

Bainbridge Township, Ohio
Board of Zoning Appeals
September 16, 2021

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater and Mr. Joseph Gutoskey. Mr. Todd Lewis was absent. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and stated that anyone who wishes to testify will be sworn in.

Mr. Lamanna swore in Ms. Karen Endres, Zoning Inspector and he let the record reflect that Ms. Endres was duly sworn.

Mr. Lamanna swore in all of those interested in testifying and he let the record reflect that all of the people other than the reporter have been duly sworn.

Application 2021-20 by Michele Nelson for property at 7107 Oak Street

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

Ms. Michele Nelson testified that she lives at 7107 Oak Street and she is here to ask for approval for a variance to push out her existing room by 2'. She said she currently has water damage in this part of her house so it is time to do something, she has contacted her contractor and her insurance company and she is investigating her options at this time. She said it is great being here tonight in regards to her house and what she would like to do, she is not a fan of a flat roof, hers looks great and she was told it was in good condition but it failed so what she is looking at is the porch onto the right. She said she is prepared to invest in a gable roof and an investment in a second floor. She said this is where the variance is needed, with a second floor. She said the 2' that she is asking for most importantly will make the room that she is repairing a room to be able to be a true bedroom. She said it currently does not fit as a true bedroom as it is only approximately 10' and a bed that is approximately 7' to 7-1/2' barely fits in there. She said as for the water damage she will not know the extent of the damage until she gets into the wall, it could be one wall or it could be two that has failed. She said the closest and where the leak is is to the 7145 Pine Street property which is to the right so it is that long wall. She said so this is the perfect time, if allowed, to invest in her property and to make it more comfortable to live in.

Ms. Nelson continued by saying that Ms. Endres has been very helpful to her and has given her sound advice with this project, she was asked to get a lot of paperwork including a survey, she did a request, turned in a survey from when she bought the home 14 years ago, she also sent in pictures of where her pins are and she has asked Mr. Denny Williams to speak on her behalf to help locate where her pins are on there as well. She said she does have support of her neighbors who would be directly related to the construction site as they are here to speak on her behalf. She said Ms. Amy Wheeler is on her way here and she does have a certified letter stating, in case she doesn't make it, she has a letter stating that she supports this. She said Ms. Heather Lovejoy who is here as well, Mr. Denny Williams and Mr. Grant Wilk as well. She said thank you for your consideration and she is prepared to answer any questions the board might have.

Mr. Gutoskey said he has a question for Mr. Williams. He said he looked at the owner identification from 2008 so it shows the garage side of the house is .3' off the property line which is 4" and when he adds up the dimensions on this plan and subtract that from 50 he only gets that you have 3.43' on that side that the house is off the property line.

Ms. Nelson said 3.5 and added she has a little bit more.

Mr. Gutoskey said that is 3.5" so the problem is that if you get a variance for 2' then your house will only be 1' 5" off the property line.

Ms. Nelson said correct.

Mr. Gutoskey said if anybody tries to build on the lot next door it impacts what they can do on the lot.

Ms. Nelson said that is why she brought Mr. Grant Wilk here with her because she would have loved to have bought the property and he was unable to sell it to her at the time because they don't know what they would like to do with it, they have not done what they would like but she does know that there is supposed to be space between each property. She said she is here to ask that when you take into consideration that all of our houses on Oak Street are so very close, if she measured to the fence it is over 6' to where the fence is at.

Mr. Gutoskey said so the fence is not on the property line is what you are saying.

Ms. Nelson said the fence is on their property so she has 6'.

Mr. Gutoskey said you only have 3' 5" from what he can calculate from the survey here and the problem is if somebody wants to build on that lot if they try to go to the minimum setback they are going to be less than 10' to your house which then creates all kinds of problems for fireproofing walls and window openings so it creates problems if they want to sell the lot and someone wants to build a house, it impacts what they can do on the lot.

Ms. Nelson asked on the current lot that she has.

Mr. Gutoskey said the lot next door, the vacant lot.

Mr. Barr said we have to look into the next owner, we had something similar last year where they wanted to put an addition on and if there is a contentious neighbor and they don't want you on their property you have no ability to get up and clean your gutters, you can't put a ladder up if there is only 8" between your building and the neighbor's property so even now it is an empty lot but right now you have a great relationship with your neighbor, if something were to happen and things would change that is something you have to look forward to, maybe not with you and the current neighbor but the next ones. He said the board has seen numerous cases and we know it is very tight there and we try to take that into consideration.

Ms. Nelson said the hard thing is she has to do something and in order to build up she feels she wants to do it proper and properly and to put in a footer so that is a foot and she would love to have two but if she even gets 1' it is still better than nothing.

Mr. Lamanna said so the new part of the house is going to be out farther.

Ms. Nelson said 5'.

Mr. Lamanna said you say when you are going to put a new footer in, you are going to put that footer external to the existing structure.

Ms. Nelson said correct.

Mr. Lamanna said and then tear down the existing structure.

Ms. Nelson said she is hoping just to put that because she doesn't believe that to the left and to the right has any water damage, just the wall that is closest to the property.

Mr. Lamanna said that is going to have to come down you are saying.

Ms. Nelson said she doesn't know yet, the insurance company has been out.

Mr. Lamanna said either if you are going to leave that wall there then you are talking about digging down and taking out the existing foundation and putting a new foundation in where the wall is, you are talking about taking down the wall and putting in a new foundation.

Ms. Nelson said she doesn't want to move.

Mr. Lamanna said but you have to move the wall.

Mr. Gutoskey said what they are proposing is to build another footer next to the one and then bring the wall up.

Ms. Nelson said bring the wall up.

Mr. Lamanna said a new wall.

Mr. Gutoskey said and take that wall down.

Ms. Nelson said and just take that wall down, yes.

Mr. Gutoskey asked what condition is the footer in below the wall that is there now.

Ms. Nelson said they won't know until they get into it.

Mr. Lamanna said but why not just take the wall down and put the footer right where it ends right now.

Ms. Nelson said it leaves it to where it is 10' on the inside so if you go to put a vent in there, it is only 10' wide.

Mr. Lamanna said okay.

Mr. Barr asked how long is that, he is looking at the plans and it doesn't have that.

Mr. Gutoskey said it is 21'.

Ms. Nelson said yes.

Mr. Barr said 21 by 10.

Mr. Gutoskey said 21 by 10-1/2.

Mr. Lamanna asked about windows.

Ms. Nelson said it has at least six windows in it and it has a large window in the front and one way in the back.

Mr. Lamanna asked what are you planning to put on the new wall.

Ms. Nelson said two windows on either side and then a window on top of where the bed will be, so two side windows and a small window.

Mr. Lamanna said one problem you have here is we don't want to be in the position that we grant this and then somebody comes and says they want to build on this corner lot, the next lot over.

Ms. Nelson said but it ends into the Pine Street property so Mogul goes straight into the property that is called Pine Street but it actually ends at Mogul.

Mr. Gutoskey said it looks like there are three sublots there and they just run back to the one subplot.

Mr. Lamanna asked Ms. Endres if that is considered a corner lot there.

Ms. Karen Endres, Zoning Inspector testified that it looks like there would be a corner lot for sure and Mogul kind of dead-ends so it doesn't have frontage on two streets, it only has frontage on the one street.

Mr. Gutoskey said it is one of the sublots of the subdivision and they just have a driveway going through it.

Ms. Nelson said she is fully aware that it is tight and she knows that she is super close but like she said she would love to be able to put a footer in so she could add more weight to her house and make it safe.

Mr. Lamanna said so the next lot over on the one side is actually the access driveway and it looks like some type of grassy area.

Mr. Gutoskey said here is the plat where you can see that Mogul used to be Climax and it just goes right into that subplot there, that is the driveway.

Mr. Lamanna said it looks like some area that is not developed there.

Mr. Gutoskey said you can see the property lines for that lot.

