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

- A. May 20, 2014

III. New Business

- A. BZA14-04V Melissa Gruenhagen
 2022 Wagon Wheel Drive
 Hamilton, Ohio 45013
- B, BZA 14-05V Three Valley Conservation Trust
 P.O. Box 234
 Oxford, Ohio 45056

IV. Adjournment

REGULAR MEETING: Tuesday, June 17, 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
Mr. Gary Salmon
Lee Steenken

Absent: Alan Daniel

Staff Members: James Fox, Zoning & Floodplain Manager

Approval of Meeting Minutes:

October 15, 2013, November 19, 2013, December 17, 2013 and April 15, 2014

Ms. Steenken made a motion to approve the Meeting Minutes listed above. Mr. Salmon seconded the motion. Motion carried 4-0.

AYES: Steenken, Salmon, Philpot, Bevington

Mr. Fox announced to the applicants there are four (4) Board members present not five (5) and it will require three (3) out of the four (4) Board members' approval in order to have a case passed; if it is a 2-2 tie that would be a denial of a case; and he wanted to make this clear so if any applicants wish to table their case to when the full board is present which will be August 2014 as there will be no hearing in July 2014.

NEW BUSINESS:

BZA14-04VC

Melissa Gruenhagen
2022 Wagon Wheel Drive
Hamilton, Ohio

Ms. Gruenhagen, 2022 Wagon Wheel Drive, Hamilton, Ohio said she is here to ask for a variance to run a small business from her house. She said she bakes dog treats in her basement and delivers them to Jungle Jim's and has been doing it for ten (10) years and to Whole Foods and it involves shipping out boxes. She said she is very quiet about her business and has no signs or trucks and occasionally makes/gets deliveries by UPS. She does only wholesale – no retail so there are no cars coming and going and it's just a small little home business. She said she loves her neighborhood and she's been in business almost ten (10) years and has never had any complaints and has done it for eight (8) years without anyone knowing. She stated she has done everything that has been asked of her by the Fire Department to be in compliance and only runs the electric oven at 225 degrees which is not a fire hazard. She said she has heard rumors that people believe she will put up a parking lot and sell retail but she is not planning to do either of those things and no people come to the house to buy product so there is no traffic involved. She said she donates some of her product to the local Humane Society and as a single mother, homemaker with children it allowed her to have flexible working hours and that is how she started the business and gets help with packaging from her daughter, her mother, and an employee. She said she does not want a parking lot in her yard and she does not want a retail store, she just wants to continue doing what she's been doing quietly for the past eight (8) years.

Mr. Bevington asked about the products the applicant makes.

Ms. Gruenhagen said she has a website, www.giveadoggyabone.com and she has lots of varieties of dog treats to suit their needs, which come in different flavors. She brought samples of her products and said they are all natural.

Ms. Steenken asked if there are any odors or noise produced from her business that the neighbors would notice.

Ms. Gruenhagen replied no to both.

Mr. Philpot asked about the amount of trash produced by the business and is it kept in containers.

Ms. Gruenhagen said there are usually two (2) trash cans a week – no more than an ordinary family would produce.

Mr. Salmon asked what type of agricultural license the applicant has.

Ms. Gruenhagen said she is fully licensed, pays a tonnage fee two (2) times a year, semi-annually and is fully licensed with the Department of Agriculture, Reynoldsburg, Ohio, pays taxes to the State of Ohio and she follows all license requirements.

TESTIMONY IN FAVOR: Karen Cua, 2022 Wagon Wheel Drive, Hamilton, Ohio; Sarah Wright, 6754 Lakeside Drive, West Chester, Ohio; Samantha Gruenhagen, 2022 Wagon Wheel, Hamilton, Ohio; John Sorg, no address provided.

Ms. Cua, said the applicant is her daughter and the business is just like baking cookies in your basement – they are cookies not biscuits and her daughter uses a convection oven to dehydrate the biscuits and it is very quiet and not invasive to the neighborhood.

