PERRY TOWNSHIP

BOARD OF ZONING APPEALS HEARING MINUTES

## 29 July 2025

CALL TO ORDER BY Manfred Schreyer

##### PLEDGE OF ALLEGIANCE

**\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\***

**ROLL CALL:**

**Schreyer** Here  **Steck** Here  **Seim** Here  **Freshour** Absent **VanZant** Here

##### VISITORS: Debbie Brumback, Patrick Ernst, Chris Fisher, Rhonda Behnken, Brian Williams, Anitra & Nic Watkins, Jerry & June Terrell, Joe & Elaine Mitchell, Jamie Evans

##### SWEARING/AFFIRMING IN OF WITNESSES: Manfred Schreyer swore in all visitors wishing to speak in favor or against BZA case # 2025-0004C and case #2025-0005v

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##### CASE # BZA 2025-0004C CASE # BZA 2025-0005v

##### Owners: Nic and Anitra Watkins Owners: Marilyn Smith

**Address Being:** 11125 providence Pike **Address Being:** 3301 Johnsville-Brookville Road

Parcel # L55 02711 0043 Parcel # L55 02804 0005

##### Nature of Appeal: Manfred Schreyer: The purpose of this public hearing is reviewing two (2) Board of Zoning Appeals (BZA). Case #2025-0004C filed by Nic and Anitra Watkins for a variance and conditional use for a pole barn for the property at 11125 Providence Pike. Case #2025-0005v filed by Marilyn Smith for a variance for a lot-split for the property at 3301 Johnsville-Brookville Road. Both properties are in Perry Township, Montgomery County.

As members of the Board of Zoning Appeals, it is our duty to review these cases at a public hearing and render a decision for or against based on the application, staff report, testimony and evidence presented and heard at this hearing.

All testimony during this hearing is required to be under oath. I would ask at this time that anyone wishing to present testimony raise his or her hand for swearing in.

One person (Patrick Ernst) raised their hand, Manfred Schreyer; Do you swear or affirm to tell the truth and nothing but the truth? Patrick Ernst replied Yes.

**Manfred Schreyer:** Al, please introduce BZA 2025-0004C

**Al Acker**: BZA Case 2025-0004C is filed by Nic and Anitra Watkins, the property is parcel #L55 02711 0043 located at 11125 Providence Pike, Brookville, Perry Township, Montgomery County, Ohio. The application is a variance and conditional use of pole barn.

**Manfred Schreyer**: Al, please read Staff Report: See Attached

**Manfred Schreyer:** Testimony by the applicant or any others present?

**Tony Davidson:** I am wondering why I received a letter about this hearing.

**Manfred Schreyer:** The letters are sent to everyone whose property is within 500 feet, even if the properties don’t touch.

**Manfred Schreyer:** Stated Article 4 Section 405.1.The Board of Zoning Appeals may authorize variances from the terms of this resolution as stated in Section 403.B., when the Board has made finding of the facts, based upon the standards set out in Subsection 405.5 of this resolution.

**Joan VanZant:** Asks if there was currently a process to manage the permit to ensure that once the house was built that the barn was not still being used? It was noted that currently there is not a system but going forward the files will be flagged for review by the Zoning Administrator.

**David Steck:** Noted that a previous BZA set a precedence, but it was not followed up.

**Dale Seim:** Questioned the length of zoning permit; it was noted that a zoning permit is good for one (1) year.

**Dave Steck:** Stated that there cannot be two (2) addresses on one property.

**Manfred Schreyer:** Stated that it would be best if the zoning permit for the house was done at the same time. Montgomery County process can be trying. He also questioned if one (1) year zoning permit would be long enough might need two (2) years to build.

