

AGENDA
BUTLER COUNTY BOARD OF ZONING APPEALS
BUTLER COUNTY ADMINISTRATION CENTER
130 HIGH STREET
HAMILTON, OHIO 45011
June 19, 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. May 15, 2012

III. New Business

- A. BZA12-10V Don Mayberry
 2310 Lanes Mill Road
 Hamilton, Ohio 45013
- B. BZA12-11V Larry Minges
 1656 Millville Shandon Road
 Hamilton, Ohio 45013
- C. BZA12-12V Michael Getz
 1876 Vanda Avenue
 Hamilton, Ohio 45013

IV. Adjournment

REGULAR MEETING: Tuesday, June 19, 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:

May 15, 2012 Meeting Minutes

Ms. Steenken made a motion to approve the May 15, 2012 Meeting Minutes subject to one correction on page four as noted. Mr. Philpot seconded the motion. Motion carried 5-0.

AYES: Steenken, Philpot, Salmon, Daniel, Bevington

NAYES: None

NEW BUSINESS:

BZA12-10V

Don Mayberry
2310 Lanes Mill Road
Hamilton, Ohio 45013

Mr. Don Mayberry, 2310 Lanes Mill Road, Hamilton, Ohio, said he is here requesting a variance to build a building on his property so that he can use it to store his vehicles and boats which are scattered everywhere.

Mr. Bevington asked the applicant how many boats he has.

Mr. Mayberry replied two boats and he has a classic car, 1980 corvette that he has been storing and it costs quite a bit to do that, plus he has a sand rail which he wants to store inside the building, and he would like to have a workshop on one (1) end of it too.

Mr. Bevington asked Mr. Mayberry if he will be running a business from the building.

Mr. Mayberry replied no sir.

Mr. Bevington asked Mr. Mayberry if he would want electric and water.

Mr. Mayberry replied yes for electric and not necessarily would he want water. He said he has a sink in his camper which he could get water from and he does not necessarily have to have running water.

Mr. Salmon asked if some of the structures in the rear are going to be removed.

Mr. Mayberry replied yes, there is a 16 x 16 barn there now and it is going back in the same corner as those and there's also a (inaudible) structure that was removed today and the barn part is yet to be torn down.

Mr. Salmon asked Mr. Mayberry how he plans to get into this.

Mr. Mayberry said through his yard and his neighbor's yard. He added he will pour a concrete slab from the fence back to the barn so it won't be all muddy.

Mr. Salmon asked Mr. Mayberry to show him on a map.

Mr. Fox asked Mr. Mayberry if his neighbor is ok with him using the neighbor's driveway.

Mr. Mayberry said he mentioned it to him before and he did not seem too concerned and he is here tonight.

Mr. Salmon asked Mr. Mayberry if he planned on putting any gravel or anything by the side of his house.

Mr. Mayberry replied no, just grass would be there.

Mr. Fox said he received a letter from the Township Trustees and said they do not object to this request but they did have some questions. Mr. Fox reviewed the Trustee's questions, including concern over the septic system and he has a letter from the Health Department and they said there are no issues with septic system of this building being here or any issues with the septic system.

Mr. Fox said the Trustees did ask about drainage, and said he was not sure if there was a drainage issue out there or not, and that would be a civil matter between property owners.

Mr. Fox asked Mr. Mayberry if the water runs from his property back to that corner and does it gather in that area.

Mr. Mayberry said it goes to the back corner of the lot and flows out to the drainage ditch, and was in before he got there.

Mr. Fox said the Trustees had some concerns about boats, motor and vehicle parts and heavy lift equipment now sitting in the driveway in the front yard area and asked if these items would be placed in a garage and would the front yard area be cleaned up.

Mr. Mayberry said yes, he wants to get the front yard cleaned up so it doesn't look so junky.

Mr. Fox asked Mr. Mayberry about the equipment lift, for the record it is not to run a business, it is for his own personal use.

Mr. Mayberry said yes, it was for his own personal use.

Mr. Fox said those were the items the Trustees were concerned about, but they do not object to the request but did want the questions answered, and Mr. Bruce Henry is here from the Township.