Ms. Wright said she is an employee of the applicant and she is a disabled veteran of the United States Navy, has medical issues and is blind in one eye, and said the applicant gave her a second chance. Ms. Wright said the applicant is a very sweet lady and the business doesn't produce any more trash than she does at her own home. Ms. Wright said she makes batches of dough on the days she does work, but not every day and it's very clean and quiet.

Ms. Samantha Gruenhagen said she is the applicant's daughter and she has been around the business since its creation and it has allowed them to move into a better neighborhood and allowed her to get into college and said her mother is a positive member of the community and gives back to the community and she is in favor and believes highly in this operation.

Mr. Sorg said he is the applicant's attorney and has known about this business since the start and described the home and the products and said he is in favor of the business.

TESTIMONY IN OPPOSITION: Joseph Kraft, 2023 Wagon Wheel Drive, Hamilton Ohio; Christina Webster, 2012 Wagon Wheel Drive, Hamilton, Ohio; Ms. Julie Smith, 1942 Wagon Wheel Drive, Hamilton, Ohio.

Mr. Kraft said he and other neighbors feel changing the zoning would be terrible for the neighborhood and feel if people want to run a business it should be done elsewhere. He said he went around the neighborhood and has submitted a petition against this as they do not believe the homeowner is responsible enough to run a home business and they have seen a lot a stuff go on: trash cans knocked over, garbage on the street and people and they do not want to see a change the integrity of the neighborhood.

Mr. Bevington asked Mr. Kraft if he has ever called the Health Department about the trash and if not, why.

Mr. Kraft replied no, he had never thought of it.

Mr. Bevington said if there was trash along his street he would call them. He added this is not a rezoning hearing anyway – the zoning is not changing and a variance is a whole different thing.

Ms. Steenken made a motion to accept the petition as part of the record. Mr. Salmon seconded the motion. Motion carried 4 - 0.

AYES: Steenken, Salmon, Philpot, Bevington

Ms. Webster said she is the direct neighbor to the applicant's address and she is opposed to the variance for safety reasons the small children in the area and would like to know what type of insurance is in effect for others with the continual use of the applicant's oven and safety. She stated a background check found there was a death of an employee in the home and said some of the people that visit the applicant's home are "sketchy" looking and wonders about the safety of the neighborhood. Ms. Webster stated her concern about the storage of the ingredients and if they would attract rodents or other pests to the area; and said there are usually four to five (4 – 5) trash containers and it was just within the past two (2) weeks has the applicant obtained a covered Rumpke trash container, but continues to have trash receptacles that remain uncovered. She stated that she has called Rumpke but they said there was nothing they could do and it did not occur to her to call the Health Department about the trash. Ms. Webster said she does not feel comfortable with the business there and wants her concerns about safety heard and is very opposed to this variance.

Regarding background checks, Mr. Philpot asked Ms. Webster if the people visiting are visiting the business or the people who live at the home.

Ms. Webster said the young lady who passed was an employee, but she doesn't know about the other people.

Ms. Smith shared her concerns about the potential decrease in her property value, the garbage that blows around the street (she said she has contacted Ross Township about the trash and should be on record) and the safety of the children and does not feel this should be approved.

Mr. Salmon asked Ms. Smith why she feels it will reduce her property value – because this has been going on for eight (8) years.

Ms. Smith asked why the applicant hasn't done this before. This is a residential neighborhood and most people do not want businesses in their neighborhood.

NEUTRAL TESTIMONY: Mr. Tony Bomar, 2062 Wagon Wheel Drive, Hamilton Ohio; Ms. Mary Bomar, 2062 Wagon Wheel Drive, Hamilton Ohio

Mr. Bomar said it was his understanding that this was a re-zoning to commercial and wanted to know the difference is between a variance and a re-zoning.

Mr. Fox replied a re-zoning would make it a permanent zoning whereas this applicant is asking for a Use Variance meaning she wants to "use" the property different from what zoning allows and typically a zone change is changing an area from a residential district to a business district and asking for it to be changed to something else. This applicant is not asking for it to be physically changed to something else, she is asking for a "Use Variance" to do something in her house which is not permitted by code in that district.