Mr. Lamanna said if somebody builds a house on that it is not going to be constrained by being a second front lot plus we don't have the problem with then there is going to be another house on the other side.

Ms. Nelson said if you look at every lot on this street, everybody is using up every bit pretty much of their property so either their driveways are touching, directly across from her you have two garages that are almost touching.

Mr. Gutoskey said the board has done a few different ones in here and a lot of the garages are detached so they are set back behind the house, with this being an attached garage to the house it ends up against the property line. He said you can see a lot of the other ones like the houses in front the garage is kind of over and behind the house with the detached garage.

Mr. Barr said so to the right of your house there is a detached garage, if you put this all the way to the property line, how would you get access to your backyard.

Ms. Nelson said she has a door outside her garage that goes to the backyard to her house.

Mr. Barr said but if you ever needed to get any equipment back there.

Mr. Gutoskey said you would have to have a lawn mower in the front yard and backyard to mow your grass.

Ms. Nelson said it is a pretty wide door. She said it is the property she did buy and again, it does come with those problems as well as many houses in Bainbridge and the Chagrin Falls community have that as well. She said just for her to fix it she will need permission to be able to get back there as well to bring the wood and whatever it needs to be.

Mr. Lamanna said so this will then be two stories here.

Ms. Nelson said just to the right yes and the gable and gutters will be in the front and to the rear of the building.

Mr. Lamanna said the point of the gable is going to be 2-1/2 stories at least.

Ms. Nelson said the height is on one of the sheets so it should be the same height as the top of the house is currently.

Mr. Lamanna said it is going to be right to the property line so if somebody builds next to you, you are going to have it right up to the property line.

Mr. Gutoskey said with the overhang it is probably right on the property line.

Mr. Lamanna asked what happens when the neighbor comes in and says they want to build something and they want to build it 4' off the property line.

Ms. Nelson said it is already a business so she is already up against a property that is a business. She said it is kind of her buffer and Nalco knew it was a buffer that is why they were unable to sell it to her when it was Nalco because they said they needed the buffer in order to do what they did, at least that is what they told her.

Mr. Gutoskey asked if the Snavelys would be interested in selling you a sliver of land there.

Ms. Nelson said they have been notified but.

Mr. Grant Wilk testified that they don't know what they are doing yet.

Ms. Nelson said again, if she didn't have water damage in her house this wouldn't be an issue, it is not the best time to build and because of the water damage she doesn't have a choice at this time, she has to do something.

Mr. Gutoskey asked if any of the neighbors are here.

Mr. Lamanna asked if there is anyone else who would want to speak on this application.

Ms. Heather Lovejoy of 7101 Oak Street testified that she lives on the other side, she lives right next door to Ms. Nelson and she has no problems with it, it doesn't impact her a whole lot, it is on the other side of the property and she has been a wonderful neighbor and she is in support of this.

Mr. Wilk stated that he is one of the owners on the side that she needs the variance for and they really have no problem with what is happening.

Mr. Lamanna asked Mr. Gutoskey what building code issues are that he mentioned.

Mr. Gutoskey said the problem is when you get less than 10'.

Mr. Lamanna asked between the buildings.

Mr. Gutoskey said you get into fire code as far as how you protect the walls, the walls have to be rated and a lot of times they say no openings or you have to have fireproof glass.

Mr. Lamanna asked if it would be appropriate to require that, one possibility would be that this addition, at least along that wall would be built to those standards so that if somebody wants to come in and build on the adjacent property 5' away.

Ms. Nelson said she would be covered.

Mr. Lamanna said we don't have the issue of saying now we've got this house here, you are already covered.

Mr. Barr said if another person comes in and says well they built all the way to 4" to the property line now I want to build 4" to the property line.

Mr. Dennis Williams testified that you do have a 3' current setback, he thinks for original zoning there, but they would still have to come and get a variance so he thinks the property has been with the industrial area over there for so long that it has been a detriment to the value so everything on that street is up against, including him. He said he was the previous owner three times ago including the house that Ms. Lovejoy lives in and actually he is on his third house on the street, he loves the neighborhood. He said you see where the burden is here to try to get over there and add a room that is comfortable enough to use so any little bit that can be gained is sure to be better for her.

Mr. Lamanna said the slight advantage or the one advantage you do have is that since the next lot over is really not going to be a residential building lot it looks like you do have the ability to kind of shift everything in that direction so the next person who comes in.

Mr. Gutoskey said the question is can you get away with 1' versus 2' coming over or 18".

Ms. Nelson said she would rather have 1' than be denied because 1' is much better and when the excavation estimate came in, his bucket is 1'.

Mr. Gutoskey asked if that section is on a slab. He asked if any exploratory digging was done as far as what is there for a footer now.

Ms. Nelson said no they tried, there is so much concrete that is over it when they poured it, they tried to dig down but it is just concrete after concrete.

Mr. Gutoskey asked if it is a trench footer that is really wide on the top.

Mr. Williams said it is probably not a very full-depth footer there.

Mr. Lamanna asked what is going on the second floor.

Ms. Nelson said just a bedroom, she is literally trying to build it to make it as solid as possible just two bedrooms, she is not doing any plumbing, just electrical with heating.

Mr. Gutoskey said if you went 18" it would give it enough room to dig next to the other footer and get a footer in and then just construct that wall so it meets whatever codes, if there is a house built next door that is within 5' off the line.

Mr. Lamanna said the other thing too is understand that if we do this that you are right up against it with respect to the neighbor.

Ms. Nelson said she fully understands.

Mr. Lamanna said if and when somebody does come along and builds a house there that you or any future owner has very little standing to come in and say you don't like this being there so it is going to be part of the decision that says you understand that by us granting this we are not creating a subservient estate to the adjacent property with respect to them coming in and building a house as close as might be allowed by zoning or with a variance there too.

Ms. Nelson said because of the small lots.

Mr. Lamanna said yes, it is not fair to the adjacent owner to say we let you have this and then two years later he sells it to someone to build a house and then you say well you don't want somebody right in front of my windows here 2' away or 3' away and it is well, we let you build close to your property line but you have to have the understanding that because of the nature of these lots the next person is going to build close to the property line, not this close but it might be 3' or 4'.

Ms. Nelson said she fully supports that.

Mr. Lamanna asked what the permitted setback is there.

Ms. Endres said the setback from the side lot line is 10'.

Mr. Lamanna said if somebody comes and says they would like 5' which is probably not inconsistent with a lot of things, we don't want people coming in and saying they object to it being 5' closer so that it has to be the understanding of any decision that is made that you recognize that it is a very real possibility that we are not creating any pre-existing right to object because you are starting off this close if we grant you a variance.

Mr. DeWater asked which way the drainage runs.

Mr. Williams said actually it is a fairly flat lot there, it runs from the back to the front.

Mr. Gutoskey said not anymore, it is pretty much essentially blocked.

Mr. DeWater asked about the piping.

Ms. Nelson said it will have gutters and footers. She said she has never had problems with water whatsoever, our lots are pretty flat but anything on the Nalco property is pretty much going that way.

Mr. Williams referred to the aerial and said once you get to the fence side in the back and the asphalt area goes back to the creek that runs directly behind the property so all of the properties are fairly flat from Ms. Lovejoy's house over to the vacant lot and the asphalt kind of channels down to Mogul Street there.

Mr. DeWater said changes to buildings changes the flow.

Mr. Williams said the watershed is actually pretty minimal so you are really not changing anything drastic with the flow. He asked Ms. Nelson if she is regrading or changing anything.

Ms. Nelson said no.

Mr. Gutoskey said we are talking about having the house 2' off the property line so you can have a surveyor come and mark the line and then you will know where to go from there.

Ms. Nelson said she tried to get a survey and it was \$3,500.

Mr. Gutoskey said he would ask the builder or whoever is going to be doing the work, he probably has a surveyor that could come out and do it for substantially less. He said have it surveyed and who knows you may have a little more room there than we think.

