

Bainbridge Township, Ohio  
Board of Zoning Appeals  
October 17, 2002

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:35 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs. The following matters were then heard:

Mr. Lamanna swore in all persons who intended to testify.

Application 2002-33 by JGD Associates Inc. for property at 8501 East Washington Street (Shell Fueling Station) - Continuance

The applicant is requesting a conditional use permit for the purpose of remodeling. The property is located in a CB (Convenience Business District).

Application 2002-44 by JGD Associates Inc. for property at 8501 East Washington Street (Shell Fueling Station) - Signage

The applicant is requesting area variances for the purpose of installing signage. The property is located in a CB (Convenience Business District).

Motion 2002-33 and 2002-44 – 8501 East Washington Street

Mr. Lamanna made a motion to table applications 2002-33 and 2002-44 until the next regularly scheduled meeting to be held November 21, 2002.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-35 by Tim and Melisa DeMell for property at 7777 Lori Lane

The applicant is requesting area variances for the purpose of maintaining two sheds. The property is located in a R-3A District.

The zoning inspector's letter dated June 10, 2002 was read and photos of the site were submitted.

Mr. Tim DeMell, new owner, was present to represent this application.

Mr. McIntyre testified that this application was made under the original owner, Christina Petti but the property was sold to the DeMells so they have taken over this application.

Mr. DeMell testified that one shed is 40' from the property line and the other shed is 25' but the requirement is 50'. He added that the sheds are on skids with no foundations.

Mr. Lamanna asked about the size of the sheds.

Mr. DeMell said they are 12' x 16'.

Mr. Lamanna asked about the lot width.

Mr. DeMell said it is close to 200' in a straight line.

Mr. Lamanna asked what is between the sheds and the property line.

Mr. DeMell replied by saying woods.

Ms. Kathleen O'Connell-Burton of 7781 Lori Lane and next door neighbor submitted photos of the neighbor's sheds taken from her property and testified that they are not very far away and said she thought they were about 15' from the property line.

Mr. Lamanna said there must be something to identify the property line.

Mr. Joe Orlowski, Asst. Zoning Inspector, testified that there is a pin in the back.

Ms. O'Connell-Burton said that when John Petti built the sheds she objected, so he moved them over but they are still not right and are clearly visible from her property.

Mr. Lamanna asked if one of the sheds is in the front yard because the site plan indicates that it is.

Mr. McIntyre said no, technically it is behind the building line.

Mr. Lamanna said it does not look like it.

Mr. George Ferritto of 7781 Lori Lane testified that he is Kathleen's husband and asked who drew the site plan.

Mr. McIntyre said the homeowner drew the site plan.

Mr. Ferritto said it is incorrect.

Ms. O'Connell-Burton showed the board photos of the sheds taken from her driveway.

The board viewed the photos of the shed.

Mr. McIntyre recommended tabling this application so he and Mr. Orłowski can go out next week and take some measurements.

Mr. DeMell said he would like to propose a compromise by moving at least one of the sheds but would not like to move the other shed because it has the driveway going to it.

Ms. O'Connell-Burton said that one was used for a garage.

Mr. Lamanna said there is still a question of whether it is 40' or less from the property line.

Mr. McIntyre stated that Mr. Orłowski went out and measured it.

Mr. Orłowski said he believes that 40' is correct.

Ms. O'Connell-Burton said she and Mr. Ferritto think the sheds are both in the front of the garage.

Mr. DeMell said the sketch is a little rough.

Mr. Ferritto said the sheds are very close.

Mr. DeMell said they are about 8' apart.

Ms. O'Connell-Burton said she had to comply with the zoning ordinance to make sure their shed was 50' off the line and added that these sheds are very visible from her house.

Mr. Lamanna asked her how close her house is.

Ms. O'Connell-Burton said she thinks it might be a little forward and said she took these pictures at the beginning of the summer from her driveway.

Mr. Ferritto asked if some real measurements can be made.

Mr. Lamanna said the board may have some other information such as an aerial photo that will help them resolve this.

Mr. DeMell said he is prepared to move the second shed.

The board viewed the aerial photo of the subject property.

Since there was no further testimony, this application was concluded.