**Manfred Schreyer:** Closed the public hearing for BZA Case 2025-0004C and let the record reflect the time was 7:15pm.

**Manfred Schreyer:** Read the following: Standards for Variance. The Board shall not grant a variance unless is shall in each specific case make specific findings directly based on the evidence presented to support its conclusion that:

The variance requested arises from special conditions of or involving the property, which are unique, that is situation which is not ordinarily found in the same zoning district and that the situation results from the enforcement of this resolution and not by an action or actions of the property owner, or any persons or party who had control of the property.

**Motion by David Steck, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

The strict application of the provision of this resolution from which a variance is requested will not constitute unnecessary hardship upon the property owner represented in the application

**Motion by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

The variance desired will not adversely affect the public health, safety and morals.

**Motion by Manfred Schreyer, Seconded by David Steck**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

The variance will not compromise the general spirit and intent of the resolution.

**Motion by David Steck, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

The variance desired will not compromise the preservation of prime Agricultural and Open Space Lands

**Motion by Joan VanZant, Seconded by David Steck**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

**Is there a motion to grant a variance in the case of BZA 2025-0004C**

**Motion by Joan VanZant, Seconded by David Steck**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

**Manfred Schreyer:** Article 4 Section 403.C. to grant conditional use of the land buildings or other structures. Conditional use for this case is the proposed pole barn (accessory building) having temporary living quarters during the construction of permanent residence and obtaining an occupancy permit. Article 406.7 and Article 3 Section 302 will apply if approved.

**Manfred Schreyer:** Continued: The Standards for Condition Use

The Board shall not grant a Conditional Use unless it shall, in each specific case make finding of fact directly based upon the evidence presented to it, that support conclusions that:

The proposed Conditional Use will comply with all applicable regulations of this resolution

**Motion by David Steck, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

Adequate utility drainage and other such necessary facilities have been or will be provided.

**Motion by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

Adequate access roads or entrance and exit drives will be provided.

**Motion by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

All necessary permits and license for the use and operation of the Conditional Use have been obtained or evidence that such permits are obtainable for the Conditional Use on the property.

**Motion by Manfred Schreyer, Seconded by David Steck**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

The location and size of the Conditional Use, the nature and intensity of the operation involved or conducted in connection with it, the size of the site in relation to it and the location of the site with respect to streets giving access to it, shall be such that it will be in harmony with the appropriate and orderly development of the district.

**Motion by Manfred Schreyer, Seconded by David Steck**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

The location, nature and height of building, structures, wall and fences on the site and the natures and extent of landscaping and screening on the site shall be such that the use will not affect unreasonably hinder or discourage the appropriate development and use and enjoyment of adjacent land, buildings, and structures.

**Motion by Manfred Schreyer, Seconded by David Steck**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

The Conditional Use desired will not adversely affect the public health safety and morals.

**Motion by Manfred Schreyer, Seconded by David Steck**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

The proposed Conditional Use desired will not compromise the preservation of prime Agricultural and Open Space Lands and will not adversely affect the adjacent farmlands including existing drainage systems.

**Motion by Dale Seim, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

**Is there a motion to Grant a Conditional use.**

**Motion by David Steck, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

Are there any stipulations?

**Manfred Schreyer:** Yes, that being once that Montgomery County issues the Occupancy Permit the temporary quarters no longer to be used. That does not mean it must be torn out but cannot be used as residence and the Zoning Administrator will validate.

**Manfred Schreyer: The Board in the case BZA 2025-0004C, Grants the variance and Grants the Conditional Use.**

**Manfred Schreyer:** We will open the public hearing for BZA Case 2025-0005v. The time is 7:30pm. Al please introduce the case.

**Al Acker:** BZA Case 2025-0005v is a request by Marilyn Smith for lot-split located at 3301 Johnsville-Brookville Road, Brookville, Ohio. The parcel number is L55 02804 0005 and is located north of the intersection of Johnsville-Brookville and Amity Road.

