

Bainbridge Township, Ohio
Board of Zoning Appeals
March 16, 2017

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:07 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Mr. Ted DeWater 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 persons who intended to testify. He noted for the record that everyone present has been sworn in.

Application 2016-41 by Terry Markoff for property at 9514 Taylor May Road -
Continuance

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

Mr. Lamanna stated that this is a garage addition and Mr. Markoff is back here to review a few things.

Mr. Terry Markoff and Mr. Donald Tarantino, architect were present to represent this application.

Mr. Markoff testified that he was here several months ago and got the house part done but the board wanted him to make some changes to the plans for the garage addition so he made some changes on those and he believes the board has copies of those because the board wanted it farther away from the line and was concerned with the height of it also so they put it to the back of the building and made it farther away from the line. He said they changed the gable sideways so it would look better and he has pictures to show that as well and noted the location of the leach fields.

Mr. Gutoskey said at the last meeting in November we talked about getting a survey to determine how far the garage is off the property line.

Mr. Markoff said it had just been surveyed and the distances was just a matter of calculating it off, we know exactly what the distances are so we have that information, he was misinterpreting the numbers that he had so he thinks that is why it came up but the numbers they have there are accurate.

Mr. Gutoskey said he thinks the last time it was 5'.

Mr. Markoff said some numbers were transcribed wrong so everything was accurate going from the east to the west and when we got to the end of the house we said this is the difference here and added on but the number had been transcribed is what it was so he thinks they had 158 instead of 152 but it was just an addition error.

Mr. Gutoskey said the other thing we discussed was the lot was getting smaller as it goes to the back.

Mr. Tarantino testified that it is at a rectangle.

Mr. Gutoskey said the property line converges as you go to the back of the lot.

Mr. Markoff said the question came up because of the addition area but all of the information in this request is the correct information.

Mr. Gutoskey said as part of it the zoning inspector requires the property line to be marked should this end up going through so she can check. He asked about the west elevation on the building and said it looks a little plain. He asked Ms. Endres what is on the west side of this lot, the parcel to the west of this. He said he wants to see what the neighbor on the west is going to be looking at.

Mr. Markoff said he said he is fine as long as he doesn't stack anything.

Mr. Tarantino stated that the addition on the side of the existing building, you can see the original house and there are picture windows that look into the back yard so they are trying not to cut off the view to the property in the back.

Mr. Markoff said there is a leach field pretty close inside it.

Mr. Tarantino asked if the board wants windows along there.

Mr. Gutoskey said something to break up that long side, windows, landscaping.

Mr. Lamanna said so the existing garage has nothing on it, it is just basically plain sided.

Mr. Markoff replied yes.

Mr. Lewis asked how far the existing garage is off the lot line, he is looking at the site plan and for some reason can't see it.

Mr. Markoff said about 22'.

Mr. Lamanna asked about the width of the little piece.

Mr. Lewis said the building is 22' off and the proposed addition is 13'.

Mr. Markoff said it would be 6' or 8' off the side.

Mr. Gutoskey said there is nothing that shows what that little jog is.

Mr. Lewis asked if the existing garage is 21'.

Mr. Markoff said it is between 21' and 22'.

Mr. Lewis referred to the elevation that faces next door and said this whole section here, you have the better part of 20' from here to the property line, there is plenty of space to buffer that, this one is 13' off the property line so it opens up options with either windows or more plantings but this is a really long expanse, we have 50' so you have 75' of plain side facing the adjacent and he is looking for something to do with that.

Mr. Murphy said it looks like a bunch of big trees to the left of the garage.

Mr. Markoff said there are trees on the side, there are trees and brush all the way along there now.

Mr. Murphy asked Mr. Markoff if he has taken that big tree down.

Mr. Markoff said he is going to have to take it down, it is a Willow and it does not have much life in it, the inside is gone but he has been trying to hang onto it. He said he is thinking about putting something in between the houses to absorb the water because it is pretty wet and low between the two properties and he and the neighbor have been talking about what to plant in there because it is wet all of the time.

Mr. Tarantino said they have a loft with some doors at the front.

Mr. Lewis asked if it is non-functional, ornamental.

Mr. Markoff said he could do windows, he could do them up high.

Mr. Lamanna said you could also do dummies.

Mr. Markoff said that is an interesting idea, just to have something on there to break it up.

Mr. Lamanna said yes so it looks like a window, you can buy a lower cost window frame and you don't have to worry about insulated glass in them and just put it in and block the inside and insulate and wallboard over it so it looks like a window.

Mr. Tarantino said the other side does have real windows.

Mr. Markoff said he was going to do that and have something lineal across the top and have a couple of windows.

Mr. Lewis asked transoms.

Mr. Markoff said yes have transom windows across there and if he is going to do that it might as well have some light in there.

Mr. Tarantino said there is landscaping along there.

Mr. Markoff said there is brush and trees along there and several large trees along there, there are trees and brush all along that side. He said there are actually trees along the back too and underneath the Willow there are Hostas on the ground in the back there too and he saved as much of that as he could.

Mr. Lamanna said he thinks if a couple of windows were installed it would look better and they certainly could be faux windows if you want the wall space inside, just so when somebody looks at it it looks like windows. He said most of the other part, people probably won't even see it because there are some good size trees but when you build this new and clear some trees out it is going to be sticking out. He said put a couple of windows spaced on the length and then it looks like you are looking at a house.

Mr. Markoff said a door there maybe too.

Mr. Lamanna said if you would like.

Mr. Markoff said his problem is stopping not adding.

Mr. Lamanna said put a couple of windows in there and they can be faux if you would rather have the wall space inside.

Mr. Markoff said and the gabled doors as well at the end up on top.

Mr. Lewis asked if the new proposed west side is 13' not 5'6".

Mr. Tarantino said it is 15', it is hard to read but if you look on page four.

Mr. Gutoskey said it looks like 13'.

Mr. Lamanna said we have to take the minimum distance so that is 13' actually and we have the lot coverage. He asked Ms. Endres about the front setback at 69'.

Mr. Gutoskey said that was for the house.

Mr. Lamanna said that is what he thought, he just wanted to make sure. He said there is a variance for lot coverage and the west side setback and we will add some windows.

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

Motion BZA 2016-41 – 9514 Taylor May Road

Mr. Lamanna moved to grant the applicant the following variances.

1. A variance to the west side yard setback from 50' to 13'.
2. A variance from the maximum lot coverage from 10% to 11.34%.

Based on the following findings of fact:

1. The reason for granting these variances is a practical difficulty due to the fact that the location of the septic system and alternate septic system limits the expansion of the existing garage to the east.
2. The existing garage is already only 21' from the property line.
3. The lot coverage is being increased because this is only a two acre lot so a 1.34% increase in lot coverage isn't significant.
4. Neither of these variances are inconsistent with the neighborhood nor will they adversely affect the adjacent property owners.

With the following condition:

1. In order to ameliorate the effect on the adjacent property owner the applicant will add, on the west facing frontage of the addition, at least two windows which do not have to be actual operating windows, at his choice, in order to dress up and break up the unadorned expanse of that elevation.

Mr. Murphy seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2017-5 by South Franklin Circle for property at 16575 (Corner of Rocker Road and Chagrin Road)

The applicant is requesting modifications to the conditions under which the setback variances for the sign were approved for the purpose of installing photo cell lights on the existing ground sign. The property is located in a R-3A District.

Mr. Bill Fehrenbach of S. Franklin Circle was present to represent this application.

Mr. Lamanna stated that from the board's previous decision in 2015-31 the sign is now 1-1/2' higher than it was supposed to be and they want to add some lighting to the sign. He asked Mr. Fehrenbach to tell the board why the sign didn't end up the way it was approved.

Mr. Fehrenbach testified that the reason it became higher is we had our contractor signed up to move it and to put the sign in per the drawings we submitted and were approved and they were able to pull the whole plug out of the ground and not have to re-set all of that masonry, they pulled it out as a whole unit and re-set it in the correct location and it was all said and done before we looked at or even realized it.

Mr. Lamanna said it was on a masonry base with a little cap on it and that was on concrete.

Mr. Fehrenbach said that was on a concrete foundation. He said they didn't pull the foundation out, they were able to cut it and put in more stud rebar and put a new sonic tube in the ground for the footings for the new location and then place it.

Mr. Lamanna said so they didn't have to demolish it.

Mr. Fehrenbach said they did not have to demolish it and they didn't bury it deep enough and he didn't inspect it.

Mr. Lamanna said it appears that it was inadvertent, it wasn't something you were trying to do.

Mr. Fehrenbach said he actually didn't realize it until Ms. Endres told him that it wasn't in compliance.

Mr. Lewis said that answered his question. He asked who was the first to discover that it is 18" too high.

Mr. Fehrenbach said your zoning inspector.

Ms. Karen Endres, Zoning Inspector testified that would be me.

Mr. Lamanna said he understands that this could be an honest mistake.

Ms. Endres said there is more than one way to measure also and with the measuring criteria in Chapter 173 they talk about road elevations, but she doesn't have the equipment.

Mr. Fehrenbach said what prompted us to revisit this is he gets repeated requests if not demands from their members or residents that they are driving north or south on Chagrin Road and they are and their guests are overshooting Rocker and figuring that they get to the intersection and realize they have overshoot it and slam on the breaks and try to avoid having to go into a driveway and turn around. He said we do have and appreciate the intersection light that was installed there however it is too far to the south so it doesn't really impact being able to see this sign so we are not looking for a great amount of illumination just something to make that sign stand out so people can see it when they are coming up to the intersection and can prepare safely to make the turn.

Mr. Lamanna asked if he had something specific in mind.

Mr. Fehrenbach said yes, it is basically modifying a flag pole illumination device with a solar panel on it with LED lights on it but he doesn't remember the number of lumens but something as nondescript as they can possibly make it just to spill some light on that panel so people can see the S. Franklin Circle words.

Mr. Norman Schultz of 7444 Chagrin Road testified that they should be looking for Rocker Road not S. Franklin Circle.

Mr. Lewis asked where he is planning to locate this lamp on the pole and if he is talking about doing it here and referred to the location on the pole.

Mr. Fehrenbach said just below the panel.

Mr. Lewis said so it is a highly focused narrow beam so it is not going beyond your sign.

Mr. Fehrenbach said right.

Mr. Lamanna asked if it is on the bottom bar.

Mr. Fehrenbach said no it is not on the bottom bar it is on the vertical post and it has a swivel.

Mr. Lamanna said it is going to be oriented the other way it will be pointing sideways not up.

Mr. Lewis said he has it located below so it will be shining up, this is like an LED floodlight he uses to illuminate his commercial building, same thing. He said he is trying to see how narrow this is.

Mr. Fehrenbach said the fixture that is on here that is shown in the image may not be the actual fixture that we are going to use but we want to just limit that or put a shroud on it to limit the light to just illuminating the sign panel, we really don't need to illuminate anything else.

Mr. Lewis said so the Rocker entrance, that whole street entrance is completely pitch black.

Mr. Schultz said no.

Mr. Fehrenbach said we are at Chagrin and Rocker.

Mr. Lewis asked if that intersection is completely black.

Mr. Fehrenbach said no it is not completely black, there is a streetlight further south.

Mr. Lewis asked how far down the street is that.

Mr. Fehrenbach said probably around 45' to 50' from the location of this sign.

Mr. Lamanna said they put the light on the closest pole.

Mr. Gutoskey asked if there is a sign on Chagrin Road that states intersection ahead with Rocker.

Mr. Fehrenbach said he doesn't believe it says Rocker, there is a yellow sign that shows intersection approaching.

Mr. Schultz said it says Rocker.

Mr. Gutoskey asked if it says Rocker on the yellow sign that shows the intersection, the street sign.

Mr. Schultz said there is a sign in his front yard that says Rocker on it, 500 ft. down the road. He said there are signs on both sides telling you that Rocker Road is there, the county put them in.

Mr. Gutoskey said look at Google street view.

Mr. Fehrenbach said they would like to illuminate it so it can be seen on both sides, from the north bound and south bound direction.

Mr. Lewis said these are the wrong kind of lights, if you are going to hang a light on this or even consider hanging one on it there should be a little light coming off the top pole here, a little projectile out with a very narrow tubular light shining solely on the face of this, not illuminating anything else up and around and flooding the sky, there are a lot of other ways to approach it. He said he is not so sure that the sign needs to be illuminated because your residents already know where Rocker Road is.

Mr. Fehrenbach said their guests are having trouble finding it.

Mr. Lewis asked if they are all coming in there, they don't come in off of S. Franklin.

Mr. Fehrenbach said most of them come in off of Rt. 422 and come up.

Mr. Lewis asked how long the business has been up and operational.

Mr. Fehrenbach said since 2009.

Mr. Lewis said that is seven years and your guests can't find Rocker Road.

Mr. Lamanna said we generally would like to have the light pointing down.

Mr. Fehrenbach said that is fine, he has no objection to that.

Mr. Lamanna said the other thing is if you have them centered on that top bar, then if you are trying to come at a diagonal a lot of your light is going to miss the sign because of the way it is oriented, this way you will be able to get it pretty much focused on it and he thinks 280 lux is not exactly a whole lot of light, you would be talking about 25 light bulbs.

Mr. Lewis asked if the bracket broke.

Mr. Fehrenbach said yes and they have the new bracket on order and he thinks it broke during the course of moving it and added that it was broken before from a wind storm and they are expensive.

Mr. Lamanna said most of the flagpole lights are somebody's idea of putting enough light out there so that they can say that they are meeting the flag regulations for display at night to have it illuminated.

Mr. Lewis said they do have solar spot lights as opposed to more of a floodlight setup which might allow you to compress and hang it down.

Mr. Fehrenbach said sure, they would have no problem complying with the spirit of that.

Mr. Lewis said there would be no light bleed.

Mr. Lamanna said if you are trying to illuminate a square, by definition, you are going to have to illuminate all of these areas around the square but if you have a rectangular light you have a better chance of having it be more contained on the square. He said it is the intensity of the light we are talking about.

Mr. Murphy said this 280 lumens is lighting up a sign from above, one on either side of the sign, it is going to be a bright light on the sign and he doesn't know if there is any way to put a timer on it.

Mr. Fehrenbach said they are not married to 280 lumens.

Mr. Murphy said 280 lumens seems like it is a flagpole thing and this popped up as the same sort of light fixture from above and it is bright, it is a big commercial sign on Chagrin Road.

Mr. Gutoskey asked what would be the minimal amount of light, 25 watts.

Mr. Murphy asked why the board originally said no lighting on the sign.

Mr. Lewis said because the intersection was adequately lit and marked as Rocker.

Mr. Gutoskey said at the time we did it the township had been given the go ahead to put a streetlight there but apparently they just set it on an existing pole.

Mr. Lewis asked which pole the light is on.

Mr. Schultz said it is at the intersection. He said you just told the landscape business he can't have a light, you go another 200' and you have Pfouts with his dog kennel and he cannot have a light so why should this man have favoritism, his sign doesn't even belong there, it belongs down on Rocker Street. He said what if Holy Angels wants to put a sign on the corner of Taylor May and Rt. 306 because they can use their back driveway so people will know where it is at, this is the same principal that they are doing and you are showing favoritism.

Mr. Lewis said the board has not ruled on it yet.

Mr. Schultz said everything they do there is favoritism in this township.

Mr. Gutoskey said he wouldn't say it is favoritism, one of the things you have to look at is the number of units that are in that facility and the number of people that come out of town to get there that may be unfamiliar with it, it may be an issue of light at night and you have to take the safety factor into consideration.

Mr. Schultz asked about their restaurant that is illegal. He said he got three articles in the mail in the last month advertising Judson's facilities for exercising, live in your home and use our facility. He asked what they are doing, they are a tax free outfit, they are cutting the throat of all of the other people around town who have these businesses for you to exercise in and they are a tax free outfit and they are cutting your throat. He asked who are they paying their taxes to when they have people join there. He said they had to go out and get the railroad track so they could build originally, the railroad track was industrial, you couldn't build that facility there so they changed it and then the township had to get the railroad track and give it to Judson for 99 years for \$1.00. He said if that is not favoritism, what is it, now they want to put a light on their sign.

Mr. Lamanna said you have to take that up with the township trustees, you are re-litigating a ten year old battle at this point.

Mr. Schultz said it is favoritism and every time you turn around they want you to do something for them.

Ms. Mareen Wolfe testified that they want more and more.

Mr. Schultz said the streetlight is right at the intersection.

Mr. Lamanna said he wanted to note that most of the other signs for developments all have lights on them.

Ms. Endres said in Chapter 173.07 there is a provision for residential subdivisions to have a lighted sign.

Mr. Gutoskey said his subdivision, Pilgrim Village, has a lighted sign.

Mr. Lewis said Peppermill, where he is at is lit and Tanglewood.

Mr. Schultz said they have a lighted sign at their main entrance on Franklin Street.

Mr. Gutoskey said there are two entrances at Pilgrim Village and we have a sign in the front and back with lights on them.

Mr. Lamanna said Tanglewood has four entrances not counting the condos and all of them have lit signs. He said in this case there are actually people saying that they can't find their way in there.

Mr. Murphy asked do we and said he doesn't know that. He said he thinks it is a well lit intersection personally.

Mr. Lewis said the streetlight is right there.

Mr. Gutoskey said maybe some luminous lettering on the sign.

Ms. Endres said that she doesn't get down there that often at night and asked if the sign itself is reflective.

Mr. Schultz said the other developments start right there, they don't start on Chagrin Road.

Mr. Fehrenbach said the property there is owned by Judson and the road is owned by the county so it is our property.

Mr. Lewis said otherwise they would not have been able to put the sign there in the first place because it would have been off-premises advertising.

Mr. Gutoskey asked wasn't this acreage figured into the density.

Mr. Lamanna replied yes. He said the intersection is illuminated but it is not going to illuminate the sign for people coming from Chagrin, it is not going to be shining on that side of the sign and given how far away that sign is he doesn't know how much of the illumination from that fixture, depending on how good that fixture is, is going to reach that sign if the fixture has any cut-off properties at all.

Mr. Lewis asked Ms. Endres if we have had any other issues with this sign since the request for compliance that the restaurant logo and advertising all be removed from it permanently.

Ms. Endres said she hasn't heard anything, she has had no complaints and she hasn't seen anything so if it is non-compliant she doesn't know about it.

Mr. Fehrenbach said to your point earlier you are not sure or you don't know if there are complaints on it, he knows that a very large number of our residents would be happy to come and voice their concerns over it so that you would have direct knowledge that there are people that are struggling at that intersection to find it.

Mr. Lewis asked if the residents are.

Mr. Fehrenbach said yes.

Mr. Lewis said they live there and they don't know where Rocker is there is a big illumination for the intersection of Rocker within 50' and they have lived there for some time and they have no idea where Rocker Road is.

Mr. Fehrenbach said they miss the intersection.

Mr. Lewis said then they should slow down, he just does not see much weight in that statement. He said he doesn't see a practical need to add more illumination there, he just wants to be certain that as we look at our code, does the applicant have an entitlement because it is specifically written in our code and it is a development sign and it qualifies for lighting because of our code, other than that he doesn't see any practical reason to add any additional illumination to a major intersection with a streetlight with sign markings and a road and where you have incremental guests but you have permanent residents that certainly within a reasonable length of time ought to be familiar with the roads and streets in their neighborhood. He said he has no active real testimony that there is any hardship from anybody else that lives there or visits there other than some hearsay so he is down to what the code says.

Mr. Murphy said if it is a development sign and that is their property and their sign on Chagrin Road. He referred to all of the other developments that have lighted signs and if that is permitted then that ought to be the argument we are hearing here.

Mr. Fehrenbach said they believe there is precedent in Bainbridge for it and the inconvenience of people missing the intersection we felt it added importance. He said if it weren't for the fact that our people were missing it we don't think we would be strenuously fighting you to adhere to the code.

Ms. Endres said the code is Chapter 173.07, Page 5.

Mr. Murphy said 173.10 is what we have on our paperwork which says it could be a permanent sign for a residential development.

Ms. Endres said she should have cited more than that, there is 173.07.

Mr. Gutoskey said the second sheet has 173.07, sign illumination.

Ms. Endres said it is listed in more than one place, she should have cited both.

Mr. Murphy said we would be looking at a permanent sign for an entrance to a residential subdivision.

Mr. Lamanna said it is a conditionally permitted use in a residential subdivision.

Ms. Endres said it is.

Mr. Lamanna said it has the living use and the assisted living which is a conditional use.

Mr. Lewis said this one section is pretty clear, “such light shall be shielded so as to prevent view of the light source from any adjoining residence or residential district or vehicles approaching on the public right-of-way” so very directed, very target specific, no light bleed over, fully shielded.

Mr. Murphy said everything he is reading, zoning permits that sign to be lit according to 173.10 and 173.07 and he thinks your neighbors will appreciate it if it is tasteful and not too bright. He said he personally has an issue with Bainbridge’s lighting that is on at 3:00 AM and still bright and looks like a commercial light and asked if a timer could be worked into that lighting system.

Mr. Fehrenbach said he certainly would be open to that.

Mr. Lamanna said some of those systems sometimes have an adjustment to come on at dusk and be set to how many hours you want it to stay on.

Mr. Lewis said it will store energy all day.

Mr. Lamanna said the problem is when somebody gives you a description in lux, you have to know where they are measuring it because it is a measure of how bright the light is on a square area so obviously if he has a light bulb here and puts his measuring device here and measures it here it has a certain brightness, if he moves twice as far away it is one-fourth as bright on that, it drops to the square of the distance away so when somebody says they have a flagpole light at 280 lux they may be saying if you’ve got a flag flying 20’ – 25’ that is a lot of light, depending on how well designed the fixture is, how narrowly it can hold the beam down and that is why these things get really complicated because if it is a lightbulb it is radiating in all directions but if it is a fixture like this that is well designed it is sending out a beam of light that is somewhat focused and narrow, like a spotlight so this is probably far more than what is needed size wise.

Mr. Gutoskey said when you look at the size of it it is relevant to a flagpole.

Mr. Murphy said it is huge and even though it says it is 15, what he was looking at was 15 watts is the solar panel, that is a lot of LED.

Mr. Lamanna said that is way more than you need, you need about 6. He said he has a 6 LED in his pole light and it is awfully bright so this is far more than you need.

Mr. Lewis said he thinks another fixture spec completely and everything about it should be submitted to our zoning inspector, if the board chooses to approve, he doesn't think the board should go blindly, he really thinks because there are enough residences around and enough general concern about that intersection that just to go out to buy something because somebody said you can hang a light he doesn't think that would be a good approach.

Mr. Murphy said he would like to see a spec.

Mr. Fehrenbach said they will provide one.

Mr. Murphy said the 280 lumens are called flagpole lights, it looks like a 500 watt halogen work light so that is a lot of light.

Mr. Lamanna said if it is putting 280 lux on a flag that is 30' away. He said this fixture is not that sophisticated, it is somewhat focused.

Mr. Fehrenbach said they will resubmit a specification for approval.

Mr. Lamanna said you can find something that is 20% this size and will illuminate the sign more than adequately, this is far more than you need because this thing is trying to illuminate something that is 20' – 30' in the air so if 10% - 15% of the light is hitting the target area it is doing well.

Mr. Fehrenbach said understood.

Mr. Lamanna said you should be able to get 100% of your light from that short of distance onto your target area.

Mr. Lewis said you picture somebody hanging a painting on the wall in the art gallery and they have got the little light on the painting.

Mr. Lamanna said you can have something like this about a quarter this size.

Mr. Lewis said whatever size and shape the fixture is as long as you can't see the bulb.

Mr. Lamanna said it would be painful if you walked up towards this sign at night with this much light on it.

Mr. Fehrenbach said they are not married to that fixture. He said he doesn't want any more than to just illuminate the sign.

Ms. Wolfe said the streetlight alone illuminates it coming down so are they going to illuminate it coming up.

Mr. Lamanna said they are going to illuminate it from above.

Ms. Wolfe said that is what the streetlight does.

Mr. Lamanna said they are going to have two little lights on each side shining on the sign like a 50 watt bulb shining on it, that is about all they need focused on that so it will all just focus on the sign, you won't even be able to see it, it will look like nothing compared to the streetlight. He said if you look from a distance all you are going to see is the streetlight because it is going to be 10 to 20 times brighter than those sign lights are.

Mr. Lewis said it is a small sign.

Mr. Lamanna said it is a tiny sign, it is not going to be putting light all over on everybody.

Mr. Lewis said there should be no bleed over to the adjacents.

Mr. Lamanna said what he has here is much bigger than he needs.

Mr. Murphy said for the neighbors, everything he is seeing here, he is not sure why originally it was said there was no lighting allowed on that sign but in fact this appears to be a residential development and they actually own the little strip of land.

Mr. Schultz asked how big of a strip of land do they own.

Mr. Murphy said they own all the way from the back of the development right along Rocker, right out to Chagrin Road so they are on their own property and they are asking to put up a development sign.

The board discussed the origination of Rocker Road.

Mr. Gutoskey said by right they are allowed to light their sign.

Mr. Lewis said it is just an entrance sign to a residential development.

Mr. Gutoskey asked about the sign base height.

Mr. Lewis said it will need a variance.

Mr. Schultz said the development is ½ mile from the sign.

Mr. Murphy said the sign is on the development property, it is part of the development.

Mr. Schultz said they are not allowed to expand either and they bought greenspace by buying Feldman's place now if that is not called expansion what is it.

Mr. Gutoskey said that was all approved at the same time.

Mr. Fehrenbach said we bought Sullivans before we got our conditional use permit.

Mr. Gutoskey asked wasn't that the Metroparks railroad.

Mr. Fehrenbach said they got one plus acres and Metroparks got 11.9 acres in conservation easement in perpetuity.

Mr. Schultz said they had to put it in the township and then the township leased it to them for 99 years for one dollar.

Mr. Lamanna said that should be taken up with the trustees, the trustees voted to approve it, this board cannot override the trustees.

Mr. Schultz said every time you turn around they are looking for favoritism.

Mr. Murphy said he doesn't see this as being favoritism, this is something they are allowed.

Mr. Lewis said this is a legal entitlement.

Mr. Lamanna said he thinks originally the board decided that the sign didn't need to be illuminated because we thought there would be enough light from the streetlight but obviously there is a question about that now.

Mr. Lewis said one side of the sign is dark and the other one is partially illuminated by the streetlight depending on what direction you are coming from.

Mr. Lamanna said unfortunately being of certain age he sympathizes with trying to read signs that are not brightly illuminated anymore.

Mr. Murphy asked should the board table this and ask Mr. Fehrenbach to come back with specifics.

Mr. Lamanna said he thinks the zoning inspector can make a determination and asked Ms. Endres if she is comfortable with determining.

Ms. Endres said she doesn't know much about lumens.

Mr. Murphy said he would like to be able to see what it is.

Mr. Fehrenbach said he stipulates that it will be nowhere near 200 lumens.

Mr. Murphy said he would love to see it.

Ms. Endres said if a lighting person called her and asked her what he should put in she wouldn't know what to tell him, she would be able to tell him some parameters such as there should be no light trespass, there should be full cut-off fixtures etc.

Mr. Lewis said he thinks this should be tabled.

Mr. Lamanna said there are published tables that say for this type of a sign it will say how many lumens per square area.

Mr. Fehrenbach said he can find someone to give a specification but his greater heartburn is putting this off another month.

Mr. Lamanna said we can put it off for another month.

Mr. Fehrenbach said not for his residents.

Mr. Murphy said he thinks the board should be able to see an example of it somewhere and he will drive to where it is and take a look at it.

Mr. Schultz said there are two electric companies on Miles.

Mr. Lamanna said his question is whether the zoning inspector is comfortable doing it and if she is not then we will bring it back.

Ms. Endres said if you want to approve it you could say they would need to have the plans submitted to her prior to the next meeting before it is finalized before she issues a permit.

Mr. Lamanna asked her if she is comfortable judging the plan and told her to not feel uncomfortable saying no so if you are not comfortable we will come back. He said if Ms. Endres doesn't feel comfortable then we will do it next month. He said the board would like the applicant to come back next month because he is not going to put the zoning inspector in a position that she has to do something that she doesn't feel qualified to do.

Mr. Fehrenbach said he completely understands.

Mr. Murphy said if you can find that they will recommend a light fixture and they have installed one and there is one somewhere that we can look at that would help. He said if you pick something out of a book and it is x,y,z lumens none of us know what that means to a neighbor. He said he lives a mile away and he is not fond of the streetlights but he understands that the sign is dark.

Mr. Schultz said the streetlight there shines in Ms. Wolfe's bedroom window.

Ms. Wolfe said yes and asked how long the light will be on the sign, 24 x 7.

Mr. Murphy said he would like a timer on the sign.

Mr. Lamanna said it is a solar powered item and it would have to come on at dusk but they can usually have a timer on it for eight hours or so.

Mr. Murphy said he doesn't think it should be on at 3:00 AM., there is no reason for it.

Ms. Wolfe asked if it will come back for approval.

Mr. Lamanna said yes it will be back next month.

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

Motion BZA 2017-5 – 16575 S. Franklin Street (South Franklin Circle)

Mr. Gutoskey moved to table this application to the next regularly scheduled meeting to be held April 20, 2017.

Mr. Murphy seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2016-40 by Ivan Nassif for property at 7170 Chagrin Road - Continuance

The applicant is requesting a substitution of a non-conforming use for the purpose of a chiropractic and acupuncture wellness clinic. The property is located in a R-3A District.

Dr. Ivan Nassif was present to represent this application.

Mr. Lamanna swore in Dr. Ivan Nassif and noted for the record that he was duly sworn.

Mr. Gutoskey said we have a survey now.

Dr. Nassif testified by saying yes.

Mr. Lewis asked if there is another business operating in part of this building without a permit.

Ms. Karen Endres, Zoning Inspector testified that she found that a woodworker is working in there and she wanted to wait to get this resolved and determine whether or not he is going to stay there and if he decides he wants to stay he needs to come in front of the board for a substitution of a non-conforming use.

Mr. Lamanna asked if they want to try to re-zone this property.

Ms. Endres said that came from the trustees within the past week.

Mr. Lamanna asked how that is going to work with the parcel in-between.

Mr. Lewis said that was his question, it is fully residential there.

Ms. Endres said there is a separate little parcel here so this is how the rezoning would look. She referred to a map and said this is the Mishne parcel that would be rezoned PO so you would have the contiguous professional office and they would possibly look into rezoning the Eagles club properties too. She discussed the possible rezoning with the board.

Mr. Lamanna said you will have a residential property whose only means of access is through a PO because part of their parcel would be in a PO.

The board discussed the rezoning matter.

Mr. Lamanna said you would be bringing this property in but it is not really meeting any of the setbacks etc. so it doesn't make sense to do it.

Ms. Endres said their thought was to be the use because the property has always been used as non-residential.

Mr. Lamanna said it mucks up the whole POD structure. He said they need to think about this long and hard.

Ms. Endres said they haven't done it yet.

Mr. Lamanna said the PO District is structured to do a certain thing and to be stuck in certain places and to allow certain barriers to the residential district, why do you want to pollute that by sticking this property in and then having anybody else who comes along will want to add to the POD or create another POD and it creates a wedge for somebody to come in and use this weird thing that was created here to argue for either modification or creation of other PODs. He said somebody has to think about that aspect and by doing this undermines the whole rationale and structure of the POD district.

Ms. Endres said we talked about the commercial creep every time you extend it.

Mr. Lamanna said other people will come in and want their properties rezoned.

Ms. Endres said she just thought the board would want to know about this.

Mr. Lewis asked to see the augmented drawing with the parking spaces.

Mr. Lamanna said the issue is you have no legal access to your back building.

Dr. Nassif said no, you legally can't drive back there but he can walk back there.

Mr. Lewis said you just can't go on your neighbor's property.

Dr. Nassif said if the neighbor said he can't use his property, he can still access the property and there is enough space on the other side and if he said we can't do that we can put a driveway on the other side of the building and put a garage door on the other side of that building.

Mr. Lamanna asked what that back building is.

Dr. Nassif said it is like an old garage/warehouse.

Mr. Lamanna asked Dr. Nassif what he is going to use it for.

Dr. Nassif said that is where the furniture repair is.

Mr. Lamanna asked how that guy is getting in and out of it.

Dr. Nassif said he is driving on the driveway and right now Mr. Mishne said he doesn't have a problem with somebody using his driveway, he is just not going to sign an easement. He said a lot of what he has read is 7170 has been using that property for so long for access there is actually, he forgets what the word is.

Mr. Lamanna said prescriptive easement is what it is called but if he says to you, you can use my driveway, you would never get a prescriptive easement, the only way you get it is if you are using it without their permission so if they say we have always let people use their driveway, you have got nothing, it has to be adverse.

Dr. Nassif said the guy should have written up a contract allowing the use of the driveway.

Mr. Lamanna said that is the smart thing to do.

Dr. Nassif said that is what his attorney should have told him to do, his attorney told him not to sign anything.

Mr. Murphy said so this new driveway proposal misses that structure, the sewer manhole and that riser.

Dr. Nassif said yes it does.

The board discussed the survey.

Mr. Lewis said the survey helps and it is pretty obvious that the property you are looking at doesn't own a bit of the driveway, it just clarifies that 100%.

Dr. Nassif said the corner pin is in the driveway, Mr. Mishne has full access to his property without touching the 7170 property so it is not even an issue of a shared driveway, he has got to get his own driveway.

Mr. Lewis said so we do 100% of housekeeping, what is his is his, what would be yours is yours, you put in a new driveway, you have complete separation of the properties and the use of the driveways become solely self-owned.

Dr. Nassif said even the proposed driveway is not wide enough, and that is \$16,000.00.

Mr. Lewis said regrettably we don't deal with the economics of it.

Dr. Nassif said the economics is huge and when he was here months ago it was said it will only cost a couple of thousand dollars, but this is sixteen grand.

The board discussed the proposed driveway.

Mr. Lewis asked if it is wide enough for a firetruck and if they can get to the building and make the turn into the parking lot to service the building if they needed to.

Mr. Gutoskey said we require 24' for commercial. He discussed the proposed driveway and parking with Dr. Nassif.

Dr. Nassif said the realtor has this property listed as having 12 parking spaces but it does not have 12 parking spaces.

Mr. Lewis said you should negotiate the purchase price because it doesn't have 12, it has 9 and that will help offset your driveway cost.

Mr. Lamanna said the problem now is this property does not have a legal access to the highway, the main road.

Dr. Nassif said he talked to the title company and originally they said you have to have access and then he talked to the attorney at the title company and she said that is only if you want a legal access rider or something.

Mr. Lamanna said from a title policy standpoint they are probably correct because you do have legal frontage and you can get a curb cut there.

Dr. Nassif said through this parcel you have legal frontage.

Mr. Lamanna said from a title standpoint but from selling a piece of real property standpoint when somebody comes and says they have a commercial piece of property and you say yes but there is no driveway into the property, you do not have a legal driveway into this property, how can you possibly be selling that. He said who would want to buy a piece of property with no legal driveway, people can sell it as is and the new owner will have to put in a driveway, fine, but at \$16,000.00 to put in this driveway and he assumes when it was listed and shown that it had a legal driveway to use but it doesn't.

Dr. Nassif said when he did the estimate he measured it, we measured it together.

Mr. Lamanna said from the title company's standpoint they would say it is not a title defect that there is no driveway here but it might have been a title defect if somebody bought the property thinking the driveway was on the property and represented it that way and it turns out that way but sometimes they have exceptions. He said most commercial things have a survey exception and the fact the driveway is not on the property it would be found by a survey.

Dr. Nassif said the title company has that now.

Mr. Gutoskey said it would be better to come in perpendicular with the driveway because you are going to be looking over your shoulder up the road here.

Mr. Lewis said that is a hard look around as opposed to more perpendicular because the curve point is right here.

The board discussed the proposed driveway location with Dr. Nassif.

Dr. Nassif said he has a call in with the deputy county engineer but he is not returning my calls. He said his argument is the county did this and they should have put two drives in and there is a piece of property owned by the county commissioners, geothermal well for the Venture Point building, that little wedge.

Mr. Lamanna asked what that is.

Mr. Lewis said he wants to make sure there isn't any long range gotchas.

Dr. Nassif said he understands what the board is doing.

Mr. Lewis said the board is looking out for what is best for you.

Dr. Nassif said he understands, there is no legal access.

Mr. Lewis said Ms. Evans is the seller.

Mr. Lamanna said you can see an agreement to reduce the purchase price for the purpose of putting in a new driveway.

Mr. Lewis said she has got to put a driveway in to make this property sellable no matter what because right now there is no legal access to this property and you do not have true legal written permission from the residential property who you are arbitrarily borrowing so she is already in a substantial predicament, she is between a rock and a hard place. He said she is fortunate that she has got somebody that is interested in buying the property.

Mr. Lamanna asked where this triangular piece of property is that the county owns.

Mr. Gutoskey said it is not on the survey.

Ms. Endres said it shows as road right-of-way according to the ReaLink layer.

Mr. Gutoskey said it was probably there before they moved the road and they kept it there and they probably had to keep this in the commissioners' name versus putting it in a public right-of-way because they got some kind of agreement or a 99 year lease.

Dr. Nassif said the owner of the well is Venture Point and the company that manages that company, Washington Street Partners said that well belongs to the property they manage. He said it is a geothermal well and when they moved the road all of the pipes tunneled underneath the road and they plan on abandoning the well eventually, he said it is a bad well, it sucks up a bunch of debris and ruins their system so it is going to go away eventually anyway.

Mr. Lamanna said that is the county's right-of-way.

Dr. Nassif asked why the county didn't just drill another well on the other side of the road.

Mr. Lamanna asked Dr. Nassif if he has to get permission to go across the county property with his driveway.

Dr. Nassif said he told me there is no problem, if a driveway gets put in and he submits a permit doesn't he have to approve it.

Ms. Endres said the county has to approve it.

Dr. Nassif said he was told that there is no problem.

Mr. Lamanna said unless somebody is going to say where the actual right-of-way is he wonders if there is some agreement between the county and that landowner.

Ms. Endres asked if that would not have turned up in a title search.

Mr. Lamanna said very unlikely because you wouldn't be looking for it, it is so unusual, it would be something that you would accidentally fortuitously stumble upon.

Mr. Murphy said he thinks it is a good solution to plan on putting the driveway in and work that out with the property owner.

Mr. Lewis said the property owner doesn't own anything of the neighbor's driveway so that takes care of that problem, we didn't know at some point if one-half of the driveway is on your property and one-half was on the residential. He said this 100% cleans it up and certainly if this were to really truly go forward the board would want to see something on this parking lot that separates it permanently, your parking lot from their driveway so that there is no accidental use of their driveway whether there are barricades or shrubs so that it keeps it clean, a good fence is good neighbors kind of thing and that way even though if it is not your use of it your clients would be using a driveway that is not yours and it is housekeeping across the board. He said you need your own driveway so now it is between you and the seller to come to terms and then you are back here for lot coverage and parking spaces approval with us.

Mr. Gutoskey said depending upon how the driveway ends up he is thinking if it is more towards the middle we are really not looking for any buffering but if it has to hug the property line you are probably going to need some landscaping, some kind of buffering but he thinks if it is pulled over it is not as big of an issue.

Mr. Lewis said he doesn't think so either.

Mr. Lamanna said we have no issue with the substitution obviously so the only thing we really need is a driveway plan.

Mr. Gutoskey said and some counts so we can get a variance together on lot coverage.

Ms. Endres said she doesn't know for sure if he needs a variance on it but just eyeballing it it probably would, for lot coverage. She said 40% is allowed because it is a non-residential use in a residential district.

Mr. Lamanna said it is a pre-existing non-conforming use but in this case it is a different situation.

Mr. Gutoskey said he thinks we can clean up some of that stuff as far as lot coverage and then he will own a parcel that has its own driveway.

Mr. Lamanna asked if the driveway will take it up over the 40%.

Ms. Endres said she doesn't know.

Mr. Gutoskey said just eyeballing it he thinks it is over 40%.

The board discussed reducing some of the pavement.

Dr. Nassif referred to the site plan and said that could come off and explained the location of the garage door.

Mr. Gutoskey said but you can't get to it and asked if he needs pavement in front of the garage door if he can't get to it.

Mr. Lamanna said the issue is there is a non-conforming use here and they want to substitute out on it and part of the answer is that you are not going to be allowed to use an adjacent residential property as part of your non-conforming use for which you have no current legal right to use and even if you had an easement he thinks the board could say no, you can't continue to further encroach on a residential property to use this and in fact the other part in the front has been created subsequent to zoning anyway so the driveway is not pre-existing.

Ms. Endres said that is right, the driveway is new and there is also two separate lots here too and the current parking lot crosses the lot line.

Mr. Gutoskey said that was something that the owner created.

Ms. Endres said no that was prior to and it is a similar situation to what we have in Chagrin Falls Park there are several lots strung together.

Mr. Lamanna asked Dr. Nassif if he would like the board to approve the substitution of the use subject to coming back with a final driveway and parking plan and is it useful for him to do that now or should the board wait.

Dr. Nassif said it is probably more useful to wait but we have to have a driveway for this to go through.

Mr. Lamanna said the board doesn't have an issue with the substitution but he doesn't know how the guy in the back is going to be able to use that building unless he can figure out another access.

Ms. Endres said she can cite him but she was waiting until this was cleaned up and asked if they want her to get him in front of the board.

Mr. Gutoskey asked Dr. Nassif if he is going to be his tenant.

Dr. Nassif said yes if he wants to.

Mr. Lewis said he has no access.

Dr. Nassif said when you told me there was a sign up and he didn't know he did not have a permit he contacted the owner and she said she didn't know they needed a permit. He said Ms. Evans will pay for the permit to operate a business there.

Mr. Lamanna said it is the same process.

Mr. Lewis said he can't get to the building, he can't use the driveway, he can't bring a truck in, he can't bring in supplies right now without trespassing, there is zero access to that building.

Dr. Nassif said aside from walking back there. He said the buildings were connected at one time with a little walkway but it has been removed.

Mr. Lewis said that is something for you (Dr. Nassif) to consider while we are going through this is that if you are in fact going to buy this building and unless you can shimmy 2' along the side there is no access right now to that building other than on foot so if you are going to rent it out, unless somebody is going to walk back there, you are going to have to put more driveway in along that side of the whole building, both buildings, and a service door and a sidewalk so do we deal with the lot coverage now because right now the minute this is a go, for you as a buyer and us with what we are doing here, there is no way to get back there other than walk all the way around. He asked if the board should deal with the access to that now.

Mr. Lamanna said the board can deal with the access to that now by just approving the possibility of building an access to it and if you are going to use it you can add an access and here is the area you can put it and the lot coverage you can have if you want to access that building.

Mr. Lewis said if he buys it and wants to keep the tenant.

Mr. Gutoskey said if you run a driveway back there you are going to have to buffer it.

Mr. Lamanna asked what is there now.

Ms. Endres said it is all grass.

Mr. Lewis asked what he does with his truck.

Dr. Nassif said he parks his truck right outside the door.

Mr. Lewis said there is not a lot of space there to park a truck on your property.

Mr. Gutoskey said it definitely hangs over on the other property.

Dr. Nassif said he has seen his pickup truck back there, nobody else.

Ms. Endres told Dr. Nassif that the tenant still needs to get the same substitution that he is getting.

Dr. Nassif said to make it legal a walkway has to be put on the other side at minimum.

Mr. Murphy said he doesn't think there is a door on that side.

Dr. Nassif said you can walk between the two buildings and go around so that would make it legal and then the neighbor Mr. Mishne says he can use his driveway and continue to do what he is doing but is Ms. Endres going to drive by and say you can't do that you have to shut the business down or is this just to make it legal.

Mr. Lamanna said the problem is you have no legal right to use that, no permanent legal right.

Dr. Nassif said except the neighbor is saying we can use it.

Mr. Lamanna said but that is not a permanent legal right, it can be taken away anytime and the other problem with it, since it is not permanent, it is technically not pre-existing so you can't go and try to argue that this is a pre-existing non-conforming use because you are arguing about it on someone else's property but if you have a legal easement then you can argue that you have that but if nobody can produce a legal easement, a recorded document, the answer is you don't really have a pre-existing use there since there was no legal right to use that property and therefore you can't claim any benefit of the previous use so you now have to come into compliance and there is no way that we would ever let a commercial property go over onto a residential property as part of the use of their commercial business.

Ms. Endres said she thinks what she is hearing is if the sidewalk is put in and the access is there it is made available but what if he continues to go ahead and use the driveway, if she gets a complaint on it she will have to follow through with the complaint.

Mr. Lamanna said or he sells the property to somebody else.

Mr. Lewis said if you (Dr. Nassif) provide the sidewalk as an entry point, you can't control your tenant's behavior if they want to trespass, that becomes them and Mishne, this separates you from a liability.

Mr. Lamanna said the county should fix this driveway. He said nobody either did or looked at a survey.

Mr. Murphy said there was a big survey from when they straightened out that road.

Ms. Endres said that building used to have one big driveway ingress.

Mr. Lamanna said they made a decision based on standing in the field looking at it without consulting the survey.

Ms. Endres said they probably didn't talk to the property owners either.

Dr. Nassif said the county engineer said probably when they were doing this the property owner said they only needed one driveway.

Mr. Lamanna said they should have had a legal document to do that.

Ms. Endres said they have no clue what happened.

Dr. Nassif asked if the current property owner has grounds to stand on to go back to the county.

Mr. Lamanna said he thinks they have the grounds to go back to the county and say you realigned this road and at the end of the day when I used to have an access from the road into my property that existed, when you got done I didn't have one, you thought you gave me one but you were wrong.

Mr. Lewis said you are running me onto someone else's property that is residential.

Mr. Lamanna said you didn't look at the deed, you didn't consider the zoning and the uses here, you created a situation that is not correct, it is not like you are asking them to do something, you are just asking them to do what they should have done.

Ms. Endres said how easy it would have been to put the driveway in at the same time they were realigning the road, that would have been an easy fix.

Mr. Gutoskey said we can table this but we are looking for a parking lot plan and some lot coverage calculations.

Mr. Lamanna said we want to make sure when we are done, at the end of the day, that we have everything covered here.

Dr. Nassif asked who usually does the lot coverage plan, is that something he needs to take that survey and start.

Ms. Endres said the surveyor can probably do it more accurately, if you spec out where the driveway and sidewalk are going he should be able to figure it out.

Mr. Lewis said the only thing standing in the way is the final location is shifting this driveway to a more perpendicular, it is just where that wellhead is sitting, and just making sure that if you have got to be 5' away from it or whatever the rules are.

Mr. Lamanna said don't you go to the county to apply for the driveway permit.

Mr. Gutoskey said to tell them it is a commercial drive.

Mr. Lamanna said it is the owner who really needs to go talk to the county.

Dr. Nassif asked what if he comes in with the plan and the board says there is too much lot coverage.

Mr. Murphy said he thinks if the board can take care of all of these issues and problems on this lot that we are going to be perhaps generous and it is not going to be the most important thing on this lot.

Dr. Nassif said but you still need to know everything.

Mr. Lamanna said we need to know so variances can be given for it so that you are copasetic and we are going to figure out what the lot coverage needs to be to allow the building to go on and obviously all of this has been created by this road realignment and other stuff.

Mr. Gutoskey said realistically you were probably at 50% or 60% before this parcel in the front was added in.

Mr. Murphy said that whole parking lot went right out to Chagrin Road.

Dr. Nassif referred to the site plan and said there is a sewer manhole cover right here.

Mr. Lamanna said you realize that this whole frontage is not pre-existing because this parcel wasn't created until after zoning.

Ms. Endres said the use of the Herald building was.

Mr. Lamanna said you are better off looking at what it was before this mess started.

Ms. Endres asked if we need to create another BZA number for the lot coverage.

Mr. Lamanna said we can just add it onto this application and advertisement. He said unfortunately when they were doing this it should have been cleaned up.

Ms. Endres said absolutely and when she first found out about this it would have been nothing for them to put that driveway back in when they were putting the road in, she doesn't know why they didn't do it.

Mr. Lamanna said it is unfortunate.

Dr. Nassif said he is trying to work with the property owner and he has been contacting the engineer's office because he really believes the county should fix this. He said this is an issue between Bainbridge and the County, not the property owner.

Mr. Gutoskey said it is a county road so it is between the property owner and the county.

Mr. Lamanna asked Dr. Nassif if he can send them anything and say here is what the situation is.

Dr. Nassif said Bainbridge should have gone to the county and told them they did something against the zoning laws, you need to correct this and put a driveway in.

Mr. Gutoskey said he thinks the property owner should have their attorney contact the county.

Mr. Lewis said the property owner is going to care when you (Dr. Nassif) say you are taking 20 grand off of the purchase price, if the property owner doesn't want to eat the 20 grand then they will take an aggressive position and go fight for the driveway with the county.

Dr. Nassif said he can go to Ms. Evans and tell her she can pay for the driveway or she can have her attorney write a letter to the county engineer's office and he will say according to the BZA they feel that the county should be the ones correcting this.

Mr. Lewis said put all of the pressure back onto the seller, they are the only one who has any recourse with the county, you (Dr. Nassif) don't because you don't own the land and you can't even buy a piece you have no access to.

Dr. Nassif said the title company said there is legal frontage.

Mr. Lamanna said technically you are not supposed to have any landlocked parcels.

Ms. Endres said they created the landlocked parcel when they redid the road.

Mr. Lamanna said as far as the current owner goes nobody is going to be able to come in and use this building because they are going to have to put a driveway in.

Mr. Lewis asked what happens if the property drops into foreclosure in the interim and it goes to auction.

Mr. Lamanna said it is still subject to whatever the zoning is.

Mr. Lewis said which means the buyer is still going to pop for 15 or 20 grand.

Ms. Endres asked if she started pressuring the tenants in there right now would that help your (Dr. Nassif) case at all.

Dr. Nassif said no, he didn't think so.

Ms. Endres said she waiting to get this cleaned up.

Dr. Nassif said they know what is going to happen because they called her about the sign so they know they are going to have to do the same thing.

Ms. Endres asked the board if they are okay with getting this cleaned up before she gets him in.

The board responded yes.

Mr. Lamanna asked if there is any use in sending a letter to the owner saying, just so you understand, we have looked at the survey that was submitted and you don't have a legal driveway into your property and you really can't use it.

Ms. Endres said she could share the survey with Ms. Evans and tell her that she has two separate lots that need to be combined.

Mr. Lamanna said just so the owner understands that this problem is not going away. He said whether she wants to use the property or not, if she wants to set up her own business in there, she is not going to be able to do it or put a tenant in there or anything else, it has nothing to do with whether she wants to sell the property or not, if you want to use the property you have to rectify the situation. He said she needs to understand and he doesn't want somebody coming in later and say they didn't realize because they were not told.

Ms. Endres said she can send her a letter.

Mr. Lewis said this is good and if you are doing it all in writing she is getting formal notification that there is right now, other than on foot, there is no access to that property legally.

Dr. Nassif asked how we move forward here.

Mr. Lewis said we table.

The board was in agreement to add area variances to the legal advertisement for this application for April.

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

Motion BZA 2016-40 – 7170 Chagrin Road

Mr. Murphy moved to table this application to the next regularly scheduled meeting to be held April 20, 2017.

Mr. Gutoskey seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Since there was no further testimony, the public hearing was closed at 9:28 P.M.

Respectfully submitted,

Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: April 20, 2017

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
March 16, 2017

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:28 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Mr. Ted DeWater was absent. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Murphy moved to adopt the minutes of the February 16, 2017 meeting as written.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Applications for Next Month

Application 2016-40 by Ivan Nassif for property at 7170 Chagrin Road - Continuance

The applicant is requesting a substitution of a non-conforming use and area variance(s) for the purpose of a chiropractic and acupuncture wellness clinic. The property is located in a R-3A District.

Application 2017-5 by South Franklin Circle for property at 16575 S. Franklin Street (Corner of Rocker Road and Chagrin Road) - Continuance

The applicant is requesting modifications to the conditions under which the setback variances for the sign were approved for the purpose of installing photo cell lights on the existing ground sign. The property is located in a R-3A District.

Application 2017-6 by the Federated Church by Amy Eugene, Senior Director of Operations for property at 16349 Chillicothe Road

The applicant is requesting a conditional use permit for the purpose of a temporary use for the YMCA to hold a day camp. The property is located in a R-5A District.

Application 2017-7 by Matthew Domonkos for property at 17055 Savage Road

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

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for April 20, 2017 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 9:52 P.M.

Respectfully submitted,

Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: April 20, 2017