Motion BZA 2002-35 – 7777 Lori Lane

Mr. Lamanna made a motion to grant the variance for the farther back shed from the required side yard setback of 50' to 40' for a variance of 10'.

Based on the following findings of fact:

1. The applicant has agreed to move the non-conforming shed that also is in the front yard to a location that satisfies the setback requirements.
2. The applicant has also agreed as a condition of granting this variance to plant some evergreen shrubs around the remaining shed, the shed that is being granted the variance, on the side facing the adjacent property owner to provide some screening of that shed from the adjacent property owner.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-50 by Summit Petroleum Inc. for property at 8782 Bainbridge Road

The applicant is requesting an area variance for the purpose of drilling an oil and gas well. The property is located in a R-3A District.

The zoning inspector's letter dated October 10, 2002 was read and photos of the site were submitted.

Mr. William Kinney was present to represent this application.

Mr. Kinney testified that he owns Summit Petroleum and submitted information to the board regarding his company, the specific well location, a photo of himself and history of the company. He stated that he submitted an application for a well on this property and he thought he complied with the local regulations as he read them but the zoning inspector asked the prosecutor's office for an interpretation. He then read from Chapter 181.01 (d) – Prohibited Locations of the Bainbridge Township Zoning Resolution which states: "No person shall drill any oil or gas well, nor erect, maintain or use a separation tank, compressor station or temporary pit for the storage of saltwater and oil field waste within 300 feet of any inhabited structure, places of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic or occupancy by the public or other structures as defined in Ohio Administrative Code 1501:9-9-01(R); nor within two hundred (200) feet of any street or highway, whether public or private. No person shall erect, maintain or use any oil production tank within fifty (50) feet of any well or public road nor within one hundred (100) feet of an existing inhabited structure.

No dwelling or building or structure which may be used as a place of resort, assembly, education, entertainment, lodging, trade, manufacture, repair, storage, traffic or occupancy by the public shall be located nearer than one hundred fifty feet (150) to any oil or gas well, separation tank, compressor station or temporary pit for storage of saltwater and oil field waste”.

Mr. Kinney said his point is that all distances are about structures which was the intent of the legislative body but when the zoning inspector reads it he sees it as saying “places of resort, etc.” therefore we could not be within 300’ of foot traffic or entertainment. He continued by saying that it defines a structure and there should be a colon not a comma after “inhabited structure”. He said he would like to drill a well here but we are not 300’ from a golf course, we are 75’ from the golf course but we are 300’ from an inhabited structure. He said he operates 178 wells and eight of them are on or near a golf course and Pepper Pike Country Club permitted an oil and gas well on their property. He submitted a copy of a newspaper article about that to the board. He continued by saying he would like to drill before winter and now there won’t be as many people on the golf course. He said he completely agrees with the 300’ distance from a structure but the bottom line is oil and gas wells are the ultimate form of homeland security.

Mr. Olivier asked how many hours it will take to drill the well.

Mr. Kinney said it will take about 100 hours and they like to drill continuously. He explained how it can take from 40 – 70 hours to drill the main hole and when the casing goes in the drilling rig moves out and added that they actually drill about 37 hours.

Mr. Olivier asked if it is noisy.

Mr. Kinney said it is a small, single, two men crew rig with an automated machine.

Mrs. Stanton asked if he was applying for the variance instead of the homeowner.

Mr. Kinney said that effectively, he is a property owner too because he owns the lease on the property.

Mr. Takacs said he thought the state law was a 40 acre requirement.

Mr. Kinney said with less than 4,000’ you need less than 20 acres. He explained the spacing required between wells rather than property lines.

Mr. Takacs asked where the closest well is.

Mr. Kinney said he just drilled one on the McClennan property.

Mr. Takacs asked how many feet that one was.

Mr. Kinney said it is about 3,800' – 3,946' so only 20 acres were required because it is less than 4,000' and if more than 4,000', more than 20 acres would be required and added that the wells get deeper the farther south you go

Mr. Mort McClennan testified that Mr. Kinney is a class act and he couldn't be happier with the job he did.

Mrs. Stanton asked about the fenced in area.

Mr. Kinney said when done there is a thick batting one-half the size of this room and he described the well head area.

Mr. Takacs asked what is done with the brine.