Mr. Bomar asked if the same rules would apply to the neighborhood for this variance for the exterior of the house.

Mr. Fox said in reference to deed restriction, the County has no enforcement power, we can only enforce the zoning code that is set forth by the Commissioners for Ross Township; we do nothing with property maintenance, an applicant's garage and what it contains, we don't deal with blowing trash and things of that nature. This Board can, however, make a laundry list of conditions which the applicant would have to meet and those conditions would be up to this Board and staff does have some recommendations should the Board decide to approve it; and if the conditions were not being met they would hope that someone would call us and tell us.

Mr. Fox explained the types and differences between a Use Variance and a Conditional Variance.

Mr. Bevington added that this variance would only apply to this applicant. If she were to move out of there, the next person would have to start from square one if they wanted to do the same thing.

Ms. Bomar said she is concerned like the other people who spoke earlier and wants to know why the applicant wants this now after doing it for eight (8) years. And asked can the applicant really do this when the house is in her mother's name, so is she allowed to do this in her mother's house.

Mr. Bevington said if the mother doesn't want the applicant to do it she can always put her out.

Ms. Bomar said everyone moved there for residential and not to run a business in the basement and she does not believe this is the place it needs to be.

Public portion of hearing closed.

Mr. Sorg said he'd like to address some of the issues on behalf of Ms. Gruenhagen. He said the applicant didn't know she needed a variance and it was only brought to her attention during a medical emergency at the house, otherwise no one would have ever known it. He added this home would remain as a residential district but would just allow her to do this.

Ms. Steenken asked the applicant how many employees she has.

Ms. Gruenhagen said Sarah works part-time and does not consider her mother or daughter employees. The employee who died was a great employee and a mother of two (2). She said after the tragedy she did the right thing and called 911 and then they saw that she had the business there in her basement and the very next day she was in contact with Mr. Fox and the Fire Chief because she wanted to do what was needed to be safe and does not understand why there is a question of safety.

Mr. Philpot asked the applicant if she has ever been cited.

Ms. Gruenhagen said one time – when she first started out and did not know she had to have maximum and minimum on her labeling of fiber, protein, fat and moisture. She went and had those products analyzed in a lab and she got the results and has been in full compliance since that.

STAFF COMMENTS:

Mr. Fox said case number BZA14-04V, Ms. Melissa Gruenhagen, 2022 Wagon Wheel Drive, Hamilton, Ohio, the request is to operate a home business to make dog treats for wholesale sales to grocery stores. 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 Commercial Building Permit is required
 - B. No retail sales from the residence; wholesale only
 - C. No more than one (1) employee
 - D. This variance is for Ms. Melissa Gruenhagen and Ms. Karen Cua only.
Any sale of the property makes this variance null and void

Mr. Bevington asked the applicant if she understood the staff comments and Mr. Philpot asked the applicant if she found any of the conditions a hindrance.

Ms. Gruenhagen said she is happy to do whatever this Board wants her to do.

Mr. Bevington asked Mr. Fox to reread the conditions to the applicant.

Mr. Fox reread the staff comments to the applicant.

Ms. Gruenhagen said just one (1) employee seems rather harsh.

Mr. Philpot agreed with Ms. Gruenhagen that allowing only one (1) employee is rather restrained, and made a motion to approve case number BZA14-04V, Ms. Melissa Gruenhagen, 2022 Wagon Wheel Drive, Hamilton, Ohio to operate a home business to make dog treats for wholesale sales to grocery stores subject to all staff conditions except to revise Staff condition Item C from allowing one (1) employee to two (2). Mr. Philpot also recommended to the applicant that if this variance is approved, the applicant should keep all trash contained in trash containers securely. Mr. Salmon seconded the motion. Motion carried 4 – 0.

