

Bainbridge Township, Ohio
Board of Zoning Appeals
October 17, 2019

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:08 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Michael Corcoran was absent. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all those who intended to testify. He let the record reflect that everyone had been duly sworn in.

Application 2019-2 by New Wembley LLC for property at 8345 Woodberry Boulevard - Continuance

The applicant is requesting a review and renewal of an existing conditional use permit. The property is located in a R-3A District.

Mr. David Barr, owner and applicant was present to represent this application.

Mr. David Barr testified that he is applying for the renewal of this conditional use permit.

Mr. Lamanna asked Ms. Endres to go over her site review.

Ms. Karen Endres, Zoning Inspector testified that she was at the property this week, the windows and shutters are completed, the building footprint is completed but they are still working on some trim detail, the hydro-seeding has been done, she believes the sediment control or the storm water plan has been implemented, the retention basin is in place. She said the landscaping on the east side is complete, there are some trees that are missing on part of the property parallel to Woodberry. She said she took photos that the board can take a look at and noted that the BZA packets have the staff letter, the conditions on the tennis club, pages of the plans and these are pictures that she took of the property. She referred to the windows and said there is some trim work that needs to be done at the top, there is some trim work that needs to be implemented along the base of the building and some shelving that needs to be implemented and she thought that that might have been done today.

Mr. David Barr testified that shelving was not done today, it is being stained today and has to dry overnight, if the weather is good Trevor is planning to do that tomorrow.

Ms. Endres said these are the pictures showing the site conditions as of the 15th and these are of the front of the building, there are three walls that the trim work needs to be implemented, this is Woodberry on the side and you can see that there are some trees here and one of the plans had evergreen trees that would be planted roughly along here. She said this is the detention basin area and the day she was there they were hydro-seeding and it looks like the hydro-seeding is complete. She said this east wall of the building, these are the evergreens planted completely all along the eastern boundary of the property and she climbed the mound and tried to get a good view of the buildings from the back so this is the back of the building, she believes this is the swim building.

Mr. David Barr said it is the tennis building.

Ms. Endres said it is the new indoor tennis building. She referred to the photos and said this is the south side of the building from ground level, the tennis dome, this is the utility area, the utilities were put in the back so they are not visible from the road or from other areas of the property and this is the clubhouse and this is the little corner connection.

Mr. Gutoskey asked what that is in the lower left on the side, is that an HVAC, what is that unit on the side there.

Mr. David Barr said yes that is HVAC.

Ms. Endres said that would be on the west side of the building and you can see the man working on it, there was a worker there doing some work that day.

Mr. Gutoskey said he was curious because he knows we talked about hiding the HVAC.

Ms. Endres said that was in one of the original conditions, there was a request that the HVAC equipment be tucked away behind the building so it is not visible.

Mr. Gutoskey said but isn't that the HVAC there.

Ms. Endres said she thinks that is the utility and that closes.

Mr. David Barr said you have two different HVACs, the way that the building was built is he thinks that the people that manufactured the buildings will tell you they are two different buildings each with its own unit so the one that we talked about hiding, we did in the back, the one in the front, there is probably no way to hide it.

Mr. Gutoskey said maybe a couple of Pine trees.

Ms. Endres said she thought this was an open door, when he was working, was it open.

Mr. Gutoskey said no, you can see there is nothing that comes into the top and out the bottom.

Mr. Lamanna said it does look utility looking.

Mr. Lewis said he thought it was going to go in the alley where the other one was adjacent to that building.

The board discussed the location of the HVAC.

Ms. Endres said she had more pictures to show. She said she had a variety of pictures sent to her via email and she didn't even have a chance to do anything except copy them onto the flash drive.

Mr. Jim Donohue of 16440 Crown Pointed testified that he lives on the eastern side of the property and he took the photos. He said he took a stroll through the woods and the trees on that side, there are about nine of them that are dead or dying and a couple are missing so that is what the pictures are, he just snapped pictures of the trees as he walked through the woods.

Ms. Endres said she didn't have time to organize them in a Power Point, she just had to grab them and put them on a flash drive.

The board reviewed the pictures provided by Mr. Donohue.

Mr. Gutoskey said the question he has, is this a permanent drive in front and around the building.

Mr. David Barr said there is no plan to remove it right now, every year they put up and take down the bubble in the back for tennis and the machine that they use to do that needs access, they have to get around the building in order to do that and if they don't have access we can't take up and put down the bubble.

Mr. Gutoskey said the question was, that wasn't on the original site plan submitted so he doesn't know how that affects the lot coverage, it is probably not over but.

Mr. Lamanna said the lot coverage was not part of the plan so you either have to amend the plan or take it away. He said the lot coverage is there, you have it available, it shouldn't be a problem but obviously it eats up what you have available, not saying in the future you couldn't take it away or make it something else if you wanted, it is not a commitment to keep it there forever obviously but still we have got to have a plan that reflects all of the development on the site, it has to be current and up to date so it really needs to be included in the plan. He said because right now you are coming before us for renewal and we are saying the facility doesn't in a fairly significant way, it doesn't comply with the plan.

Mr. David Barr said the plan originally had, when we very first started this eons ago had no tennis courts in the front so we obviously don't have that either.

Mr. Lamanna said right but if things are gone it is not a problem, if the plan had something that is not there that is not a problem, if there is something that is not on the plan that is a problem so we have to have an updated plan that has that on it.

Mr. David Barr said or just remove it.

Mr. Lamanna said at this point he doesn't think there is anybody that says well if you think you need a gravel driveway there at this point it time you can't have a drive there, you just need a plan that shows it and he is not saying the driveway itself is an issue as a driveway or an access means it is just that it is lot coverage and it needs to be shown on the plan and it needs to be in the record as this is what the total lot coverage of the facility is now, it is nothing complicated, it is just a need to have that updated at some point in time and sooner rather than later. He said before any renewal is going to become effective there is going to have to be an update to the plan submitted and we will see if we can act if that is the only issue whether we can act on it on the basis that you submit a plan that shows that feature with the updated lot coverage and as long as it doesn't exceed the limit, once you submit that to the zoning inspector then she will issue the renewal but she is not going to officially issue the renewal until we have a plan that reflects that driveway.

Mr. David Barr said okay.

Mr. Gutoskey asked Ms. Endres to show a photo of the front of the building because he thinks it was one of the big things when we looked at this and worked with Mr. Barr and he seemed pretty receptive to try to break up the front of the building and in looking at the construction drawings that we received and what is there the things that he noted were, there was supposed to a 3' high lower panel that was different than the bands on the building and then the two places where that brick or whatever it is, there is supposed to be a 3' high band on the bottom of the building and those two areas where that brick is supposed to be up 3' based on the drawings.

Mr. Gutoskey continued by saying he thinks Ms. Endres has already said the details on the top of the dormers are missing, there are supposed to be some vertical panels that are an off-set color from the existing building on either side of those shelves to break up the front of the building. He said another thing when he was out there, on the left dormer he had asked about some block that sticks out from the front of the building and when he came and looked at the plans it looks like the building, those two dormers, were supposed to be off-set, 1'-4" off of the front to break up the building so it wasn't just one long line of building.

Mr. Lewis said so the one set of blocks is there.

Mr. Gutoskey said yes, on the left dormer the cinder block is there but the wall just goes straight and it was supposed to off-set around that to break that side up. He said then the roof color and then just two other things he noticed, the parking lot needs to be striped and he thinks that would help with the parking when you have a lot of people at events so you can maximize how many cars you can park in the parking lot. He said the only other thing was the dumpster enclosure is just one side of fence and he knows way back when it was approved it was supposed to have a dumpster enclosure to it, the dumpster isn't hidden from the street or from the west side, it is just hidden from the parking lot.

Mr. Lewis said he also had a chance to visit the site today and was looking at a lot of the same things and also came back and looked at the architectural drawings and Mr. Gutoskey's statements are accurate.

Mr. Gutoskey said going back to the minutes when we originally approved that, that was one of things we were trying to do is make this big building fit within the neighborhood and break up that front to make it not just look like a big steel building.

Mr. Lewis asked Ms. Endres if she has any photos that show the main clubhouse.

Ms. Endres said just that one.

Mr. Lewis said he probably could have sent these over. He said we have this ongoing conversation about the roof color and what showed on one of these prints that said that roof color would match the main clubhouse so he wanted to just kind of see for himself whether or not that had been accomplished so he was at the site today and he took a bunch of pictures of the clubhouse, the roof is black, and as you can see in these pictures here that the new construction was kind of like a light silver gray color, not black. He said we missed the target on that, there is not the match.

Mr. David Barr asked Ms. Endres to put up the renderings.

Mr. Lewis said he is looking at what was submitted to the board by Mr. Hershman, Architect and right on here it clearly states metal roof color to match clubhouse and the clubhouse is black.

Mr. David Barr said the clubhouse roof is black.

Mr. Lewis said yes and the arrow is pointing right at the roof on the rendering, it is very very specific.

Mr. David Barr said the renderings show a picture which shows the same color that it is and it doesn't say clubhouse roof it says clubhouse.

Mr. Lewis said we are back on that same treadmill, aren't we, about three or four months ago, same hamster wheel. He said the board's interpretation was we went off that print that said the roof would match.

Ms. Endres said she has this exhibit.

Mr. David Barr said here is the rendering.

Mr. Lewis said that is this.

Mr. David Barr said correct and this roof on the rendering is not black.

Mr. Gutoskey said the roof is the same color as the clubhouse on that rendering.

Mr. David Barr asked the clubhouse.

Mr. Gutoskey said yes.

Mr. David Barr said they have a rendering that doesn't show a black roof on any building.

Mr. Gutoskey said he is reading notes on a plan and he is looking at this elevation drawing.

Mr. Lewis said there is the clubhouse.

Mr. Lamanna asked what shows on the clubhouse.

Mr. Lewis said it is a black roof.

Mr. Lamanna asked what else.

Mr. Gutoskey asked what color the siding is on the clubhouse, it is the same color as the side of the building isn't it or close, if it should be the same color as the roof of the clubhouse then either the roof is black or it is green.

Mr. Lamanna asked at what point it was decided to make the color the silver color, who made that decision.

Mr. David Barr said it was the builder who was building it at the time, he has been fired since, he is in litigation with him.

Mr. Lamanna asked if it would have cost more if the roof had been black rather than silver.

Mr. David Barr said he had no conversation with anybody about when that was happening but he had conversations since the last board meeting and every builder tells him having black would be energy inefficient, it would be hot inside the building, everyone tells him it would be a very poor choice to do that.

Mr. Gutoskey said then why did your architect put it on the plan.