Mr. Kinney explained that the state has stipulations regarding the pit when done and the brine is hauled to certified disposal wells in Hiram or Shalersville.

The board reviewed the Ohio Revised Code regarding gas and oil well regulations.

Mr. Kinney said the township is allowed to regulate for health and safety but cannot regulate the color of tanks etc. and the distances if you can reasonably prove there is a health and safety issue. He said he is not saying that 300' to a structure is not unreasonable but the code relates to structures not fairways or golf courses. He said this code was copied almost verbatim from the ORC, word for word but there was an error made in the punctuation.

Mr. Lamanna gave his interpretation of the ORC.

Mr. Kinney said the Division of Oil & Gas has a 100' setback already and with 300' the township already superceded the rules but he is not arguing that.

Mr. Lamanna said the township is free to regulate things other than buildings and structures.

Mr. Kinney asked if he can ask for a variance to build within 75' of a golf course that is not occupied at the time.

Mr. Lamanna said this board is not the legislative board that adopted this procedure, but this board has to look at it and figure out what they meant and someone will have to make it clear to us they cannot regulate with regards to safety.

The board reviewed the oil and gas well regulations.

Mr. Lamanna said there are two issues here and one is the inhabited structure issue and whether or not a house is different than a shed or a store or bowling alley even though no one lives there. He said it talks about places of resort and not limited to structures but referred to a ball field where a large amount of people would come and congregate. He said if there is an explosion at a ball field, the same thing would happen to the people as if it were a structure. He said the other issue is with the variance because the code specifically states prohibited locations and so it certainly tells us there has to be a very strong basis for us to grant a variance.

Mr. Kinney said if that setback covers any place of traffic, that would prevent any well from being drilled in the township.

Mr. Lamanna referred to a walking path regularly used by people and said he thinks that is within the code but it doesn't cover people randomly walking around, it has to be an organized place such as a golf course, ball field, playground etc.

Mr. Kinney said he drilled a well for the City of Akron on the zoo in Akron.

Mr. Lamanna said that is up to them and how they regulate it there.

Mr. Kinney said that the golf course and the landowner will own the mineral rights on the property and you have to drill where there is oil and gas and that is why we may go to war with Iraq.

Mr. Lamanna told Mr. Kinney that he needs to go to the zoning commission and demonstrate it is unreasonable to regulate it this way and they could have a reasonable reason for denying this.

Mr. Kinney said the zoning commission took the language verbatim regarding the definition of structure and said the comma should be changed to a colon.

Mr. Lamanna said the zoning commission modified it by stating any inhabited structure etc. and he sees a logic to what they have done.

Mr. Kinney asked what if part of the golf course was closed off while it is being drilled.

Mr. Lamanna said he would consider that because of the fact that the golf course owns all of the property and you would want to measure from the regularly used part of the golf course and we are looking at where people are congregating and not passing through.

Mr. Kinney said it is not a public golf course.

Ms. Tina Barrow of 17569 Plum Creek Trail asked if she is not the public when she is golfing.

Mr. Lamanna said that every store is not a public place either.

Mr. Kinney said yes it is, a store is public, a club is not.

Mr. Lamanna said they do a lot of non-member activities.

Mr. Kinney said there is a list of private golf courses and Tanglewood is on it.

Ms. Barrow testified that her property borders on this property and said she cannot imagine where this tank will be put with all the kids in the neighborhood.

Mr. Kinney said you need 20 acres.

Ms. Barrow asked where the 20 acres is coming from.

Mr. Kinney said he has a permit from the State of Ohio.

Ms. Barrow asked if the neighbors have no say.

Mr. Kinney said the State of Ohio granted us a permit to drill on this property.

Mr. Lamanna asked where the 20 acres is coming from.

Mr. Kinney said it is coming from the golf course and the other property.

Ms. Barrow asked if the golf course is going to benefit from this well.

Mr. Kinney replied yes and said he has drilled gas wells in downtown Akron and Hudson.

Ms. Barrow asked Mr. McClennan how many acres he has.

Mr. McClennan said that is not an issue.

Ms. Barrow said she will hear it and see it.

Mr. McClennan asked if the tank can be buried.

Mr. Kinney said no.

Mr. Daniel Hershman of 17590 Plum Creek Trail asked if studies have been done.