AYES: Philpot, Salmon, Steenken, Bevington

NAYES: None

BZA14-05V

Three Valley Conservation Trust
P.O. Box 234
Oxford, Ohio 45056

Ms. Liz Woedl, 6505 Buckley Road, Oxford Township, Ohio, Executive Director, Three Valley Conservation Trust, said Three Valley Conservation Trust has been in existence for nearly 20 years and about 15 years ago they became very interested in matching land owners and government programs where land owners could apply for grants that would help them keep their land together with a conservation easement in perpetuity so that even after it was sold some day, it would still be kept in one (1) piece and they have done that for about 150 easements in three (3) different counties (Butler, Preble and Montgomery Counties) with a few easements scattered in Indiana, Dark County and Warren County as well. She went on to describe what the Trust does in more detail and said most of their work is centered in Butler County and they have been housed at a location on Morning Sun Road, owned by Mr. Michael Beck, who hasn't been living in the area for some time but he is coming back and will be using the space for his residence and we have to go and are looking at different options. One option was to purchase Mr. Sam Fitton's former residence on Booth Road at a bargain price; and we will be able to continue operations there and the neat thing is it will be a better facility over all.

Ms. Woedl said they have three (3) full time employees, including her, and she would like to eventually add another person that would be a part-time to full-time monitoring coordinator, but that is down the road and something they are thinking about in the future. She then described the improvements and maintenance they plan to make to the home, including some sort of handicapped access because they do want to welcome physically challenged people to the building and for those who have difficulty getting around the large building it will better serve them to maintain the numerous file cabinets of all of the records they hold for all of the easements and also in local bank safe deposit boxes so they are safe. She added they are one of the few accredited land trusts in the state of Ohio and they undergo the scrutiny of major audits annually and last about two and half weeks a year to make sure they are in compliance with everything.

Ms. Woedl said their activities shouldn't be too much different from what they are doing now anyway as far as traffic goes, most of their going in the driveway will be done during the day and hardly any reason to be there in the evenings. She does see the possibility of widening the driveway somewhat – maybe with permeable pavers if that is allowed, because it is such a narrow and poorly-planned driveway to begin with.

Mr. Fox asked Ms. Woedl what the hours of operation would be.

Ms. Woedl replied 9 to 5 and sometimes she may come in on the weekend if she needs access to the computers but we don't usually have appointments on the weekends but on occasion they do.

Mr. Philpot asked about the number of employees in relation to the septic tank capacity according to the information they would not be able to add additional employees with the existing septic situation.

Ms. Woedl said if they needed to add to the septic tank we would be able to do that but that would be years down the road. She said for now working with these contractors seems to be a good way to accomplish some of the same things.

Ms. Steenken asked Ms. Woedl what the contractors do.

Ms. Woedl said they have two (2) contractors that work mostly on contacting the land owners and Morgan and Ross Townships concerning the easements in the Paddy's Run project and the other one works primarily on making sure that all of the paperwork gets filled out and submitted on time. We have to prepare a conservation easement that stands up to legal scrutiny by the agencies and he needs to write up a Present Condition Report (PCR) about the land and we have to go out to these lands on a yearly basis and make sure that the easement is in the same state that they left it before.

Ms. Steenken said so these people are working in the field, they are not sitting in the office.

Ms. Woedl agreed and said they come in once in a while but most of the time they are out and about.

Mr. Bevington asked where the Board Meetings are held.

Ms. Woedl replied at the LCNB Bank – because it was too crowded at the Land Trust up on the Hill on Morning Sun Road – plenty of parking but not enough room space so they go to the LCNB on West Park Place in Oxford, the first Wednesday of every month. She said they looked at some places that are owned by the park district, one was too far away, and he offered us a few locations towards the Middletown area and also some by Timber Hill but it just seemed too far. Then this offer came.

Mr. Salmon commented this should be in a commercial area so why aren't they looking into commercial.

Ms. Woedl replied they like it out in the country.

Mr. Salmon said is the use going to be compatible with the Oxford Township Land Use Plan?

Ms. Woedl said she knows there are other people in the township that operate businesses from their homes.

Mr. Salmon replied but they are living in their house – you will not be living in the house.

Mr. Salmon said there are commercial places available so why aren't you looking at some of those.

Ms. Woedl said when they are in a place like this they can surround themselves with trees and plantings. This opportunity came up and they have not looked at other places and you probably realize Mr. Sam Fitton and his family has been generous with other non-profits and they are more than happy to take him up on his offer.

