

Bainbridge Township, Ohio  
Board of Zoning Appeals  
March 18, 2010

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:09 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

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.

Application 2010-4 by Terry Boettcher for property at 8270 Bainbridge Road

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

The zoning inspector's letter dated March 18, 2010 was read.

Mr. Terry Boettcher was present to represent this application.

Mr. Boettcher referred to the GIS map and showed his house, driveway and property lines and testified that he wants to put a new driveway in and explained where it will be. He said he has a one-story 12' x 20' out-building already and it is just not big enough for storage. He said he has the clock store right across the street, in the Bainbridge Commons, and this is just three seconds away from his store and he does order special boxes and he tries to use this storage for his tractor, etc. and he has a couple of cars and with this building there is not enough space so he wants to build a 24' x 36' pole barn and what he is trying to do by asking for the 15' is to save a couple of the good trees that are Maples and Oaks that are on the property and work around that and just take down the ground cover so it would make better sense to put it here (he referred to the GIS aerial map).

Mr. Murphy asked what the side street is that is shown on the map.

Mr. Boettcher said it is Millbrook Drive. He said his neighbor just built his pole barn back here (he referred to the GIS aerial map) and his other neighbor's property line goes to 50' and there is nobody back there, it is Mr. Cindric's property line. He explained that Millbrook Drive was divided by the freeway and noted the location of Kingswood Drive on the GIS aerial map. He said there is no view from his other neighbor and Mr. Cindric's garage is this way (he referred to the GIS aerial map) so he thinks it will be totally out of view and it is all wooded back there and private.

Mr. Murphy asked about the houses on the left side of the photograph and which road those driveways are off of.

Mr. Boettcher said Mr. Cindric's driveway is off of Bainbridge Road, the other neighbor's driveway is off of Bainbridge Road and the others are off of the side street and the neighbor behind him is off of Millbrook Drive.

Mr. Murphy asked if that neighbor is here tonight.

Mr. Boettcher said no.

Mr. Olivier asked Mr. Boettcher if 50' would put it on top of his existing out-building.

Mr. Boettcher said it would put it too close to it and it wouldn't look right and he might lose a big Maple to put the driveway over there and any trees he would take out and he wants to leave the nice Oaks and Maples. He said unfortunately in the past he had too many Elms and they got Elm's disease so in the last couple of years he probably has taken out 30 trees and replanted about 18 Pines on the property to fill it back up again so he is still trying to keep it looking nice and he does not want to degrade the property or the neighbors, that is not what it is all about.

Mr. Horn asked Mr. Boettcher if he is going to keep the existing structure.

Mr. Boettcher said yes and if he was a country person he would have never built that building in the first place but unfortunately being a city boy he thought that that building was going to be sufficient when he put it up and he learned a lesson that it is not. He said he can't put a tractor and all the snow blowers and ladder in and expect to shut the door.

Mr. Horn asked what material the driveway is going to be made of, will it be concrete or asphalt.

Mr. Boettcher said it will be asphalt going to the cement pad and then he was going to go with asphalt back to the pole barn and there will be a cement pad in the pole barn.

Mr. Horn asked if that has been taken into account for lot coverage.

Mr. Shane Wrench, Zoning Inspector testified by saying yes.

Mr. Boettcher said in fact with it being wet, he will probably go over further off of the line but he asked for 15' just to try and save as many of the nice trees as possible.

Mr. Murphy asked Mr. Boettcher if he thinks the red lines on the GIS aerial map could be wrong.

Mr. Boettcher said he actually has a variance because the west side of his house is 38' from the line when they built it but that was done before he bought the property from Mr. Johnson who already had a variance on it.

Mr. Murphy asked Mr. Boettcher if he thinks the concrete parking pad is over the line.

Mr. Boettcher said no and explained the location of the steel pole which is in the bushes and that is why he wanted Mr. Cindric to come tonight.

Mr. Horn asked about the red line.

Mr. Murphy said it is supposed to be Access Geauga's line and explained that they are fairly close but they could actually be 10' to 20' off easily until somebody brings it to their attention and they fix it.

Mr. Boettcher said he didn't fight his neighbor on the last one but he doesn't think his neighbor's barn is 50' off the property line either.

Mr. Lamanna asked if that is the one with the red roof on it.

Mr. Boettcher said yes, the one with the red roof.

Mr. Lamanna said but the one with the red roof is inside the house line and it is pretty much centered on the lot.

Mr. Murphy said the one lot off of Millbrook Drive is dead on, it shows the centerline to the road and it shows so many feet to the red line and the next property and it shows Mr. Boettcher's driveway pad being off.

Mr. Lamanna swore in Mr. Robert Cindric.

Mr. Robert Cindric of 8244 Bainbridge Road testified that the marker on Bainbridge Road is off to the left.

Mr. Murphy asked Mr. Boettcher if he is saying the red lines are wrong.

Mr. Boettcher said that is very possible.

Mr. Lamanna said the board has a drawing of the property in the application and asked where that came from.

Mr. Boettcher explained the site plan and said that he submitted it.

The board discussed the setbacks of the existing house.

Mr. Horn asked what the width of the lot is and said it seems to go back in a straight line and asked if the width is constant.

Mr. Boettcher said it is 150' in the front and 140' in the back.

Mr. Lamanna said so somewhere in the middle is about 145' but the house looks almost centered on the lot.

Mr. Horn asked if the proposed structure is 24' wide.

Mr. Boettcher said it is 24' wide and 36' in length and he thinks it is about 21' high.

Mr. Horn asked if the house is 27' high.

Mr. Boettcher replied yes.

Mr. Murphy asked if it could be tied together with the existing shed to make it look like one single structure behind the house.

Mr. Boettcher said he wanted to attach it to the house and put it right here (he referred to the GIS aerial photo) but he has his water well there and it would be just too close to the well to pass the EPA but he would love to just tie it in with his house because he is going to use the same siding color as his house.

Mr. Lamanna asked where the septic field is.

Mr. Boettcher referred to the GIS aerial photo and said it is all in the front.

Mr. Murphy asked if there is no way to tie it in architecturally to the existing structure to the back, add it to that footprint and combine the two together by adding the new 24' x 36' structure to the 12' x 20'.

Mr. Boettcher said he would then have to lose all of the Maples and he showed the board on the GIS aerial photo the location of all of his nice trees and added that he is trying to fit this in without taking all of those nice trees out.

Mr. Murphy asked Mr. Boettcher to show the board on the GIS aerial photo the location of the new structure.

Mr. Boettcher showed the board on the photo and said he does not think it will go to 15' and if he can take it to the right he will but he just does not want to cut down the nice trees.

Mr. Olivier said it would be no closer than 15', maybe 18'.

Mr. Boettcher said he could be 30' away from the line and he is trying to figure out how close he can come to the tree without ruining it so he is trying to keep the nice trees and it is costing him extra with the driveway and if he could have tied it into his patio, he would have loved it.

Mr. Lamanna asked Mr. Boettcher what would prevent him from putting it forward of the existing building.

Mr. Boettcher said it would not look good in the middle of the yard and it would be too close to the house, he has a beautiful backyard and it is landscaped and he put in about 20 Pine trees to block a bad view of a greenhouse next door that is existing and he is not trying to degrade his property he is trying to make it look better.

Mr. Lamanna said he understands that but the board's difficulty is that the standard for granting a variance is there must be a practical difficulty which means there must be a reason owing to the physical condition of the property that you cannot place the structure within the setback limits established.

Mr. Boettcher said he can't put it where the well is and if he has to put it close to the other building or even up to it he will have to chop down three gorgeous trees instead of taking out all of the bad trees that are in the middle of the forest that are half dead now anyway.

Mr. Murphy asked if the 12' x 20' is on a slab or gravel.

Mr. Boettcher said yes.

Mr. Murphy asked if it is a moveable structure and if it could be pushed back and the new structure would be placed where the smaller structure is.

Mr. Boettcher said it would probably cost another \$15,000.

Mr. Lewis said it would save the trees.

Mr. Murphy asked if the new structure could be placed directly behind the existing structure with no variance required, straight behind it or attached.

Mr. Boettcher said with having a garage door in it he would have to turn it a different way and he could see aesthetically it would look bad and he has to look at it out his back window and so does his neighbors and if someone is going to buy that house again he does not want it to look bad. He said it would go the same way as the other building, you will only see the front (24') and it is going to be back in the woods a little bit.

Mr. Boettcher continued by saying if the board can find a better place without cutting any trees down, but it would be easier to put it where the board first said but he would be losing all of his nice trees and he thinks somebody should try to keep nice trees instead of cutting them all down for the sake of building something, especially with all of the garbage in back of him.

Mr. Horn asked if this is a three acre zoned area.

Mr. Wrench replied yes.

Mr. Horn said he has 1.66 acres but to a certain extent the board has to look at this case along with other cases and potentially anybody could come in and say they have a tree they don't want to cut down, so give them a variance so that is what the board has to wrestle with.

Mr. Lamanna said unless you happen to have the oldest tree in Geauga County or some incredible specimen.

Mr. Boettcher said they provide beautiful shade for his backyard.

Mr. Lamanna said he understands and the board is not against trees.

Mr. Boettcher said he is going to try to move it off of that 15' as much as he can.

Mr. Lamanna said it is not a legal basis for granting a variance.

Mr. Lewis said with almost every new construction in the more rural areas, there is some deforestation on every lot to accommodate the new house or primary structure so all property owners have to make a decision on what is the trade-off, if they want the structure, they are going to give away some of their land siting and what is on it. He said the challenge here is back to Mr. Boettcher and there does not appear to be a practical difficulty to grant a side yard variance when there is plenty of width in his yard.

Mr. Boettcher asked if he could go to 25'.

Mr. Lamanna said his thought is more like about 30'.

Mr. Lewis said even at 25' it is a 50% variance and that is very substantial.

Mr. Murphy said there is actually a newly created direction from the township that says if your house is 35' off the lot line then try to keep the sheds the same distance.

Mr. Boettcher said up and down Bainbridge Road it looks bad with sheds.

Mr. Murphy said there are things that were here before us.

Mr. Lamanna said if you can't change things then nothing ever improves, sometimes you have to draw a line and then go forward, that is the way it is.

Mr. Boettcher said he will go with 30' and see what he can do.

Mr. Lamanna said given the fact that the lot is narrower at that point, some relief there is appropriate and asked if that is the rear of the lot coming from the left.

Mr. Boettcher said yes there is still 100' plus past there, it is 120' to the house and 210' so he has about another 280'.

Mr. Murphy asked if the flag part of the lot is all wooded.

Mr. Boettcher explained that you can't do anything with the flag property and it can't be built on without a variance and there won't be anything visual being 15' to 30' off the lot.

Mr. Horn asked if Mr. Cindric's lot goes back equal to the back of Mr. Boettcher's lot.

Mr. Boettcher said Mr. Cindric's lot goes all the way back there.

Mr. Horn asked how wide that is.

Mr. Boettcher said 50'.

Mr. Lewis asked Mr. Cindric if he is okay with this.

Mr. Cindric said he has no problem with it.

Mr. Murphy asked Mr. Cindric how many acres he has.

Mr. Cindric said he has 1.6 acres.

Mr. Murphy asked Mr. Cindric if he is going to sell the flag lot to the neighbors.

Mr. Cindric said no.

Mr. Lamanna said 30' is pretty generous.

Mr. Lamanna said there should be a map of exactly where the trees are and a photograph but under the circumstances here, 30' is pushing the limit of what is really justifiable.

Mr. Boettcher asked if Mr. Wrench can tell him or estimate on the side of the building where the line would be.

Mr. Wrench said it is around 70'.

Mr. Boettcher said 30' and 24' is 54'.

Mr. Murphy said it would be 24' off of the shed then.

Mr. Boettcher said that is exactly what he was going to try to push it off to anyway within that 5' because he wants to go around the trees that are there with the driveway so that is where he wanted to gently push it, over here, (he referred to the GIS aerial photo) so 15' was what he was asking but 25' would be gracious.

Mr. Lewis said 35' would be better.

Mr. Murphy asked Mr. Boettcher if he was planning on lining the new building up with the shed or putting it behind it.

Mr. Boettcher said it will be behind it.

Mr. Murphy said by going even deeper if it could be moved back to the right side.

Mr. Boettcher said aesthetically if it goes and overshadows this, it will look bad, he can't build onto the shed because of the trees and the hardship of \$15,000 probably for them to have a crane brought in to move the building back 10' or 15' in the middle of the woods, it would be better to blow it up and get insurance money from it and be done with it.

Mr. Lamanna told Mr. Boettcher that the easiest would be to grant 30' and if he runs into a problem, bring in some photos and accurate measurements and the board could look at it.

Mr. Lewis said he wants to address the use of the barn because it is an accessory storage structure, this is not a business shop, and it is not a manufacturing building so the board will probably put some language in the motion to make sure that that stipulation is clear just so there is no misunderstanding down the road.

Mr. Lamanna told Mr. Boettcher that he must comply with the accessory structure regulations unless a home occupation permit is obtained.

Mr. Boettcher said it is going to be used for cars and storage.

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

Motion BZA 2010-4 – 8270 Bainbridge Road

Mr. Lamanna made a motion to grant the applicant the following variance:

1. A variance from the required side yard setback of 50' to 30' for a variance of 20'.

Based on the following findings of fact:

1. There is a practical difficulty because of the narrowness of the lot at the point of which the barn will be constructed.
2. There will be a limited effect on the adjacent property because immediate to the adjacent property there is an un-buildable flag extension and beyond that is the rear yard of the adjoining lots on that side of the property so it will be set back significantly from the houses on that side of his property.
3. The board notes that it is a rather large barn and it is an accessory structure and should only be used for the allowable accessory uses in the zoning code unless further application is made in accordance with the zoning code.

Mr. Lewis seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Since there was no further testimony, the public hearing was closed at 7:41 P.M.

Respectfully submitted,

Christopher Horn  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy  
Mark Olivier

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

Date: April 15, 2010

AUDIO RECORDING ON FILE

BZA PH 3/18/2010

-10-

Bainbridge Township, Ohio  
Board of Zoning Appeals  
March 18, 2010

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:41 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Mr. Lamanna welcomed newly appointed member Mr. Christopher Horn to the board to fill the unexpired term of Ms. Lorrie Sass.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the February 18, 2010 meeting as written.

Mr. Lewis seconded the motion.

Vote: Mr. Horn, abstain; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Other Business

Mr. Shane Wrench, Zoning Inspector met with the board to review a letter from the Army Corps of Engineers, dated February 19, 2010 regarding property at 8105 Bainbridge Road.

Meeting Schedule

Since there were no applications submitted for the April 15, 2010 meeting the board was in agreement to cancel the meeting.

Mr. Lamanna made a motion to cancel the regularly scheduled meeting of April 15, 2010.

Mr. Lewis seconded the motion.

Vote: Mr. Horn, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

Since there was no further business, the meeting was adjourned at 8:00 P.M.

Respectfully submitted,

Christopher Horn  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy  
Mark Olivier

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

Date: April 15, 2010