Mr. Kinney said the EPA is not staffed for this.

Mr. Hershman said there are environmental issues regarding ground water and asked about the road access and the road is within a few feet of this property and is a private residential road shared by a number of properties.

Mr. Ryan Noah of 8780 Bainbridge Road testified that he maintains the road just for the residents and is concerned about the trucks.

Mr. Hershman said that Mr. Noah has little kids

Mr. Kinney said the property owner at the end of the road has just as much right to use it.

Mr. Lamanna asked what the easement says for the private road.

Mr. Kinney said he did not know, but they will use gas from the well to heat the house and it will tie into the East Ohio Gas pipeline and will be used locally.

Mrs. Tom Stone of 17588 Plum Creek Trail asked if this will be located right on the golf course.

Mr. Kinney said it will not be right on the golf course.

Mrs. Stone asked about the noise.

Mr. Kinney said it will be 75' from the golf course and explained the noise from the drilling.

Mrs. Stone asked if anyone checked to see if there is anybody on the street with medical problems.

Mr. Kinney said after the well is drilled, it won't be a problem.

Mrs. Stone said it is now.

Ms. Barrow said he can construct an eyesore and we will have to accept it.

Mr. Kinney said one-third of the natural gas is produced here.

Mr. Hershman said that Mr. Olivier lives in Tanglewood and knows there are a lot of kids in the neighborhood and this will be a safety issue.

Mrs. Stone said there is a path that the players drive their carts on to get to the golf course.

Mr. Kinney said the fence will be kept locked.

Mr. Tom Stone asked how it will be maintained.

Mr. Kinney said a pick-up truck will go in everyday and check it.

Mr. Stone asked about the life of a well.

Mr. Kinney said some wells drilled in 1946 are still producing and some are capped six weeks later.

Mr. Stone asked if this will be a gas well and not an oil well.

Mr. Kinney said it will probably be gas but he is not sure until it is drilled.

Mr. Stone asked what will happen if there is a catastrophe when drilling.

Mr. Kinney said his job is to make sure there are none and added that he is insured and his company counts on design and engineering.

Mr. Stone asked about potential oil leaks that could run into the creek etc.

Mr. McClennan stated that a hydrologist was brought onto his property to locate all the water and said he trusts Mr. Kinney's capability but he can't speak to the noise and apparatus.

Mr. Lamanna said the township can't regulate appearance.

Mr. Hershman said the noise issue was not addressed and he would like more information if this is a health and safety issue.

Mr. Lamanna said the township can't regulate noise.

Mr. McIntyre said we have no control on noise.

Mr. Lamanna said to the extent the board looks at variances, is the impact on the adjacent property owner.

Mr. Hershman asked about property values.

Mr. Lamanna said that is the reason the township has setbacks.

Mr. Hershman said oil and gas is a horizontal issue.

Mr. Lamanna said it is regulated by the state and not the township's purview.

Mr. Kinney said the deeper the well, the larger the drainage area and it is based on testing and pressure graded testing.

Mr. Hershman said the golf course has reason to allow it, but we are next to it.

Mrs. Stanton said she would like to go into executive session to discuss this further.

Mr. Lewis said he also would like to go into executive session.

Mr. Lamanna stated that the board is not closing the public hearing but will go into executive session which is not subject to public hearing rules.

### EXECUTIVE SESSION

Mr. Lamanna moved that the Bainbridge Township Board of Zoning Appeals go into executive session to consider oil and gas well regulations.

Mr. Takacs seconded the motion. Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

The board of zoning appeals recessed its public hearing at 9:07 P.M. in order to go into executive session to consider oil and gas well regulations.

The board of zoning appeals returned from executive session after considering oil and gas well regulations and reconvened its public hearing at 9:40 P.M.

Mr. Lamanna stated that the board discussed and considered legal advice from the Geauga County Assistant Prosecutor regarding oil and gas well regulations. He continued by saying that the board is going to look at this on the basis of what the code says regarding Chapter 181.02 (d) of the zoning resolution for the purposes of drilling a gas and oil well. He said the 300' does apply and could be satisfied but it also addresses the 150' for subsequent operations. He said measurements must be made from cart paths, fairways, greens and tee areas and the board will make that interpretation and though the area looks wooded, the board does not have enough information to act on that part of it.