Ms. Nelson thanked the board for their time.

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

Motion BZA 2021-20 – 7107 Oak Street

Mr. Lamanna moved to grant the following variances for the purposes of the remodeling of an existing damaged extension on the property and an increase to a second floor on top.

1. A variance on the eastside, a minimum side yard from 10' to 2' noting that this represents approximately a 2' to 2-1/2' increase of the current variance that exists.
2. A variance on the westside to .3' to represent the pre-existing condition, long standing of a garage on the west side of the property.
3. A variance to Chapter 165.08 to increase the size of a non-conforming building as shown on the plans that were submitted by the applicant.
4. With respect to this variance the applicant, due to the closeness to the line, will have this line marked by a surveyor prior to construction.
5. The applicant agrees and acknowledges that as part of this variance that due to the closeness of this structure, as proposed to the property line, that there may be constructed on the adjacent property at some future date a structure that would be less than 10' away from this structure and it would be highly probable that there could be a variance granted to build on the adjacent property less than 10' away and for this reason the applicant understands that this variance grants no subservience on that adjacent property and that the existence of this applicant's building this close will not be a cause to deny future variances proposed by the adjacent property owner and that the applicant will construct this building, this addition, in accordance with the fire code so that it would conform to the fire code if an adjacent building or as if an adjacent building were built less than 10' away from this expansion.

Based on the following findings of fact:

1. A practical difficulty exists due to the small lot sizes on Oak Street.
2. The board also notes that the adjacent lot is the last available lot on the street so it has some additional flexibility so it would be less adversely affected.
3. The board notes that the requirements with respect to possible future building and compliance with the fire code as if the structure would be less than 10' are necessary to prevent an undue burden on the adjacent property.
4. The small setbacks are consistent with the character of the neighborhood and would not adversely affect that character.
5. The addition will have gutters and downspouts so that the water is directed appropriately so as not to create any further run-off issues in the area.

Mr. Gutoskey seconded the motion.

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

Application 2021-21 by David Boodjeh, Chief Administrative Officer for Discount Drug Mart for property at 8459 Washington Street

The applicant is requesting area variance(s) for the purpose of constructing a stock room addition. The property is located in a CB District.

Application 2021-22 by David Boodjeh, Chief Administrative Officer for Discount Drug Mart for property at 8459 Washington Street

The applicant is requesting area variance(s) for the purpose of a parking expansion. The property is located in a CB District.

The board was in agreement to hear these applications together.

Mr. David Boodjeh of Discount Drug Mart and Mr. John Shahinian, property owner/landlord were present to represent these applications.

Mr. David Boodjeh testified that he is here today on behalf of Discount Drug Mart seeking approval for an addition to the back of their building for storage use. He said they had anticipated growth by moving from their previous location on Chillicothe to this location but as you can see where the property lines are on the left-hand side, the truck turn-around, we did get a variance to go closer to the property line there and we are kind of constricted on the right-hand side with the property line. He said they stayed within the back of the property with the setbacks but we really can't do any expansions to either side so we are looking to see if we can have a variance to build a 1,500 sq. ft. addition to the back of the building, it would be 15' deep and 100' long to match the colors and the block in the back. He said they have just found with the merchandise coming to the store, the trucks and the new seasonal merchandise coming two to three months early before the holiday it takes a lot of storage of those things, paper products and many of you know how hard it was to come by paper products and when we got them we would get a truckload, we don't put it on the floor, we have to put it up on storage racks in the back so we were kind of running out of room. He said when a warehouse truck comes and delivers a full semi we have to stage it in the back so we want to keep the floor clear and the handicap accessibilities and that is about the only place we could put it and the depth of 15' keeps us away from the back sewer, we are not going over that, there is no interference with the over-head powerlines, it will come off the roof, off the back.

Mr. Gutoskey said it looks like the storm sewer is kind of under your footer give or take.

Mr. Boodjeh said it is the boundary line there and we won't be going over that, we know not to go over that. He said there will still be access to the power pole or the electric company if they need to change the transformer and we are hoping to be able to get that building addition, it will look just like the back of the building is now. He asked if there are any questions he can answer.

Mr. Barr asked behind where you want to put the addition, the adjacent property behind, are those residential.

Mr. Boodjeh said he doesn't know what the zoning is on it.

Mr. Barr asked Ms. Endres to show the board an aerial. He said he thinks it is Dalebrook.

Mr. Gutoskey said it would be better to move to the other side of the building because it would be against the property that they are trying to get rezoned for Signature Square because where it is now it is totally up against the residential there because that is an old aerial and he knows you guys made the building longer, right.

Mr. Boodjeh said we made it wider.

Mr. Gutoskey said where your addition is it is more behind those two residential properties but the property right there that is cleared is in front of the trustees now for a rezoning.

Ms. Karen Endres, Zoning Inspector testified that they want it rezoned to CB.

Mr. Gutoskey asked what would be the setbacks from CB for this zoning.

Ms. Endres said the CB setbacks would be 20' on the rear setback and residential would be 50'.

Mr. Gutoskey said so if they moved that to the other end, he doesn't know if that helps you.

Ms. Endres said when it is rezoned.

Mr. Gutoskey said when it is rezoned it would fit zoning better.

Mr. Boodjeh said that wouldn't be possible, on that side, that is the rear wall and the sales storage right beside there and on this side here we are coming right from the stockroom with an opening into that storage area and it is all refrigeration across the back wall so we couldn't break that up.

Mr. Gutoskey said the problem we have is what is the hardship in granting the variance.

Mr. Boodjeh said it costs us in labor to move products around to get around in the back, schedules of a delivery and it is only getting worse with the availability of trucks, the size of them they have to come now direct from manufacturers but it is not just a recent thing this has been going on for the last year at least and it has just come to a point where with the holiday season coming up we are just getting jammed packed and it is constant, it is not just seasonal.

Mr. Barr said what we have to look at too is the house that you abut to. He said that house there, those people bought that house that was residential and that clear vacant lot was also residential and it is still zoned residential, correct, they are going through the process but right now it is currently zoned residential.

Ms. Endres said that is right.

Mr. Barr said and it was part of this subdivision so now we have people that have bought a house in a residential subdivision and now their backyard is now completely vacant and is hoping to be developed by the developer into restaurants and commercial property and commercial property that was there when they bought that house has now been expanded and given a variance to come closer to their house so everything is coming closer into a residence of Bainbridge here in that house and it is for financial hardships and for your labor when you could easily if you look to the left there are storage sheds so if something came in you could have people store it there for the holidays and bring it from there to your store if needed, that might be less of a problem to those homeowners. He said these homeowners purchased a home in a residential district with residents all around them and now that is all possibly in limbo.

Mr. Gutoskey said the other thing he has with this parcel too was when Sears Hardware went in there this was the old bowling alley so when Sears went in there they were able to utilize the existing walls there and build from there because at the time that Sears went in it didn't meet the zoning for side and rear so that has already been grandfathered in and you are asking us to go another 15'.

Mr. Boodjeh referred to a buffer zone, landscaped mound.

Mr. Gutoskey said the buffer is supposed to be 60' and because they were using the old bowling ally walls, where it was built, it is 43'.

Mr. Boodjeh said the trees that are there, they are not much of a buffer as far as seeing the back of the building so they are going to see the existing building. He said if they were to build that out with Pines straight across or something they won't see the building, that is just a suggestion which is something that we did originally when we did some work in the corner, there were some dead trees so we planted Pine trees to add that screening there. He said he does understand what the board is saying and it doesn't sound like much of a hardship.