Mr. Mayberry said as of July 25 last year, he met disability as he is unable to stand on his legs more than a couple of hours at a time so what he would be doing out there is tinkering.

Mr. Salmon asked Mr. Mayberry if he will build this himself.

Mr. Mayberry said no Jessie French is building it.

Mr. Philpot asked the applicant to indicate where the water comes in.

Mr. Mayberry identified where the drain is, and where the water drains.

Mr. Philpot commented this will have no effect on that.

Mr. Mayberry said no.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: Randall Rice, 2322 Lanes Mill Road, Hamilton Ohio;
James Rice, 3428 Darrtown Road, Hamilton, Ohio; Bruce E. Henry, 2595 Old Oxford Road,
Hanover Township

Mr. Rice said Don and Sheila are real good friends of ours and are our neighbors and our property abuts to theirs and he has used my driveway to get back to his property to the cars he stores back there, and they do not actually use his yard.

Mr. Rice said he has two (2) boys that like to play basketball there and the other likes to ride his bike in the drive way and Mr. Mayberry does not have a driveway to get back there and since he is retired now he has been driving thru his driveway and over the years it hasn't been that much and he is concerned for his children. His other concern is that they already have a water drainage problem in the front which gets pretty bad and backs up and sits in Mr. Mayberry's yard and in his yard. When it rains it is kind of soft back there, and if you put that building there and run a driveway out, all that water will not drain through Mr. Mayberry's yard, but it was remain in his yard so he will have more water in the front yard and in the back yard. He would like to make sure that the building and driveway aren't going to be a problem for his own property or the value of it if there is water sitting there.

Mr. Daniel asked Mr. Rice if he is opposed to Mr. Mayberry building this.

Mr. Rice replied he actually does not have a problem with it and it is actually going to be bigger and more toward the property line than he had been told and did not realize it would be that big of a building or that close to the property line until he got the notice. Water is going to be an issue.

Mr. Philpot said he wasn't sure he understood the concern, as Mr. Rice was talking about his driveway then about his children.

Mr. Rice said now that Mr. Mayberry is retired and said he wants to put a workshop in there, he is concerned that Mr. Mayberry has been and will be using his driveway a lot more since he's retired.

Mr. Bevington asked Mr. Rice how long he has lived there.

Mr. Rice replied a little over 15 years.

Mr. Rice said he is concerned about the water backing up there when it rains.

Mr. Fox asked Mr. Rice if he has contacted the Township about fixing the street culvert because it is in their right-of-way.

Mr. Rice said no, he hasn't contacted the Township and actually had it graded off so it's not that bad.

Mr. Fox said asked Mr. Rice if he was saying this building will cause it to be worse.

Mr. Rice said he is worried about the back drainage also.

Mr. Daniel asked Mr. Mayberry if it is feasible for him to put the barn over in this corner here (pointed to on map) and to have access from Plateau Road.

Mr. Fox said he can get access off of Plateau Road he just has to get a Right-Of-Way Permit from the County Engineers Office.

Mr. Mayberry said he does not have to be in his yard, that is fine and he came back through here. He added he can have some drainage spots put in across the yard if that is what he needs.

Mr. James Rice, 3428 Darrtown Road, Hamilton, said he owns the house that faces these two (2) properties and he doesn't have any objection to the building, but that building is going to be taller than a house and asked how are they going to (inaudible) that property and if he is going to put a lift in his yard, he will have to put it in taller than a house and it will be close to the neighbor on the side and asked if he will have to put any type of firewall in that building for safety protection. He said the drainage is an issue because there is no drainage on the property and when it rains really hard, half that yard fills up with water and the ditch is completely full and wants to know where all that water is going to go. And if he is going to pour a slab out front, then eventually there will have to be a driveway and will that property be able to support a home, a large building without some type of drainage and supporting leaching systems.

Mr. James Rice repeated his concern about safety issues for a work building seeing the applicant already has a three-car garage up front that he uses and said it is up to this Board to decide what to do – a nice building that would complement the area would be fine, but a large building that overpowers it is going to reduce property values.

Mr. Bruce Henry, 2595 Old Oxford Road, Hanover Township, said he is here on behalf of the Township Trustees, and they are pleased that this property could be cleaned up and it's been under the radar but they have received comments about what he was proposing to do and contacted Mr. Jim Fox and got the information from Mr. Fox; and since then the Health Department has answered at least one (1) of their questions. Our position is if this goes through, we do not want to create a neighborhood problem. As a Township, we are not in objection of what he wants to do per se at all, and agrees with the elder Mr. Rice that the building is an asset to the area, but they do have concerns as to how the septic system is going to affect the drainage issues. Our position is we would like to see an amicable agreement worked out between the parties. The point about the access we raised because we did not have enough detail as to how he is going to get to that garage and what about in bad weather – and there is not enough detail to evaluate whether it is safe or unsafe conditions and we would be happy to see all types of motors, materials, lift, etc. get back in the garage and that will be an asset but the Trustees specifically said they are not opposed to this but would like those questions answered because we just don't know and do not want to create a worse drainage problem, and don't want the leach lines affected. The discussion of turning the building the other way is not a bad option but what does that mean in terms of the leach line and drainage and needs to be looked at. In conclusion, the Township is not in opposition but would like to see the main concerns addressed to protect both property owners and the properties in that section of the community and trying to prevent property values going down any further and the more that residents can do to help themselves to keep the area nice is going to help the Township overall, so he can't draw a conclusion because he does not know the specifics. If there is a commitment to work out the drainage issues and access with the neighbors, then I think we are satisfied but we don't want to have things progress, the building gets built, and two (2) months later people show up at our meeting with water backing up and septic issues, so he does not know and those are questions that he cannot answer here standing here tonight.

Mr. Fox said Health Department is not an issue, because they stated in their comments there is no issue with the septic system. As for the drainage issue, it sounds like it is a regional issue – is it solely his responsibility – it sounds like it is a regional issue – two buildings that belong to him and one that belongs to somebody else, why are we going to make it his responsibility.

Mr. Philpot asked as this is going to exacerbate the issue, and he is not sure if that will do that, and as far as the size of the building, will it be out of place in that neighborhood and said he feels that is a legitimate question.

Mr. Henry responded and said the limited detail they have is not enough to know just by looking, he really does not know.

Ms. Steenken said directly across the street from this is quite a large building and is that not the case and if so, why then. And by the same token, it is very close and it seems to her that the character of the area would not be impacted by another structure.

Unknown speaker said on the other side of this property they put up a 65 x 30 full barn structure which is commercial and Mr. Rice has three or four big large buildings across and the neighbor behind him had concerns about the same thing, and if you look at the general area there are large buildings.

Mr. Bevington asked Mr. Henry if the Township would have any objection to him if he moved that building over to the other corner and go out on Plateau Drive and he is thinking of the safety issue by using someone else's driveway and with children.

Mr. Henry said the Trustees do not know about that other proposal and they directed him to come. He cannot take position and they would have to have a meeting, but it is certainly an option, but he does not know how they would feel about that other option and there isn't much traffic out there, but still a concern if you do that turn around what other impacts are there to the point of the structures in the area and a couple of different zoning classifications out there and there should be some concern and appreciation of what precedent is set in an R-2 zone and again, not enough detail here.

Mr. Fox asked Mr. Henry what detail is it he's looking for.

Mr. Henry replied how it is going to look.

Mr. Mayberry answered it would be metal on the outside with an overhang all around it and he would need the height in order to use the lift.

Mr. Fox said the minimal requirement is a story and a half.

Mr. Mayberry said there was talk about putting it in the other corner, but that is where all the water drains to, and if he puts it in that corner then it will really back up then.

Mr. Daniel asked if there is a ditch line in there.

Mr. Mayberry replied yes, along Plateau there's about a two foot (2') drop off.

Mr. Daniel said so if Mr. Mayberry built it up he would have a place for that to go to.

Mr. Mayberry commented that area is where it drains the most.

