

Bainbridge Township, Ohio  
Board of Zoning Appeals  
June 17, 2010

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:02 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 2010-8 by Mark Nelson for property at 16870 Chillicothe Road

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

Mr. Lamanna made a motion to postpone this application to the July meeting at the request of the applicant.

Mr. Lewis seconded the motion.

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

Application 2010-9 by Scott C. Hartman for property at 17665 Haskins Road

The applicant is requesting area variances for the purpose of constructing a pole barn. The property is located in a R-5A District.

The zoning inspector's letter dated June 17, 2010 was read.

Mr. Scott Hartman was present to represent this application.

Mr. Hartman testified that he wants to construct a pole barn for the purpose of storage of lawn equipment and a workshop for wood. He said the history on this property is he bought this back in 2006 and it was close to foreclosure and he cleaned the property up and made a lot of improvements to it and the problem is the side variance because there is a pool in the back and a septic system which allows him to put it only in one area. He said the water flow area is a hindrance to the back section and also the replacement area of the septic system.

Mr. Horn asked if the pool was in when he purchased the property.

Mr. Hartman said yes it was.

Mr. Horn asked how far off the existing house is from the lot line.

Mr. Hartman said the pool right now he believes is 50' from the property line so the garage part of it is about 42'.

Mr. Lewis asked if it is 42' off the lot line.

Mr. Hartman said the building will be 24' wide and 20' off the edge of the property.

Mr. Olivier asked about the other side of the pool.

Mr. Hartman said the septic system is there and down in the back section there is where the septic system field is now and said a swale flows right down to the back area, the watershed, and you can't put anything in that area.

Mr. Olivier asked Mr. Wrench to put the topo of the property on the GIS aerial photograph.

Mr. Wrench put the topo lines on the GIS photo of the property for the board.

Mr. Olivier asked if the swale is on the diagonal of the property.

Mr. Hartman showed the swale to the board via the GIS photo and explained how the water flows through his yard and where the septic tanks are located. He said he would like to put the structure right in this area right in here (he showed the board the location on the GIS aerial photograph), not too far off the driveway. He said the neighbors got a variance for their garage and they are 20' off the property line and he talked to the neighbors and in fact they sent a letter.

Mr. Olivier asked about locating it further back in the center of the lot.

Mr. Hartman referred to the GIS aerial photograph and said this area right in here is probably an 8' drop off. He said there used to be a barn or some building right behind the pool at one time and he cleaned the whole thing up and filled that area in behind there to slope it down but it was a real drastic fall and again, the water flow comes right down in that area, down to the neighbors.

Mr. Horn asked if his septic is located north of the pool.

Mr. Hartman said that is correct, yes.

Mr. Horn asked how big the proposed building is.

Mr. Hartman said 24' wide by 48' long.

Mr. Lamanna asked how tall it will be.

Mr. Hartman said he believes it is 24' high.

Mr. Murphy asked if it will be a two story with a second floor.

Mr. Hartman said it will have storage area up there yes, just storage and not living space.

Mr. Lewis asked how high the house is.

Mr. Hartman said it is a two story house.

Mr. Murphy asked if there is vinyl siding on the house.

Mr. Hartman said yes and showed the board a picture of the house now and a picture of the house before. He said he has been working hard on it to try and improve it because it was in very poor shape.

Mr. Horn asked if the garage is included on the drawing.

Mr. Hartman said the drawing includes the garage.

The board discussed the existing setbacks.

Mr. Hartman said that Mr. Steve Ciciretto felt that being an existing lot it really fell closer into the 1.5 acre parcels which are 20' side yards and this is 1.75 acres.

Mr. Horn said we don't have zoning for 1.5 acre parcels.

Mr. Hartman said you have parameters for existing lots.

Mr. Lamanna said the problem here is we have an outbuilding that is the size of a house and it's lying laterally along the setback line and typically the house would be oriented the other way so with what we are dealing with is a very large structure sitting pretty close to the line, 48' long. He asked if that is the adjacent house at the bottom of the picture.

Mr. Hartman said correct and the house is at the corner of Bainbridge and Haskins.

Mr. Horn asked if that is 28' off the line.

Mr. Hartman said yes, theirs is 28'.

The board discussed the site plan and the neighbor's property.

Mr. Horn said and you can't move the proposed building closer to the pool because of the swale and then you have a fence around the pool.

Mr. Hartman said yes and explained the natural flow of the water.

Mr. Horn said the addition of the building will put the property over lot coverage so that would be a variance. He asked how far the house is off the lot line to the north and if it is more than 50'.

Mr. Hartman said no, he does not believe it is.

Mr. Lamanna said it is already at the maximum lot coverage.

Mr. Wrench testified that it is 52'.

The board reviewed the application.

Mr. Olivier asked Mr. Hartman if he needs a building this large or can it be scaled back.

Mr. Hartman said he would like it to be that size, does it need to be, probably width wise he would like it to be that wide. He asked how much he would have to reduce the size of it to comply.

The board discussed the lot coverage.

Mr. Murphy asked if there is anybody here that has anything to say about this.

Mr. Hartman said the neighbor sent a letter with no objection.

Mr. Murphy said we like to try to keep things behind the house and it is a small lot to begin with and asked if the board can see both property lines on the GIS.

Mr. Lamanna said we are looking at a 20% variance on the lot coverage which is pretty substantial and it is not like it is a half acre or  $\frac{3}{4}$  acre lot.

Mr. Lewis asked Mr. Hartman what he is planning to do with this structure.

Mr. Hartman said his current garage has lawn mowers, a motorcycle and woodworking equipment, a trailer, a boat so he is trying to keep everything stored away and the truck he uses for work he would like to put in there too because it is sitting out in the driveway.

Mr. Lewis said it is big, it is on the lot line really close and we have a significant lot coverage issue. He told Mr. Hartman he has a lot to store and he is already at the limit.

Mr. Hartman asked if even if the building is half that size would it still be an issue.

Mr. Horn said the pool adds to the lot coverage. He asked Mr. Hartman if there is another place he can put it within the setback because it appears based on the representation with the pool and with the topography and with everything else that that is difficult to do and the lot coverage is at the point to put it over and this is an optional building and not necessary for the home, it is something you would like and thirdly as the other gentlemen have spoken it is the size of the structure because a lot of them are 10' x 20' or something like that so there are a couple of issues here.

Mr. Lamanna asked Mr. Hartman if he has looked at extending his garage out, is it possible or an alternative.

Mr. Hartman said that is not exactly what he wants to do, add onto the garage because it would make the house longer and longer. He said with the detached building and the topography of the property that starts to slope off, that building is not going to be sitting up to the same height the house is, it starts to go down and drop off about 4' so it will not sit higher than the other house, it will sit down in.

Mr. Lamanna said if you extended the garage then you would not be increasing the lot coverage because it is already a paved area so if you extended your garage out and made it a front entrance, you already have an existing paved area so you aren't increasing the lot coverage.

Mr. Hartman said he understands.

Mr. Lamanna said he has a bigger problem with the lot coverage than he does with the location because there is at least a reasonable basis for the side yard based upon the practical difficulty of the shape of the property, the drainage swale, location of the septic and all of that. He said he is having a hard time with what is the basis for saying you want to increase the lot coverage by 20% because it is a pretty sizable lot already, like he said, it is not a  $\frac{3}{4}$  of an acre lot and they have a reason to get relief just because when you look at  $\frac{3}{4}$  of an acre the amount of total coverage you can get is not all that significant but when you are starting off with 1.75 acres, 10% gives you a pretty sizable amount of building footprint so that is the difficulty he is having and the lot coverage is probably at or over 10%.

Mr. Murphy said he looks at it the other way because what he has done looks beautiful compared to what was there and he thinks it is a small lot compared to the three acre minimum zoning which is what the percentages were written on and he is stuck with that darn pool when he bought the house so he doesn't have a problem with it.

Mr. Lamanna asked what if the size is brought down to 32', two thirds of what it is and asked Mr. Hartman if he can live with that and that reduces the lot coverage issue.

Mr. Hartman said down to 32', probably but if he had his choice he would stick with what he had.

Mr. Lamanna said he understands that.

Mr. Olivier said there is nothing else you are going to lose, the driveway, pool.

Mr. Lamanna said there is really nothing that you can give up but he thinks if it was reduced down and the other thing the board would like to see is some landscaping along the side of it because it is plain.

Mr. Hartman said he doesn't have a problem with the landscaping.

Mr. Lamanna said they are only talking about a few shrubs so you don't see a big flat expanse because there are not windows in it so it is a pretty long unadorned structure so if some bushes and shrubbery are put across there when somebody looks at it, it won't be quite so unappealing.

Mr. Hartman asked if he can get away with 40'.

Mr. Lewis said the board is trying to get the lot coverage from 12% to about 11% because we have ten percent lot coverage maximum, 20% is really substantial.

Mr. Hartman said okay.

Mr. Lewis said it rests on practical difficulty and the nuances of the land.

Mr. Horn asked what the lot coverage is now and if it is right at 10%.

Mr. Lamanna said yes but it is probably a little over and it is going from 10% to 12% so it is a 20% variance.

Mr. Hartman said so he will have a 32' long building then.

The board replied yes.

Mr. Hartman asked if he needs to submit new plans showing it.

Mr. Lamanna said no, the board will act on it and does not need new plans.

Mr. Wrench said the building department might want new plans.

Mr. Lamanna said it will be the same shape, size and structure.

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

Motion BZA 2010-9 – 17665 Haskins Road

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing a 24' x 32' pole barn generally in accordance with the plans submitted by the applicant as the structure and shape of the building but with the change of the length of the building from 48' to 32'.

1. A variance from the minimum side yard setback requirement of 50' to 20' for a variance of 30'.
2. A variance from the maximum permitted lot coverage of 10% to 11.5%.

Based on the following findings of fact:

1. There is a practical difficulty in terms of locating this barn because the other locations on the property are occupied by a septic system and there is also a natural drainage swale which prevents the pole barn from being moved closer into the property and farther from the lot line.
2. Because of the location of the adjacent property owner's house and the drop off in the terrain going back from the existing house where the pole barn will be located, it will help to shield it from site and reduce the impact on the adjacent property.
3. In order to further reduce that impact and allow for the granting of this variance the applicant will landscape the side of this pole barn facing the adjacent property so as to provide some screening and a more attractive appearance to the side of the pole barn.
4. With respect to the use of this barn the board notes that it is to be used at this time only for storage and not for the conduct of any business unless the applicant comes in and obtains the appropriate home occupancy permit for such uses.

Mr. Lewis seconded the motion.

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

Application 2010-10 by Kim Phillips c/o Dalcan LLC dba Panera Bread for property at 8480 E. Washington Street

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

The zoning inspector's letter dated June 17, 2010 was read.

Mr. Bruce W. Sekanick, Architect of Phillips-Sekanick Architects Inc. was present to represent this application.

Mr. Sekanick testified that he is representing Panera Bread and he is here tonight to talk about the Panera Bread that is proposed for McFarland's Corners and what they are looking at are their monument signs at the roadways. He said currently there are two parcels owned by the same property owner, one is the multi-tenant parcel where Panera Bread is going and the second one is the Heinens grocery store and both are under the same management. He said Property #1 which is where Panera Bread is going is currently not served by any monument sign at all and Property #2 which is Heinens has the monument over on E. Washington Street. He said what they are requesting as far as the overall review of the monument sign package is first of all you are permitted one monument sign per building so Panera would be permitted, one because there isn't one for that entire building complex and the second one is permitted one per parcel and the location that we are proposing it now, the larger part of the ingress and egress for Panera Bread is actually part of the Heinens parcel so we are requesting two monument signs, one would be on E. Washington Street that have both the signage for Heinens and Panera Bread on it and the second one on Chillicothe Road would be identical to that sign would also have Heinens and Panera Bread on that sign so really what we are looking at, we are allowed two signs but because we are actually going to be on one parcel is what we are looking for that variance for. He said the other requirements that are less severe include a 40 sq. ft. limit on one side of the face and they have 36 sq. ft. per face which is in compliance and the owner has also indicated that there will only be two tenants permitted on that sign which is what the zoning department says and those will be limited to Heinens and Panera Bread and a copy of the proposed signs are in the packets he submitted. He said there is information from Heinens as well as the property owner who owns both parcels where the Panera Bread is located. He said they think that overall this sign works with the entire plan and setting of what they are trying to work with there, it really nicely ties in with the parcel and Panera Bread is underrepresented by Heinens right now and it ties it very nicely with their sign package with Heinens and Panera Bread.

Mr. Horn said they are not requesting a variance in size just number.

Mr. Sekanick said yes, number because we are putting two on one parcel and they are doing it on the Heinens parcel even though they are both under the same ownership. He said they could literally put another sign somewhere on the parcel with Panera Bread but they are trying to get signage for both Heinens and Panera on both Chillicothe and Washington.

Mr. Horn said so you could put the sign for Panera further to the left.

Mr. Sekanick said yes further down on Washington to be fully compliant but then Heinens would still have theirs on Washington too but then nothing on Chillicothe. He said the sign they are proposing for Panera Bread on Washington would be at its identical location where the monument sign is right now and it sets back far enough from the street right now where there is really no ingress/egress division issues that you need to be concerned with.

Mr. Lewis asked if the other sign on Chillicothe Road would be the same distance off the road as the one is on Washington.

Mr. Sekanick said it would be located right at the property line but it is not located right at an ingress/egress location there.

Mr. Horn asked if it is similar to where the temporary sign is now located.

Mr. Sekanick said he believes so, yes and it is just the idea that they are trying to coordinate this between the entire plaza complex there.

Mr. Olivier asked if the one on Chillicothe is set far enough from the right-of-way to not have any view obstructions for people turning left onto Chillicothe.

Mr. Sekanick said it is set back behind the property line and it is far enough away from the location of the curb cut there that it is really not an obstruction, you can see far enough down the road.

Mr. Lamanna said you can't turn left on E. Washington, it is a right turn only.

Mr. Olivier said people make a left onto Chillicothe Road.

Mr. Horn said it is not near an entrance.

Mr. Sekanick said it is not near an entrance, it is far enough away.

Mr. Lamanna asked if these are being treated as two separate parcels here.

Mr. Sekanick said Panera is on one parcel and Heinen's is on another but we need a variance because both signs are actually on one parcel.

Mr. Lamanna said they are owned by the same owner.

Mr. Sekanick said that is correct.

Mr. Lamanna said as a matter of record he wants to treat this application as being an application with respect to both parcels and what we show now is that this application is binding on both parcels and that any decision will be binding on both parcels.

Mr. Sekanick said he believes that that is the intent and it is spelled out in the letter.

Mr. Lamanna said he just wants to make sure for the board's purposes that the record reflects that this application is made for both of these parcels because otherwise if it shows up on an application with respect to a certain parcel then the board will have a decision to make.

Mr. Horn said or if the parcel owner comes in and wants one and asked what the standard is.

Mr. Lamanna said it is a practical difficulty type standard and what makes sense given the nature of the property, the location, the visibility and the roads.

Mr. Horn said as Mr. Lamanna points out to restrict the other property.

Mr. Lamanna said generally the practice has been when you have properties that face two major streets the board has allowed signage on both of the major streets but if somebody has single frontage the board has allowed signs on the side of the buildings where they have faced two streets and certainly here there are two major arteries of the township and this is on the corner, it is not a bank on the corner. He said here there are two sizable parcels and if in some future date they want to put another one down here, he referred to the site plan, but because of the fact that it is carved out in the middle and because of the weird shape of the lot, if somebody comes in at some future date and said it makes sense to have a monument sign down at the other end that would make sense to him too to cover the tenants at the other end. He said these signs are very reasonable and within the size limitations but we have a situation where they are fronting on two major streets so given the structure and the layout here he does not see that this is really an unreasonable situation and it is consistent with what has been done elsewhere with properties that face major streets. He said technically it is an off-premises sign but certainly it is not what the off-premises sign restriction was intended to prevent and most people think that this is all one center.

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

Motion BZA 2010-10 – 8480 E. Washington Street (Panera Bread)

Mr. Lamanna made the following motion:

With respect to two properties, one of them located at 8480 E. Washington Street and the other one located adjacent to it that the applicant has requested a variance for the purpose of installing two conforming ground signs on the parcel containing the Heinens store located and fronting on E. Washington Street and Chillicothe Road. These signs will advertise Heinens which is located on that parcel as well as the Panera Bread which is located on the adjacent connecting parcel at the end of the strip center located on that parcel. The applicant is requesting a variance for two ground signs which the board will grant and also a variance technically for the off-premises advertising since it is located on the adjacent parcel. The board is treating this application as being a combined application of both these parcels and the granting of two ground signs on this parcel will be counted as a ground sign applicable to the parcel where Panera Bread will be located so any additional ground signs on that parcel will require obtaining a further variance.

Motion BZA 2010-10 – 8480 E. Washington Street (Panera Bread) - Continued

Based on the following findings of fact:

1. The reason for allowing two signs is the shopping center is located on two major highways.
2. There will still only be two ground signs total for these two parcels.
3. They are both conforming in the size and location so they will not adversely affect any traffic flow or obstruct any line of site.
4. Although technically these are off-premises advertisements these two parcels effectively operate as a single parcel and a single shopping center and do not violate the intent of the prohibition against off-premises advertising.

Mr. Lewis seconded the motion.

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

Application 2010-11 by Bainbridge Shopping Center II, LLC for Five Below for property at 7145 Market Place Drive

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

The zoning inspector's letter dated June 17, 2010 was read.

Mr. Joel Frezel of Ace Lighting Services was present to represent this application.

Mr. Frezel testified that his variance request is for a sign over 15' from grade. He referred to the elevation drawings and said the sign has to be above the 15' level because of the construction of the store front of the building and there is a designated sign area on the building.

Mr. Lamanna asked if that is the only thing the board is looking at here, the height of the sign, the size and everything else is in conformity.

Mr. Frezel replied yes.

Mr. Horn asked if there was a sign there before for a previous tenant.

Mr. Frezel said he is not aware of that, he believes that this is a new store front.

Mr. Wrench testified that it is the old GNC store.

Mr. Lewis asked if the board gave a variance for the GNC sign.

Mr. Wrench said he does not know.

Mr. Olivier said the box is the same it just stayed within the box.

Mr. Murphy said this picture here doesn't have it, the existing says there is nothing on that section here, no box or anything according to this.

Mr. Frezel said if you look over here, he referred to the elevation drawings, you can see that is an empty space and he was under the impression that is an empty store front.

Mr. Murphy said not only are the letters whatever size they are but the bright blue painted thing becomes part of the sign and it is huge compared to the rest of everything else.

Mr. Lewis said it is, it is a huge box.

Mr. Lamanna asked if the box is being added.

Mr. Frezel said it is not a box it is a wall and what we are proposing to put on there are three 33" high by 19'-7" channel letters, white faces, LED illuminated which comes to a total of 54 sq. ft.

Mr. Murphy asked what the size of the bright blue background is.

Mr. Frezel said he has no idea because that is not part of the sign, it is the build-out from the shopping center.

The board discussed the other signs within the shopping center.

Mr. Frezel said it is about the same height as Famous Footwear.

Mr. Lamanna said it is lower than Babies R Us.

Mr. Frezel said the bottom of the sign is noted here at 22'-2" and the top is 24'-11" and the soldier course of the brick is approximately 16'-4".

Mr. Olivier asked Mr. Frezel if he has a color picture of the Famous Footwear sign and what color the background is.

Mr. Frezel said he believes the Famous Footwear is like a greenish gray color and he believes that is a standard color that they use.

Mr. Olivier said the township trustees approved the color of the fascia of the building.

Mr. Horn said the brick, yes.

Mr. Olivier said but we are approving the color of the fascia.

Mr. Lamanna said no.

Mr. Olivier said he thought the colors had to stay the same.

Mr. Horn said the variance being requested is the height of the sign.

Mr. Frezel said he believes the ordinance is nothing over 15' and added that it is the nature of the construction.

Mr. Lewis said it is a tall building.

Mr. Frezel said it is 32'-8" high to the peak.

Mr. Horn said they are not requesting a variance for the size of the sign.

Mr. Frezel said no, it is the height placement.

Mr. Lamanna said basically the board looks at these things on the basis that if it is placed in an architecturally reasonable place on the building that is appropriate that the board has allowed them and we don't want people putting signs up on poles or putting a billboard on top of a building.

Mr. Murphy asked if the new facades are being built higher than the existing roof lines to take the sign up higher.

The board discussed the height of the facades in relation to the roof lines.

Mr. Frezel said if you really look at what they're doing from an architectural standpoint here, from the building next to it where you have the peak of the roof coming down and then there is another roof element that is higher or slightly lower and then this comes up which is very consistent with the architecture of the rest of the shopping center. He said they do that constantly throughout the shopping center so architecturally they are staying very consistent.

Mr. Lewis asked Mr. Frezel if he is looking for a second sign.

Mr. Frezel said he believes there are two interior window signs that are round signs that hang inside the window and there is one over the transom window of the door, it is 30" in diameter and then the second sign to the right of that which is in the last window is 36" in diameter.

Mr. Lamanna asked if it is a logo sign.

Mr. Frezel said it is a logo sign, yes.

Mr. Lamanna said he thinks the business can get by with one of them.

Mr. Horn asked if any others have been granted.

Mr. Lamanna said the board has allowed it if there has been some reason for it if there was a service that was unique and not obvious but this is just a repeat or duplication of what is there already. He said if they were conveying something that wouldn't be obvious from what is normally there not just putting the logo on every window down along there.

Mr. Lewis asked if those stay illuminated.

Mr. Frezel said they plug in, he does not know if they are on 24/7 but they are plugged in. He said generally speaking that is a stipulation that is always given that they are on during business hours but in a lot of cases it is not really good for the store when people see the light on the sign and the store is closed, they think they are open. He said actually this is new to him because he wasn't aware that he needed a variance for the second sign because his instructions were for the height.

Mr. Lamanna said on the second sign there has got to be a good reason for it and the board has allowed them when there is good reason for it.

Mr. Frezel said then if they elected to they would have their choice on which one they would want.

Mr. Lamanna said yes they could have either one of them.

Mr. Frezel said he doesn't know if they have a preference if they want it centered over the transom window or the right or the left of the entrance.

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

Motion BZA 2010-11 – 7145 Market Place Drive (Five Below)

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of having a sign that will be 24'-11" above grade for a variance of 9'-11". The sign will be in accordance with the size and placement as shown on the drawings submitted by the applicant.

Based on the following findings of fact:

1. The sign is placed in an architecturally appropriate place on the building.
2. It is also consistent with the other signage that is in the center and is positioned so that it fits in with the height of the building.
3. It does not actually exceed or be above the existing roof line of this particular building, it in fact will be lower than other signs within the same length of the shopping center.
4. With respect for the request for the additional window sign, that request for a variance is not well supported and is not granted.

Mr. Lewis seconded the motion.

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

Application 2010-12 by Mark Seifried for property at 18010 Birch Hill Drive

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

The zoning inspector's letter dated June 17, 2010 was read.

Mr. Frank Marincek and Mr. and Mrs. Seifried were present to represent this application.

Mr. Frank Marincek testified that he is proposing to build a two-story, 3200 sq. ft. colonial at that site for his daughter and son-in-law, the Seifrieds. He said the reason they are asking for a variance is just to conform with the rest of the development, those lots were platted years ago, zoning was changed and unfortunately they were not grandfathered so it becomes an unbuildable, basically, lot or they would have to put their home behind other people's houses and he is sure the neighbors wouldn't like that and probably turn it sideways. He said they are asking for a variance just to conform, they would like to go on the platted setback which he thinks is 70' and they would like sideline variances just to fit the home. He said the home is approximately 65' wide so it is at or less in length than other homes right next door but approximately the same size as the two homes that we adjoin and basically that is it, they would just like to conform.

Mr. Lamanna asked if it is two stories.

Mr. Marincek said yes two stories with a three car garage.

Mr. Lamanna asked what the approximate footprint is.

Mr. Marincek said it is 65' long and about 40' in depth with a three car side loading garage.

Mr. Horn asked if the lot is just a little over one acre.

Mr. Marincek said it is 149 in change by 350 and it is a little bit bigger than the one on their left and 2 sq. ft. less than the one to their right.

Mr. Lamanna asked if this is an existing subplot.

Mr. Marincek said yes it is an existing subplot.

Mr. Lamanna said so it has been platted.

Mr. Marincek said yes.

Mr. Lamanna said there are 35' on one side and 50' on the other.

Mr. Marincek said yes, we talked to Mr. Wrench and he thought that would be the way to go, to keep one of them at 50' but it doesn't really matter, we can slide it over a little bit.

Mr. Horn asked how far off is the lot and the house on the other side where the 35' is, it looks like it is quite a few feet off.

Mr. Wrench measured per the GIS and said 40'.

Mr. Marincek said the way they proposed it, they are kind of on a crown on the street, they put the driveway on the right side so it would be drive to drive, house to house so it should be quiet for everybody. He said if you are playing basketball in the driveway side, so are your neighbors and if you are sleeping on the left side, so are your neighbors.

Mr. Lamanna asked if the lot is 149' wide.

Mr. Marincek said it is 149' and some change.

Mr. Lamanna asked if it will be set back 77' from the right-of-way.

Mr. Marincek said they just want to be on the setback line so all of the houses will line up together.

Mr. Lamanna said it looks totally consistent.

Mr. Lewis said it does and it looks well thought out too and even the room with the driveway and the amount of space beyond it and the turning pad to push snow without going into the neighbor's yard.

Mr. Lamanna said the house is reasonable in size.

Mr. Lewis said he does not have a single issue with this, he thinks it will be a terrific addition.

Mr. Lamanna asked if there are other issues, questions or comments.

Mrs. Christine Pecoraro testified that she lives on the side of the house where they are asking for 15' and they would like to show the board a view of their house.

Mr. Lamanna asked Mr. and Mrs. Pecoraro how far away their house is from the property line.

Mr. Pecoraro showed the board a photo of the side of their house.

Mrs. Pecoraro said their kitchen is on that side, the bedrooms are on that side and they have six windows facing that side of the house.

Mr. Lewis asked Mr. Wrench if he can get something that tells him how far their house is off the lot line.

Mrs. Pecoraro said it is 40' at the widest part but the problem is the line is not straight, it angles so it is like 25' to 30' at certain points and 40' at the widest.

The board looked at the dimension of the lot.

Mr. Lamanna said down here, he referred to a site plan, is about 40' so you are actually closer.

Mrs. Pecoraro said she just wanted to point this out and said this is the back of her house, she referred to a site plan, and their property actually looks into the back of their house so their whole side of their house is actually the property line, so it is a treed lot and we now will be looking at the side of a house.

Mr. Lamanna said that is what happens when the lot belongs to somebody.

Mrs. Pecoraro said the zoning is there to protect our property.

Mr. Lamanna told Mrs. Pecoraro that she is not 50' away either.

Mr. Pecoraro testified that they didn't build the house they bought the house from her parents.

Mr. Lamanna said when this area was platted there weren't 50' side yard setbacks.

Mrs. Pecoraro said this is actually something that she needs to bring up because she grew up in this neighborhood and in this house and this lot was a landfill. She said when she grew up, this was a dump lot that they threw all kinds of building material on it and that is why it wasn't built on so 36 years later, if that stuff is all disintegrated she does not know but that is why it wasn't built on.

Mr. Lamanna said that is the owner's problem when they start digging.

Mrs. Pecoraro said yes but isn't it everybody's problem when you are finding stuff, who knows what is down there.

Mr. Lamanna said that is their problem, it is their land.

Mrs. Pecoraro said she would rather be looking at the driveway because she would have more room, this is really invasive and we have a homeowner's association and you are supposed to present the plans and she finds it interesting that this is the first time they got a certified letter and they want to protect their privacy and there is no way to protect their privacy and build this house.

Mr. Marincek asked Mrs. Pecoraro why she didn't buy the lot, it has been for sale forever and then she would own it.

Mrs. Pecoraro said they didn't have \$82,000 to buy it and it is disputable on whether it is buildable or not.

Mr. Lamanna said it is not disputable whether it is buildable, it is a pre-existing platted lot of record and they are allowed to build on it as long as what they are building is reasonable.

Mr. Lamanna asked to see the pictures of the Pecoraro house again.

Mrs. Pecoraro said this is the picture of the side of her house that is being built on and standing on their property line, this is how close it is.

Mr. Marincek said there should be 80' between the two houses.

Mrs. Pecoraro said no.

Mr. Lewis said your house (Pecoraro) varies from 40' to 36' off the property line, we have those numbers and because it is slanted theirs is actually just under 36' at the front and as your pie goes back at an angle that is going to increase theirs to about 38'.

Mr. Horn said the same amount of theirs decreases, theirs will increase.

Mr. Lewis said exactly as we are going back.

Mr. Lamanna said the houses themselves are actually parallel.

Mr. Lewis said they are mirror images off of the lot line.

Mr. Pecoraro said there will be the only two houses that will be like this because all of the garages are different.

Mrs. Pecoraro said they go house, garage, house, garage and is the pattern that the whole development takes and they are throwing the pattern off.

Mr. Marincek said they had it engineered professionally and he knows when the subdivision was built, nothing was engineered professionally there and that is the right side that the driveway should be, we always build on the high side for the driveways and the topo will show that that is the high side.

Mrs. Pecoraro asked if it can be moved over some.

Mr. Marincek said they can move it over a couple of feet if she wants.

Mrs. Pecoraro said there has to be room to put trees in.

Mr. Lamanna told Mrs. Pecoraro that it is still consistent with her property.

Mr. Marincek said there are pine trees there, the lot has been there forever, Ullmans owned it. He said he built 70 houses in Canyon Lakes with 10' on each side and it is the nicest development in Geauga County.

Mr. Lamanna asked if they could ratchet the house over another 8' or so.

Mrs. Pecoraro asked if a window can be put on the side of the house. She said she will be looking at nothing, just a side of a wall, there is going to be no barrier.

Mr. Lewis said the lots are 150' wide.

Mr. Lamanna asked if there are no windows on that side of the house.

Mr. Marincek said we don't want to look at their house either. He said it is a buildable lot, it should have been grandfathered and the township would have saved itself a lot of trouble on a lot of these lots, but we are not trying to be bad neighbors, we are trying to be good neighbors, we are building a beautiful home and it is going to be just like everybody else's. He said he has been in the business for a long time and when you have the last lot, that is the one that everybody plays on and cuts.

Mr. Lamanna said everybody likes the lot next to them not to be built on but unfortunately.

Mrs. Pecoraro asked if they can move it over at least a little bit.

Mr. Lamanna said they can move it over some, that is what he is looking at, it looks like it can be shifted over a little.

Mr. Marincek said we don't want to take out the pine trees.

Mrs. Pecoraro said there is a huge pine tree that she doesn't want taken out but the trees will all be killed anyway with building a house.

Mr. Marincek said not at all.

Mr. Lamanna said if it is moved over 5', there will be 40'. He asked if that side of the house will be landscaped.

Mr. Marincek replied yes.

Mr. Lamanna said so we agreed to put some landscaping in along there.

Mr. Marincek said they are not going to cut the trees down.

Mrs. Pecoraro asked how the house will be put in there.

Mr. Marincek said he will show her several houses and she will say to him he should have cut more trees down because in 20 years they are overgrown and they should have been cut down.

Mrs. Pecoraro asked why this is the first time they are looking at this.

Mr. Marincek said because they bought the lot and told Mrs. Pecoraro that it sat for so long so she should have bought it. He said it was up for sale and we bought the lot.

Mr. Lamanna said unfortunately this happens, people get used to un-built lots being a certain way and somebody comes in to build on them and everybody is unhappy but the way it was presented here certainly is in his view reasonable in light of the size and scope and location, it will be moved five more feet with some landscaping on the side of it so the foundation looks nice. He said he understands and it is not atypical now to just not put windows on the side of houses facing other houses.

Mr. Murphy said in saying you want to conform, what happens if you flip the house and go driveway, house, driveway, house, are most of the houses drive left, house right.

Mr. Marincek said you should always put the driveway on the highest side of the property and if not you would have to fill the other side and it would be worse and we would be bringing it up 25' – 30'.

Mr. Lamanna said they don't want to be looking at the driveway anyway, you don't want to be looking into a garage.

Mrs. Pecoraro said at least the garage side is lower. She said she has no view now, her family room, her kitchen, her bedroom, her kid's bedrooms all will have a view of this house.

Mr. Marincek said we have a 10' buffer that we like to use to get the machines around the property and he knows his daughter likes the natural barriers the best and if he is moving it 5', he will have to cut hardly any trees. He said it is what you had forever, it just won't be an open lot and when the leaves are gone, we live in Ohio, there will be a house there.

Mrs. Pecoraro said maybe it is because she grew up here and she has been looking at the view her entire life and that is why she knows the lot is filled with all kinds of junk.

Mr. Lamanna said it won't be the first time it has happened.

Mrs. Pecoraro said they were cheap builders.

Mr. Lamanna said they are going to have to excavate it so they will find what they find.

Mr. Marc Vasil of 18015 Lost Trail testified that his only concern really is the placement of the building, not the building itself, the markings of the southwest part of the lot line and it is the only place his property abuts and his concern is just the accuracy of that stake and the only reason he is bringing it up is they just had some clearing done back there and his concern is, everything looks right but that one corner and asked if that corner can be re-surveyed because he does not want to get his stuff on top of their stuff or vice versa back there and because he can see that they are new current markings it seems to him that it is about 5' – 10' off of where it should be and thought that they could come out and double check it.

Mr. Lamanna said the lines on the GIS are not accurate.

Mr. Vasil said he understands they are not accurate and said he is not concerned because nothing is going there, it can only be wooded but they are doing some landscaping back there and he does not want to encroach on their property with his stuff.

Mr. Lamanna said that is a good point if it looks like the surveyor may have made a mistake.

Mr. Marincek said he uses Hejduk and Associates right in Solon so he will have them shoot the sides again to make sure they are right and re-stake the corners.

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

#### Motion BZA 2010-12 – 18010 Birch Hill Drive

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

1. A variance from the minimum required side yard setback of 50' to 40' for a variance of 10' on the south side of the property.
2. A variance from the minimum required side yard setback of 50' to 45' for a variance of 5' on the north side of the property.
3. A variance from the minimum required front yard setback of 100' to 77' for a variance of 23'.

Based on the following findings of fact:

1. A practical difficulty exists because this is a pre-existing lot of record in Pilgrim Village.
2. With respect to the front yard setback, generally all of the other houses are set on a 75' setback so this would be consistent with the other pre-existing houses and character of the neighborhood.
3. Since these lots are smaller than the three acre requirements on a 50' setback, the setback requirements are reasonable given that the size of the house is commensurate with those in this general neighborhood so that it is not unreasonably wide or large for the lot.
4. The setbacks will also be consistent with the other setbacks in the neighborhood.

With the following condition:

1. Because of the proximity of the neighboring house to the south that there be landscaping placed along the side of the house which faces to the south in order to reduce the impact on the neighboring property.

Mr. Lewis seconded the motion.

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

Application 2010-13 by Gregory Sharp for property at 17070 Maple Drive

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

The zoning inspector's letter dated June 17, 2010 was read.

Mr. Gregory Sharp was present to represent this application.

Mr. Sharp testified that he has an 1100 sq. ft. home, a one car garage and a ten month old daughter and he is looking to put up an 8' x 8' shed and looking for a variance from the distance to the property line in Lake Lucerne and the lot does not support the Bainbridge requirements. He said the place where he wants to put it does appear to be a community homeowner association requirement and he has filed with them for their approval as well.

Mr. Lewis asked if the approval letter is on file.

Mr. Sharp said he does not have that yet, they needed to see the process here first. He said he met with the architectural review board and got verbal approval.

Mr. Lewis asked if the setbacks for Lake Lucerne are 10'.

Mr. Sharp said yes and when they originally drew it out they were thinking like a 10' x 10' shed potentially with 10' from each of the back line and the side line and it is easily achieved.

Mr. Murphy asked Mr. Sharp if it is not in the ravine.

Mr. Sharp said it is not in the ravine and not infringing on the power lines from the electric company easement.

The board reviewed the variances requested.

Mr. Lewis said the shed has to be 10' from the side and 30' from the rear.

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

Motion BZA 2010-13 – 17070 Maple Drive

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing an 8' x 8' shed as shown in the applicant's application.

1. A variance from the minimum required side yard setback requirement of 50' to 10' for a variance of 40'.
2. A variance from the minimum required rear yard setback requirement of 90' to 30' for a variance of 60'.

Based on the following findings of fact:

1. A practical difficulty exists because it is a pre-existing lot of record in Lake Lucerne where there are small lots and the original zoning requirements were 10' side yard setbacks and 30' rear yard setbacks so it is consistent with the previous development in the neighborhood.
2. It will not adversely impact the neighboring properties.
3. The board notes that this is also subject to approval by the Lake Lucerne Board and that approval is totally separate and distinct from this board's action on this application.

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 8:38 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: July 22, 2010

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio  
Board of Zoning Appeals  
June 17, 2010

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:38 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the May 20, 2010 meeting as written.

Mr. Lewis seconded the motion.

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

Old Business

The board discussed the use of the Parkside Church driveway onto Root Road by church employees only and was in agreement that it is not outside what the board intended when the conditional use permit was granted.

New Business

Mr. Robert Redmond of Mohr Partners met with the board to discuss the two residential Nash properties located on Chillicothe Road regarding a professional office use. The board advised Mr. Redmond to consult with the zoning commission.

Applications for Next Month

Application 2010-14 by Geauga County, Board of County Commissioners for property at 16780 Savage Road

The applicants are requesting a conditional use permit and an area variance for the purpose of installing a public safety wireless telecommunications tower facility, 300' self supporting tower with a 12' x 32' equipment shelter. The property is located in a R-3A District.

Application 2010-15 by Geauga County Habitat for Humanity for property at PP# 02-102000, 02-705400, 02-705500, 02-705600, 02-152300, 02-152400 Dayton Street

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

Application 2010-16 by Greg Battaglia for property at 16805 Snyder Road

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

Application 2010-17 by Robert and Kim Block for property at 16821 Snyder Road

The applicants are requesting area variance(s) for the purpose of constructing a residential barn. The property is located in a R-5A District.

Application 2010-18 by Daniel T. Vossler for property at 8269 Summit Drive

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

Meeting Schedule

The board discussed the July meeting schedule and was in agreement to change the date due to vacation schedules.

Mr. Lamanna made a motion to change the July meeting date from July 15, 2010 to July 22, 2010 at 7:00 P.M.

Mr. Lewis seconded the motion that passed unanimously.

Since there was no further business, the meeting was adjourned at 9:00 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: July 22, 2010