tuesday, April 17, 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:

February 21, 2012 Meeting Minutes

Ms. Steenken made a motion to approve the February 21, 2012 Meeting Minutes as submitted.
Mr. Salmon seconded the motion. Motion carried 5-0.

AYES: Steenken, Salmon, Daniel, Philpot, Bevington

NAYES: None

March 20, 2012 Meeting Minutes

Ms. Steenken made a motion to approve the March 20, 2012 Meeting as submitted. Mr. Salmon seconded the motion. Motion carried 5-0.

AYES: Steenken, Salmon, Daniel, Philpot, Bevington

NAYES: None

OLD BUSINESS:

BZA12-05V

Jay Tincher
6335 Browns Run Road
Middletown, OH 45042

Mr. Jay Tincher, 6337 Browns Run Road, Middletown, Ohio, said he is here to ask for a variance for a piece of property that is actually going to be called 6337 Browns Run Road, which is a 25-acre tract and he owns the piece of property in front of it, which is 6331 Browns Run Road, and

he is trying to sell this 25 acres so they can build a house on it and wants to give them a variance for the side of 6335 property to give access to this property. He added that he already cut a drive way in, it just hasn't been graveled, which he put in so he could have access to his pole barn that sits about 1,000 feet from the road.

Mr. Philpot asked the applicant if the pole barn sits on the property that he is selling to these people.

Mr. Tincher replied yes, it has electric up there and a well up there. It's been sitting there for about 14 – 15 years.

Mr. Salmon asked Mr. Tincher where he resides.

Mr. Tincher said he is staying in a camper in Chillicothe temporarily until the job ends in June, after that he does not know.

Mr. Daniel asked if they will be able to use that driveway.

Mr. Tincher replied yes.

Mr. Daniel asked Mr. Tincher what his neighbors think about (inaudible).

Mr. Tincher replied he is not exactly sure yet and he has not spoken to the neighbor yet, but his realtor spoke to the neighbors on one side (Jim & Bev) and the man on the other side is supposed to be out by the end of this month and those are the only two (2) houses on that side of the street.

Ms. Steenken asked if the 25-acre parcel is a separately deeded entity now.

Mr. Tincher replied yes.

Mr. Bevington asked Mr. Tincher the reason for wanting to sell the property.

Mr. Tincher said he has owned it for 21 years and he is ready to move on, and is looking at property in Florida right now.

Mr. Salmon asked Mr. Tincher if there is already a house at 6335.

Mr. Tincher said yes.

Mr. Salmon asked Mr. Tincher if this driveway will go along right here on the side of that house going back there.

Mr. Tincher said yes.

Mr. Salmon asked who lives in that house now.

Mr. Tincher said he owns that house and has tenants in there right now. He bought that house in 1998.

Mr. Philpot asked Mr. Tincher if he plans on selling it, and is he in the process of it.

Mr. Tincher said no, but he did offer it to these people but the price was too high.

TESTIMONY IN FAVOR: Josh Williams, 4944 Mosiman Road, Middletown, Ohio, 45042

Mr. Williams said they would like to get the access there to build a house and if they were to get the easement to get back there, they would like to build a single family home and spoke with Schumacher Homes about a 3 bedroom with a full basement and they would like to use one (1) acre for yard and leave the rest of it as woods.

Mr. Salmon asked Mr. Williams if he presently rents now where he lives.

Mr. Williams replied yes.

Mr. Philpot asked if these are combined.

Mr. Fox said yes, by deed only. Through an Ohio Revised Code (ORC) Chapter 711 transfer, one can't be transferred without the other.

Mr. Philpot said but Mr. Williams was asking to build.

Mr. Fox said what he is asking for is to separate the lot in front from the one in the rear, create a new deed for the one (1) in the rear and have access to get back to the property from an easement that is on the property in the front. Right now the properties are combined and cannot be sold separately, so, if this Board were to approve it, we would create two (2) lots, one (1) where the existing house is, then a new lot with an ingress and egress easement on the front parcel – 25 feet wide.