Mr. David Barr said he can't explain what the architect did, nor can he explain what the builder did.

Mr. Lamanna said if the architect was here then we could ask him the question and he could explain why. He said builders will tell you whatever they feel like telling you to sell whatever they want to sell at the moment. He said the architect could at least demonstrate to us, if he had come in and said if you have a black roof here is what happens etc. and here are the calculations, summer, winter whatever and then we have something to base it on but some builders, if it is now a problem they will come up with any excuse they can come up with to justify what they did so they are not exactly a very reliable source of information.

Mr. David Barr said sure.

Mr. Lamanna said frankly he drove out there today and when he first went out there the silver roof, as an abstract concept it didn't bother him terribly but once he saw it in more context, to him it doesn't look good, it is mismatched with the rest of the facility and if you look at the roofs of most of the houses around there they all tend to be pretty dark colors so even in the surrounding neighborhood the roofs of all of the houses are all fairly dark so this is a little bit out of what is the character of the neighborhood. He said you (Mr. Barr) left us in a very difficult position here and not with a very good explanation as to why we are in the position we are in.

Mr. David Barr said he doesn't know what else to say, he hired a builder to build it, he was supposed to build it.

Mr. Lewis said so we are also left with a flat faced front of this building as these two dormered areas were supposed to be out 1'-4" so out 16" and we no longer have the breakup definition that we are looking for even though it is interesting, one set of footers is in and blocked so he doesn't know what happened and all he can say is that it is your project, it is up to you to oversee your project a little bit. He said somebody made a change so usually with a builder there is a change order, somebody approved something or the customer, while they are out there every few days, and you have the advantage because your business already exists on the property, in doing your walk-about every few days or whatever you can't miss the concrete block footers sitting right there, what happened. He said you were there, he wasn't, it is your property with your builder, he doesn't get it. He asked if somebody approved a change order that said make it a flat face.

Mr. David Barr said no, there wasn't a single change order in the entire project.

Mr. Lewis said it is really odd. He said so this 3'-2" band across the front at grade level.

Mr. Gutoskey said if you look at the way the drawings are, except the dormers, there was supposed to be some different color from what it looks like here just to kind of break it up in some kind of banding like a 3'-2" and then those two dormers are supposed to have brick but if you look at the picture those panels are only 1'.

Mr. Lamanna asked if anybody has seen a copy of the specifications that were given to the builder. He said from the person who actually made and put up this building, did he make it and put it up not in conformance with the drawing, were the drawings that were given to him not in conformance with the plans that were filed with the township.

Mr. David Barr said he was given the plans that the township approved.

Mr. Lamanna said then he didn't build the building the way he was supposed to build it.

Mr. David Barr said he could fill the next three hours with mistakes he made.

Mr. Lewis said it looks like that banding is supposed to go all the way around not just the front and there are definitions on the uprights to break that up a little bit. He said it looks like there is some more work to be done just to bring this thing to as approved.

Mr. David Barr said yes, we know we have more work, we have a guy working on it right now.

Mr. DeWater stated that the board shouldn't approve anything until it is built as submitted and done. He said all of the work should be complete before we renew this permit according to what was submitted so whether you've got to hire another builder or do the work yourself it should be completed as to what we approved.

Mr. David Barr said he understands.

Mr. DeWater said and he knows for himself he sat on this board when we approved this originally and he spoke on Mr. Barr's behalf that your builder would do a good job and this makes his standing look pretty much like dirt and he won't vote in support of renewing this permit until you (Mr. Barr) present what you promised the township.

Mr. Nick Yuhás of 8360 Wembley Court testified that one of the things he didn't hear mentioned yet was the trees, if you can go back to that drawing.

Mr. Lewis asked Mr. Yuhás if he was talking about the trees on the side of the building or on the front and said the board is aware that some of the trees have perished.

Mr. Yuhás said the front.

Mr. Gutoskey said the drawing shows some trees along the front of the building too.

Mr. Lamanna said that Ms. Endres mentioned that early on and we kind of went right through it so if you weren't paying attention you would not have noticed.

Mr. Yuhás said the front and then up to the driveway, there is one tree there but there is one, two, three, four, five, six on that drawing, that would help considerably break up and hide a lot of that from plain sight.

Mr. Lewis asked Mr. Barr if he has a timeline on those missing trees going in.

Mr. David Barr asked Ms. Endres to pull up the landscape plan. He said they submitted a landscape plan that did not have those trees on the north side of the property.

Mr. Lewis asked where what is up there come from.

Mr. David Barr said he thinks they are talking about wanting trees in here (he referred to the landscape plan). He said we came in here and you said you wanted them on the side so we submitted a landscape plan that had them on the side.

Mr. Gutoskey said when the board approved it in January of 2015 one of the first conditions was “the applicant will submit the detailed landscape plan to the zoning inspector for approval prior to issuance of a certificate showing conformance with the various discussions of the board including the screening to the north of the new outdoor courts, additional screening on the east side of the property starting with the jog out of the exterior courts to the rear of the building and also in that area along the oval similar to what is shown on the aerial perspective to provide screening from the western view of the property.” He said that was the board’s first condition when we approved this in January of 2015.

Mr. Lewis said so you are suggesting the submitted landscape plan did not conform to the condition of the variance.

Mr. Gutoskey said not exactly.

Ms. Endres said to clarify she has two landscape plans, one that is detailed with requirements on the east side of the building and then the SP-1 shows the other requirements.

Mr. Lewis said half of the trees are on one plan and half of the trees are on the other plan.

Mr. DeWater asked Mr. Barr if he acts as his own project manager or does he hire a company to represent his project.

Mr. David Barr said multiple companies. He said he first hired Capstone Construction at the very beginning to build the building.

Mr. DeWater said but usually you have a project manager outside your construction company to make sure they are following the plans and the stuff that the township put in place too. He asked Mr. Barr if he had a company for that.

Mr. David Barr said no.

Mr. DeWater said so you oversaw the project yourself.

Mr. David Barr said that was not ever his intent, he was never capable of doing that, he hired a builder expecting that he was going to build it according to what it was supposed to be built at.

Mr. DeWater said so builders don't do what they are supposed to do and we all know that and somebody has to be there and that is your responsibility to make sure that they follow the guidelines that were set forth so it falls on your (Mr. Barr) shoulders for not delivering on what was presented.

Mr. David Barr said okay.

Mr. DeWater said you need to present and produce what was approved in order to get approval from this board.

Mr. David Barr said he understands that.

Mr. Chris Weathers of 8220 Woodberry Boulevard testified that at the last meeting there were a number of violations or potential violations and we discussed those and he would like a status update on the investigation and the resolution. He said lighting from the paddle ball courts spilling over to the housing and into the streets and he thinks we have already mentioned the trash not being properly surrounded, music from the pool area, trees dying and whether or not the code is being used in terms of membership status and there might be others as well.

Ms. Endres said she only knows of one use that was not permitted and that was the tutoring and that has been eliminated, the fence enclosure was falling down but that has been fixed and since then it has come to her attention that back when it was originally approved, 20 or 30 years ago there was a provision that there was supposed to be a dumpster enclosure rather than just a fence and she has not discussed that with Mr. Barr yet, she didn't realize that back years and years ago there was something that was never implemented. She said she hasn't gotten any other complaints relative to lighting and asked if there are light trespass issues.

Mr. Weathers said the paddle ball courts, there is lighting that spills over.

Ms. Endres said they are allowed to have lighting.

Mr. Weathers said he is just inquiring about the investigation.

Ms. Endres said she is not aware of any lighting violations, she thinks there were questions about membership, she has been out there a number of times and she has never seen anything to indicate that there is a problem with the number of people using the facility.

Mr. Brent Barr asked if there was swimming in the summer.

Mr. David Barr said they did.

Mr. Brent Barr asked if there were multiple teams.

Mr. David Barr said they had three or four teams this year and he thinks they had maybe, he is not sure of the numbers, but he thinks they had three or four home meets and they had 13 away meets.

Mr. Lamanna said from a light standpoint the question is do the lights meet the requirements or don't the lights meet the requirements, it is not where the light is going, it is do the lights meet the requirements. He said it is not a question of is there light trespass it is a question of are the lights positioned and do they meet the standards that the code requires. He said you are going to get some of the reflected light and he doesn't believe there is anywhere in that that limits the amount of reflected light that the light has to be focused from the fixture in a certain downward angle and the amount of light coming out beyond that angle is limited.

Ms. Endres asked Mr. Barr if these are the same lights that have been there for years are they not.

Mr. David Barr replied yes.

Mr. Lamanna asked Mr. Barr if he knew when those lights were installed.

Mr. David Barr said they were replaced, the very first year, back in 2014, they replaced lights that were already there with LEDs so they might be different than they were before but the lights have been there.

Ms. Endres said the fixtures.

Mr. Lamanna said if they put LEDs in then they changed the fixtures.

Mr. David Barr said something was changed in 2014.

Mr. Lamanna said but generally when you go to LEDs they are even better, more directional, it is easier to make them directional.

Mr. David Barr said correct.

Mr. Lamanna said in nature they want to be directional.

Mr. David Barr said that is what they tell him.

Mr. Lewis said we need to verify that the fixtures are full cut-off regardless of the bulb type.

Ms. Endres asked if the lights are on right now because during the day she can't tell.

Mr. David Barr said they are probably on right now, we have people playing on Thursday night.

Ms. Endres said on the way home she will take a look.

Mr. Gutoskey said to make sure they are full cut-offs.

Mr. Weathers said he believes there were two items and one was related to allowing non-members access to club services and the other was related to tutoring being offered as part of the club. He said looking on their web page it looks like there are non-member rates on their website and things have been replaced with things that are somewhat questionable related to a membership, now you can be a summer member or paddle ball member so he doesn't know how that falls into what constitutes membership. He said the tutoring services are still listed on the website and he assumes that is not at all considered an athletic club with tutoring services and he was in August in a coffee shop in downtown Chagrin Falls and he found this flyer laying out where they allow businesses to put stuff and it still references non-member drop-in packages and single drop-ins for their fitness services, it still seems like services are still being offered to non-members.

Mr. David Barr said they offer fitness passes and before the meeting we called it a non-member pass now what we have done is we have changed it to where if someone wants to buy a pass they get a membership for that pass so it is the same thing but we are now listing them in our system as members, they are members, we haven't even come close to the 700 cut-off which he knows everyone has their eyeballs on so those people who buy fitness passes were referred to in previous years as non-members, they are now counted in their system and referred to as members.

Mr. Weathers said this says drop-in packages and single drop-ins available and he is happy to bring this up to the board if the board would want to see it.