Mr. Lamanna said the other problem is we have been incrementally seeking to get bigger and bigger variances because we started off with a 40% lot coverage in this location so when this was originally done and variances granted and now you come back and want another 5.5%, then what in five years somebody comes back and wants another 8%, pretty soon we are at 75% or 80% lot coverage and then everybody and their brother when they come in they can say they have 40%, well this guy over here has got 60%, why can't they have 60%, what is the basis of giving him 60% and not me 60% so we have to have some basis for granting the variance, its already got a significant 20% additional lot coverage.

Mr. Gutoskey said the other thing is too when this went from the bowling alley to the Sears Hardware they were granted 50% lot coverage on the bowling alley lot but now they have added this other parcel and it is now to about 48% he thinks existing but what they are proposing it is going to go to even 50% that we originally provided for the Sears Hardware when they took over the bowling alley. He said it is the fault of your success, it is kind of like the lot isn't big enough for what you are trying to do. He said he doesn't know if this square footage compares to when you were over in the other space, he thinks the other space had more parking too.

Mr. Boodjeh said the other space had much less parking spaces.

Mr. Gutoskey said like he said you are a victim of your success.

Mr. Boodjeh said he would like to thank the community for that, they are very supportive and he would kind of like to think that they did build wide aisles because the merchandise changes, the addition, it has helped attract more.

Mr. Gutoskey said we will now talk about the parking and added our code requires 9' x 20' spaces.

Mr. Boodjeh said the landlord would like to say a few things about the property and the building requests for the variances.

Mr. John Shahinian, property owner and landlord testified that he just wanted to mention that he owned the property when Sears was there and they came in for the outdoor section. He said the situation as to where they want to locate this storage facility makes it expedient to unload a truck and the ingress and egress for moving product in and out. He said one of the problems you have is and for almost all retailers is when we have special events we have different things that come in different products, when they are coming in on a truck if we start loading them into the store it turns into a fire hazard which nobody wants, it impinges the aisles, it impinges the backroom, it is just a nightmare. He said to locate it on the other side of the building would be a nightmare trying to move the project around because what generally happens, and he is speaking for Mr. Boodjeh, the truck pulls in and you want to unload the truck, the product comes in on skids or pallets, it gets unloaded.

Mr. Shahinian continued by referring to the aerial and said it gets unloaded here and finds a home right in here, nothing gets impinged. He said if you have it over here now all of a sudden you've got big trucks wanting to pull over here so they can unload to this side of the building and he is an advocate for two reasons, a. this is a community asset and if nothing else they pipe in the tax base and any consideration you have is appreciated but he is not sure the 15' would be good on the other side, it really should be behind the building.

Mr. Gutoskey said what he was suggesting is that it would be behind the building but only to that far side versus that far side.

Mr. Barr said avoiding that residential lot.

Mr. Gutoskey said it would be on the south side of the building but to the east end of it versus the left end of it.

Mr. Barr said basically where the white box is right, that is where we are talking.

Mr. Shahinian asked if that is where you want the facility.

Mr. Barr said right in there.

Ms. Endres said right in there.

Mr. Barr said that way avoiding that house that has already been infringed upon with the vacant lot there.

Mr. Gutoskey said if you build it on the other side then it would be really even more closer to the property line. He said you could have put it on the east side but what he was saying is take it and shift it down here to the southeast corner of the building.

Mr. Barr said instead of going all the way the whole hundred feet.

Mr. Boodjeh said there is no direct access from the receiving area to take product right to it. He asked if it would be a possibility to table this tonight and bring in a new drawing.

Mr. Gutoskey asked what as far as shifting it over you mean.

Mr. Boodjeh said yes.

Mr. Gutoskey said no, he thinks and he can't speak for anybody else but if you say you are going to shift it down to this end, talk to the other board members and see what they think.

Mr. Barr said if it was where she has the cursor right there, he referred to the aerial photo, would you still unload the trucks.

Mr. Boodjeh said no, it would be impossible, it would be strictly a storage room where we have to take product, we have to remove some refrigeration, cut a hole through the wall to go in to access that area where it would give us storage area and free up some space.

Mr. Barr said so that back corner is where you had the deli right now and your dairy products.

Mr. Boodjeh said yes, right there but that wouldn't be in the storage area, the dairy gets unloaded and stocked right away.

Mr. Barr asked if there is storage along that whole southern wall.

Mr. Boodjeh said no, storage is down through there, the pharmacy is up here and storage is right around here and this is all beer, ice cream.

Mr. Lamanna said the back wall has all kinds of refrigerated cases almost all the way across.

Mr. Boodjeh said that wouldn't be the best case but they can do something with that.

Mr. DeWater asked how they move stuff around now, with a pallet jack or a forklift.

Mr. Boodjeh said it is too wide to pull out onto the sales floor and it is not safe with customers around but it is pulled in, unloaded and the pallets are left in the back room there.

Mr. Lamanna said the storage areas are already on the west side of the building, is there any way to expand over on that side of the building.

Mr. Boodjeh said they have elevations differences and it wouldn't gain us as much room. He said it would be a lot of work.

Mr. Lamanna asked if that is some kind of equipment room there on the end.

Mr. Gutoskey asked about the equipment.

Mr. Boodjeh said it is the generator.

Mr. Lamanna said that would be the ideal spot.

Mr. Boodjeh said there is no loading into here, it just comes through here and there is a doorway right here cut out.

Mr. DeWater said he was asking about a pallet jack because if they are moving stuff around and they are struggling with a pallet jack so if it is not feasible to get the merchandise through the store, cut a hole in the wall there, why not let them build a 5' addition off the back storeroom hallway, move that other addition all the way to the other end of the building but it gives them access from where they actually want to be, it adds to your project but it gives you the access into that area without really pushing a lot towards that residential area.

Mr. Lamanna asked if that whole extension is going to be full height of the building.

Mr. Boodjeh said pretty much, yes it is just below the top part of the gutters.

Mr. Lamanna asked how high that is.

Mr. Gutoskey said it is 17' 8" for the addition and it looks like the existing building is 22'.

Mr. Lamanna said you are going to go all the way up to 17'.

Mr. Boodjeh said they can't go closer to the sprinkler head.

Mr. DeWater said if you move the addition down but then you just have an access hallway to get there and if you use only pallet jacks you may lower that section of the roof too and then just raise it back up.

Mr. Gutoskey said you could do it with an exterior corridor to get to the storage space and you may be able to cut another opening in over here at this end.

Mr. Boodjeh said yes they can do that.

Mr. Gutoskey asked if that makes sense.

Mr. Lamanna asked you are not going to have forklifts and stuff running in and out of here, are you.

Mr. Boodjeh said well it helps if we have room if we have to move equipment or backroom heaters things like that, those are just hanging from the ceiling.

Mr. Lamanna said you've got the Home Depot situation where you've got the big things that go in and pick stuff up and move it up 12' high.

Mr. Boodjeh said they don't need that.

Mr. Lamanna asked how high the racks are going to be to store, it is only 15' wide to start with.

Mr. Boodjeh said 15' max, they are about 8' tall so he will say 12'.

Mr. Lamanna said there is something to be said the more you drop that down he thinks the better it is going to look, if you are sticking out in the existing building if you are down 6' from the top of it and then there is the next jet out that doesn't present quite as massive a look to somebody looking at it as if it is all the way the same side, if there is a noticeable step down to the addition. He said given the narrow width it is how high can you feasibly go up with storage just because you can't get equipment in there.

Mr. Shahinian said aesthetics need to be determined by you.

Mr. Lamanna said right and that is what he is saying if you have a step down and how much advantage are you gaining by having it all the way up that high is a practical matter just because it is not going to be easy to get things up higher.

Mr. Boodjeh said no but some of it is stored until the next year, the seasonal merchandise, it is put way back in the corner as high as possible.

Mr. DeWater said that section wouldn't be as high though.

Mr. Lamanna said how reasonably high can you get something. He said it is like a few times a year something needs to be moved up high, you are not going to invest in a \$50,000 piece of equipment like Home Depot has to come out there and pick the thing up and put it up on the racks, it is not going to be worth it to use it five times a year, you are not going to do that.

