

Bainbridge Township, Ohio
Board of Zoning Appeals
March 19, 2009

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals. He then explained the hearing process and swore in all persons who intended to testify.

The following matters were then heard:

Application 2008-32 by Jon Bruce for property at 8573 Beacon Hill Drive - Continuance

The applicant is requesting area variances for the purpose of constructing a detached garage. The property is located in a R-3A District.

The zoning inspector's letter dated November 20, 2008 was read and photos of the site were submitted.

Mr. Lamanna noted that this application is a continuance.

Mr. Bruce testified that where he wanted to put the garage got voted down so he now wants to put the garage behind the house and it will still be along the side of the property line. He referred to the GIS photo that was displayed and showed the board where he previously wanted to put the garage and showed the board where he wants to put it now. He said he wants to come straight back from his existing garage 25' and put a three car garage and the first gable will be toward the garage, 25' from the house and it will end up being 25' from the property line. He showed per the photo the location of the neighbor's shed and said his neighbor has no problem with where he wants to put the shed and added that it will still be on the side of the trees.

Ms. Sass asked Mr. Joyce how far his house is from the side yard.

Mr. Joyce testified that he believes it is 42'.

Mr. Lewis asked if the board is working off of the previous application.

Mr. Joyce replied yes.

Ms. Sass asked if there are any rear yard issues.

Mr. Joyce said it is a very deep lot.

Ms. Sass said it is now a side yard variance issue.

Mr. Joyce replied yes.

Ms. Sass said but now the board is looking at a different placement because it was in the front.

Mr. Joyce explained per the GIS photo the new location of the proposed garage and said the building will be 24' x 36'.

Mr. Murphy asked Mr. Bruce if he will drive around his house and the doors will be facing into the backyard.

Mr. Bruce said he will have a reverse gable like the house is now and there is actually room right now to get a vehicle between the house and the trees and the garage door will face the street and there will also be a garage door on the side.

Mr. Murphy said from the street you will be looking at the end of the garage with a garage door.

Mr. Bruce said one car will go straight in and as you see it from the street, that will be the tallest door for the pickup truck and he will have a double garage door around the back and from the street, it won't be seen because of all of the pine trees.

Mr. Murphy asked Mr. Bruce if he will still drive around to the side.

Mr. Bruce said yes and added that the building will be 24' x 36' (length).

The board reviewed the variance requested.

Mr. Lamanna asked about the height.

Mr. Joyce said it will be 17' high with a 12' door.

Mr. Lewis asked if no part of this building is within the shoulders of the existing house.

Mr. Joyce said that is correct.

Mr. Lewis said we are already at 44' and the applicant wants to put this 20' off of the side yard and not behind the house at all.

Mr. Bruce said yes.

Mr. Lamanna asked if there is an existing garage.

Mr. Joyce said there is and it is attached to the house.

Mr. Bruce said there will be one door in the middle and there will be a double door on the side.

The board discussed the placement of the garage.

Mr. Lamanna asked if there will be anything in the way.

Mr. Bruce explained that pickup trucks have a real long wheelbase.

Mr. Lamanna asked about the size of the door.

Mr. Bruce said it will probably be a 10' door with a single door in the front and a double door on the side.

Mr. Murphy said the problem is that it was moved the wrong way according to the zoning regulations because the zoning regulations say that rather than going closer to the side yard setback you should try to stack separate buildings in line with your dwelling.

Mr. Bruce said that is why he was asking for a variance. He added that his neighbor's shed is real close to the property line and it has been there for years and his neighbor does not have a problem with this and he should have brought him to the meeting.

Ms. Sass said if he wanted to object to it he could have come.

Mr. Bruce said he has a double row of pines right on the property line and some just inside the property line and there is another row of pines another 20' so he will not have to take the trees down with this location.

Mr. Lamanna said if it was over 8' then the door would be lined up with the edge of the house so a vehicle could still be driven straight in and that would increase the setback to 28'.

Mr. Bruce asked about moving the garage in a little bit more.

Mr. Lamanna showed Mr. Bruce how he could center the garage door on his building and make the edge of the door in line with the corner of the house so the vehicle could go straight in so that would give an extra 8' so that would mean a 28' setback otherwise there would be an offset door that might look odd with the gable roof having a door off to one side.

The board discussed the width of the proposed driveway going back to the garage.

Mr. Bruce said even the house across the street has a building real close to the property line.

Mr. Murphy said a lot of people were earlier than us and got luckier. He added that this is a much better solution rather than putting it in the front yard and told Mr. Bruce that he hopes it works functionally for him.

Mr. Bruce showed the board per the GIS photo the location of the patio and tree.

Mr. Lewis told Mr. Bruce he can move the building deeper into the lot because the lot is plenty deep and he does not need a rear setback variance so if he is concerned about making the swing, the board is not setting a dimension from the rear of the house to the front of the building.

Mr. Bruce asked if it will be 28' off the property line.

Mr. Lamanna said it will be 27'.

The board discussed the height of the building with the 10' door.

Mr. Bruce agreed to the setbacks allowed by the board by initialing the site plan.

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

Motion BZA 2008-32 – 8573 Beacon Hill Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of constructing a building at the location as shown on the site plan admitted to the record, a 24' x 36' building, 15' high, and 25' behind the existing structure.

1. A variance from the minimum required side yard setback of 50' to 27' for a variance of 23'.

Based on the following findings of fact:

1. There is a practical difficulty due to the size of the lot, the existing structures and the existing tree growth on the lot.
2. Given the distance of the other structures from the property line it is consistent with the neighborhood and will not adversely affect the use of the property.
3. The building is solely for storage use and no business activities are to be conducted from the structure.

Ms. Sass seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Application 2009-5 by Jozef Kofol (Northwoods Grille) for property at 16381 Chillicothe Road - Continuance

The applicant is requesting an expansion of a non-conforming use by the addition of two lighted arch structures. The property is located in a R-5A District.

The zoning inspector's letter dated February 19, 2009 was read and photos of the site were submitted.

Mr. Lamanna noted that this is a continuance.

Mr. Jozef Kofol and Mr. Robert Ryan were present to represent this application.

Mr. Lamanna asked Mr. Joyce what he found out about this.

Mr. Joyce testified that he went there immediately after the meeting last month and took photographs and he has them available to show and they are probably better than a discussion. He said the height is 25' 10" and he explained that he took a tennis ball on a string and threw it over the top and took it down to the ground and measured the string and it has to be under 30' so it is okay. He displayed the photos and explained each one and his location when taking the photo, the light trespass and the location of the streetlight. He said it tends to get darker closer to the road and he showed the photo at the street looking back and the one where he is almost underneath the light. He noted the Woods of Wembley sign and the streetlight. He said when he drove out he specifically stopped underneath the light to see whether or not he got a lot of glare on his windshield from the light and surprisingly it did not bother him to see the road.

Mr. Lamanna asked if there is an exact measurement of the poles from the road.

Mr. Joyce said they are 35' to the center and 5' beyond the road right-of-way.

Mr. Lamanna asked if there are any building code requirements applicable to these types of structures.

Mr. Joyce said the building department will probably want a wiring permit but they won't get involved until after they have been through zoning so at this point depending upon what happens here, he will notify the building department.

Mr. Lamanna asked Mr. Joyce if he talked to them to see if there are any standards applicable to this kind of lighting.

Mr. Joyce said no he did not.

Mr. Lamanna said as he was driving around to look at what other people do that have sight lighting for access drives, most of them have their poles set in concrete around the base sitting up above the ground.

Mr. Joyce said they usually do have something to protect them.

Mr. Lamanna said he was wondering if that is a building code requirement or just well engineered.

Mr. Kofol testified that they are 6' down with an auger and the professional guys do 6' and his is also 6' down and his was professionally done.

Mr. Joyce said he thinks the concern is if a vehicle impacts the pole.

Mr. Kofol said it will not move it is 6' down in the ground and referred to the lights on the highway.

Mr. Lamanna said the highway lights are mounted to shear off and they have shear bolts on them and if somebody hits one, they break away and fall down, they are not an immovable object and they are bolted onto a concrete pad and they are not sunk in concrete so when they are hit they break off.

Mr. Kofol said his are 6' down and won't move.

Mr. Lamanna said that is why he wonders if there is not some building code requirement that deals with it.

Mr. Murphy asked Mr. Joyce if he happened to notice how many other mercury vapor lights are in his parking lot and noted that there is other lighting in the parking lot as well.

Mr. Kofol said yes and two lights are from the city and one light is his on the left side when you come in.

Mr. Murphy asked why they would be city lights on the side of his property.

Mr. Kofol said when he bought the place they were there already.

Mr. Murphy said they could be old parking lot lighting from years ago and added that they are wide open old style mercury vapor lamps there.

Mr. Olivier asked if one of the reasons for the light is safety.

Mr. Kofol said yes because they went into the ditch and explained that he hired a professional to install the lights. He said in the winter people went in the ditch because it was so dark and now it is okay.

Mr. Olivier said the light is there but there is no ditch on the south side.

Mr. Robert Ryan testified that the ditch is right off the apron.

Ms. Sass asked how far from the mounted light pole is the ditch.

Mr. Ryan said it is 6' – 8' and it is really close making the turn into the driveway in the dark and the seniors drive right into it.

Mr. Joyce asked Mr. Kofol and Mr. Ryan if they were sworn in.

Mr. Lamanna swore in Mr. Kofol and Mr. Ryan.

Mr. Joyce said the person who installed the light has to know to get a permit.

The board reviewed the zoning code regarding lighting.

Mr. Olivier asked Mr. Kofol if he considered small light poles or 10' lamps on either side to just show someone where the driveway was and essentially that is not lighting the ditch it is showing someone where to come.

Mr. Kofol said for the entrance in you would have to go between two poles.

Mr. Olivier said they could be shorter poles with a light on each pole and would accomplish the same purpose.

Mr. Kofol said they would have to be spotlights and it would shine the light in people's eyes.

Mr. Joyce said typically parking lots have a foot candle of around a 5 or a 6 and much less light would serve the purpose.

Mr. Ryan said the former manager did ask what they needed to put up and we discussed the amount of voltage on the light and Linda Kruse came down to this office here and got those specifications from this office so we wanted to follow that especially when we found out it was in violation.

Mr. Joyce said the voltage will be fixed at 10 volts and the voltage won't vary, it is the candle power or lumens.

Mr. Ryan said it was sent to this office whatever the light is.

Mr. Kofol said he will change it.

Mr. Joyce was referring to what Mr. Olivier was saying about two smaller decorative lights but you (Mr. Kofol) were saying you needed high intensity lights but typically you do not need high intensity lights for a parking lot like that but what he was referring to was entrance poles.

Mr. Kofol said if they are on the side they will shine in the eyes but if the spotlights are down, it won't get in the eyes.

Mr. Joyce said he was not designing them he was just adding to what Mr. Olivier had said.

Mr. Ryan said he thought he heard at the last meeting that that type of lighting (at the entrance to the driveway) is illegal in Bainbridge and there are a lot of people who have that presently in effect and they are common as to what he heard at the last meeting.

Ms. Sass said the board had talked about the location of the lights in the road right-of-way.

Mr. Joyce said that was a different issue.

Mr. Olivier asked Mr. Kofol if he has any plans to finish those posts with paint because they are kind of rusty.

Mr. Kofol said he can paint them and that is no problem when the weather gets nice.

Mr. Murphy said in the general provisions of the township zoning, there is something about outdoor lighting and the whole heading that starts the idea of outdoor lighting in the Township of Bainbridge is that "All outdoor lighting shall be of constant intensity and shall be directed, reflected or shielded so as not to be of excessive brightness or cause glare hazardous to pedestrians or drivers" and said he thinks the essence of Mr. Kofol's lighting doesn't get in the road and it does not cause glare out there. He said but the other half of this paragraph is "or create a nuisance or unreasonably interfere with the neighboring property owner's right to enjoy his property" and it seems that that is where we are at with this is that in fact you have this new light that was put up without a zoning request and you also have a street lamp that was erected on the left side of the parking lot that is another mercury vapor sodium lamp that is like on the highway and on the south side of the parking lot there are two existing street lamps that were there.

Mr. Kofol said they are not his, they are from the city.

Mr. Murphy asked Mr. Kofol if he pays the lighting bill on those.

Mr. Kofol said they were on there.

Mr. Murphy said after the meeting about a month ago he went up there and turned around and came up behind the neighbor's houses on the street and in fact that particular light we are talking about, it is what it is, at this point we don't have an architectural review board that addresses bad taste in light fixtures but you (Mr. Kofol) have a parking lot that is lit up in a residential community and you are running a commercial business there so it would be neighborly to be even more conscious of the fact to try not to cause a nuisance or interfere with neighboring property owner's rights to enjoy their property and it should be your responsibility to be a better neighbor because of that. He said this is not in a commercial district where the fact that there are three sodium vapor lights in the parking lot already, there are thousands of lumens in the parking lot already, it is well lit and there may have been problems with the driveway but he sees an issue that you (Mr. Kofol) are just adding more and more and the brightness and intensity of that light and it is a different color than the pink lights, this is an extremely high blue light.

Mr. Kofol said he can change the color.

Mr. Murphy said yes but it was put up without a permit and the neighbors weren't called to let them know about the additional lighting. He said a light variance was granted for the sign a couple of years ago.

Mr. Kofol said his manager was there and she told him she would take care of that.

Mr. Murphy said the neighbors had no problem with that sign and the board approved that sign here and it was the right size for the township and not over-lit and that sign did get approved but the power was dismantled and this light was put up.

Mr. Kofol said he can put shields down so the neighbors won't even see the light and he will put 4" around the light. He said the neighbor's were complaining about safety and people had to be pulled out and each day people were crying for an entrance light.

Mr. Lamanna asked why somebody couldn't put one of these up in a residential district if he wanted to put a light up over his driveway, what would stop him from doing that.

Mr. Joyce said not a thing as long as it meets the requirements and the zoning could not object to it, there would be no grounds if it meets the resolution.

Mr. Lamanna asked why technically this is an expansion of a non-conforming use if it is permitted.

Mr. Joyce said the resolution states that if you expand a building or a structure.

Mr. Lamanna said this is a structure but this is otherwise a permitted structure in this district.

Mr. Joyce replied yes.

Mr. Lamanna said it is an interesting question as to whether or not that is actually an expansion of a non-conforming use since it is permitted in the district.

Ms. Sass asked Mr. Joyce if he stood on the west side of Rt. 306 and took pictures.

Mr. Joyce said yes both sides.

Ms. Sass asked Mr. Joyce to go back to those photos.

Mr. Joyce displayed the photos and explained them again.

The board discussed the photos.

Mr. Ryan said the light hits the edge of the roadway and it does not go into the highway at all.

The board discussed the light and non-conforming uses.

Mr. Lamanna said this would be an otherwise permitted structure as he sees it.

Mr. Murphy said but in B it says “nor extended to occupy a greater area of land” and by building another structure on the property you have now extended or occupied a greater area of land.

Ms. Sass said the non-conforming use has not been enlarged.

Ms. Mary Ellen Knific testified that she is a resident of the Woods of Wembley and she has gathered some police reports because Mr. Kofol had said there were several accidents in the ditches but it does not prove that there has been. She asked if each of the board members received their letter.

Mr. Lewis asked if the letter writer is here.

Ms. Knific said some of them are but not 68. She submitted a copy of the police reports.

Ms. Sass asked if the police reports verify that accidents occurred.

Mr. Olivier said there was one at the Fellowship Church but not the restaurant.

Mr. Lewis said because someone drives into the ditch and needs to be towed does not constitute an accident.

Ms. Knific said there were four incidents.

Mr. Ryan said the information he got was from the tow truck driver and he said there were 12 in that area, not specifically that ditch, but in the area and three in their ditch.

Mr. Lewis said it would be helpful if the board had the reports that pertain specifically to this property and the person who said that they occurred because this is no way for the board to validate that.

Ms. Knific said there were a couple of accidents but they had nothing to do with this property. She said the board should have received a letter from Christopher Ernst who has the property that backs up or the back of his house faces the light and they have to close their curtains and it is very bright.

Mr. Lewis asked if he lives in Wembley and asked if this is in lieu of the street lights by all of the driveways and the big illumination light by CEI at the front entrance and when you are standing at the entrance to Wembley and you look at this light fixture it is a full cut-off and you can't even see the bulb.

Ms. Knific said it is bright and not that it is shining in your face like you are on stage but it is bright.

Mr. Lewis asked to look at the other slide that shows the sign for Wembley at the entrance.

Ms. Knific said and he wants to put another one on the other side like this one.

Mr. Lewis said you are permitted to put up a light that is fully covered.

Ms. Knific said she went down Rt. 306 by Goddard School, the Weils and Heinens and they all have a light that looks like the projector light that comes out and shines right down.

Mr. Lewis said that is what this does but it is a different architectural style.

Ms. Knific said this is bright like for surgery.

Mr. Lewis said we have not talked about the lumens yet but the zoning code does say that if it is over 2500 lumens it needs to be a full cut-off fixture and he is using the full cut-off fixture.

Mr. Olivier said based on our zoning code every driveway in a development could have that same light and added that the board has to interpret the code as it is written.

Ms. Knific said that Mr. Kofol said it was for safety because people were going in the ditches. She said she has been in her home for nine years now and there is plenty of lighting shining from his parking lot, he had a lit sign and it was approved, they took the light off of that for some reason, then they put this up saying people are going in ditches and there is no ditch at all where this light is at, it is on the other side.

Mr. Kofol said it is so dark.

Ms. Knific said it is not dark.

Mr. Lamanna said this is not a fruitful discussion because it really doesn't matter why he put it up and if he thinks it is better for safety we are not going to have a debate on whether it may or may not be for safety, it is not germane to the board's decision, he can either put up a light there or not put up a light there. He said if he (Mr. Kofol) decides that he thinks it is the best thing for his property and if he does it within what is permitted in the code, then he is allowed to do it and he may think he needs it for safety but it is not a debatable point, it does not matter and the decision the board renders is not influenced one way or another as to whether or not it is really for safety purposes and we have people in here arguing it who are not experts in this field. He said if somebody wants to argue that this is really needed for safety and it is a contentious point, somebody needs to bring in an expert who can tell the board because they have the knowledge to be able to say yes, this would be needed here or no it is not needed here, otherwise we have a bunch of amateurs trying to give an opinion on it.

Ms. Knific said on behalf of the Woods of Wembley residents they request that the board deny this variance.

Mr. Murphy asked about the location of Mr. Ernst's driveway.

Mr. Michael Climaco, resident of the Woods of Wembley, testified that Mr. Ernst's property would be on the back side of this and his backyard faces the current structure that is up as well as the proposed structure that will be put up on the other side of the driveway.

Mr. Murphy asked if he is by the pond.

Mr. Climaco said the pond would be in his backyard and that is why he indicated in his letter to the board indicating a light pollution issue and the request be denied based on the additional structure. He said he believes the other gentleman lives on the backside also and he will tell you that there is no ditch here.

Mrs. Karen Climaco asked Mr. Murphy about the code he read from the zoning resolution.

Mr. Murphy said that it “would not create a nuisance or reasonably interfere with the neighbor’s property owner’s rights to enjoy his property”.

Mrs. Climaco said thank you.

Mr. Climaco said he thinks in Mr. Ernst’s letter that is the point he was trying to make.

Mr. Lamanna said the board can’t accept his letter as any evidence in this case because he is not here.

Mr. Climaco asked not even a letter from an attorney.

Mr. Lamanna said no.

Mr. Climaco said but he is a resident.

Ms. Sass said but he is not here.

Mr. Lewis said there is no testimony.

Mr. Olivier said the letter could have been fabricated by another individual.

Mr. Lamanna said he is not here to be put under oath and cross-examined as to his testimony. He said he went out there and looked at these lights and the amount of light coming off the CEI fixture in the corner of the Wembley street that goes into Wembley is ten times more aggravating than the light coming off of his property.

Ms. Knific said that light is bright and it is yellow lighting and the street light is not a nuisance, it is softer.

Ms. Sass asked Mr. Joyce to go back to the fixture that shows the cut-off. She said there were two pictures that show it really well, the one from the apron of the Woods of Wembley subdivision and the other one where you can see out on the road where the light stops cascading down. She asked the residents to help her understand what the board is seeing and how that is wrong.

Mrs. Climaco said when you are standing in her front yard that creates a huge glow and there are a lot of lights lighting up the entire parking lot that is in a residential area, there are neon signs in the front window but now it is to a point that that bright light creates a bright glow and often times it is on all night long.

Ms. Sass asked about the glow of the light.

Mrs. Climaco said it is not like a spotlight and there is light pollution for lack of a better word, there are a lot of lights there and there is a difference between the soft yellow light in this room and a bright white light and it is just very bright.

Mr. Lewis said he is wondering how much of that is snow glare and what this would look like with no snow on the ground. He asked Mr. Kofol if his driveway is gravel or blacktop.

Mr. Ryan said it is blacktop.

Mr. Lewis said blacktop is not going to reflect the light, it is going to absorb the light.

Mr. Ryan said they were saying at the last meeting under oath that the light on the sign, which there was no light on the sign, was bothering them too and they said three times that that light was bothering them but there is no light on the sign.

Mr. Lewis told Mr. Ryan to stay on the subject.

Mr. Ryan said they are feeding into a frenzy here about something being on that is not.

Mr. Lewis told Mr. Kofol he is using this to safely indicate the entrance driveway for his business.

Mr. Kofol replied yes.

Mr. Lewis said there is a full cut-off, we have no height restrictions and there is no bleed-out onto the street and we have no jurisdiction over architecture so how much of this can be set aside easily by changing the bulb in the fixture to something that is substantially more neighborly where it will satisfy the applicant's requirement to indicate safely where the driveway is and it will get rid of the ultra white which will reduce reflections off the ground, it will reduce any ambient glare and it will probably be more consistent with the color of the lighting already on the property.

Mr. Kofol said he will do that and he will put in soft lighting, no problem.

Mr. Olivier said he is also interested in getting it painted to remove that rusty, run-down appearance.

Mr. Kofol said he will do that.

Mr. Olivier suggested to Mr. Kofol to work with his neighbors to decide on a color.

Mr. Lewis said this might be safer than with a pylon so if a car hits it, it will break off.

Mrs. Climaco asked the board to help her understand something and referred to what Mr. Murphy read about the enjoyment.

Mr. Murphy read from the zoning resolution “all outdoor lighting shall be of constant intensity, it shall be directed or reflected or shielded so as not to be excessive brightness or cause glare, hazardous to pedestrians or drivers, create a nuisance or unreasonably interfere with the neighboring property owner’s right to enjoy his property.”

Mrs. Climaco said her question is if he is allowed to turn this down based on the enjoyment of the neighbors.

Mr. Lamanna explained that it has to be “unreasonably” and that is the key word and it is a judgment call as to how much light is coming in.

Mrs. Climaco said so it is the board’s judgment.

Mr. Lamanna said yes and nobody is required to stop all of the light because there is no way someone could stop all of the light but the board has had situations where people had security lighting on the side of their building that is literally shining into somebody’s room and in those cases they had a direct view to see the light fixture and the light so those are generally fairly extreme cases where that has happened.

Mrs. Climaco said she just wanted to understand.

Mr. Lamanna said that is why they have the requirement for cut-off fixtures to eliminate that problem to the extent that it can be eliminated.

Mr. John Sowers of 8480 Woodberry Boulevard testified that the lighting needed to be uniform but obviously that light is not uniform with the other lighting on the property.

Mr. Murphy referred to constant intensity and appreciates that the difference between the lights is noticeable and excessive brightness, glare etc. and is already in favor of the residents because sitting at the end of the Wembley driveway there are seven or eight or nine mercury vapor or sodium highway lights all within view of that and the one right there in the parking lot on the south end of his parking lot that he says was there when he got there and the one closer to Rt. 306 so there are street lamps in the parking lot on the south side and a third one was installed on the north side and he thinks the one installed on the north side would be turned down because the lumens are higher than 2500 and it is not shielded. He said he thinks that some of the lights on Rt. 306 are not shielded, they are the old style highway lamps and the driveway lights next door he believes are shielded lamps and there are 27 lights going up the Fellowship Church driveway and he understands there are a ton of lights across the street from them but possibly it is the difference between this bright light because it is like one giant halogen bulb in the middle of a bunch of other soft light bulbs.

Mr. Kofol said it is no problem to change the light bulb.

Mr. Murphy said there is a big commercial light post on the property.

Mr. Kofol said that is not his, it is from CEI.

Mr. Lamanna said CEI just doesn't put a light there.

Mr. Murphy said somebody is paying for the electricity.

Mr. Ryan said Mr. Kofol did not install those lights so CEI or someone put those lights in.

The board discussed the lights in Mr. Kofol's parking lot.

Mr. Lamanna asked if it was established what the wattage of the bulb is.

Mr. Kofol said he can change the light bulb with a soft light and he can put a shield around it and on the pole.

Mr. Murphy suggested tabling this application for a month after the bulb has been replaced with a friendlier bulb and the parking lot lights are shielded and until we find out the wattage of that bulb.

Mr. Lamanna said the manufacturer will tell what the grade is.

Ms. Sass told Mr. Kofol to call Mr. Joyce when he changes the light and ask him to come and look at it and take some follow-up pictures.

Mr. Joyce said absolutely.

Mr. Lewis said when that is done the board can move forward and consider the second fixture that Mr. Kofol wants over the second driveway.

Mr. Kofol said he will do that.

Mr. Lamanna asked Mr. Joyce to also check with the building department for building code requirements for these types of things.

Mr. Lewis told Mr. Kofol that he can be coached as to what bulb to buy both on color and brightness and it will still satisfy his desire to mark his driveway.

Mr. Kofol said he will do that.

Mr. Lewis said this will be at the next regularly scheduled meeting.

Mr. Lamanna said yes if we don't have one next month, it will be in May.

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

Motion BZA 2009-5 – 16381 Chillicothe Road (Northwoods Grille)

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting which may not be until May, 2009.

Ms. Sass seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Application 2009-6 by Debra L. Simmons for property at 7386 Chagrin Road

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

The zoning inspector's letter dated March 19, 2009 was read and photos of the site were submitted.

Ms. Debra Simmons was present to represent this property.

Ms. Simmons testified by saying she is asking for a variance for a garage, a separate structure from the house and on the diagram submitted to the board the setback is 60' but it may be closer to 50' because she did a re-measure tonight just before she came to the meeting.

Mr. Lamanna asked how this is different from what the board looked at before.

Ms. Simmons said before it was an addition on the back of the house which was approximately 20' from the property line and the house sits back about 75' from the road.

Mr. Lamanna said you are adding a detached garage.

Ms. Simmons said eventually she is going to attach it and it is approximately 20' from her house.

Mr. Olivier asked if she will have a sidewalk to the house.

Ms. Simmons said yes and she can't push the garage back any further because the next corner of the lot has a telephone pole there and right behind the telephone pole it dips down pretty quickly and it is an unusable area.

Mr. Lamanna asked if the only thing is the setback here.

Mr. Joyce said it should be setback 100' from the road.

Mr. Lamanna asked if the existing house is 75'.

Ms. Simmons said it is closer to 50'.

Mr. Lamanna said and it can't go back farther because it drops off.

Ms. Simmons said yes.

Mr. Murphy asked if it will be in front of the existing building.

Ms. Simmons said yes it will be in the front.

The board discussed the previously granted variance whereby the applicant is to do a consolidation of her lots.

Mr. Lewis said it has not been satisfied.

Ms. Simmons said she has talked to Mr. Joyce about doing that.

Mr. Joyce said Ms. Simmons has until October 15, 2009 to consolidate the lots.

Ms. Simmons said the distance between the two buildings will be about 20'.

Mr. Lewis asked what the hold-up was on not getting the lot joining done.

Ms. Simmons said she just hasn't done it.

Mr. Lamanna asked what the lot coverage will be if the lots are joined.

Ms. Simmons said there are about 2.25 acres.

Ms. Sass asked what the lot coverage will be when everything is joined together.

Mr. Joyce said the lot coverage will not be an issue especially when the front building, which is in very bad shape, is removed.

Ms. Simmons said she wants to do that this summer.

Mr. Olivier asked how big the building is that is to be removed.

Mr. Joyce said it is approximately 1,200 sq. ft.

The board reviewed the decision from the last time.

Mr. Olivier asked if it exceeds the lot coverage now.

Mr. Lamanna said once the lots are merged it will be okay.

Ms. Sass said but they are not now.

Mr. Joyce said they are not joined at this time.

The board discussed the lots and the proposed lot coverage.

Mr. Lamanna suggested not issuing the zoning certificate for the garage until the lots are merged but it will be approved.

Ms. Simmons said that is fine.

Mr. Lamanna asked Ms. Simmons if that is as far back as the garage can go.

Ms. Simmons said yes.

Mr. Murphy asked if the typical front yard setback is 100'.

Mr. Lamanna said yes but the existing is 75'.

Mr. Lewis asked if there is a previous stipulation and understanding that the older house is going to be demolished.

Ms. Simmons said her plan is to put a septic system in this summer and the old building will be torn down.

Mr. Lewis said he does not know if the board had put that language of expectation in the first variance.

Mr. Joyce said it does create a non-conforming lot with two houses.

Mr. Lamanna said it could not be used as another residence but it could be kept as an accessory structure.

Mr. Joyce said the condition of the building was such that the Fire Department would not burn it down because it was so unsafe.

Mr. Lamanna said ultimately the board's preference would be that the garage is placed close enough to the house that someday it could be connected.

Ms. Simmons said yes with a 20' breezeway or something.

Mr. Lamanna said eventually the issue of the freestanding garage in the front yard goes away which the board does not like but this is a rather unique situation.

Ms. Simmons said she can't build to the side.

Mr. Lamanna said so this is a 60' setback issue.

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

Motion BZA 2009-6 – 7386 Chagrin Road

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of constructing a detached garage in the front yard with a setback of 60' from the right-of-way with the existing structure being setback at 75'.

1. A variance from the minimum required front yard setback of 100' to 60' for a variance of 40'.

Based on the following findings of fact:

1. A practical difficulty exists because of the unusual shape of the lot and the fact that the terrain drops off rapidly to a ravine so there is no other feasible location on this property to put this garage.
2. The applicant plans to connect the garage to the existing house so it will be a single structure.
3. It is not inconsistent with the neighborhood nor will it adversely affect the neighboring properties.

With the following condition:

1. With respect to this application to avoid creating issues with respect to lot coverage the zoning certificate will not be issued until the applicant actually completes the merger of the three lots as the applicant has agreed to do and without this merger of the lots the board would not make a finding in favor for granting this variance.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Since there was no further testimony, the public hearing was closed at 8:40 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: April 16, 2009

AUDIO RECORDING ON FILE

BZA PH 3/19/2009

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Bainbridge Township, Ohio
Board of Zoning Appeals
March 19, 2009

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:40 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

Meeting Schedule

The board acknowledged that there were no applications submitted for the April 16, 2009. Mr. Lamanna stated that if an application is submitted by April 1, 2009 the meeting will be held.

Secretary's note: Two applications were submitted by April 1, 2009 so the meeting will be scheduled for April 16, 2009.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the February 19, 2009 meeting as written.

Ms. Sass seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Applications for April 16, 2009

Application 2009-7 by Edward Svoboda for property at 17437 Traymore Drive

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

Application 2009-8 by Steve Renaker, Receiver Tanglewood for property at 8745 Tanglewood Trail

The applicant is requesting a modification to a conditional use permit for the purpose of "golf club allowing non-member play per pending Order of Court and HOA approval". 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 16, 2009 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 8:52 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: April 16, 2009