Mr. Henry said, at this point, he agrees with most of the applicants points of what he is proposing; it is the best and least offense, if the drainage issues and the neighbor's issue are addressed. And said he has not talked with Randy. And said he believes, based on what we know today, that position is probably the best position if the drain and neighbor issue can be worked out. Mr. Fox said the Health Department has addressed the leach line septic issue and that was a concern on our part was that could be addressed, and said you have placed reasonable conditions on people before to work these kinds of issues out and thinks it can be worked out.

Mr. Philpot commented that when it is built, the drainage issues can be taken care of, but everyone understands there is a problem with it.

Ms. Steenken said with regard to locating the structure in the opposite corner, there is a 35 foot building line setback which would prevent him from moving it over to that corner.

Unknown speaker said he was concerned about drainage runoff and saturating the leaching systems, and asked where the applicants leaching system is located and (something about the driveway but was inaudible).

Mr. Philpot said he did not feel the driveway should be an issue because it is his property.

STAFF COMMENTS:

Mr. Fox said BZA12-10, Don Mayberry, 2310 Lanes Mill Road, Hamilton, Ohio, the request is to build an accessory structure larger than zoning allows and closer to the property line than zoning allows. Staff Comments are as follows:

1. The property is zoned R-2 Residential.
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
 - B. No business use from the property
 - C. Property must be cleaned up and all motor parts, vehicle parts and heavy lift equipment must be stored in the new building.

Mr. Salmon asked what the size of the building is that can be built on the property.

Mr. Fox replied 576, 24 by 24.

Mr. Salmon asked about the setbacks.

Mr. Fox replied eight (8) and ten (10).

STAFF COMMENTS:

Mr. Philpot made a motion to approve the request for a variance for BZA12-10V, Don Mayberry, 2310 Lanes Mill Road, Hamilton, Ohio 45013, subject to the stated conditions. Mr. Daniel seconded the motion. Motion carried 5-0.

AYES: Steenken, Salmon, Philpot, Daniel, Bevington

NAYES: none

Case No. BZA12-11V
Larry Minges
1656 Millville Shandon Road
Hamilton, Ohio 45013

Mr. Minges said he and his wife are trying to sell their farm to his son and in order for him to purchase it, it is 87 acres and he is going to do a 1031 Exchange which means he has to trade land-for-land for it to be legal and then, on the balance of the property he needs to get a mortgage on the house and the Mortgage Departments do not want to lend on a house of 87 acres, they would rather lend it on a house with 10 acres, so we are trying to split and we have 20 foot of frontage to go back, and then it opens up to the 87 acres and we are tying it up for the house with less than 10 acres off from the 87 acres and then we could 1031 the 77 acres and he can mortgage on the 10 acres. He said he has tried to figure a way to do this and there is nothing else that will change – it will stay 87 acres and it is a formality to please lawyers and things.

Mr. Salmon said so he is trading a piece of land to use.

Mr. Minges replied yes, he owns some land in Indiana and he will trade me the land, just land, in Indiana, for land, just land, where we live, then he will get a mortgage on that.

Mr. Salmon asked if the current driveway services two (2) houses.

Mr. Minges said right now the driveway goes back maybe 80 feet then it splits off and this split will start after the 20 feet and then his land will just be land, but he has an agreement written up that the piece of ground can still use the driveway although it's his. A neighbor has a house and they have permanent ingress/egress on our 20 feet of right-of-way for road frontage.

Mr. Philpot asked if these would be sold separately after that.

Mr. Fox said yes, that is why we are here tonight because he cannot take the property and attach it through a 711 Transfer because in theory it is still all one (1) property and the bank wants two (2) separate deeds for the property – one describing ultimately the 10 acre and the other describing something else and that is why he is here to split off the remaining 77 acres which will have no road frontage and will basically be an extra lot, but we put a condition in the staff report that it could not be used as a building site unless he comes back before the Board of Zoning Appeals. Because down the road someone else will own the property, it may or not be someone in their family, and this split originally occurred in the 1920s or 1930s, long before zoning was established.

Ms. Steenken said that in itself constitutes a hardship then.