TESTIMONY IN FAVOR OF: Suzy Lute, 6010 Booth Road, Oxford, Ohio; Bonnie Kretschmer, 124 Marti Court, Oxford, Ohio

Ms. Lute said she lives directly across the street from the property that Mr. Same Fitton used to live in and moved into this house in 2008 and they when we moved in the Fitton's lived directly across the street and we would like to have someone in there and knows the Three Valley Trust is committed to the environment and green space in urban and residential areas and it will be quiet and respectful and think they will do a nice job taking care of the property and they would make a nice upgrade to the property and it would be nice for them to be able to set a good example of how other easements are working.

Mr. Philpot asked Ms. Lute how long the Fitton property has been empty.

Ms. Lute said at least three (3) years.

Ms. Kretschmer, Office Manager, Three Valley Conservation Trust, and has been helping to prepare the Variance Use Application and we submitted a letter with a list of all of the neighbors and Ms. Woedl made great effort to contact them and has reached all but one (1) and they had positive remarks when she explained what we'd like to there and we have not been in contact with anyone that has expressed anything negative.

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: Rebecca Lunsford, 6033 Booth Road, Oxford, Ohio,

Ms. Lunsford said she has five (5) children and moved from the city to Oxford because it is a very country setting and we grew up in a home where we hunted, trapped and fished and isn't really sure what the Conservation Trust does.

Mr. Fox said land owners come to the Three Valley Conservation Trust to place their land in a trust where nobody can develop it. The land stays in the trust forever and the property owner cannot do anything with it.

Ms. Woedl added the land owner can improve an existing building, they can continue to farm it, can hunt on it and plant flowers on it, etc.

Mr. Fox said they will use the existing house as their offices and they will have to get a commercial building permit to create offices for a potential hours of operation from 9 to 5 where people come and will do their office work there and will also do their work out on landowners' property.

Ms. Lunsford asked Ms. Woedl on average how many people will be coming and going.

Ms. Woedl said they usually have two of us there daily and the others that are contractors who are primarily in the field with clients.

Ms. Lunsford asked if this means anyone can have a business.

Mr. Fox replied it would be site specific - just for this Booth Road property.

Ms. Lundsford asked if the applicant will put in another driveway.

Ms. Woedl said they hope to put permeable pavers in, if they are allowed to, and hope to put some things in that help keep the natural area intact.

Unknown speaker said she was not aware the property was for sale and, though is not opposed to what the applicant wants to do, she would like to see a family move in there.

Mr. Fox suggested that the speaker and Ms. Woedl speak together and said the County cannot regulate who the property is sold to.

Someone asked if all of the neighbors were notified of this.

Mr. Fox said they notified everybody who has owned a property that is adjacent to this property in question by mail and no mail was returned as undeliverable and that was everyone by law.

Mr. Philpot asked Ms. Woedl if they are seeking this variance prior to purchasing the property.

Ms. Woedl replied yes.

Mr. Fox asked how large the property is.

Ms. Woedl replied one and a half (1½) acres.

STAFF COMMENTS:

Mr. Fox said case number BZA14-05V, Three Valley Conservation Trust, P.O. Box 234, Oxford, Ohio, 45056; the request is to use a residential building as office space for the Three Valley Conservation Trust. 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 Commercial Building Permit is required.
 - B. Hours of operation will be 9:00 a.m. – 5:00 p.m. Monday through Saturday.
 - C. No large meetings can take place on the property that exceeds ten(10) people at a time.

Ms. Steenken made a motion to approve case number BZA14-05V, Three Valley Conservation Trust, P.O. Box 234, Oxford, Ohio 45056, to allow this variance to use a residential building as office space for the Three Valley Conservation Trust subject to all conditions stated by the staff. Mr. Philpot seconded the motion. Motion carried 4 – 0.

AYES: Steenken, Philpot, Salmon, Bevington

NAYES: None

ADJOURNMENT:

Ms. Steenken 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

June 17, 2014

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf