

Board of Zoning Appeals (BZA)

If and when it is decided to expand mining operations outside of the grandfathered parcels, the quarry operator must apply to the Clark County Board of Zoning Appeals for a conditional use permit.

BZA Official Record

The BZA will hold a quasi-judicial public hearing to discuss any conditional use applications.

The test before the BZA is whether the mining operation will be injurious to the public health, safety, morals and general welfare of the community.

The BZA will only consider evidence that is substantial, reliable and probative.

- **Substantial:** Of real worth and importance; belonging to substance; actually existing.
- **Reliable:** Consistently good in quality or performance: able to be trusted.
- **Probative:** Having the effect of proof; tending to prove; actually proving.

In order to successfully protect the Mud Run and surrounding properties in the watershed, substantial, probative and reliable evidence must be provided to show that a conditional use permit would be injurious to the community.

The Concept of “Standing”

“In law, standing or locus standi, is the term for the ability of a party to demonstrate to the court sufficient connection to and harm from the law or action challenged to support that party's participation in the case” ([https://en.wikipedia.org/wiki/Standing_\(law\)](https://en.wikipedia.org/wiki/Standing_(law)))

More simply put, citizens should focus their BZA testimony on harm that is unique to them. For example, an Echo Hills resident could complain about the inability to go outside in his backyard due to the dust generated during the mining process. In contrast, a Huber Heights resident would not have standing to complain about the overall mining effects on the community as a whole.

When the conditional use permit makes its way to the BZA, local citizens must mobilize to testify against any mining expansion. This effort will also require a good zoning lawyer and expert testimony in water quality, noise pollution, traffic volume, and air quality to show that mining will be injurious to the public health, safety & general welfare. CAM will be focusing its resources in preparation for the BZA hearing eventuality.

Legislative vs. Quasi-Judicial

Legislative public hearings are held to obtain public input on important legislative policy matters that affect a wide range of citizens.

Legislative hearings are informal opportunities for all members of the attending public to speak. Time limits can be placed on individual comments if many people intend to testify, and the public comments should be confined to the matter at hand.

The February 2018 OEPA meeting at Greenon High School was a legislative public hearing.

Quasi-Judicial hearings are more formal and involve the legal rights of specific, identifiable parties.

The decisions made at a quasi-judicial hearing must be based on facts and evidence from the "record". The "record" consists of all testimony or comment presented at the hearing and all documents or exhibits which have been submitted in connection with the matter being considered.

NUMBERS MATTER. The more citizens and property owners who can attend the BZA hearing, the better!