Mr. Kinney asked if he will get a written copy of that.

Mr. Lamanna said it will be documented in the minutes.

Mr. Hershman said with regards to the trucks coming in everyday, it is a private drive.

Mr. Lamanna said that is a matter of real property law regarding easements etc.

Mr. Kinney said they did look into the easement of course which states a pretty broad use.

Mr. Lamanna said it is a private matter.

Mr. Hershman asked if Mr. Kinney is willing to put up some sort of natural buffer.

Mr. Lamanna said that the variance he is requesting goes towards the golf course not toward the residents. He explained why conditions are imposed on variances and said the properties on Plum Creek Trail are away from this.

Mr. Kinney said his goal is to try to have it as fully screened as possible in every direction and it is already screened and there are a lot of things to do to mitigate those problems. He said if it is an issue, we can tuck it in there pretty tight.

Mr. Jim Darrow of Bainbridge Road asked where the 150' dimension came from.

Mr. Lamanna explained that it is from Chapter 181 also and it deals with construction of a structure once a well is operational and said there is less risk after the well is drilled and that is the reason for the 150' distance.

Since there was no further testimony, this application was concluded.

#### Motion BZA 2002-50 – 8782 Bainbridge Road

Mr. Lamanna made a motion that the board needs to first make an interpretation of the meaning of Section 181.02 (d) with respect to the ruling of the zoning inspector. After consideration of the evidence and reviewing the language adopted in the ordinance, the board has determined that as written, the intent of the statute was to include places which could be used for resort or entertainment whether or not those places happen to be structures. Under these circumstances the board would consider a golf course to fall within that definition. However, this would include only those areas of the golf course that are regularly used, meaning fairways, cart paths, greens and tee areas. Other incidental areas would not be included. Furthermore in reviewing this section as a whole, the board also notes that there is a secondary portion of it that permits subsequent construction after well drilling of inhabited structures within 150' of the well/compressor/separation tank. The board also finds that this requirement would apply as well to those places of resort, education, entertainment, etc. as described in the first sentence of that section. Under these circumstances, the board would find that the applicant, if they desire, could satisfy the 300' requirement by fencing off or otherwise restricting access to that 300' radius on the golf course area. Subsequent to the completion of the well, they would only have to maintain 150' to the golf course as the board has defined it. The board cannot at this point in time based on the evidence before it, determine whether or not the applicant, given its present location, does require a variance.

Motion BZA 2002-50 – 8782 Bainbridge Road - Continued

If the applicant demonstrates that the golf course is within 150', no further variance would be required, otherwise the applicant may request that this decision be re-opened to consider possible variances of less than 150' upon appropriate information and upon appropriate demonstration that such a variance should be granted.

Based on the following findings of fact:

1. The board makes these findings based on what it reviews as the plain language of the section.
2. The board also believes that looking at what is being regulated and the nature of the regulation that this was the intent of the township when it enacted this ordinance and that the purpose of this ordinance is for the safety of people within the township.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-51 by Thomas J. Compisi for property at 8500 South Spring Valley Park Drive

The applicant is requesting an area variance for the purpose of constructing a shed. The property is located in a R-3A District

The zoning inspector's letter dated October 10, 2002 was read and photos of the site were submitted.

Mr. Thomas Compisi was present to represent this application.

Mr. Compisi testified that he needs a variance in order to build a tool shed on his property. He stated that the required front yard setback is 100' and the required rear yard setback is 90', his lot is 150' wide and 460' deep and his proposed shed is as centrally located on the property as possible. He said his neighbors have no concerns with it and it will be a 16' x 16' shed. He continued by saying that his deed shows Chillicothe Road as his frontage and his address was Chillicothe Road but the house faces South Spring Valley Drive.

Mr. Lamanna said the frontage is on the street that it faces and asked if the existing shed will be removed.

Mr. Compisi replied yes.

Mr. McIntyre said they tried to figure out where it is based on the aerial photograph.

The board discussed the placement of the proposed shed.

Since there was no further testimony, this application was concluded.

Motion BZA 2002-51 – 8500 South Spring Valley Park Drive

Mr. Lamanna made a motion to grant the variance for the proposed tool shed to the front and rear yard setbacks with the placement of the shed no closer to the front than the existing house and no closer to the rear than the existing house.

Based on the following findings of fact:

1. The applicant's lot is only 150' deep which with the required setbacks of 100' in front and 90' in back would allow absolutely no place to put the tool shed at all if the applicant were to comply with that.
2. By placing it within the existing setbacks of the house, it will create no additional burden on the adjacent properties nor will it be inconsistent with the intent of the zoning and especially knowing that this is a smaller lot of only 1.23 acres in a three acre area.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-52 by William Astalos for property at 9420 Crackel Road

The applicant is requesting an area variance for the purpose of maintaining a barn. The property is located in a R-5A District.

The zoning inspector's letter dated October 10, 2002 was read and photos of the site were submitted.

Mr. William Astalos was present to represent this application.

Mr. Astalos testified that when the original plan was filed for the house, the barn would have been 53' off of the property line, but the house was moved 28' to the east by the builder to make room so the septic could be a gravity feed, without him being aware of it. He said he had a surveyor come and stake the property recently and it turned out that the barn was 25' off the property line and said the site plan should have been amended by the builder.

Mr. Olivier asked if there is a house on the eastern side of the barn.

Mr. Astalos replied yes and said the owner is here.

Ms. Carol Malz, neighbor, testified that the barn location is alright with her.

Mr. Astalos submitted photos of the barn that shows it nestled in pine trees.

Ms. Malz said it is a very nice looking structure.

Mr. Lamanna said it is no where near any structure on the neighbor's property.

Ms. Malz said that is correct.

Since there was no further testimony, this application was concluded.

Motion BZA 2002-52 – 9420 Crackel Road

Mr. Lamanna made a motion to grant a side yard setback variance from the required 50' to 25' for a variance of 25'.

Based on the following findings of fact:

1. Due to the placement of the replacement septic field the applicant has a limited area in which he can place this barn.
2. Furthermore, the applicant has already started construction of this barn but did so in the mistaken belief because of prior plans showing the location of the house and honest belief that it was the required setback of 50' from the property line.
3. The board has also considered the adjacent property where there are no structures near the property line where this barn will be.
4. The barn is also well screened by existing large trees and the adjacent property owner has appeared and indicated that they do not object to the granting of this variance.
5. These are very large lots and substantial spacing to any other structures so that there should not be any adverse impact on the adjacent property owners nor will this be a derogation of the zoning ordinance or unduly affect the character of the neighborhood.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-34 by Daria Mooney Saks for property at 8740 Tanglewood Trail - Continuance

The applicant is requesting an area variance for the purpose of a lot split. The property is located in a R-3A District.

Mr. Lamanna made a motion to dismiss this application for failure of the applicant to appear.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-45 by The Winbury Group for property at Route 422 and Bainbridge Road - Continuance

The applicant is requesting area variances for the purpose of installing a ground sign. The property is located in a R-3A District.

Mr. Lamanna made a motion to dismiss this application for failure of the applicant to appear.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-53 by Bainbridge Land Development (McDonald's) for property at 7195 Kent Road (Aurora Road)

The applicant is requesting area variances for the purpose of installing signage. The property is located in a CR District.

Application 2002-54 by Bainbridge Land Development (Bob Evans' Restaurants) for property at 7105 Kent Road (Aurora Road)

The applicant is requesting area variances for the purpose of installing signage. The property is located in a CR District.

The board was in agreement to hear both applications 2002-53 and 2002-54 at the same time.

The zoning inspector's letters dated October 10, 2002 were read and photos of the sites were submitted.

Mr. Alan Bellis of Heritage Development Company was present to represent these applications.

Mr. Bellis testified that two years ago he came to the board for signage for the tenants they knew were going in but the tenants for the out lots were not decided yet. He said that Bob Evans is a sale parcel and McDonald's is a lease parcel. He continued by saying they have met with the township trustees for many meetings regarding materials etc. but the signs were briefly discussed and we agreed not to come in for anymore signs but these are for the out-lot parcels. He said that the township regulations allow ground signs and one criteria of Heritage is that they are all similar in size and color. He said the height will be 6' high and explained that only the letters will be lit, not the face, so only the letters will stand out at night and the red background will not stand out. He continued by saying there will be some brick work on the signs with the same type of banding on both signs and the hardship is in measuring the out-lot buildings. He explained the size of both proposed signs and said they meet the criteria for the signs on the other buildings and the sign at the street is in keeping with what was previously granted by the board and the overall design parameters. He said they will mandate that the other three out-parcels that go in will be the same as these.