Mr. Lewis asked Mr. David Barr if those are a day pass member, can he buy a day pass membership.

Mr. David Barr said no.

Mr. Lewis said tell him how it works.

Mr. David Barr said if someone wants to buy a package of fitness passes they can buy ten passes and then they are members for the purpose of attending ten classes and when the ten classes are up then they are not members anymore.

Mr. Brent Barr asked what is a single drop-in.

Mr. David Barr said he doesn't know what that says but we have offered a single day drop-in, they have had some people come in and try the club so we have offered the ability for someone to come in one day and take the class to sample the club.

Mr. Lamanna said certainly there is some expectation that you would allow people who are interested in becoming members to come in and try it and he doesn't think anybody really has a problem with that, as long as that is what it is, not that somebody is going to come in this week and three weeks from now they are going to want to come in for one day again and then another month after that they are going to come in for one day, obviously that is not trying out the club, and he certainly has no problem if you've got a membership for tennis or you've got a membership for swimming or you've got a membership for paddle tennis or fitness, he doesn't think there is anything that says one has to be a member of everything.

Mr. Brent Barr said it is a slippery slope with a membership for one day.

Mr. Lamanna said there is a continuum here, this is clearly okay and this is clearly okay but there is some stuff in the middle that starts to get a little bit sort of questionable perhaps.

Mr. Brent Barr said because if they come in and sign in that is open membership. He said if they come in and sign in for a day, any day and then they sign in as a member it becomes an open membership which no longer makes it private which is the slope that we are on here.

Mr. Lamanna said at what point is it a membership or whether it is not really a membership, just open to the public to use and he thinks the ultimate thing boils down to commitment, what are you committing to and put aside the trial if somebody comes in and tries it once or twice to see whether they are really interested in doing that but after that he thinks it is a question of commitment, obviously if you are committing to the membership even though it may be limited to a particular function, that is a commitment or he supposes one could say if you've got a class of a significant duration and you are signing up for that class you are making a certain commitment but again, the problem becomes policing, what is going on and it is sort of easy to say these things are okay, this is not okay and maybe if it is something in the middle you are going to have to come in, it can't be on a totally ad hoc basis, somebody is going to have to come in and say for these types of things we want to set a specific standard, if you want to propose doing it this way maybe there has to be some kind of specific standard that says this is the level of commitment that the person has to pay to whatever it is. He said we can't be here micromanaging what is going on but unfortunately there is not exactly a bright line test on this.

Mr. Brent Barr said but single day memberships.

Mr. Lamanna said single day memberships is not a membership, because you call it a membership doesn't make it a membership, you are not becoming a member of anything for a day. He said he knows people used to have where there were dry counties they used to create these private clubs.

Mr. Brent Barr said for a dollar you can become a member and you can smoke in that club, that is not something we want.

Mr. Lamanna said that is not something we want, it is meant to be a more stable and committed group of people who are doing this and he realizes that is becoming more difficult.

Mr. David Barr said he disagrees, their club is absolutely a group of stable and committed members without any question at all. He said he knows that he doesn't have many supportive people here but he thinks that any person who is a member here and would actually and speak truthfully would tell you their membership is committed year-round, consistent, we are not a club that has a plethora of people just stopping in for a day, and they can discontinue it if the board mandates it but they literally probably have one drop-in of fitness person a month so if anyone is trying to portray the club as somehow different than it is or even bordering on different or even on a slippery slope, that is just false.

Mr. Lamanna said let's just say, the number of hours of usage of your club, what percentage of that is being done by people who are the full-time all year-round members.

Mr. David Barr said it is over 99%.

Mr. Lamanna said okay.

Mr. David Barr said the usage of the club is by people who are members.

Mr. Lamanna said they are there for the year albeit maybe swimming.

Mr. David Barr said they have some summer members.

Mr. Lamanna said obviously a swimming season is only in the summer.

Mr. David Barr said the summer membership has been going on for decades too.

Mr. Lamanna said right, when you have an outdoor swimming set up it makes sense that you are going to have summer memberships that take advantage of that.

Mr. Brent Barr said he doesn't think we have a problem with that but when you open yourself up with something like this when you offer one day drop-ins or one day memberships, you are opening a can there, he would definitely recommend avoiding that moving forward.

Mr. David Barr asked a question, they signed on a new member today, a new gentleman joined for tennis and said the gentleman approached him about a month ago and asked if he could try the club for a day, he wanted to see if he liked the courts and I said okay so I gave him the ability to try it for a day which he did about three weeks ago, he came out with a buddy of his and played tennis that day without being a member and then three weeks later today he joined, did I do the wrong thing.

Mr. Lamanna said we don't have a problem where you allow people to come in for one, two, three times to try it out, not that they can keep coming as they choose throughout the year so he thinks that is pretty clear.

Mr. Lewis said we all want your membership to be healthy and stable, that is good for the community.

Mr. Lamanna said we really don't want to get into trying to enforce every little thing but it seems to him that the easiest way to look at this is total utilization of the club, if 98% of the time the club is only being utilized by people for whom there is no doubt that they are truly a member or that they are truly just trying out the club with the intent of becoming a member if they like it then you really met the intent of what we are doing and it is not going to become a non-private club if 3% or 5% of the usage of the facility is something that may not be a true member, it is not changing the nature of it and beyond that for us to try to enforce it, it becomes impossible and that little extra usage by somebody on the outside perhaps is not changing the character of the club and it is going to affect what the neighborhood is so we have to have some sensible way to deal with this from an enforcement standpoint and to be reasonable about what is going on and it's not really going to change the character of the club, that is why what is important as long as 95% of the actual utilization of the club is by people who are legitimate members and nobody is really going to have any argument that they are legitimate members, we can't worry about the other 5% we are spinning our wheels, we can spend endless hours arguing about how many angels can dance on a head of a pin and how we interpret this and how we interpret that. He said part of the challenge of this board is taking a situation like this and figuring out a way of what we are trying to accomplish here and satisfy the intent of the law and have something that everybody can manage that is practically manageable because if it is not a practical manageable solution it is just not going to work for the long term and he thinks that is the way we need to look at this.

Mr. Lamanna continued by saying we know what the parameters are and after that we are just not going to chase less than 5% utilization by, if you've got people coming in for ten classes okay we are not going to try to figure out if that is a membership or not, you've got 5% to play with for those little things and the random occurrences we are not going to worry about but it is on you (Mr. Barr) to control that and we may come in and take a look at it at some point in time if there is evidence of something else going on.

Mr. Yuhas said back to his original question, if it is not ambiguous, there are 17 trees and he still has not gotten a clean answer, the ones that are on the north side and the ones that are along the cul-de-sac, there are seven Pine trees, and asked if he can get an answer, are those supposed to be planted because they are on the drawing.

Mr. Lamanna said we haven't obviously made a ruling but everybody here has kind of said, we read what it said and we've got documents here.

Mr. Yuhas said he came in here three or four years ago saying he would like to see those trees in, they are still not there, and every time there is a discussion that we need trees, they are on the drawing, he wants to know when those are going to be planted.

Mr. Lamanna said we will get there specifically and he thinks everyone has a problem with the trees and he personally went out there today and looked and there is definitely some issue even now with the screening through to the front of the building there and if we get the trees in that would certainly help but we still have this roof color issue to deal with.

Ms. Shannon Holodinski of 8360 Woodberry Boulevard testified that her house is directly in front of the non-trees and she has been a member of the Wembley Club for almost 10 years, she is on the HOA board so she kind of has a bit of everything. She said they met, not all members but a few of the board members of the HOA and he strictly told them no, he was not planning to plant them at the street. She said she has a problem with that, her house is across the street, she looks at a shiny spot.

Mr. Lamanna said he understands, he drove right by there today and parked in front of your house and walked out and looked.

Ms. Holodinski said that is not what Mr. Barr promised us, she tried very hard to be supportive of the club, she plays tennis there, she works out there and he was very accurate when he said that is a very good core solid membership there so she doesn't have a problem with the club personally, she has a problem with how it looks and she will go back, she doesn't understand, they were here six months ago, he was given a laundry list of everything that had to get done and now he is trying to piecemeal it in the last four days, why didn't in the last six months did he not get it done, that is what she wants to know, she is tired of looking at the construction site for five years, she has been very, very patient.

Mr. Mike Smith of 8345 Wembley Court testified that he is the president of the homeowner's association and he can acknowledge that pretty much the entire board is here tonight as well as a lot of concerned citizens. He said back in January we were kind of asked to accept a very large structure to be placed right in the middle of the development, a lot of us call home. He said 4-1/2 years later we still have a construction site and again it brought a lot of fear in our hearts back in January of 2015 and it is still bringing that same fear here today. He said from what he heard today you guys are on the right course, you are bringing up the points that we have also discussed and it was part of the application and you are right on the path that we are and he asks to please, hold that ground and make him complete the project as it is proposed. He said that is his message and thanked the board.

Mr. Ian Friedman of 16405 Majestic Oaks Drive thanked all of the board members and testified that he appreciates how serious the board is taking it and going there and so forth so we want to recognize you for that and he has some simple questions. He said he was hoping that Mr. Barr could ask but he will ask the board.

Mr. Lamanna said you can raise the question and allow him to answer, we don't allow direct interrogation but you can ask a question.

Mr. Friedman said he thinks he did hear but didn't catch it, he was wondering if he could get the name of the construction manager that was originally hired and fired and he would also like the name of the builder that he is stating today kind of went off the reservation so to speak here to no fault of Mr. Barr's.

Mr. David Barr said the original builder was Capstone Construction, you can check there is litigation if you want to read up on that and we replaced them when they weren't coming through and the other people we hired had to come in and complete the job was TBT Construction, they got us to where we are now, they still have some things they need to do and they are not done yet. He said he hired a new staff member, maybe six to eight weeks ago to come in and to do some of the things that TBT had slowed and to finish up like the shutters, our new staff member came and did that, he is working on the shelving today and tomorrow so he is getting some things done that TBT hasn't come through with. He said TBT did a lot more than was getting done before but they aren't done, there are a couple of other things that were mentioned tonight that are still needing to be done. He said they have a corridor to their new courts and there is supposed to be a couple of doors in there, TBT has been aware of that forever, he has called them a lot to remind them to get those doors in, they are still not in so the principal of TBT Construction is Jared Turner, if you want to have that information, he hopes that answers your question.

Mr. Friedman thanked Mr. Barr.

Mr. Lewis asked if there are any suggestions on how we address the two front areas that didn't get built 16" out from the front of the building like they were supposed to but one has got some block in there.

Mr. David Barr said he has no suggestions.

Mr. Lewis said there has got to be a practical solution to that. He asked Mr. Barr if he is thinking that that access driveway is going to stay there permanently because what you've got to do with your golf dome with the seasons.

Mr. David Barr said they told me that it needs to be there so they have access to get around the building to put up and down the dome. He said it is not mandatory that they put up and down the dome, they could consider leaving it up year-round, that would save them a lot of costs of putting it up and down, the members do like to look out and see the outdoor courts, they enjoy the outdoors but it comes as a significant cost to the club, if they didn't put up and down that dome there would be significant amount of cost savings every year and they would also have less rainouts, they would have people more capable of scheduling two matches at the same time, they wouldn't have to worry about one of the matches being cancelled because of rain so there could be some flexible approaches to that if we needed to remove that and just leave the dome up, that would be an option.

Mr. Lewis said so leaving the dome up may benefit you as far as you and your membership.

Mr. David Barr said there are some pluses and minuses, there would be pluses certainly they would have less rainouts, they would have more certainty when someone schedules a match.

Mr. Lewis asked if he has the ability to heat that dome for winter play.

Mr. David Barr said yes it has always been heated and it gets pretty hot in the summer.

Mr. Lewis said if the dome stays up year-round your members could possibly benefit, the access driveway could go away and in front of your building where there are not the bumps that were supposed to be now we've got room to maybe consider some screening in front of the building, some ornamental screening or something and he is just kind of kicking around some ideas, he is not trying to steer it any particular direction and if leaving the dome up funds some additional landscaping and your members benefit by giving them a service and you are not having the expense of tear down and set up with the dome, is it practical for you (Mr. Barr) to leave it up through the winter months.

Mr. David Barr said we do have it up in the winter.

Mr. Lamanna said they take it down in the summer, it is too hot to play inside in the summer.

Mr. David Barr said leaving it up in the summer is a possibility, there was maybe even two summers that we left the dome up during the construction process, we had had to so we have left it up on occasion. He said the members, he thinks, prefer the beauty of the outdoors and he had a lot of people tell him they were glad they took it down this year but if we didn't take it down it would save us considerable costs.

Mr. Lewis asked if it is stored on the premises.

Mr. David Barr said yes.

Mr. DeWater asked if it is stored right in the area where you take it down.

Mr. David Barr said yes, this year we stored it right next to the new building.

Mr. Lamanna said he thinks one of the troubles now is that gravel driveway in there really detracts from the look of the front of the building, unfortunately it makes it more detrimental, it makes it even look more like a large industrial building, it has got this gravel driveway just kind of coming in at an angle so it really is working counter to what we were trying to accomplish by putting the features on the front of the building. He said now he knows we have a problem because the building was built, the features weren't put in it and we are looking at a pretty sizable cost to try to rectify that.

Mr. Tim McCaskey said they can put in an astro-turf system now.

Mr. Lamanna said yes, we are familiar with that, it is definitely an improvement and not something that would get that much use, it is going to be used a few times per year. He said he has no idea what those systems cost but from a view standpoint it would make a lot more sense. He said there are probably some things that can be done there and he thinks there are add-on accouterments, little things that stick out or other things that would improve that, he thinks the more serious thing is the line of trees up at the front and the trees along the driveway. He said certainly getting rid of that gravel road there, if he owned that facility he wouldn't want that there because he thinks if someone is driving into his facility in his main driveway, he drove in that driveway today, he drove in and looked over and said, man that is not very attractive and he sees your neighbor across the street nodding her head and he thinks that that is an area where substantial improvement can be made at not a huge expense, we are trying to fix some of these things up and maybe if we fix the rest of these things maybe that will enable us today to be a little bit more flexible on the roof color.

Mr. Gutoskey said what might be an easy solution for this banding, what if he just extended this composite stuff versus putting up a different color paneling through there.

The board discussed some options with Mr. Barr.

Mr. DeWater said we are talking about on the cut-outs he has faux stone, we talked about the multi-colored that was supposed to be broken up and they were talking to him about extending that stone across the whole front of the building so it would be a uniform look and break up the front.

Mr. Lewis said to the required 3' up, upgrade 3' up.

Mr. Gutoskey said we are trying to look for some solutions. He told Mr. Barr that the board wants him to be successful and have a successful club but we also want the neighbors to have constructed there what we had discussed and the plans that we approved and added that we want you (Mr. Barr) to be successful.

Ms. Linda Nolan of 8405 Woodberry Boulevard testified that while you are having other thoughts on the front, a question to you Mr. Lamanna, when you said there might be some flexibility on the roof color, does that mean you would drop the black.

Mr. Lamanna said if we get other screening that it is very difficult to see the actual roof of the building off the site, obviously he didn't have time to walk everywhere around but in going around there is a lot of directions you can't really see that building, he wasn't going to walk in people's backyards.

Ms. Nolan said she thinks it is 39' high, it is pretty visible and talking about the thermal retention, the black roof is and it will retain more heat to Mr. Barr's point, but the architect never proposed that, it was 2015 where Mr. Novak, the architect said it would definitely match the roof of the clubhouse, not the clubhouse, the roof of the clubhouse and it would be black. She asked could we strike a balance and instead of being the light silver that it is now, a lighter silver, and knowing that black is not the most efficient for heating and cooling, if it was a medium gray.

Mr. Lamanna said if that is the primary issue.

Ms. Nolan said strike a balance between the dark color and the residents' objection to the silver color.

Mr. Lamanna said his only question would be when you drive in and look at it he said he wishes he had a photo he could photo shop from silver to black to see if it is going to look better as black because his great horror is to say to paint it black and find out that it is more noticeable than silver.

Mr. Brent Barr asked Mr. David Barr if he has looked into the cost to paint the roof.

Mr. David Barr said he has had some discussions with TBT Construction about that.

Mr. Brent Barr said he knows there are groups who come through in the summer and they paint agricultural buildings and he didn't know if Mr. Barr had looked into the cost of painting it a different color.

Mr. David Barr said he has asked Mr. Jared Turner of TBT Construction about that.

Ms. Nolan said in fact the neighbor, the residence on the other side on the west side of the club who is out of town tonight, Mr. Joe Laehu, that is the business that he is in and he has said that he would be interested in working with the Wembley Club if it should come to a repainting of the roof.

Mr. Lewis said somebody either approved the color, either the owner approved the color before the contractor put it on or the contractor put it on and made the color choice, somebody made the choice.

Mr. Gutoskey said that somebody who approved the shop drawings of the building approved the color.

Mr. Lewis said it is just like somebody made the color pick on the exterior of it, we own businesses and homes and we get to pick the colors. He said circling back around a moment please to the dumpster which should be in an enclosed pen, what do we have right now, a fence on one side of it.

Mr. Gutoskey said just a fence on the east side of it screening it from the parking lot, there is nothing screening it from the road or from the west.

Mr. Lewis said so are we feeling that needs to be enclosed.

Mr. Gutoskey said in the original approval for Wembley, that was one of the items that was supposed to be enclosed.

Mr. Lewis asked Mr. Barr if that is something he can get after.

Mr. Brent Barr said the drawings indicate properly screened refuse containers.

Mr. Gutoskey said that was number two of the original CUP.

Mr. Lewis asked Mr. Barr if he had the club in 2014.

Mr. David Barr said yes that was the year of acquisition.

Mr. Brent Barr said that was back in 1988.

Mr. Lewis told Mr. Barr that he has to hide the dumpster. He asked the board members if they had any preference on materials, color.

Mr. Lamanna said no, just hide the dumpster.

Mr. Lewis said board on board is fine.

Mr. Lamanna said you have to submit something to the zoning inspector and as long as it accomplishes the purpose, it is up to him to decide how to accomplish the purpose. He said he thinks in this point in time what he is inclined to do, he thinks the board should deny renewal of the conditional use permit at this point in time because we haven't completed this but what we will do, we will make a final decision that is going to determine that these items we have been discussing, the landscaping, the trees and the roof color are requirements, that is going to be a final decision of the board.

Mr. David Barr asked if the roof color is going to be a requirement too.

Mr. Lamanna said yes the roof color is going to be a requirement too but we will hold open the application for the renewal so that you've got until the end of May to complete these actions.

Mr. David Barr said okay.

Mr. Lamanna said because at this point in time planting trees and landscaping and everything like that.

Mr. Gutoskey said actually it is better, it is a good time to plant trees. He said the dumpster enclosure, getting the parking lot striped, finishing he features on the front of the building, whatever drawing modifications he has to get to Ms. Endres as far as either he is removing that driveway and whatever modifications we may be doing to the front of the building versus what is shown on the plans because either he has to on those dormers bring the brick up 3' and then the balance has to be an off-set color.

Mr. Lamanna said the second part of this is that he would still have the opportunity to come back and propose equivalent measures before this gets a final review. He said if he wants to come back in and present, instead of doing A, B and C he is going to do C, D and E because of where we are now to correct these items, to get a substitute for them on the building, well we couldn't extend the building out so we did some other things to accomplish the same purpose that the board originally intended when we made these decisions and again you've (Mr. Barr) never really fully explored any options to the paint color and if you want to come back in at some point in time and say he wants to make a presentation as to why it shouldn't be black because of the cost is totally unreasonable, the impact on all of the systems such as HVAC is totally unreasonable and he can satisfy this in some other way, you are welcome to do that but the burden is on you to come in and prove it so you will have that option prior to the deadline date to complete this and get yourself back on the schedule and we will consider these things but at this point in time he wants it clear that there is no argument about this is the color, that is the color, he thinks he is interpreting it this way. He said what we are doing tonight is we are driving a stake in the ground that this is the interpretation of the board about what the requirements are. He said if you want to you (Mr. Barr) you can appeal that decision but we are not going to argue about what the requirements were, we are going to stake that in the ground as to what those requirements are. He told Mr. Barr that he can either appeal it or not appeal it it is up to him but we can't go on month after month, year after year having a discussion over your interpretation of the requirements or the board's interpretation of the requirements, we are nailing what the interpretation of the requirements are so then you are going to have to decide where to go from there.

Mr. Yuhas said just so we are not here at the end of May, can we agree that the trees are 8' – 10' tall, they are not saplings or 4' trees, they are not White Pines which are the ones that are dying on the east side of the boundary that they are Norway Spruce or something that is going to hold their needles and they are properly mounded up and if they are not pitched they won't drain properly they are going to die so he just would like it entered into the record.

Mr. Lamanna said that cuts both ways by the way because if you mound them too much then what happens is they drain too well and they die.

Ms. Endres said she doesn't recall hearing a specific tree height, typically the rulings are normally 6' high.

Mr. Gutoskey said that is a 30 some foot building, for the east side of the building we had 12' Spruce and it is in the motion.

Ms. Endres said alright.

Mr. DeWater said it is in the motion from 2016-37, number six.

Ms. Endres said two rows of 12' Spruces, those are the ones on the east side of the building, she knows those are fine it is the ones on the north side.

Mr. Lamanna said there were additional things added on the east side because you move closer to the side line than the original plan.

Mr. David Barr asked about the date of the motion the board is looking at now.

Mr. Gutoskey said is 2016.

Mr. David Barr said the later motion mentions the east side and not the north side.

Mr. Lamanna said the later motion changed the east side requirements from what they were because we moved closer to the east so we were addressing the change to the east from the plans so that is why that requirement got stricter than it had been.

Mr. David Barr said so the 2016 motion talks about the east side.

Mr. Lamanna said right because that is what we were dealing with.

The board discussed the previous motions regarding the trees.

Ms. Endres said the minutes may have discussed the height of the trees but condition number one in 2015 references the landscaping in the front. There is a motion that references the tree height, we would have to go back and look in the minutes to see if the body of the minutes contain anything.

Mr. Lewis said there may have been a discussion in the body of the minutes.

Ms. Endres said if they are not discussed in the minutes does the board have any direction on the height.

Mr. Lamanna asked if the trees on the oval were deciduous trees.

Mr. DeWater said he thought it was a combination.

Mr. Lewis said they were more ornamental than evergreen.

Mr. DeWater said in the original drawing it may have shown up fifty-fifty between some form of evergreen and deciduous. He said based on the height of the building he would not go any less than 8' but prefer 10' because of the height because if you go much less it will take a long time.

Mr. Lewis said anything short of a White Pine is really slow growing.

Mr. Yuhas said he thinks the building is 3' taller than even the highest home so that building is 3' higher than all of our homes so if that can be a consideration of the height that would be appreciated.

Mr. DeWater said that is what we are talking about right now.

Mr. Lamanna said it slopes up to the building though right, it slopes up to that tree line there.

Mr. Gutoskey said it is relatively flat because that is where they were going to put those tennis courts.

Mr. Lamanna said it is flat by the tennis courts but when you start to reach the tree line.

Mr. Gutoskey said we would have to look at the topo on ReaLink.

Ms. Holodinski said it is pretty flat.

Mr. Yuhas said you are actually looking up so the more height of the tree the better it would be obviously.

Mr. Lamanna said he thinks the road is here and then there is a ditch and then it goes up slightly where the trees are and then it goes back down toward the other side.

Mr. Yuhas said it is all pitched down, it is pitched on a slope north.

Mr. Lamanna said the closer you get to that existing tree line he thinks the higher the elevation.

The board viewed the aerial photo.

Mr. Gutoskey said it is falling east to west. He said if you look at the contours it is almost the same elevation as the road, it is flat and it looks like it drops down maybe 4'. He said if you look at where those trees are supposed to be planted that court that was proposed kind of lined up with the north line of the parking lot so if you project that line across you start to get into woods so he doesn't know that you would plant the Pine trees all the way to the east without putting them in a possible future tennis court.

Mr. Weathers said he thinks Ms. Endres' other picture is better because that is different now because of the construction because of where the tree line is, the other picture she had, you can get a better look at where the tree lines are today and the contour angle.

Ms. Endres said she can't bring the topos up.

Mr. Lamanna said we know about what the topos look like.

Mr. Gutoskey said that lines up with the edge of the parking lot.

Ms. Endres referred to the aerial and said these are the trees that are here already.

Mr. Gutoskey said he thinks he wants to plant them so if he builds that front tennis court he won't have to move them again.

Mr. Lamanna said these are shown on the original plan, they are north of the parking, it extended the line of the parking lot, they were north of that.

Mr. Gutoskey said right.

Mr. Lamanna said you want to get them up as high as you can get them up and as close as feasible to the existing woods.

Ms. Endres said there are some trees already there along the driveway.

The board discussed the proposed trees.

Mr. Lewis asked Mr. Barr if he still wanted to keep the option open to put outdoor courts there down the road.

Mr. David Barr said he really hadn't thought that far ahead but keeping options is probably better than not.

Mr. Yuhas said when the building was originally proposed it was 20' further back and he believes it had to be extended up by way of the remainder of the construction company so with the trees and the pushout of the new building the question would be can you even fit tennis courts in there.

Mr. Lewis said we are kind of kicking that around.

Mr. David Barr said he does not know that.

Mr. Lewis said a Spruce matures to about a 30' diameter and that span is 180' so you can't put in 10 or 15 Spruces because they are going to crowd each other they are not going to survive well anyway so even if you are putting in a 12' tall tree, you can put six trees in 180' so there is room for them grow out and mature. He said we were just toying around a little bit with the map. He said the building that got shifted is the rear building and if you notice there is an ally where the HVAC equipment is, to be sure there was room for that the building in the lower right was actually shifted closer to the eastern property line which presented and supported the need for screening along that east side, don't think that the front building moved forward ever.

Mr. Yuhas said he thought that it did because it was supposed to be somewhat parallel with the existing structure.

Mr. Lewis said we have been through about eight renderings but the good news is this is how it was built is what you are looking at, we have a couple of features we have to tinker with but the buildings are pretty much where they are supposed to be and we remedied the east side so now we are working with the north side and the driveway as far as the landscape thing goes.

Mr. Yuhas said thank you.

Mr. Tim McCaskey asked why you are not asking him to present his own landscape plan.

Mr. Lewis said we are working on that now but it is hard to ask him to present a landscape plan until we define what we want.

Mr. Lamanna said from what we have already we are trying to basically specify what can go in these two areas.

The board discussed the landscaping plan.

Ms. Endres said the plan probably should indicate which are current trees, there are also trees currently on site so which ones are there and which ones are new growth, new plantings, identify existing and the new trees.

Ms. Holodinski said if you pull up the rendering, the trees that are in front of the actual building could be Boxwoods or something to break up the monotonous of the straight building.

Mr. Lamanna said it is a possibility, that is one of the things as he was saying, he can come back with an alternate plan and that is one of the alternatives to look at is doing some landscaping there.

Ms. Holodinski said that he knows that Mr. David Barr was saying that he has his gentleman making a ledge but if you are looking at the same thing she is looking at it looks like there are windows of some sort trying to break up the monotony of the warehouse. She said it should be done during construction, not just a shelf.

Mr. Lamanna said those things are like an awning sticking out.

Mr. Lewis said they are fake windows with shutters.

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

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Mr. Lamanna moved that at the following time to not renew the existing conditional use permit because of the lack of completion of certain matters with respect to the building being constructed on the site in conformance with the plans that were previously approved. However, this application will be kept open pending the completion of these items as further discussed. At this time however since there has been some dispute by the applicant as to certain of the requirements the board is now making a final decision interpreting the requirements that were previously approved in the various applications that previously have come before this board.

1. The required roof color as previously approved is black.
2. That there is landscaping requirements on the north side that were shown on a plan submitted by the applicant and that the board now is determining that the requirement is that there be 10 staggered Spruce trees in height of 12' placed as close to the existing tree line as is determined practical and that there be six trees as shown on the drawing submitted, roughly half of which will be deciduous and half of which will be evergreens of the same height of 12' and that in connection with this the applicant will submit a revised drawing for landscaping that identifies both the existing and new plantings on the site.
3. For the face of the building there were certain requirements that were added there to make it look less like an industrial building including differentiation of paneling, a masonry wall that was to be 3' high and certain details on the upper portion of the dormers. The board will note these are requirements, some of these may be difficult to implement now that the building is completed but those are the requirements but the board will allow the applicant the ability to submit a proposal for review by the zoning inspector to determine that it meets the intent of the original board decision that provides for either additions or modifications to the front of the building to accomplish the same thing which may also include the addition of landscaping items along the front of the building to accomplish that same purpose.

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4. There was an original requirement on this conditional use going back to the original conditional use with respect to the dumpster enclosure which is not in conformance and again in this case the applicant will submit a proposal to the zoning inspector for review to determine compliance with the requirements of the original approval.
5. In addition the applicant has created a gravel driveway that was never part of the approval process and since this is additional lot coverage the applicant will submit a revised plot plan showing lot coverage and either including that driveway or showing removal of all or part of it or modification of it for review with respect to lot coverage within 60 days of the date of this meeting.
6. With respect to the other items that the board has determined, with respect to the roof color, the landscaping, the dumpster and the face of the building, those items need to be completed by the end of May, 2020 and except with respect to the revised landscaping plan (which did not have a date for the revised) that should be submitted by 90 days from the date of this meeting.
7. As part of the continuing review the zoning inspector will review the lighting at the paddle tennis courts for compliance with the lighting requirements.
8. In addition we had a large discussion about the private club application and the applicant has stopped the use of the items that were discussed at the meeting primarily with respect to tutoring from his uses.
9. In addition the board has determined that specific memberships to aspects of the club like tennis or swimming or fitness or paddle tennis is an appropriate membership category as well as the summer seasonal memberships for people who are interested in summer only and also that an occasional one or two time evaluation uses of the facilities are permitted and the board also as a practical matter has determined that other uses that don't satisfy any of the previously mentioned requirements show in no event exceed 5% of the total uses of the facility as determined on a person hour of use basis.
10. By the same date in May, 2020 the parking lot will be striped so it improves the usage of parking at the facility.

Mr. DeWater seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Additional Dialogue

Mr. Glenn Knific of 8460 Woodberry Boulevard said they are all grateful for your thoughts and painless approach here. He said in fact what we are doing today is an extension of the conditional use permit until the end of May so that all of these items can get done and that prior to any renewal of the conditional use permit it requires another hearing.

Mr. Lamanna said there would have to be at least another formal hearing but if he satisfies all of the requirements.

Mr. Knific said but to renew the conditional use permit it requires another hearing because we tabled this tonight.

Mr. Lamanna said yes there will be at least one more hearing.

Ms. Endres said this application is being tabled until May. She said she wanted to comment on the trim work around the building she just wants to clarify that there is not an expectation that the side or rear areas are trimmed.

Mr. Lewis said it is noted on the building plan.

Ms. Endres asked are we requiring or are we not requiring all sides or just the front.

Mr. Lamanna said he didn't think we needed to worry about what is on the other two sides.

Mr. Lewis said we just want to be really clear for Mr. Barr.

Mr. Lamanna said we are talking about the front face only.

Ms. Endres said very good.

Ms. Holodinski said which is totally fine by her, the front is here but you have the west side and then you have the big metal HVAC thing so you may want to address that on the west side.

Mr. Lamanna said he doesn't think that HVAC was ever addressed.

Ms. Holodinski said it wasn't.

Mr. Gutoskey said we talked about that just because we thought it was going to be hidden behind the building.

The board discussed the building façade.

Mr. Lamanna said what the board is talking about is we will forget about that side of the building on the banding but put a couple of trees in there so you won't see that AC thing sticking up so it will accomplish the same thing as having that banding in there.

Mr. Gutoskey said that could be in what he brings back to Ms. Endres.

Mr. Lamanna told Mr. Barr to cover that as well, that little west section.

Ms. Endres said she has the west elevation up now.

Mr. Gutoskey said it shows the banding. He said he thinks what Mr. Lamanna is saying is the banding across this east side on the back of the building.

Mr. Lamanna said only that stretch right along there and they need to put a couple of trees in there and that will accomplish the same thing and also help screen off that AC thing too so it will kill two birds with one stone.

Ms. Endres said on the west side there is banding.

Mr. Lamanna said he will put that in his plan.

Mr. Jim Donohue asked if the board is going to address the east side trees that are dying.

Mr. Lamanna said that is already well defined and nobody is arguing over what that requirement is so he has to fulfil that requirement.

Application 2019-6 by The Set Fitness, LLC for property at 7207 Chagrin Road – Continuance

The applicant is requesting a substitution of a non-conforming use. The property is located in a PO District.

Motion BZA 2019-6 – 7207 Chagrin Road

Mr. Gutoskey moved to dismiss this application at the request of the applicant since the zoning was changed and they are now conforming.

Mr. DeWater seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2019-36 by Bronwyn Beard Gartland for property at 8095 Darby's Run

The applicant is requesting area variance(s) for the purpose of maintaining a patio. The property is located in a R-3A District.

Mr. Dennis Gartland was present to represent this application.

Mr. Gartland testified that it is a patio.

Mr. Lamanna asked if it is a flat brick patio, stone.

Mr. Gartland said stone.

Mr. Lewis asked if it is in.

Mr. Gartland said yes it is mostly in.

Mr. Lewis said so there was a permit issued for a 300 sq. ft. patio.

Mr. Gartland said there was a little area and when they poured the slab they poured it over 3' towards the outside of the house. He said you can't see it anywhere else and we are talking about 12 sq. ft.

Mr. Lamanna asked why there is a little bump-out there is it for a grill or something.

Mr. Gartland said a pizza oven.

Mr. Lamanna asked if the whole thing was supposed to be over farther.

Mr. Gartland said it should have been in with the wall of the house.

Mr. Lewis said he needs another 3'.

Mr. Gartland said you can't see it from the road or from any of the neighbor's houses.

Mr. Lamanna asked who the property is to the left.

Mr. Gartland referred to the aerial and said we are looking right here and right here is probably an unbuildable lot.

Ms. Endres testified that there is a lot of bedrock is her understanding.

Mr. Gartland said there is a lot of bedrock there.

Mr. Lamanna said somebody will figure out a way to build.

Ms. Endres this is a 2018 aerial and there is more construction finished than what is reflected here but she thinks it shows that the square to the left was not part of what she approved on the original approval. She said the house would be a 15' setback and she approved the patio at 15' and when she went out for the inspection she found that bump-out that encroached into the required side yard setback.

Mr. Lamanna asked if there are any neighbors here interested in this application.

There was no response.

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

Motion BZA 2019-36 - 8095 Darby's Run

Mr. Lamanna moved to grant the applicant the following variance for the purpose of maintaining a patio.

1. A variance of 3' on the minimum side yard.

Based on the following findings of fact:

1. The applicant's patio was inadvertently built a little farther over than it should have been and in fact actually it is only a bump-out that is approximately 12 sq. ft.
2. Due to the very small nature of the encroachment to the side yard this will not have any adverse effect on the neighboring properties or the character of the neighborhood and therefore should be granted.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2019-37 by Michael and Kristin Moore for property at 8740 Tanglewood Trail

The applicants are requesting area variance(s) for the purpose of a lot split. The property is located in a R-3A District.

Mr. and Mrs. Michael Moore and Mr. Jon Sines were present to represent this application.

Mr. Lamanna said he understands the applicants want to create an additional lot along Tanglewood Trail. He asked what would be the basis for doing that.

Mr. Jon Sines asked if Mr. Lamanna is asking hardship or why they want to do it.

Mr. Lamanna said hardship.

Mr. Sines testified that the question is hardship.

Mr. Lamanna said it is very clear that number one he doesn't think your lot is even conforming with the present day zoning.

Mr. Sines said he will give some background. He said they just purchased the house, the house was non-conforming when it was purchased so you (Mr. and Mrs. Moore) inherited some non-conforming aspects.

Mr. Lamanna said this isn't the first rodeo for this property here.

Mr. Moore testified that he understands.

Mr. Sines said it his hardship is that every other lot in Tanglewood, the Tanglewood Subdivision which was subdivided after his lot was created, they came in and created lots that are less than half.

Mr. Lamanna asked if they were aware that Tanglewood was created under a Planned Unit Development and it is no longer applicable, that authority has been revoked so the size of those lots represent a consideration of a huge development which included a golf course.

Mr. Sines said sure, absolutely, correct.

Mr. Lamanna said which is why they allowed the smaller lots because of the large amount of undeveloped space provided by both the golf course and the lake they developed.

Mr. Sines said essentially it is two-fold here, he is part of that subdivision and not part of that subdivision, he is not part of the HOA because his home is not conforming.

Mr. Lamanna said he is not part of the subdivision because his property was never part of the original PUD, it was not in the confines of the original PUD.

Mr. Sines said so he is in here requesting that his lot is two acres and every other lot in there is half an acre and he has the same layout and square footage as every other house in there so he is basically requesting to create another lot to make his house more comparative to the balance of the houses in Tanglewood. He said his house is over market value now because he has got the biggest lot in all of Tanglewood.

Mr. Gutoskey said yes and no.

Mr. Barr said because he is not in Tanglewood.

Mr. Lewis said you have adjacent property that is not part of the Tanglewood plot.

Mr. Gutoskey said with that logic, somebody on Route 306 who abuts the Tanglewood development can come in with the same logic.

Mr. Lamanna said somebody else can make the same argument in theory.

Mr. Gutoskey said here is the problem we have, you have a two acre lot that is non-conforming so if you could somehow have six acres and you could put four acres of that in open space then you could do the two lots that you are asking for. He said that is how Tanglewood was developed.

Mr. Lamanna said you have to understand that one of the other things Tanglewood has is it has water and sewer.

Mr. Moore testified that there is a hook-up, they identified that already.

Mr. Barr said but that is for people who are part of Tanglewood.

Mr. Lamanna said the sewer is the county sewer.

Mr. Sines said and his house is part of the semi-public water that is provided within Tanglewood.

Mrs. Kristin Moore testified that they are part of HOA-B status of Tanglewood which includes we have their water, not A which means we are not part of Tanglewood.

Mr. Lamanna said the reason for that was because it is a private water company we could not let in somebody who was not at least somehow affiliated with the homeowners association because then you can become subject to regulations to the EPA.

Mrs. Moore said we are HOA-B members.

Mr. Moore asked if there is anyone off of Haskins, 17530 Haskins.

Mr. Lamanna said maybe the country club is in there as an HOA-B member for the water purposes.

Mr. Moore said he didn't know that. He said they didn't buy this property with this intention and when they moved in a tree had fallen towards the front of Tanglewood Trail and then he is up there cutting the tree and dragging things into there and there is some fencing, landscape rocks that are piled up over there, trees that the previous owner had left and we are talking about a property directly across a public golf course, there is no other property in a golf course community that is potentially a buildable lot, there is no comp for our house, they found one potentially and it is the Haskins Road address he named here, 17530 Haskins.

Mr. Barr asked if that is the one that is right up behind the green on number two, they have dogs.

Mr. Moore said yes.

Mr. Barr said there are two houses that go off that driveway, there is one that raises dogs and there is another one back in the back that just sold.

Mr. Moore said that is the one and that is the only one that they can find that is giving us a comp potentially so he is up there cutting trees and trying to figure out what he is going to do with this lot, is there anything he can do with this lot and his friend has been gracious enough to help him and it is a brainstorm idea and when you look at the dynamics of the entire neighborhood and look at side-by-side properties it looks to him like it makes sense.

Mr. Gutoskey said the board's problem is based on our zoning code, the minimum lot size is three acres so basically you have a sub-standard lot per zoning right now and what would be the reason that we would want two sub-standard lots.

Mr. Moore said he thinks it gives somebody else another opportunity to live in a great community and he thinks it creates voters, it creates revenue and he thinks elevates home values.

Mr. Gutoskey said but tell me somewhere in our zoning code that we can do this, there is nothing that he can find in here that would allow this.

Mr. Lamanna said we are creating two non-conforming lots from one already existing non-conforming lot that was at one point carved off of a bigger piece of property anyway.

Mr. Sines asked how that lot got created.

Mr. Lamanna said that lot he thinks was conforming at the time because he believes it was two acre zoning there.

Mrs. Moore said their house was built in 1975.

Mr. Lamanna said your lot is pre-existing, non-conforming, it was carved out before the zoning changed to three acre lots.

Mrs. Moore asked about the reason for three acre lots and is it because of septic issues.

Mr. Lamanna said it is a combination of issues.

Mr. Lewis said water, septic and maintaining the rural character of the community was one of the base lines which Bainbridge was developed in the first place and code was written.

Mr. Sines said they are not going against any of those, their water and sewer comply with the neighborhood.

Ms. Moore said they are part of HOA-B.

Mr. Lamanna said this existing lot is part of HOA-B, when a new lot is created that lot he doesn't think it is necessarily part of HOA-B.

Mr. Sines said they would have to negotiate the tap-in.

Mr. Barr said this opens a can of worms to for the McClellan family that owns all of the land behind.

Mr. Lewis asked if they will grant you being fully annexed into the HOA.

Mr. Lamanna said they could never be annexed.

Mr. Lewis asked because of the original plat.

Mr. Lamanna said they could make themselves subject to the deed restrictions but they can never be annexed to the PUD part of it because they would always be sort of in a separate zoning district, they will never be in a situation where they were once part of the PUD and judged by the fact that they were once part of the PUD.

Mrs. Moore asked PUD meaning.

Mr. Lamanna said Planned Unit Development. He said there were a separate set of rules that included the golf course, the houses, the condos and the shopping center that is on the corner.

Mrs. Moore said so therefore it would have been three acres including all of those common areas.

Mr. Lamanna said whatever the zoning was.

Mrs. Moore said even if we were part of the HOA like HOA-A, even if we were, we still couldn't do this.

Mr. Lamanna said you still can't do this because basically the standard is that you cannot get an economic return from your property.

Mr. Sines said he is also looking at the practical difficulties in your code and the charter is what counts so "whether the property in question will yield a reasonable return or whether there can be a beneficial use of the property without a variance". He has explained that there is no beneficial use of the property without the variance.

Mr. Lewis said there is a house on there right now and it is currently usable as the lot stands today, cutting something into pieces and then as such creating a practical difficulty because so you're creating the problem is not a solution but it was a good argument.

Mr. Barr said if he lived there he would be happy to put a nice big outbuilding out there and it would be a practical use for that lot.

Mr. Sines said we would still be front of this board for a use coverage.

Mr. Barr said which we grant or don't grant on a monthly basis.

Mr. Lewis asked what the lot coverage is now.

Ms. Karen Endres, Zoning Inspector testified that she came up with about 13%.

Mr. Lewis said 13.1% give or take without a survey.

Mr. Barr said it has changed greatly, the previous owner bought that house and made many upgrades so that changed the coverage so there are definitely benefits.

Mr. Lamanna said if you carve this lot out you really need a variance.

Mr. Sines said they would be looking for three variances for each lot.

Mr. Lewis said it might not be the answer you wanted to hear.

Mr. Sines said he is just going to keep running through these. He said “whether the essential character of the neighborhood would be substantially altered.”

Ms. Endres said a letter came in today and she explained to the attorney representing the person that they have to appear.

Mr. Lamanna said they have to appear and testify.

Mr. Moore asked if it happened to be Todd Hicks.

Mrs. Moore asked if someone sent a letter.

Mr. Lamanna said a lawyer sent a letter representing a client who didn't care to disclose who he was.

Mr. Moore said that is the other part of it.

Ms. Endres said she already gave him notice that he would have to be sworn in.

Mrs. Moore asked who the letter is from, who sent the anonymous letter.

Mr. Lamanna said it is a letter from an attorney, Stanley Jaros.

Mr. Sines said that letter should not make it to the board.

Mr. Lamanna said it gets zero consideration.

Mr. Sines said then it shouldn't be read, that is how it works.

Mr. Lamanna said there is no way it can't be read, somebody has read it, the board has to determine.

Mr. Sines said letters are not allowed to be admitted as evidence.

Mr. Lamanna said it is not part of the official record.

Mr. Sines asked if he could read it.

Mr. Lamanna said you can probably read it because it was sent to the township, it is a public record but it is not part of the official record.

Mr. Lewis said we have many applications during the course of the year where people that are not attending and deem themselves affected parties and they send letters in but they have to be present but it has no weight.

Mr. Moore said we have received letters from attorneys since we have moved in. He asked if there are any rules on playgrounds, our little girl is 3-1/2 years old and he understands that they used to have a treehouse up there and asked if there are variances he needs or apply or do something for a treehouse. He said he doesn't know what else to do up there.

Ms. Endres said that children's play equipment does not require permits, she does not require permits for tree houses, she leaves it up to the parents.

Mr. Barr said if you build a shed you have to talk to Ms. Endres.

Mr. Moore said he doesn't know what to do.

The board discussed treehouses as being permitted structures.

Mr. Barr said he can't build a treehouse in Tanglewood and he would have a ton of fun with that extra lot.

Mr. Moore said he understands and he has never seen a 3/4 acre lot next to a golf course.

Mr. Gutoskey asked if there are neighbors here to discuss this.

Mr. Sines asked if this is a detriment to the community, there is no one from the community against it.

Mr. Gutoskey asked Mr. Sines if he is an attorney.

Mr. Sines said no, a surveyor and engineer.

Mr. Moore said he just happens to be a really good friend.

Mr. Lamanna said from the board's viewpoint is this doesn't meet the requirements for a hardship, this is so far off, this is not just a little bit off and we get people who come in with five acres and they want to divide it into two 2-1/2 acre lots in a three acre zone, sometimes it is okay because it is not that huge of a variance and sometimes people have property that have had pieces taken for a highway at some point in time, they had ten acres and now they have nine and now they have two 4-1/2 acre lots, that probably flies but because of the unique nature of the way Tanglewood was created and the way those lots were created this thing really doesn't fit in as part of that.

Mr. Sines said if you look at it, part of it.

Mr. Lamanna said it never was included.

Mr. Gutoskey said it is not part of the HOA.

Mr. Lewis said they just happen to be adjacent.

Mr. Moore said what he said earlier is he just has never seen a piece of property adjacent or across the street from a golf course.

Mr. Lewis said you have two acres and it is developed.

Mr. Lamanna said here is what can happen, either we are going to turn this down or you can withdraw it. He said now understand, if the board turns it down you've got 30 days to appeal, if you don't appeal it is final forever, you have no coming back.

Mr. Sines said they will withdraw, he thinks that would be better, we do not want a ruling and that is why he is here to help them.

Mr. Barr said his only question is there is a parcel here that says Tanglewood Lake Association .21 acres for future use, where is that at.

Mr. Moore said it says "future recreational use".

Mr. Lamanna said he has no idea where it would go to and he thinks that somebody may have thought at one time was that they would connect that all the way around and it has never happened.

Mr. Moore said or they wanted to see if the front would sell at one point and they can expand, he doesn't know.

Mr. Barr said the address they have here, he is sure that gentleman doesn't know that he is attached to that piece of land, the guy who lives across from him and this is down on Long Meadow, he lives across the street from him on the cul-de-sac. He said he may have been on the board a long time ago but he knows he has not been on the board for decades, it doesn't have his name there, just his address.

Mr. Sines said they are officially withdrawing.

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

Motion BZA 2019-37 – 8740 Tanglewood Trail

Mr. Lamanna moved that board withdraw this application for consideration at the request of the applicant.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2019-38 by Tim McCaskey for Cindy and Stephen Charles for property at 17310 Wood Acre Trail

The applicant is requesting area variance(s) for the purpose of constructing a shed. The property is located in a R-5A District.

Mr. Tim McCaskey and Mr. and Mrs. Stephen Charles were present to represent this application.

Mr. McCaskey testified that those are actual pictures of the backyard.

Mr. Lewis asked if it is a rendering or is it there.

Mr. McCaskey said it is a rendering so those are actual pictures in the backyard and he dropped the shed in so you can see what the whole point is. He said they are asking to be close to the side property line and closer to the rear and their argument is according to code it should be in the middle of their backyard.

Mr. Lewis said you are absolutely right unless there is a practical difficulty such as leach fields, a cliff, a well-head not because it blocks your view.

Mr. Gutoskey said we had somebody who built a shed about 5' off the property line without getting a permit because it would block their view and they had to tear it down so at least you came in.

Mr. McCaskey said he did bring the septic drawing.

Mr. Gutoskey asked where the replacement area is.

Mr. McCaskey said he does not know.

Mr. Lewis said that is something else we consider.

Mr. McCaskey said you will have it in there somewhere and his one conversation with Ms. Endres was could it be put on the other side of the house but then we are closer to the neighbor's house and right now we are 204' from the closest house and 298' from the next closest in the woods, it is quite a ways back.

Mr. Gutoskey said he was trying to figure out why this house is back so far compared to the others.

Mrs. Charles testified that someone must have approved it, we didn't build it.

Mr. Gutoskey said it is a long driveway and he is sure it met setbacks.

Mr. Lamanna said you don't have much choice, there is no rear yard basically.

Mr. Lewis said he thinks the replacement leach fields would probably be in the front.

Mr. Gutoskey asked what is this in the front yard.

Mr. McCaskey said it is a little deck on the pond.

Mr. Gutoskey said there is a pond there, that is why it is set back so far. He asked how far the house is off the back.

Ms. Karen Endres, Zoning Inspector testified that this is not surveyor accurate but it is over 116', that is a deck on the very back.

Mr. Gutoskey said it would be off the deck.

Ms. Endres said 90' to rear is the required setback.

Mr. McCaskey referred to the GIS aerial and said this house here is 298'.

Mr. Gutoskey said Mr. Chris Smith used to have the house next door.

Mrs. Charles said yes but it sold.

Mr. McCaskey said so this house is 298' from the shed not the house but the house is 204' away.

Mr. McCaskey showed a 360 degree view on his laptop to the board.

Mr. Lewis said he is looking on the topo and he doesn't see anything that shows anything.

Mr. McCaskey said there is a lot coverage issue.

Mr. Lamanna asked about the size of the shed.

Mr. McCaskey said it is 12' x 16'.

Mr. Lamanna said if you move it over.

Mr. Gutoskey asked if it can be 30' off the line.

Mr. McCaskey said it could be 28' with a different shed.

Mr. Gutoskey said that was what he was thinking.

Mr. Lamanna said if you get 25' off, the board could do that. He asked Mr. McCaskey if that works for him.

Mr. McCaskey said sure.

Mr. Gutoskey asked if there is anybody in the audience that is interested in this proposal.

Mr. McCaskey asked if he can ask for 20' and put Pine trees around it, just checking.

Mr. Lewis said you can go 25' and put Pine trees around it.

Mr. Lamanna said we are already giving you from 50' to 25'.

Mr. McCaskey said he had to ask. He said the other guy built the wrong building.

Mr. Lewis said but it is on his lot and added that every application stands on its own merit. He said keep outside the deck and you still have room where you can get around it to the backyard.

Mr. Lamanna said you've got a mega driveway.

Mr. Gutoskey asked if the pond is counted as lot coverage.

Ms. Endres said she didn't think she counted it as lot coverage.

Mr. McCaskey asked if water is not considered nature.

Ms. Endres said the pond is a structure and she doesn't think she considered it.

Mr. Lewis said so you are coming up with 12.33% and suggested rounding the lot coverage to 13%.

Mr. Gutoskey asked if the rear lot line will still be 82'.

Mr. McCaskey said yes.

Mr. Lewis said and then the side is 25'.

Mr. McCaskey said he will probably change the size instead of 12' x 16' he will make it 10' x 16'.

Mr. Gutoskey said and the height is less than 15' and less than 300 sq. ft.

Mr. McCaskey said yes.

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

Motion BZA 2019-38 – 17310 Wood Acre Trail

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing a shed in accordance to the application.

1. A variance from the minimum required rear yard setback of 90' to 82' for a variance of 8'.
2. A variance from the minimum required side yard setback of 50' to 25' for a variance of 25'.
3. A variance from the maximum lot coverage of 10% to 13% for a variance of 3%.

Based on the following findings of fact:

1. There is a practical difficulty with the rear yard because the house itself is only set back a little more than 100' from the rear lot line and it leaves a very limited space to place it.
2. With respect to the lot coverage, the same thing, the applicant has a substantial amount of driveway due to the location of the house deep into the lot.
3. With respect to the side yard, due to the placement of the house and the fact that the adjacent property line is actually the rear property line for a very deep lot off of E. Washington Street where the house is more than 250' away so there will be no adverse effect on the adjacent property owners.

Mr. Lewis seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2019-39 by City of Solon for property at 7119 Jackson Road

The applicant is requesting a conditional use permit for the purpose of establishing a public dog park. The property is located in a R-5A District.

Mr. Lamanna swore in Mr. Dick Roddie and Mrs. Marilyn Roddie.

Mr. Don Holub, City of Solon Recreation Director was present to represent this application.

Mr. Holub testified that they are proposing to build a dog park on land that actually the City of Solon owns but it happens to be in Bainbridge Township, we call it Timberlake Park, it is a 40 acre park that is adjacent to the Grantwood Golf Course. He said they are looking at about a 38,000 sq. ft. dog park which will be built much the same as Bainbridge's dog park, in fact he got most of the specifications from Mr. Jim Stanek, Bainbridge Township Service Director so it actually would be just adjacent to the parking lot, you can see it in red on there and he would have the cement pad with the only parts of the fencing, the red would be rural fencing, chicken wire, exactly like Bainbridge's is and the pad will actually have the chain link on it just for the gates really for the safety and two gates on the side so that the tractors can get in and out and cut the grass.

Mr. Lewis asked if they will have a big dog and little dog.

Mr. Holub said yes, the big dog is one that is to the north and the little dog is to the south.

Mrs. Karen Endres, Zoning Inspector testified that this is a wash area.

Mr. Holub said yes and one of the issues we have is we have no running water back there so while they can wash their dogs we are not going to put in running water, the only thing that we would probably put in is drinking water for the dogs so that is one of the drawbacks we have there.

Mr. Lamanna asked if they will have a storage tank for water.

Mr. Holub said we have people that go in there every day for the garbage, it is almost what we do on the golf course, we put five gallons, one in each area.

Mr. Lamanna asked what the use is now.

Mr. Holub said it is really just a park.

Mr. Lamanna asked if there is a parking area already there.

Mr. Holub said yes, there are two pavilions, there is one you can see to the north there and there is one over here that is kind of hidden in the woods here. He referred to the GIS aerial photo. He said we have a playground area here and it is really more rural than it is anything else. He said they get 10 – 12 people a day that go in there and fish, it is a catch and release lake, we try to stock it once every three years or so but we know that some people do take fish out of there but we don't police it that much.

The board viewed the GIS aerial photo and referred to the pavilions.

Mr. Holub said there is a playground right in the middle.

Mr. Gutoskey said so we can send those people from River Road Park here to use the playground.

Mr. Holub said he has been reading about the playgrounds. He said because there is no running water the only thing they have are Port-A-Johns that go in there and the park actually is open from April 1st through November 1st and we may expand that by 15 days, people have asked for that for the dogs but we will not open it in the wintertime because it is too tough to plow. He said there is a gate off of Root Road that we close for the wintertime.

Mr. Barr asked if access for this now is off of Root Road.

Mr. Holub said yes and he actually didn't even know until they did the application, the address is Jackson Road but the access is off of Root Road, he believes there was a house on the property when the city first bought it, they tore it down, he doesn't know if it was the caretaker's house or.

Mr. Dick Roddie of Jackson Road testified that he doesn't think it was a caretaker's house, it was just a residence. He said they were confused with the address being Jackson Road.

The board discussed the parking being next to Grantwood Golf Course.

Mr. Barr said the high school ran their cross country matches there, they would start at the Timberlake and actually run and come all the way out onto the course, that is hole six, the one that is furthest to the north up there and they would actually run up there and run back to the parking lot, they do that at the community park in Solon now.

Mr. Lewis said so we have an existing park, owned by the City of Solon, and it is a park use and you want to corral one portion of it for the pooches to come by.

Mr. Holub said correct.

Mr. Lewis said other than letting some bowsers in, you are putting up some fencing, there is no modification to the land at all.

Mr. Holub said no.

Mr. DeWater said he is good with it.

Mr. Holub said they will have stations.

Mr. DeWater said that seems to be a big problem with dog parks.

Mr. Roddie asked if there is a leash law in there or will there be unleashed dogs.

Mr. Holub said actually right now there is no leash law.

Ms. Endres said Ohio in general has a leash law that dogs need to be on a leash, it is different inside an enclosure area.

Mr. Barr said within reasonable control, it is on a leash or reasonable control so some dogs are ridiculously trained and other dogs aren't and if your dog is not you are then liable for that dog.

Mr. Lewis said they have behavior issues, they are not real sociable.

Mr. Roddie asked what kind of use will be there.

Mr. Holub said it is so far out of the way, when he went to Bainbridge it was more popular than he thought it would be, there were probably 30 or 40 dogs, he doesn't see that many here, probably no more than 5 – 10 at one time and actually the park is open from dawn to dusk too so there are no parking lot lights, and actually Solon and Bainbridge police do patrol it, they are actually pretty good about that.

Mr. Barr asked Mr. Roddie if he lives adjacent to the park.

Mr. Roddie said they live on Jackson Road.

Mr. Gutoskey asked Mr. and Mrs. Roddie if they were here for Parkside.

Mrs. Roddie testified that they were.

Mr. Roddie said the board did get that improved a lot.

Mr. Lamanna said so this is actually far away from you.

Mr. Roddie said but the address was Jackson Road.

Mr. Holub said the house is actually on Jackson Road that is why the address is Jackson.

Mr. Lamanna said that is the only place it actually touches a place you can get an address on.

Mr. Gutoskey asked when they are going to start construction, this Fall yet.

Mr. Holub said they will probably start construction this fall but won't open until the Spring.

Ms. Endres said you probably need to get the grass established.

Mr. Holub said exactly.

Mrs. Roddie said your people won't be parking on Jackson.

Mr. Holub said no but he does notice every once in a while that fishermen do that.

Mr. Roddie said some of our neighbors police that for you and they are taking fish out of there.

Mr. Holub said and that is probably why they go out that way because if are taking the fish, they don't want to come out the front one.

Ms. Endres said when she was evaluating this she was conflicted whether it would be an expansion of a non-conforming use or a conditional use so the board might want to make a determination on how you want this treated going forward. She said the park never came before the board as a conditional use therefore it could be considered a non-conforming use however parks in the residential zoning district are conditional uses. She said if you decide to treat it as a conditional use we might want to decide how often Solon needs to come back in front of the board.

Mr. Gutoskey said if we get it for the first time.

Ms. Endres said there is going to be a requirement for the city to come back.

Mr. Gutoskey said that is probably safe and to be sure the dog park is working out.

Mr. Lamanna said he would be happy to go five years.

Mr. Lewis said since the park already exists.

Mr. Lamanna said it is far away from everybody.

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

Motion BZA 2019-39 – 7110 Jackson Road (City of Solon)

Mr. Lamanna moved to grant the applicant a conditional use permit for the purposes of having a dog park in accordance with the drawings submitted by the applicant.

1. This application will be good for five years, the maximum period for its renewal required.

With the following conditions:

1. There are no additional conditions or requirements placed other than as indicated with respect to the fact that this is a dawn to dusk park only so there will not be night-time use for the dog park.
2. The standards for conditional uses shall apply.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Since there was no further testimony, the public hearing was closed at 10:35 P.M.

Respectfully submitted,

Brent Barr, Alternate Member
Michael Corcoran
Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman

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

Date: November 21, 2019

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
October 17, 2019

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:35 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Michael Corcoran was absent. Ms. Karen Endres, Zoning Inspector was present.

Motion BZA 2019-28 – 8327 Washington Street (Carwash)

The board reviewed the new survey/site plan for the carwash regarding the placement of the shed/hut and was in agreement to amend the previous motion from the September 19, 2019 minutes.

Mr. Lewis moved to amend the decision dated September 19, 2019 regarding the motion for 2019-28, (Page 4) with regards to the attendant station to grant an area variance for that as it is located nearly on the lot line and as noted and drawn on the site plan that was submitted dated October 9, 2019 by Schwartz Land Surveying Inc.

1. The dimensions of the attendant station are approximately 8' x 10'.
2. A variance from the required 20' side yard setback to .5' off the side property line.

Based on the following findings of fact:

1. The reason for granting this variance is there is a practical difficulty because of an effort for them to bring their customers up and not stack them out on the street while they receive them to line them up for their carwash.
3. This was the only location that was safe and serves the business as well.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

MINUTES

Mr. Lamanna moved to approve the minutes dated September 19, 2019 with the amendment with respect to BZA 2019-28 to reflect the modification to the decision made by the board.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

Application 2019-27 by Maria Savransky for Kids Club Property, Inc. for property at 16700 Hilltop Park Place - Continuance

The applicant is requesting a substitution of a non-conforming use with area variance(s) for the purpose of constructing an addition to the daycare facility. The property is located in a LIR District.

Mr. Lamanna moved to continue this application to the regularly scheduled meeting to be held November 21, 2019.

Mr. Gutoskey seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye.

APPLICATIONS FOR NEXT MONTH

Application 2019-29 by Mathew Cohen for property at 7372 Ober Lane - Continuance

The applicant is requesting area variance(s) for the purpose of maintaining an existing shed. The property is located in a R-3A District.

Application 2019-40 by Selective Homes, LLC for Narinder Singh for property at 16703 Huron Street

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

Application 2019-41 by Gregory A. Krzys for property at 8480 West Craig Drive

The applicant is requesting area variance(s) for the purpose of constructing an accessory building. The property is located in a R-3A District.

Application 2019-42 by Robert Gingerich for property at 8952 Old Meadow Drive

The applicant is requesting area variance(s) for the purpose of maintaining a fence. The property is located in a R-3A District.

Application 2019-43 by Mark Chapic for property at 7097 Cedar Street

The applicant is requesting area variance(s) for the purpose of rebuilding a front porch. The property is located in a R-3A District.

Application 2019-27 by Maria Savransky for Kids Club Property, Inc. for property at 16700 Hilltop Park Place - Continuance

The applicant is requesting a substitution of a non-conforming use with area variance(s) for the purpose of constructing an addition to the daycare facility. The property is located in a LIR District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for November 21, 2019 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:55 P.M.

Respectfully submitted,

Brent Barr, Alternate Member
Michael Corcoran
Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman

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

Date: November 21, 2019