Mr. Salmon commented the whole frontage is 125 feet.

Mr. Daniel asked if anyone checked it with the fire department or anything like that.

Mr. Fox said no one has said anything to him or contacted him about it.

TESTIMONY IN OPPOSITION OF: Michael J. Paddock, 6501 Browns Run Road, Middletown, Ohio

Mr. Paddock said he would like to request this variance be denied as it is his understanding when Mr. Tincher bought the property it was in excess of 40 acres and he has since sold off two (2) separate lots and a house and now Mr. Tincher is asking permission to sell off a third lot and his desire is to have the property stay undeveloped and his property borders the majority of the 25 acres that Mr. Tincher is asking to sell. He and his family use that for recreation purposes and hunting and it is a very nice wooded area and if the property does become developed he is concerned the privilege of being able to use his property to hunt because of the close proximity of other buildings.

Mr. Paddock said the area where they are asking for permission to bring the land through is relatively congested. Mr. Paddock presented the Board with an aerial image and said his understanding is where the truck is along the fence is where the lane is to be put in. This plot map shows the number of plots that are along Browns Run Road at this point and the relatively

narrow 100 feet and said his concern would be Mr. Tincher often has a pickup truck and construction equipment sitting there and if that had to move over to the south, it could create congestion, obscure the view for people driving down Browns Run Road or for the person coming down the lane and trying to gain access on to Browns Run Road.

Mr. Paddock shared a Flood Map with the Board and said it is essentially the same thing as the plat map but it shows the number of houses that are already located in this area and he believes the location of the road would be three (3) houses up from this lane and he pointed to the pole barn that Mr. Tincher made reference to as well.

Mr. Paddock showed where his property is located on the map and how it borders Mr. Tincher's property.

Mr. Fox said, for the record, Mr. Daniel is trying to identify where this gentleman lives with reference to the property in question.

Mr. Salmon asked Mr. Paddock how long he has owned his property.

Mr. Paddock replied since 1994.

Mr. Salmon asked Mr. Paddock if there were any houses on his property or if it is just for recreation.

Mr. Paddock said yes, he has a house on the property and he actually subdivided several acres off.

Mr. Daniel said he is not trying to be sarcastic, but feels Mr. Paddock is giving the impression that he is trying to keep Mr. Tincher's acreage the same way as his own.

Mr. Paddock said he is basically asking for the variance to be denied.

Mr. Daniel said to Mr. Paddock but it is for the reasons which he stated and would like to keep that wooded also.

Mr. Paddock said yes I do not want that property developed.

Mr. Philpot said to Mr. Paddock that he liked to hunt back there, and said if they build on it he may not be able to continue hunting there, certain areas of that.

Mr. Daniel said the law is that you cannot shoot across someone else's property.

Mr. Paddock said he would not shoot near someone's house either.

Mr. Fox asked if he could keep this photo and the documents submitted for the record.

Mr. Paddock replied yes sir.

Legal counsel from Frost, Brown, Todd (name and spelling of name was not confirmed during meeting), (from here on referred to as "Legal counsel"), said he is here on behalf of Mr. Paddock, and he wanted Mr. Paddock to explain since he is the property owner as to why he objects to the variance request. There really are two (2) main objectives. One, he does not want the property to

be developed or overdeveloped and they did not know who was buying it or what their intentions were at the time we decided to object. The other objection is the congestion on Browns Run Road, there are a number of properties along there and this easement would take up about a third of the footage as he understands it, and a 25 foot easement on that is a large portion of it and we think there are some safety concerns in trying to get in and out of there. From a legal perspective, he does not think this meets the necessary standards for a variance but did note the Zoning staff did recommend denial of this request for a variance.

Legal counsel said he believes the property owner testified at one point there was access to this property through another property – you can see a lane on the aerial map from Browns Run Road that runs up to the pole barn and apparently at some point that access was given away, and he is not sure why or how. The bottom line is Mr. Tincher is the one who made this property landlocked and he created this situation rather than trying to retain an easement or access through that other lane.