Mr. Barr asked Ms. Endres to back up to the residential on the aerial to see just how far they could go before they hit that residential lot. He said it looks like it may be more that 50'.

Ms. Endres asked what it is he is looking to measure.

Mr. Barr said from the southeast corner of the building.

Mr. Gutoskey asked are you saying where the property line hits.

Mr. Barr said yes then we can go to the building corridor.

Mr. Lamanna said from that point right there.

Mr. Gutoskey asked what the dimension is from there to the southeast corner of the building.

Mr. Barr said where it touches the building to the other corner.

Mr. Gutoskey said 143'.

Mr. Boodjeh said you are saying what we are proposing is possible to fit it in on that side.

Mr. Gutoskey said yes.

Mr. Barr said to fit it there and where it gets to the back of the residential lot then you go to the corridor to the end.

Mr. Lamanna said then you can drop it down and have a corridor about 5' or 6' wide and 10' tall.

Mr. DeWater said that would give you your access and room.

Mr. Boodjeh said their access they would keep in their lower area and aesthetically it is not going to look bad.

Mr. Barr said what it sounds like is you have the roof and the gutters and it is coming right off of that and going down to your addition that you want.

Mr. Boodjeh said yes.

Mr. Gutoskey said it is going from 22' 4" to 17' 8".

Mr. Boodjeh said it is not going to look bad.

Ms. Endres said it is about 75' from the corner of the building to the nearest residential.

Mr. Gutoskey said they are not right at the corner.

Mr. Lamanna said it is 15' to 20' from the end of the building anyway.

Mr. Gutoskey said it is 100' x 15' correct, the corridor is maybe 90', it depends on where you are coming out of the dock, it looks like 80' or 90'.

Mr. Barr said if you could just move the big wide section down to this bottom part and then have a corridor, he just doesn't want people here to have to look at this side when the leaves fall and see commercial buildings and it would really look better for them if that wall is broken up with a roofline that comes down at 10' or so, now you are seeing a roofline versus them seeing a big brick wall that is 20'.

Mr. Shahinian said he approves.

Mr. Boodjeh asked how he would proceed from here, get a revised drawing or just a conditional approval.

Mr. Lamanna said we could probably define this well enough to give a conditional approval because we know pretty much what the one piece looks like, just shifting that down. He asked for the record if there is anyone else here interested in this application.

Mr. Gutoskey said now to the parking.

Mr. Lamanna said the only thing we don't know is the lot coverage because with this revised structure, it is probably about 250' of extra lot coverage.

Mr. Gutoskey said depending on the width of the corridor.

Mr. Lamanna said it is about 6' by 40' maybe roughly.

Mr. Gutoskey said if it has to go down to the end of where the original addition is that is about 90' so you are talking about another 6' outside with a 5' corridor. He said the question is will a 5' corridor work.

Mr. Boodjeh said if fire safety approves it, a pallet is 42" wide.

Ms. Endres said not a lot of margin for error driving that.

Mr. Gutoskey said he thinks you are just pushing it aren't you.

Mr. Boodjeh said yes.

Mr. Gutoskey said we said 90' x 6' on that. He asked shall we talk about the parking.

Mr. Lamanna said that piece is about 1% or 1 point something percent.

Mr. Gutoskey said it adds 540 sq. ft.

Mr. Lamanna said the parking is the bigger part.

Mr. Gutoskey said parking according to this is almost 7,700 sq. ft. but there are a couple of issues with the parking. He said with the parking is 51.73%.

Ms. Endres said with the parking.

Mr. Lamanna asked what is it without the parking, just on the building.

Mr. Gutoskey said existing is 47.31%. He said it would be 48.3% with the extra 1,500 sq. ft. plus the 540 sq. ft.

Mr. Lamanna said that is about a percent.

Mr. Gutoskey said yes 1% because right now it is 47.3%, it would be 48.29%. He said it looks like in a 2018 hearing we approved 48% and on the original Sears we approved 50%. He said this lot got added in 100' or something, that lot was 100' wide and got added on. He said we can move to the parking now. He said our code has for parking spaces 9' x 20' and this shows on your angled parking there 19' 3" but then also if you go to our code section 169 when you have one-way angled parking the aisle is 18' and he scaled 14' on this drive aisle here.

Mr. Boodjeh asked if 18' is two-way traffic.

Mr. Gutoskey said typically when you have 60 degree parking like this it is 18' and then spaces are 9' x 20'.

Ms. Endres passed out text and a diagram of the proposed parking.

Mr. Lamanna said we've got questions over the orientation of this project but the question is the lot coverage. He asked why all of this additional parking is needed.

Mr. Gutoskey said that is why he brought up the fact that the spaces are smaller than our code and the drive aisle is smaller than the code.

Mr. Lamanna asked if there is a parking problem.

Mr. Boodjeh said yes there is a parking problem, this is even longer than the storage problem, they looked to ask the township and a year ago they filled out an application but withdrew it at that time. He said right now there are 110 spots total, we have 57 employees, they don't all come at the same time, there are at least 16 to 20 per shift, the shifts overlap from 4:30 to 5:30 so that is up to 40 parking spaces there but the main problems are Friday, Saturday and Sunday, the biggest shopping days, people are driving around up and down aisles to try to find a spot. He said Wednesdays, Senior days once a month, every month, people avoid the store, they have told him that, because there is no place to park and it is so crowded, they get 10% off of everything. He said what we are trying to do by adding additional parking, 17 spaces, but it sounds like we may have to adjust it a bit because of the depth we have now, that is going to be all designated employee parking which will take all of the overlapping with the customers in the front, convenience spaces, it is going to put them further out.

Mr. Gutoskey said he doesn't see anywhere where you can even add some spaces off the existing drive, he thinks your grade drops off over here.

Mr. Boodjeh said it starts to but that is truck traffic there.

Mr. Gutoskey said he was thinking for employee parking.

Mr. Lamanna said you can get a few more spots on the end there to the west side.

Mr. Boodjeh said that would take our greenspace.

Mr. Gutoskey said you still have according to his calculations 1.7% to get up to 50% and it looks like we must have given them a variance on the parking because the spaces are 9' x 18'. He said if we add some spaces there we would probably get another five spaces here (he referred to the site plan), we were talking at that west end.

Mr. Boodjeh said he would really appreciate the convenience of not having to walk so far.

Mr. Gutoskey said actually if you are doing 9' x 18' parking spaces and you didn't need any driveway you can get 22 spaces, if you had existing pavement you can put parking spaces next to it and it would take you right at 50%.

Mr. Lamanna said that would be 2,000 sq. ft. roughly.

Mr. Gutoskey said when he calculates with the percentage we had with the building and figured out how many square feet he had left to get right at 50%, with 9' x 18' spaces he can get 22 spaces but that doesn't include drive aisles so where can you work in the spaces. He referred to the site plan and said you can get five here but the question is, dollar wise, if there is any way you can do some grading in here and put some spaces here for employees because you can't really go past here because of the wetlands.

Mr. Barr asked how close to the road can you put them.

Mr. Gutoskey said you can put spaces along the edge of this driveway and stay the parking setback. He said that is 153' and if you started in here you can get 17 spaces but you would have to look and see grading wise, it might be as much to construct it as what you are paying for all of this extra asphalt because you would be paying for 17 spaces here and 5 spaces here because it looks like what we have for the building you have room to add 22 spaces as long as you can put it up against the edge of an existing driveway so maybe that you do a retaining wall in here.

Mr. Boodjeh said they had it surveyed again but his concern is just the traffic, he has seen people coming out pretty quick, that is why we put parking here, they are backing out. He asked are you saying angle parking or straight in.

Mr. Gutoskey said just straight in, if it is your employees and they are coming in early.

Mr. Boodjeh said they come in early and leave in the afternoon after truck traffic.

Mr. Gutoskey said like he said you can get 5 here and you are going to get 17 here (he referred to the site plan).

Mr. Boodjeh asked what the depth would need to be then.

Mr. Gutoskey said 9' x 18', we already gave a variance for that. He said actually you are looking at 17.

Mr. Boodjeh said out of all of that we were losing some and gaining some back.

Mr. Gutoskey said he just got you 22 and you are still at 50% and you still have got greenspace and then maybe move this landscaping over here.

Mr. DeWater said you've got a lot of landscaping on there when you look at the picture there is none of that there, it would be nice to see that landscaping there.

Mr. Gutoskey said and one other thing too and he has mentioned this to Ms. Endres a few times because that northwest corner of the site there, when the site got done they just kind of ignored that so it is just 4' or 5' tall grass and some dead trees.

Mr. Boodjeh said he talked to them again today, he didn't understand it but you can see how it was being cut so he is going to brush hog all of that down.

Mr. Gutoskey said just get rid of the dead trees.

Mr. Boodjeh said and go right up to NAPA.

Mr. Gutoskey said great. He referred to Ms. Endres and said what we are saying is maybe 5 spaces here and then try to see if you can get some spaces in here.

Ms. Endres said on the other side of the driveway.

Mr. Gutoskey said he doesn't see anywhere else, this is wetlands.

Mr. Lamanna said unless you go way down but that is the truck turn-around.

Mr. Gutoskey asked Ms. Endres if she knew the number of spots.

Ms. Endres said it is in the staff letter.

Mr. Gutoskey referred to the site plan and said he doesn't think you can really get anything up in here because you get into the 20' side yard setback for the parking so you would hardly get anything in there because of where the wetlands are in the back.

Mr. Lamanna said you would get three or four spots.

Mr. Gutoskey said working the aerials, that section next to the pond, this space right here, that would give you your 22 spaces, that would put you at 50% which we had previously approved for the Sears and it would make your addition work, the corridor and for the amount of asphalt you are adding here to get the parking spaces for the grading and whatever you probably have to do it is probably a wash. He said if you look in the area there is the shopping center right at Rt. 306 and Washington there that we call the ugly green monster that is getting redone you can see they are getting a retaining wall there along their east property line, strong wall, stackable retaining wall. He said he thinks you have less of a problem with grading and that may be for you the best option.

Mr. Boodjeh asked if he can get conditional approval for that too.

Mr. Lamanna said you will get lot coverage to 50%, provide a revised drawing showing the building and how you are going to do the parking and the parking is going to have to be off the existing.

Mr. Dennis Williams asked if they are adding landscaping and buffering.

Mr. Lamanna said we haven't gotten to that yet.

Mr. Gutoskey said if you can utilize your existing pavement and get spaces off of it that is going to generate the most parking spaces for you.

Mr. Boodjeh said he just didn't think about putting it along there.

Mr. Lamanna said probably along the front there, extend the existing row out, he thinks you can get 5 there.

Mr. Barr said if he was your employee and the spots that you created on the west side he would back in early in the morning so when the afternoon comes and he is off he could just pull out.

Mr. Lamanna asked about the landscaping.

Mr. DeWater said he will refer back that he volunteered evergreens alongside the building.

Mr. Barr said he actually volunteered mounding and evergreens and the grade drops down so the mounds would affect the drainage, have the landscaper check the landscape plan.

Mr. Lamanna asked if we are going to get landscaping in these islands and then do something with that northwest corner.

Mr. Boodjeh said it is being taken care of, he even stopped before he came just to make sure he was telling the right things.

Mr. Lamanna asked on the landscaping in the back, what are you looking at.

Mr. Gutoskey asked what is there now, he thinks there are just three Pine trees in that one corner, they match the plans.

Ms. Endres said yes.

Mr. DeWater said they could plant something out on this other side.

Mr. Lamanna asked just extend that line all the way down to the other end of the building.

Mr. Gutoskey said he thinks there should be more trees on the west side against the residential versus against what is going to possibly be a future commercial business.

Ms. Endres said just be aware of those power lines, there are still high power lines.

Mr. Gutoskey said you can see them, they are there, the transformers and you can see the wires back in the corner.

Mr. Lamanna said you want the trees not under the power lines.

Ms. Endres said right.

Mr. Boodjeh said that is pretty wooded right in there, that section.

Mr. DeWater asked if the gravel access is for CEI.

Mr. Boodjeh said yes.

Ms. Endres said looking at these aerials there is a question with the developer over here infringing on the property.

Mr. Gutoskey said there were pieces/parts of an old split rail fence but it is all grass now, they planted it up after they cleared it but it does drop down and like you said that building sits probably at least 5' lower.

Mr. Lamanna referred to the aerial photo and said the plantings should be out of the way of the road and out of the way of the power lines.

Mr. Gutoskey said the power stops right there.

Mr. Lamanna asked how many is that roughly.

Mr. Boodjeh said this is the power pole right here.

The board discussed the proposed location of the plantings.

Mr. Boodjeh said how about Arborvitae and they can be 6' tall.

Mr. Barr said they grow about 1-1/2' to 2' a year and he would be very happy with Arborvitae and you won't have to worry about those branching out like Pine trees.

Mr. Gutoskey said stagger them behind the existing trees.

Mr. Lamanna said a 10' – 12' space and staggered rows.

Since there was no further testimony, these applications were concluded.

Motion BZA 2021-21 – Discount Drug Mart – 8459 Washington Street (Building Addition)

Mr. Lamanna moved to grant the applicant the following variances with respect to the building addition:

1. A variance to add an approximately 2,000 sq. ft. stock room consisting of a 15' x 100' addition and then a connecting corridor from that addition of approximately 90' x 6'.
2. The addition will start from that point going perpendicular to the building where it intersects and that part will be as shown in the drawing that was submitted, just relocated, and the applicant will provide the detailed drawings which the board assumes is going to be similar in shape and construction except it will be narrower and not as tall so that it results in an approximate 1% increase in lot coverage.
3. A variance from the rear lot line to 29' 8" for the storage portion of the addition and 37' 8" for the corridor portion of the building.
4. A variance to 165.08 for enlargement of the non-conforming building.
5. As part of this the applicant has agreed to add landscaping consisting of Arborvitae at least 6' tall running from the corner of the building in an arc outside the tree line to the existing CEI pole at the back of the building and two staggered rows with 10' spacing.

Based on the following findings of fact:

1. The reason for granting this variance is the applicant needs additional storage due to changing handling of materials that has occurred.
2. The small increase in the lot coverage is necessary for the effective operation of the existing business.
3. As constructed with the additional landscaping it will have a minimal impact on the adjacent property owners and will not adversely affect the character of the neighborhood.

Mr. Gutoskey asked if it is a membrane roof.

Mr. Boodjeh said yes.

Mr. Gutoskey asked if it is black.

Mr. Boodjeh said rubber.

Mr. Lamanna said it is the same as the existing.

Mr. Gutoskey seconded the motion.

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

Motion BZA 2021-22 – Discount Drug Mart – 8459 Washington Street (Additional Parking)

Mr. Lamanna moved to grant the applicant the following variance for the purposes of constructing additional parking spaces.

1. After the increase in case 2021-21 the board will increase the total lot coverage to 50% which is an additional variance of a little over 1%, exact calculation to be finished when the site plan is provided for the revised parking and the revised construction in case 2021-21.
2. The parking spaces will be at the same dimensions that were previously allowed in a prior approval at this location and the applicant will be able to add parking spaces off of the existing roadways up to the amount of the additional lot coverage that was available expecting that these spaces will be added in the northwest front row and along the space in front of the existing retention pond.

Based on the following findings of fact:

1. The applicant is having difficulty with overuse of the parking and not having sufficient parking spaces.
2. This is a very small increase in the total overall lot coverage.
3. The 50% percentage is the percentage that was allowed before with respect to the Sears store that occupied the majority of the existing parcel.
4. It should have no adverse effect on the character of the neighborhood and should be able to be absorbed within the existing structures of the property for the control of run-off as well.
5. The board does note that at this point the lot coverage on this property has pretty much reached the saturation point so a future expansion is unlikely to be available without reconfiguring and adding additional property or removing other lot coverage trade-off for something new, just so the applicant is aware that it has reached the limits of what is available here before reaching the level of both adversely affecting the character of the convenience business district and trading an unfair situation with respect to other property owners in this area who are adhering to the 40% requirement.

Mr. DeWater seconded the motion.

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

Application 2021-23 by Devon Gamble for property at 17791 Snyder Road

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

Ms. Devon Gamble, property owner was present to represent this application.

Ms. Gamble testified that she is asking for an area variance for a new construction, it is about an 18' variance off the side lot line because of the placement of their septic system on the property.

Mr. Gutoskey said when he takes a look at this if you were able to move the house back 70' you could probably build it without any variances because the spray can get moved back and it looks like on the septic drawing, this brown line on the septic site plan, that is the area checked by the soil scientist so realistically that spray can probably go in any of that area and if you move the house back 70' you could slide it over and you wouldn't need a variance.

Ms. Gamble asked all the way back toward where the wetland is.

Mr. Gutoskey said no, just if you slid the house back 70' it would fit within the side yard setback on the north side and on the west side and showed Ms. Gamble on the site plan. He asked who put your house together here because he has done many of these and typically our first rule of construction is the driveway is on the high side and your driveway is going on the low side which you will have to put a lot of fill for your garage, and if you flipped it and had the drive on the high side you could probably get a walk-out on the one side of your house but like he said, looking at the septic system site plan, he thinks this brown line here is where the soil scientist checked the soil. He said typically if it is good here you could probably move it back.

Ms. Gamble said they definitely tried because Ms. Endres did share that if we could get a better setback then we wouldn't need a variance and just based on that spray radius everywhere they moved it it just didn't work.

Mr. Gutoskey said just sliding it back here you could pull the house back and it would be outside of that spray radius.

Ms. Gamble asked if it is still within the setbacks of the wetlands.

Mr. Gutoskey said it would be outside of the wetlands because whoever did your soils for your septic basically they pretty much show the edge of where the soils are good, you can't put a septic in wetlands and this is just like a knob coming down here so you can kind of slide that spray northeasterly in the high spot then you would have room to pull the house back and not need a variance.

Ms. Gamble said she thinks they may have tried that, it really wouldn't give us any type of backyard because we do plan on in the future adding onto the back like having an outdoor kitchen and things of that nature and that spray radius, you can't build anything within that.

Mr. Gutoskey said it is a tough lot.

Ms. Gamble said yes so that would really restrict us from having that.

Mr. Gutoskey said but we don't have that other information in front of us whether you are planning on putting an outbuilding back there or what he doesn't know but from what he sees right now, there is room to move the spray and then move the house back where you won't need any variances.

Ms. Gamble said they did have two garages on there that her husband planned to put on there but she guesses because they are not asking for a variance in that moment, they are not doing it with this construction, they were asked to remove those off of that site plan so that is why they are not on there.

Mr. Gutoskey said so what you are saying there are some garages planned.

Ms. Gamble said yes.

Mr. Gutoskey said so you can't move the spray for the septic because you might have garages there which then forces the house to have a variance.

Ms. Gamble said right.

Mr. Gutoskey said to Ms. Endres, you said there were garages on there.

Ms. Karen Endres, Zoning Inspector testified that there were garages on the original site plan but she can't approve accessory buildings until the house is constructed.

Mr. Gutoskey asked where those were proposed then.

Ms. Endres said one was going to be right over in here, she referred to the site plan.

Ms. Gamble said it is about 100' or so off the back of the house.

Ms. Endres said and the other was going to be right here.

Ms. Gamble said yes.

Mr. Gutoskey said the board can only look at what is in front of us now and to be looking at it, the spray and the septic to be moved back and then the house could be moved back and meet all zoning without a variance.

Ms. Gamble said we asked for the variance because we need a backyard.

Mr. Gutoskey said you would still have a backyard.

Ms. Gamble said but they wouldn't be able to add anything back there, they wouldn't be able to place any type of structure, any playground or anything like that inside of that spray radius so it would be green useless space that they wouldn't be able to do anything with.

Mr. Lamanna said it is eating up a big chunk of what is right behind your house where it is.

Ms. Gamble said it is.

Mr. Lamanna said right going directly back from your house, 20' or 30' is the spray radius.

Mr. Gutoskey said typically the radius is 35' then you have a 50' isolation around it.

Ms. Gamble said yes and they have owned the lot for about two years so they have been planning and doing stuff since then and so like the driveway is already there, her husband has landscaped and cleared the entire lot so all of that space except for where the septic is going and that spray radius is going is cleared so it does give them backyard usage space, it is not eating up all of it but if they were to move the house back and move the spray head over then it would cover the entire backyard and they wouldn't have one to use and then they still would be back for variances for the garages when they do decide to build them.

Mr. Lamanna asked if they could swing the driveway just on the edge of that spray radius.

Mr. Gutoskey said no you have to move that spray radius up diagonally and then just slide the house over, slide the house back and then down.

Ms. Gamble said they are planning for the future, like she said, they do plan on adding the garages.

Mr. Gutoskey said they are looking for a 20' variance on the side yard but if you push the house back you wouldn't need it.

The board discussed pushing the house back to avoid the variance.

Mr. Frank Klarich, septic installer testified that he doesn't understand the little bit you are going to lose in the area between the house and wetlands, it looks to him like it is almost 200' so he doesn't understand why you can't bring the house back and down, move it 50' or something, it wouldn't affect anything to do with where the septic is going to go anyway and you would have a ton of room to do those two accessory buildings, maybe not in the exact location you are showing but somewhere where Ms. Endres is going to allow you to do it.

Ms. Gamble said if they moved it along there and moved the house within the setback again it is really, like she said, they are planning for the future so when she was talking about moving it around to try to fit within the setback so that they could avoid coming here for a variance they do plan on adding things to the back of the house once they build the house and moving everything within the setbacks will restrict them from ever adding anything within there because that spray radius is really going to bump right up into, she doesn't know how many feet, but it wouldn't give them any room to add anything to the house.

Mr. Klarich asked what the distance is from the back of the house to that wetlands.

Mr. Gutoskey said you are saying from the back of the house, it is 200'.

Ms. Gamble said if they move the house back 70' and you've got about 90' of spray head and the radius.

Mr. Gutoskey asked if that 50' isolation has to stay on the property.

Mr. Klarich said no there has been a change, they are going to drop it down supposedly to 25' because a lot of lots, they can't even mess with because of that 50'.

Mr. Gutoskey said realistically this spray can go all the way up in the corner 30' off the line.

Mr. Klarich said it has to be a 50' isolation. He said the spray head has to be 85.1' from the property line with a 50' isolation.

Mr. Gutoskey said he doesn't know if this is to scale.

Ms. Endres said this plan is to scale, the one that is in your packets.

Mr. Gutoskey said you can move it way back in here, to him it looks like there is room to move it.

Ms. Endres said this one is to scale at 1' = 50'.

Mr. Gutoskey said this one is to scale but there are no wetlands on here.

Mr. Lamanna said all of the development should be on one drawing.

Ms. Endres said the septic plans show the outbuildings.

Mr. Klarich said the 11 x 17 is to scale.

The board reviewed the site plan and possible locations for the house.

Mr. Gutoskey said 85' off the property line to the center, right Mr. Klarich.

Mr. Klarich said yes.

Ms. Gamble said she would just reiterate that they tried to avoid needing a variance but because they already had done a lot of planning and they got the sediment and erosion control plan, they got that approved, they got the driveway already in.

Mr. Lamanna said the problem with all of that is you put the cart ahead of the horse, when people go out and get approval of other things on the assumption that we would approve some variance, you should be here first to make sure. He said you put a driveway in, you put a driveway in to a point so unless you know you might have to switch it around it is tough to come here and tell us that you put this driveway in, why did you put the driveway in before you came in for approval because you are tying our hands by doing something before you got approval and it puts the board in a very difficult situation when people do things then they come to us and say we did all of this stuff and now we want you to approve this variance and the reason we want you to approve it is because we did all of this stuff before we got approval. He said the whole point of getting the approval is so that people don't do a bunch of stuff when there is an alternative available or maybe an alternative available.

Ms. Endres said she doesn't know if this would go to the BZA at all but a couple of years ago they consolidated three nonconforming lots to create what is now the conforming lot.

Mr. Gutoskey said so basically they created a conforming lot so they could build a conforming house on it.

Ms. Endres said exactly, yes. She showed the board a site plan and said at one point this was one lot then we had a landlocked lot and then we had another lot over here.

Mr. Lamanna said so what we ended up creating is a quasi-flag lot.

Ms. Endres said exactly. She said it is conforming because it has 60' of frontage.

Mr. Gutoskey said but is 150'.

Ms. Endres said right it is 150' instead of 60' then it has got 250' at the building line but the building line would have to be beyond this point here.

Mr. Lamanna said when you look at a lot like this the contemplation is that the house is going to be back here.

Ms. Endres said right, she doesn't know if this helps the board at all in knowing the history of the lot, at one point it was three non-conforming lots that were consolidated to create the conforming lot.

Mr. Lamanna said but again it is really a flag lot and the contemplation is with a flag lot that the house is going to have to be built on the flag not on the pole.

Mr. Barr said to Ms. Gamble that her original plan was to have the house here because you want to have an outbuilding here and an outbuilding here.

Ms. Gamble said yes.

Mr. Barr said but that was with the septic here but if you move the house back the septic has to come back and can't come back in here so do these outbuildings, if you want two outbuildings would they have to still be here.

Ms. Gamble said she doesn't think it is more with the outbuildings, it is going to be the addition that they are going to add to the back of the home that they are not going to be able to do that because of that spray radius, it is literally going to come so close.

Mr. Barr said if the house is here and you can move that spray radius, you could put that way back here.

Mr. Gutoskey said right now the spray radius is only 110' to the corner of the house.

Ms. Gamble said it has to be off of that wetland.

Mr. Gutoskey said no, it is spraying into the wetlands. He said the edge of the spray has to be along this isolation buffer from the wetlands.

Mr. Lamanna said it has a long ways to go back.

Ms. Gamble said you can't put anything within that buffer even though it doesn't spray.

Mr. Barr said but we are saying if we bring the house back and then you bring the septic way back here you would still have plenty of backyard, if you move your septic back here the only problem with moving something back here is this is where you wanted your other outbuilding.

Ms. Gamble said yes.

Mr. Lamanna said the other thing is you rotate the house a little bit, rotate the house so that the back faces more into the big part of the property so you would rotate as you go back here slightly and that way as you are going back, put the septic over here, coming back away from your house you are actually going away from the septic more and then you open up all of this area over here to use, you have the whole other side of your property to use, here you are kind of pushing yourself into a corner, it seems to him, you got your house trapped in the pole of the flag and you've got right behind it a big spray radius that has really limited what you can do there.

Mr. Barr said and the problem you could run into, you don't know on this lot here he could say he wants to start growing mushrooms back here so he starts growing mushrooms and to grow mushrooms he puts a big manure pile right here and your house is right here, we have given you a variance and your house is real close and this guy is putting a manure pile in the back of his yard which he is completely allowed to do.

Ms. Gamble said the house is within the setback on his property.

Mr. Barr said that is what he is saying, if we give you a variance and you put your house right here this guy or maybe not this guy but the next person who moves in could make a compost pile and put it as far away from his house as possible so now you have all this massive compost and you have to smell it at your house because the wind blows out of the west so we are trying to save you a little bit from whatever could be here, if we bump that house back and turn it just a little bit you now have this massive backyard, your septic is way up away from you and you are now a little bit more protected from a neighbor here or a neighbor up there and then you would have this room if you wanted to put your outbuilding over here you could.

Mr. Lamanna said unfortunately we are in a bad position here because we don't have the person here who could really speak to these things authoritatively.

Ms. Endres said she thinks that is what he (Mr. Klarich) is doing.

Mr. Klarich said if you can get it in and move that house a little bit, that little bit of driveway is going to be perfect.

Mr. DeWater asked Mr. Klarich where he would move the septic to on that drawing.

Mr. Klarich said it is in the right spot because of elevations but just like Mr. Gutoskey said the farther back in the southeast corner it is highly more beneficial.

Mr. Barr said that is kind of what we are pointing out up here.

Mr. Gutoskey said what we have to look at is what your hardship is and looking at the drawings, we are not seeing a hardship.

Ms. Gamble said she thinks the hardship is they are not going to be able to have a pool in their backyard.

Mr. DeWater said that is actually not a hardship.

The board reviewed the site plan to determine how far back the septic system can be moved.

Ms. Gamble asked if they work to move the house back, do they have to do all of the paperwork and everything over, do they need new paperwork for that.

Mr. Gutoskey said if you don't need a variance you don't have to come back here, you just have to figure out where you want to move the septic and give Ms. Endres a new site plan.

Ms. Endres said she would require a revised site plan, she would not make you start over completely but she would need a site plan showing the relocation of the house.

Ms. Gamble asked if they will have to get an updated sediment control plan.

Ms. Endres said you probably don't, have it renewed, you can let them know about the relocation of the house.

Mr. Klarich said they will do an 11 x 17 and will figure out something and make sure it fits in so you won't have to get the variance..

Mr. Lamanna said if you push that thing as far back and up as you can and then bring your house back and turn it 20 or 30 degrees he thinks you are going to end up with more room than you can use behind your house and the side of your house than you have here the way that this is set up you are really pinched by that spray radius, you've got two little corridors to go around this and it is not that far from the back of the house either so you really got pinched in there with what you can do. He said the board will just continue this so that if it turns out you can't work something out and you do need some variances just come back next month and we will hear the case so this case will still continue and you won't have to start over or anything else.

Ms. Gamble said okay and thank you.

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

Motion BZA 2021-23 – 17791 Snyder Road

Mr. Lamanna moved to continue this application to the next regularly scheduled meeting to be held October 21, 2021 pending possible proposed variances being moot.

Mr. Gutoskey seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:40 P.M.

Respectfully submitted,

Brent Barr, Alternate
Ted DeWater
Ian Friedman, Alternate
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman

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

Date: October 21, 2021

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
September 16, 2021

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:40 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Ted DeWater and Mr. Joseph Gutoskey. Mr. Todd Lewis was absent. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the meeting minutes of August 19, 2021 as written.

Mr. Barr seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2020-35 by Dangelo, Ltd. for property at 16965 Park Circle Drive -
Continuance

The applicant is requesting area variance(s) for the purpose of maintaining a pavilion. The property is located in a LIR District.

Application 2021-24 by 422 Company, Ltd. for property at 8200 Washington Street

The applicant is requesting a review and renewal request of an existing conditional use. The property is located in a CB District.

Application 2021-25 by Federated Church by Melissa Owen, Sr. Director of People and Operations for property at 16349 Chillicothe Road

The applicant is requesting a review and renewal request of an existing conditional use. The property is located in a R-5A District.

Application 2021-26 by Lord of Life Lutheran Church for property at 17989 Chillicothe Road

The applicant is requesting a review and renewal request of an existing conditional use. 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 October 21, 2021 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:35 P.M.

Respectfully submitted,

Brent Barr, Alternate
Ted DeWater
Ian Friedman, Alternate
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman

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

Date: October 21, 2021