**Manfred Schreyer:** Al, please read the staff report

**Al Acker:**  Reads the staff report, see attached

**Manfred Schreyer:** Is there any testimony by the applicant or any others

**Dale Seim:** Said that it is an old building falling and needs to be cleaned up before the BZA can approve.

**Patrick Ernest:** Noted that the son was doing just and had taken the building down.

**Dale Seim:** Opened a discussion of three (3) issues. The first being why there was an easement located from Johnsville Brookville Road (easement runs west and then makes 90 degrees turn south across parcel number 5 to parcel number3). He questioned why a new entrance was not made form Johnsville Brookville Road, directly onto parcel number 3.

**Patrick Ernest:** Explained that this was necessary and most cost effective for the client who he believed will be selling the homestead (parcel number 5)

**Dale Seim:** Questions the proximity of the storage tank and pole barn to the surveyed property line. He felt that the 10 feet separation was not sufficient. It was noted that all accessory buildings must be 10 feet from the property line.

**Dale Seim and Manfred Schreyer:** Discussed the questions raised by Dale Seim ref the storage tank; what was in it, how much was in it and if this was not a nuisance and what would happen if it would rupture? At one point, Manfred Schreyer agreed that the questions were valid but did not believe the BZA needed to address the issue, if anything the Zoning Administrator could do a site visit.

**Dale Seim:** Made a motion to table the case until more information could be provided.

**Patrick Ernest:** Stated if the case was tabled, he would need the exact zoning violation in writing prior to the hearing ending so he could inform the client.

**Al Acker:** Then halted part of the discussion since Dale Seim had made a motion to table the case and ask if there was a seconded to the motion. There was none.

**David Steck:** Said he felt the manure if any would now be compost.

**Dale Seim:** Questioned who would empty the tank and want the manure.

**Joan VanZant: S**aid she believes farmers would want it.

**Manfred Schreyer:** Again, noted that these were valid questions but not for the BZA to answer.

**Al Acker:** Noted that he did not have a current violation that could be sited per Patrick Ernst request.

**Manfred Schreyer:** Again, noted that Dale Seim concerns were valid however did not believe that the BZA was the Board to address and the issues, and the Board would continue.

**Manfred Schreyer:** Read the review of Article 4 Section 405; The Board of Zoning Appeals may authorize variances from the terms of this resolution as states in Section 403. When the Board has made such finding of fact based on the standards set out in Subsection 405.5 of this resolution. Any of the board or audience have additional questions pertaining to Section 405 in general.

**Manfred Schreyer:** Closed the public hearing for BZA case 2025-0005v. Let the record reflect the time 8:05pm

**Manfred Schreyer:** Continued, Standards for Variance: The Board shall not grant a variance unless it shall in each specific case make specific findings directly based upon the evidence to it support it conclusion that:

The variance requested arises from special conditions of or involving the property which are unique, that is situation which is not ordinarily found in the same zoning district and that the situation results from the enforcement of this resolution and not by an action or actions of the property owner or any person or party who had control to the property.

**Motion by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Abstain

The strict application of the provision of this resolution from which a variance is requested will not constitute unnecessary hardship upon the property owner represented in the application.

**Motion by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Abstain

The variance desired will not adversely affect the public health, safety and morals.

**Motion by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Abstain

The variance will not compromise the general spirit and intent of the resolution.

**Motion by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Abstain

The variance desired will not compromise the preservation of prime Agricultural and Open Space Lands.

**Motion by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

**Is there a motion to Grant a variance in the case of BZA 2025-0005.**

**Motion by Joan VanZant, Seconded by Manfred Schreyer**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

**Manfred Schreyer: The Board in the case of BZA 2025-0005v Grants the variance**

If there are no other comments pertaining to these two (2) cases, is there a motion to adjourn?

**Motion to Adjourn by Manfred Schreyer, Seconded by Joan VanZant**

**Vote: Schreyer** Yes **Steck** Yes **VanZant** Yes **Seim** Yes

**Manfred Schreyer:** The Board is adjourned