Legal counsel stated when he looked through the zoning standards/specifications, he does not think you can create your own unnecessary hardship for a variance and that really is what happened here by Mr. Tincher who gave away, or sold access to this property. Legal counsel said this is a substantial variance and will impact a large portion of this property and increase the traffic on Browns Run Road and this would alter to some extent the character of the neighborhood.

Legal counsel said there has been no testimony that this would not have an adverse effect on some of the governmental services such as fire trucks and said there is a concern for them getting access back there. His biggest concern is that Mr. Tincher created this situation so he clearly knew about the situation and knew it was going to be landlocked from the time he sold off the other parcels.

Legal counsel said he believes there are other opportunities if the potential buyers want to do this and feels there are other opportunities to access the property, and you can see on the aerial a road that already runs up to the pole barn and they can negotiate with those property owners to get access across that way and it is already there. At the end of the day, he does not feel this meets the standards required for this Board to approve this variance and respectfully request denial of this variance.

Mr. Daniel asked where would the increased safety hazard be and different than this one more driveway.

Legal counsel said he thinks the concern Mr. Paddock expressed here was the congestion and location of this driveway in the middle of all of these very narrow lots.

Mr. Daniel asked what the narrow lot would have to do with the number of cars they've got coming in and out.

Mr. Paddock said when he brought the photographs up he showed where Mr. Tincher kept his pickup truck and construction (inaudible) parked and that is before the lane would be located so that would essentially form an obstruction for someone who is coming down the lane and trying to turn on to Brown Run Road.

Legal counsel said the other concern is if there were a fire on the property and for a fire truck

trying to use this lane he does not know how it would be marked and there is a lot of unknown factors but it could be difficult to pick this lane out from the other driveways that are right along there.

Ms. Steenken told the Chairman that at some point she would like to hear an explanation of the previously existing access.

Mr. Bevington asked what previous access to the property was.

Unidentified male speaker pointed to an area on the Flood Plain map and said this is the access here and this was to the house.

Ms. Steenken asked where that came in.

Mr. Bevington asked if that drive was still there.

Mr. Tincher said yes.

Mr. Bevington asked if it was paved.

Mr. Tincher said yes up until here and then when it heads up to the pole barn (inaudible).

Mr. Fox asked Mr. Tincher if originally this was 40 acres in the back.

Mr. Tincher said yes.

Mr. Fox asked Mr. Tincher if he subdivided 15 acres out, and he also own the lots similar with what you do now with the one out front.

Mr. Tincher said yes.

Mr. Fox said what Mr. Tincher did was subdivide the 15 acres out of the original 40, attached it to the lot in front so the person could have access and there is no house on there, a vacant land. Then they got their road frontage from the existing recorded subdivision lot and then that allowed him to sell it as one (1) property and for the potential buyer to build a house or maybe there was a house on it, he was not sure. The original 40 acres was attached to something and he is not sure what it was attached to, then asked Mr. Tincher if he owned multiple properties – the one (1) one he owns now and then another a couple of doors down.

Mr. Tincher spoke but response was inaudible.

Mr. Fox said so in theory there are three (3) accesses: one from the property now, one from the property 2 – 3 doors down, as well as the one right there on the curve.

Ms. Steenken asked what the reason is which makes this request different.

Mr. Fox said what is different is this lot will become its own lot owned by Mr. Tincher and this lot will become a new lot owned by that gentleman with a 25 foot access so he is basically subdividing without proper road frontage.... He is not landlocked because he will get access to an easement back to the 25 acres to build a house on.

Mr. Fox said the rear property is attached to the front, by deed, and if he sold the property in front he is selling the 25 acres because it cannot be sold separately or a part from.

Mr. Daniel asked if one resident will own the whole parcel.

Mr. Fox said yes – they are tied together through the ORC Chapter 711 parcel.

Mr. Daniel asked if those 25 acres could be subdivided again in the future.