Mrs. Stanton asked where the sign will be located.

Mr. Bellis said the ground signs will be perpendicular to the road, will be internally illuminated and the red background won't be seen at night and will be two sided. He explained the location of where McDonald's and Bob Evans will be located per the photo.

Mr. Lewis asked if the signs will be consistent.

Mr. Bellis said they all will be in line with each other, Bob Evans will be in front of Kohl's and showed a photo of the mounds with plantings.

Mr. Lewis asked if when coming into the shopping center you will have been presented with the restaurant's presence on the way in as opposed to having a sign on the rear of the building.

Mr. Bellis replied yes.

Mr. Lewis asked about the height of the second sign on Bob Evans' side of the building.

Mr. Bellis said that Bob Evans has a "carryout" sign on the side of the building that is 4.5 sq. ft. and noted that every one of the other signs ended up with a height variance.

Mr. Lamanna said the sign is in a natural spot on the building.

Since there was no further testimony, these applications were concluded.

Motion BZA 2002-53 – 7195 Kent Road (Aurora Road) – McDonald’s

Mr. Lamanna made a motion to grant the following variances:

1. A variance of 11.3 sq. ft.
2. A variance of 2 ft. on the height requirement to 17’ for the height of the sign on the building.

Based on the following findings of fact:

1. The small variance given the nature of the building and the nature of the overall development is consistent with that and is not greatly at variance with the sign requirement.
2. With respect to the height variance, the sign is being placed in an architecturally appropriate place on the building where it will be consistent with the overall size and shape of the building and therefore it would not be in derogation of the height limitations.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Motion BZA 2002-54 – 7105 Kent Road (Aurora Road – Bob Evans’ Restaurants

Mr. Lamanna made a motion to grant the following variances:

1. A variance of 10.1 sq. ft. for total signage.
2. A variance to add a small additional sign of approximately 4.5 sq. ft.
3. A variance of 4’ to a maximum height requirement permitting 19’.

Based on the following findings of fact:

1. The applicant’s signage is consistent with other signage in the overall development with the wall signs and ground signs.
2. The variance is small when you consider that the overall permitted is about 10%.
3. The second wall sign being permitted is a small wall sign that is primarily being used as a directional basis to direct people to the carryout entrance.
4. With respect to the height variance, the height being requested is consistent with the architectural style of the building and is located in a location that is consistent with that style with the overall size and height of the building.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Since there was no further testimony the public hearing was closed at 10:26 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis  
Mark Olivier  
Ellen Stanton  
Donald Takacs, Vice Chairman

Attested to by: Linda L. Zimmerman, Secretary  
Board of Zoning Appeals

Date: November 21, 2002

Bainbridge Township, Ohio  
Board of Zoning Appeals  
October 17, 2002

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:26 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the September 19, 2002 meeting as written.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Applications for next meeting

Application 2002-33 by JGD Associates Inc. for property at 8501 East Washington Street (Shell Fueling Station) - Continuance

The applicant is requesting a conditional use permit for the purpose of remodeling. The property is located in a CB (Convenience Business District).

Application 2002-44 by JGD Associates Inc. for property at 8501 East Washington Street (Shell Fueling Station) - Signage

The applicant is requesting a conditional use permit for the purpose of installing signage. The property is located in a CB (Convenience Business District).

Application 2002-55 by Richard Rudar for property at 17540 Haskins Road

The applicant is requesting an area variance for the purpose of constructing a new single family dwelling. The property is located in a R-3A District.

The Bainbridge Township Board of Zoning Appeals set the public hearing on the above applications for November 21, 2002 at 7:30 P.M. at the Bainbridge Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:40 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis  
Mark Olivier  
Ellen Stanton  
Donald Takacs, Vice Chairman

Attested to by: Linda L. Zimmerman, Secretary  
Board of Zoning Appeals

Date: November 21, 2002