Mr. Fox said that is somewhat of a hardship because the banks are being pretty hard on him, and our biggest thing is we want an ingress/egress easement decorated on the new deeds so we know in the future that sometimes families don't get along, and something could happen in the future, but he wants to ensure that the new 77 acres has access.

TESTIMONY IN FAVOR OF: None

TESTIMONY IN OPPOSITION OF: None

NEUTRAL TESTIMONY: None

STAFF COMMENTS

Mr. Fox said, Case BZA12-11V, Larry Minges, 1656 Millville Shandon Road, Hamilton Ohio, 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 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 conditions:
 - A. The remaining 77.4 acres cannot be used for building site.
 - B. Maintenance Agreement will be required for access to the proposed properties.

Mr. Salmon made a motion to approve case number BZA12-11V, Larry Minges, 1656 Millville Shandon Road, Hamilton, Ohio 45013, subject to Staff Comments and conditions. Ms. Steenken seconded the motion. Motion carried 5-0.

AYES: Salmon, Steenken, Philpot, Daniel, Bevington

NAYES: None

Case No. BZA12-12V
Michael Getz
1876 Vanda Avenue
Hamilton, Ohio 45013

Mr. Jason Marsh, 1147 N.W. Washington Blvd., Hamilton, Ohio said Michael (Getz) bought the house and property at 1876 Vanda Avenue and intends to move there after he builds the garage and finishes some interior work in the house. The reason why he would like to build it larger than zoning allows is because the house is without a basement and there is not adequate storage. He has cars, trucks, motorcycles and would like room for storage space and room for a workshop to repair his personal items and the reason why he would like the garage to be located three feet (3') from the western property line is so that it will be more in line with the existing driveway that currently ends at the rear and western walls and the house and will provide easier access to drive into the garage. The

neighbor, who shares the property line to which the garage would be closest, is aware of Michael's intentions and to his knowledge there are no problems or concerns whatsoever. The contractor gave an estimate, Joseph Zeinner Remodeling, will build it professionally with concrete floors. He added that he is a friend of Michael's and has been for 29 years.

Mr. Bevington asked Mr. Marsh why the applicant is not here.

Mr. Marsh's reply was inaudible.

Mr. Fox asked Mr. Bruce Henry if the Township had any issues.

Mr. Henry said they are glad to see some improvements to the property and there is enough detail to satisfy their interests and the Township has no objection.

Ms. Steenken asked if she understood Mr. Marsh correctly that there will not be a business run or operated out of this building.

Mr. Marsh replied no, it is for personal use only.

Ms. Steenken asked if anyone will be living in the building.

Mr. Marsh replied no.

Mr. Bevington said there is no one here to speak in favor or opposition, or neutral comments.

STAFF COMMENTS:

Mr. Fox said, Case number BZA12-12, Michael Getz, 1876 Vanda Avenue, Hamilton, Ohio, the request is to build an accessory structure larger than zoning allows and closer to the property lines than zoning allows. Staff Comments are as follows:

1. The property is zoned R-2 Residential.
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.
 - B. Must meet all current setback requirements, however, Mr. Fox said he did not notice that the driveway was on that side until after writing this, so, staff would like the applicant to meet the setback requirements but understand with the driveway there would require him to add more

concrete or something like that, so staff is willing to go along with three feet (3').

Mr. Marsh said instead of the 35' from the back of his house, the applicant wanted to make it 30'.

Mr. Fox said we require six (6) foot minimum from the house so he is fine there. He added the current setback would be eight foot (8') from the side and ten feet (10') from the rear.

Ms. Steenken made a motion to approve the request for case number BZA12-12V, Michael Getz, 1876 Vanda Avenue, Hamilton, Ohio 45013 subject to condition that a Building Permit is required. Mr. Daniel seconded the motion. Motion carried 5-0.

AYES: Steenken, Daniel, Philpot, Salmon, Bevington

NAYES: None

ADJOURNMENT:

Mr. Salmon made a motion to adjourn, which was seconded by Ms. Steenken. 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
June 19, 2012

Tom Bevington, Chair

James M. Fox, Secretary

Lee Margraf