Mr. Fox said it could be subdivided again only by subdividing the 25 acres and selling it off to the neighbors – they would not have proper frontage but as long as they are attached (contiguous) and they would have to rewrite the deed.

Mr. Daniel said then they could not put an additional home on there.

Mr. Fox said that is correct, unless the variance is granted. If the Board approves the variance, he would be allowed to build a home on this lot because it would be subdividing the 25 acres off without proper road frontage.

Unknown speaker asked if that owner would be allowed to ask for a variance.

Mr. Fox said anyone is allowed to ask for a variance – unless this Board put a regulation that no more splits of this property, or something like that, he is not certain on those types of legalities or restrictions, but in theory the new property owner could come back in the future and try to split off more property.

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said number BZA12-05V, Jay Tincher, 6335 Browns Run Road, Middletown, OH 45042; the request is to split property without proper road frontage. Staff comments are 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.

Mr. Fox said staff will recommend denial for lack of hardship shown.

Mr. Philpot made a motion to deny the request for a variance for BZA 12-05V, Jay Tincher, 6335 Brown Run Road, Middletown, Ohio, 45042. Mr. Salmon seconded the motion. Motion carried 4-1.

AYES: Philpot, Salmon, Steenken, Bevington

NAYES: Daniel

BZA12-06V
Grant Neal
6870 Dickey Road
Middletown, Ohio 45042

Nathan Doller, 2371 Crew Circle, Dayton Ohio, 45439 and Grant Neal, 6870 Dickey Road, Middletown, OH 45042 were both sworn in.

Mr. Doller said they are asking for a variance to use an accessory building, a pole barn, located at 6870 Dickey Road for fire arm sales primarily via internet and some local family and friends. Mr. Doller said as far as hours of operation, they do have to give the ATF (Bureau of Alcohol, Tobacco and Firearms) at least a certain amount of hours for one (1) day so being this is a part time thing, maybe just a hobby, we would propose ten (10) hours on Wednesdays and everything else would be by appointment only and we do not plan on holding too much inventory.

Mr. Fox asked Mr. Doller if he is going to tell the ATF that they are only going to be open on Wednesday for ten (10) hours.

Mr. Doller said they have to give the ATF a minimum.

Mr. Fox said so if this Board says you can have this but can only do it on Wednesdays for ten (10) hours, and then you are ok with that – for local sales or anything, period. What the ATF requires, and what we require could be different and he wants to make sure that whatever they propose to this Board is what they want – whether it be 4 or 6 days per week, and they need to be specific on the start time and end time of hours if that is what they want.

Mr. Doller said considering the internet does not close and they could sell something to someone in Arizona at 2:00am, they would like to ask for normal business hours Monday through Saturday for internet, but for “walk-in” sales, being counter sales to local people, would be on Wednesday only.

Mr. Philpot asked if that is the only time they want.

Mr. Doller said that is the only time that works with their schedules because they are full-time employed at AK Steel so this would be part time and something to have fun with.

Mr. Philpot asked if they have a safe.

Mr. Neal said yes, this goes up in my pole barn it is finished inside and he has a safe in the barn that locks into another room.

Mr. Philpot said he was concerned about security.

Mr. Neal said if they get the variance they will spend additional money to install a security system, motion activated lights and anything they feel would secure the property and their investment. He added the ATF has approved what they already have.

Mr. Philpot asked what the anticipated sales for counter sales would be – the number of people that might be coming in.

Mr. Doller said he anticipates one (1) a week.

Mr. Neal said they are not going to focus on selling to people there.

Mr. Doller said they have to offer that for the ATF to do their inspection whenever they want to and people would make an appointment with an interest in ordering a firearm and we would tell them to come out on a Wednesday and then we would do the transfer.

Mr. Fox said he and Mr. Neal talked a little, and asked if he is planning on doing a shooting range or test weapons out there.

Mr. Neal replied no, no one will be buying a gun and take it out back and fire it.

Mr. Fox said so we could put a condition on it no shooting ranges permitted.

Mr. Neal replied yes and has no problem with that.

Mr. Fox asked if they would do any Concealed Carry Training courses or anything like that.

Mr. Neal replied no.

Mr. Philpot said he may be limiting himself in case he wants to expand.

Mr. Fox said the Board recommended denial, but he is not necessarily 100% against it, because the Board issued one in Hanover Township and wants to make sure they all understand it.

Mr. Philpot said well if we approve this and restrict it to Wednesdays only then he may cut himself out of future expansion.

Mr. Doller said he understands that and would ask that walk-in sales be restricted to Wednesdays and no restrictions on internet sales being that no one would be on the property or coming to the property to purchase and we understand we are limiting

ourselves and our future plans, which we've discussed, is they are actively seeking a commercial building in Butler County and they looked at one on Route 63 between the City of Monroe and Route 4, a commercial environment and they understand this is a part-time thing and they are full time employees of AK Steel and both enjoy firearms and looking to do a little business in something they enjoy.

Mr. Fox asked the applicants to explain to him their internet activity – do they have a brochure people look at and say they want to buy one and then they basically order it from wherever they get it from.

Mr. Neal said exactly. There are websites and auction sites and gun brokers, something like Ebay.

Mr. Fox asked how many weapons would they store there on a given daily basis relative to the Wednesday sale and asked if they will all be handguns or rifles and all that.

Mr. Neal replied sporting firearms and stuff, and he would want to offer people at least five (5) choices.

Mr. Fox asked if they would sell clay pigeons and that stuff.

Mr. Doller replied possibly in the future, and in a commercial environment, but they are currently restricted to space in his personal barn.

Mr. Fox asked how big the barn is and will it require anything to be done to it.

Mr. Neal replied 34 feet and nothing will be required.

Mr. Philpot asked if a separate license is required for ammunition.

Mr. Doller said if you want to manufacture ammo you would need a separate license, but they will not be doing that. For the sales of ammo the answer is no. To actually get the wholesale price on ammo you would have to have the license that we are going for, for most wholesalers.

Mr. Salmon asked if the guns will be delivered to them and the customers will come pick them up or will they ship it to them.

Mr. Neal said they will go to another Federal Firearms Licensee holder in the state of their choice.

Mr. Neal gave the example if someone who lives in Indiana buys something from their website, the customer would go to their local dealer in Indiana, send a signed copy of his Type 01 License or whatever license to us; we would ship it to him and then he would do the background check on the customer. If the customer background check did not pass,

the firearm is his, and you have already paid me and the customer could not accept it legally.

Mr. Doller said they are going for a Type 01 license, a regular Federal Firearms License.

Mr. Salmon asked if the internet business would be from the house.

Mr. Neal said it will be from the barn.

Mr. Fox said he spoke with Mr. Neal, and his initial thinking was to do a Home Occupation Conditional Use and did not really want to involve the house, so that is why it is a Straight Use variance – a straight business by now because the Home Occupation Conditional Use cannot be done within an accessory building, so that is why it is a Use Variance instead of a Home Occupation Variance.

Mr. Doller said there was a reason for doing it this way, and they like sitting in the barn and doing things there rather than upset the wife with people in the house and it is the “man cave” and they wanted to do it up there.

Mr. Salmon asked about the possibility of this expanding and would the applicants move the business to a commercial location.

Mr. Doller said oh yes, at that point we would be going for additional licenses and their dream would be to do other things like outdoor camping and bow shooting types of things, something like a Bass Pro business but run by local guys. Grant is known very well around Madison Township and believes that could help out with the business along with his contacts, and their goal is to start off small and see where it goes to from there.

Mr. Philpot asked if they were to get the variance, what times would they want on Wednesdays.

Mr. Doller said he believes they told the ATF 9:00am to 7:00pm, which is a requirement and allow them to make an inspection and go through all of the paperwork to make sure they are abiding by all of the laws.

Mr. Salmon asked if it is done once a year.

Mr. Doller said he has a friend who has his Type 01 License and has had it for five (5) years and he has had it inspected once in five (5) years.

Mr. Salmon said so it is not a requirement to have it inspected every year.

Mr. Doller said the ATF has to have hours of contact and operation in order to inspect your paperwork and it is possible they could come every year.

Mr. Bevington said they could come every year if they have the personnel available.

Mr. Doller said yes, Southern Ohio District has 9 IRIs or field operatives to investigate Federal License Holders.

Mr. Fox said part of the ATF approval is contacting zoning and they call me every time so people don't get to do it without authorization.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said case #BZA12-06V, Grant Neal, 6870 Dickey Road, Middletown, Ohio 45042, the request is to operate a firearms sales business from the property.

Mr. Fox said 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 zoning resolution is not to allow this type of variance and staff commends denial of the variance.

Mr. Fox said staff will recommend denial of the variance for lack of hardship shown. Mr. Fox said if this Board decides to approve this, he is in the process of writing some conditions.

Mr. Daniel asked Mr. Fox if he would care to share them with the Board.

Mr. Fox said the conditions he has so far are:

1. This variance is for Mr. Grant Neal only
2. Any sale of property, the new owner would have to come back to this Board for approval
3. Hours of operation would be Wednesday 9:00a.m. – 7:00p.m. for walk-in sales and internet sales Monday through Saturday 9:00a.m. – 7:00p.m.
4. No outside shooting ranges or Concealed Carry Courses

Mr. Philpot asked what Mr. Fox meant by internet sales.

Mr. Bevington said the internet should be allowed seven (7) days a week.

Mr. Philpot just wanted to know what Mr. Fox meant.

Mr. Fox replied his recommendation is internet sales can happen Monday through Saturday from 9:00a.m. to 7:00p.m., however this Board can do whatever they want.

Mr. Daniel said he will go against the recommendation of staff and make a motion to allow this variance and had no problem with the staff conditions except limiting the internet sales to six (6) days a week and motion includes hours of operation is limited to Wednesday, 9:00a.m. to 7:00pm for walk-in sales, and internet sales seven (7) days a week; no outside shooting ranges or Concealed Carry Training and the variance is issued to Grant Neal only.

Mr. Philpot said he would like to add that there is to be no firearms left out of a security system overnight, whether that means a safe or what, they should be secured and put away, excluding his personal firearms.

Mr. Neal described the office space to be set up and said there are no windows, the only access is a single door which is solid wood, and they have built a rebar cage around there where his daughter's hand cannot get through the bars and has been secured to the back of it. It would take a man his size or bigger to take the door off its hinges. He added the back room along is acceptable to the ATF and is locked storage and the actual gun safe is under lock and we would put a security system to that room in the barn.

Mr. Philpot said this would apply to inventory, not Mr. Neal's personal firearms.

Ms. Steenken asked if the gun safe was bolted to the floor.

Mr. Doller replied yes – it is a six inch slab with six inch anchors that go into the concrete.

Mr. Philpot seconded the motion. Motion carried 5-0.

AYES: Daniel, Philpot, Salmon, Steenken, Bevington

Case No. BZA12-07V
Tim Harrison
3248 Morgan Ross Road
Hamilton, Ohio 45013

Mr. Harrison said he would like to build an outbuilding, 50 feet by 80 feet, on his property, which is over the limit to what zoning allows. They have an outbuilding and had a house fire two (2) years ago and lost the house and the barn and would like to build it back but a little bigger. They have three (3) children and have a dump truck, a horse trailer and would like to build it larger to clean things up a little bit.

Ms. Steenken asked Mr. Harrison if this would be for personal storage only.

Mr. Harrison replied yes.

Ms. Steenken asked Mr. Harrison if he would be running a business out of it or living in it.

Mr. Harrison said no to both.

Mr. Bevington asked if he would have electric or water.

Mr. Harrison said electric yes, and would put a hose spigot outside the building so he could hook a hose up.

Mr. Salmon asked Mr. Harrison if he would build it himself or someone else build it.

Mr. Harrison replied he would have someone else do it; Barn Craft would do it over a poured foundation and is not a pole barn.

Mr. Bevington asked Mr. Harrison if he spoke to his neighbor.

Mr. Harrison said he did and the neighbor had no problem with it.

Mr. Salmon asked the size of the barn that burned down.

Mr. Harrison replied about 40 feet by 40 feet.

Mr. Bevington asked Mr. Harrison if he would still use some of that footprint.

Mr. Harrison said no, they moved it because the fire started in the barn and it was so close it jumped to the house and is what caused all the problems. He bought property off of the adjoining neighbor in order to move the barn away from the house.

TESTIMONY IN FAVOR OF: Joseph Woltering, 3410 Morgan Ross Road, Hamilton, OH.

Mr. Woltering said he is his next door neighbor all the way around and allowed his children to raise their livestock on his property to take to the fair and had his attorney draw up an agreement between himself and Mr. Harrison and it includes letting him use that lower barn for livestock, which he does and Mr. Harrison put up new fencing for free and he has to have a place to put his machinery and he needs more than 2,500 feet.

TESTIMONY IN OPPOSITION: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS:

Mr. Fox said case No. BZA12-07V, Tim Harrison, 3248 Morgan Ross Road, Hamilton Ohio, 45013, the request is to build an accessory structure larger 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 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.
 - B. Waive the ten (10) day waiting period

Ms. Steenken made a motion to approve the variance for BZA12-07V, Tim Harrison, 3248 Morgan Ross Road, Hamilton, Ohio, 45013 subject to staff conditions. Mr. Salmon seconded the motion. Motion carried 5-0.

AYES: Steenken, Salmon, Philpot, Daniel, Bevington

NAYES: None

Case No. BZA12-08V
Ron Snelling
7284 Mont Drive
Middletown, Ohio 45042

Mr. Snelling said he currently owns a residential lot and (inaudible) has expired and the gentleman down the street built a 1,500 square foot barn on his property which is over one (1) acre and he believes if you have over an acre you can have 1,500 square feet. He said he has 7/8 of an acre and he would like to go from the allowed 24 feet by 24 feet up

to 1,500 square feet. He has submitted several drawings and the property slopes back towards the barn – the roof of the barn is 12 feet high but actually would be below his house so it would not stick way out and he has submitted drawings to his neighbors and they all agreed to it.

Mr. Snelling said he has four (4) motorcycles, a camper, a travel trailer, a boat trailer and his barn is now completely packed in where you could barely fit a car in and he wants to stop having \$75,000 worth of equipment sitting outside and move it indoors.

Mr. Salmon asked Mr. Snelling if he plans on building the structure himself.

Mr. Snelling replied no.

Mr. Salmon asked about electric and water.

Mr. Snelling said yes to electric but no to water.

Mr. Salmon asked Mr. Snelling if he plans on running a business out of it.

Mr. Snelling replied no, for personal use. He said he has a pool there and already has electric running out there.

Mr. Philpot asked Mr. Snelling if he had spoken to his neighbors about this.

Mr. Snelling said yes, they actually dropped off the packet that the Board sees now and drew up a document which they signed off on and he thinks there are five (5) abutting neighbors and they had the information for over a week to go over.

Mr. Bevington asked Mr. Fox if he had received any telephone calls on this.

Mr. Fox replied no.

STAFF COMMENTS:

Mr. Fox said the request BZA12-08V, Ron Snelling, 7284 Mont Drive, Middletown, Ohio 45042, is to build an accessory structure larger than zoning allows.

Mr. Fox said Staff comments are 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. Daniel said, for the record, Madison Township Trustees have no objection.

Mr. Daniel made a motion to approve BZA12-09V, Ron Snelling, 7284 Mont Drive, Middletown, Ohio, 45042 subject to staff comments. Mr. Salmon seconded the motion. Motion carried 5-0.

AYES: Daniel, Salmon, Steenken, Philpot, Bevington

ADJOURNMENT:

Mr. Salmon made a motion to adjourn, which was seconded by Mr. Philpot. 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
April 17, 2012

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf