

Bainbridge Township, Ohio
Board of Zoning Appeals
January 18, 2007

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:32 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Mr. Donald Takacs. The following matters were then heard:

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 2007-1 by E. S. Sign Company for North Woods Grille for property at 16381 Chillicothe Road

The applicant is requesting area variances for the purpose of installing a ground sign. The property is located in a R-5A District.

The zoning inspector's letter dated January 2, 2007 was read and photos of the site were submitted.

Mr. Jozef Kofol, restaurant owner and Ms. Maryanne Serafino of E.S. Sign Company were present to represent this application.

The board reviewed the application and discussed the proposed sign and the 20 square feet that is requested.

Mr. Olivier asked if the sign will be illuminated.

Mr. Takacs said yes, it will have a spotlight.

Mr. Lamanna said the illumination will not bother anybody because it is not close enough to a residence.

The board discussed the illumination of the sign.

Mr. Murphy asked if this issue has anything to do with the sign that is on the building.

Mr. Kofol testified that it does not have anything to do with it.

Mr. Lamanna explained that businesses can have a wall sign and a ground sign, but this is in a residential district and it is a modification of a non-conforming use and there was formerly a sign there much bigger than this one and added that the size of this sign is smaller than what is normally permitted.

Mr. Murphy asked about the proposed color of the sign.

Mr. Kofol said he did not make the sign, he hired someone.

Ms. Serafino testified by explaining the proposed sign and showed a rendering of it and said it will be a natural design with raised letters so it will look dimensional and the faux finish will look like natural wood.

Mr. Lewis asked Mr. McIntyre if the building has met all of the build-out specifications.

Mr. McIntyre testified that there is still some landscaping to be done on the mound that they recently finished and the landscaping shows some trees that need to be planted when the weather gets good.

Mr. Lewis asked if the mounding is sufficient.

Mr. McIntyre said there was no call for a certain amount of height for the mounding and it took awhile to get done but the fire department was waiting for the underground storage tank for the water suppression system to be put in and there are some trees that need to be planted but that will occur.

Mr. Lamanna said he thinks the grading in the front looks good.

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

Motion BZA 2007-1 – 16381 Chillicothe Road (North Woods Grille)

Mr. Lamanna made a motion to grant the applicant the following variances to install a 20 sq. ft. ground sign as shown on the application.

1. A variance from the restrictions that this is a non-conforming use in a residential district from provisions 173.07 (a), 173.10 (1) and 165.03 (D).

Based on the following findings of fact:

1. It is a substituted non-conforming use which previously had a ground sign with a larger dimension.
2. The proposed ground sign is well within the limits and its style and size are consistent with the area and would not adversely affect any of the adjacent property owners.

Mr. Takacs seconded the motion.

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

Application 2006-36 by David J. Koenig for property at 18862 Rivers Edge Drive East -
Continuance

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

Motion BZA 2006-36 – 18862 Rivers Edge Drive East

Mr. Lamanna made a motion to postpone this application to the regularly scheduled meeting to be held February 15, 2007 at the request of the applicant.

Mr. Takacs seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 7:47 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Donald Takacs

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

Date: February 15, 2007

AUDIO RECORDING ON FILE

BZA PH 1/18/2007

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Bainbridge Township, Ohio
Board of Zoning Appeals
January 18, 2007

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:47 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Mr. Donald Takacs.

Minutes

Mr. Takacs made a motion to adopt the minutes of the December 21, 2006 meeting as amended.

Mr. Murphy seconded the motion.

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

Proposed By-Laws

The board discussed the proposed By-Laws.

Organizational Session

Sunshine Law

Mr. Takacs made a motion to adopt the Ohio Sunshine Law (ORC).

Mr. Lewis seconded the motion.

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

Meeting Schedule

Mr. Takacs made a motion to set the meeting night of the Board of Zoning Appeals on the third Thursday of each month at 7:30 P.M. at the Bainbridge Town Hall; which meetings may be continued from time to time, at the discretion of the board, to such other dates as set at the meeting; and also that the board may schedule additional meetings during the month upon its motion.

Mr. Lewis seconded the motion.

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

Election of Vice Chairman

Mr. Takacs made a motion to appoint Mr. Lewis as Vice Chairman.

Mr. Olivier seconded the motion.

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

Election of Chairman

Mr. Takacs made a motion to appoint Mr. Lamanna as Chairman.

Mr. Lewis seconded the motion.

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

Notice of Meetings

Mr. Takacs made a motion to require a \$25.00 fee and 12 self addressed stamped envelopes for notice of public hearings and/or special meetings.

Mr. Lewis seconded the motion.

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

Zoning Secretary

Mr. Takacs made a motion to reappoint Linda Zimmerman as secretary to the Board of Zoning Appeals.

Mr. Murphy seconded the motion.

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

By-Laws and Procedures

Mr. Lamanna made a motion to adopt the following proposed by-laws with the deletions of the redundant application requirements regarding sunshine law, meeting schedule and notice of meetings and with the addition of an additional procedural requirement that on each application there will be present either the property owner or a person who has received written authority from the property owner to act upon their behalf and bind them with respect to the application and any of the matters therein.

Application Requirements

All applicants, other than individual single family dwelling units, be required to provide at least seven days prior to the Bainbridge Township Board of Zoning Appeals meeting, six copies of any exhibits they plan to introduce at the meeting and six copies of any expert report from any expert they plan to have testify at the meeting, and if not provided, such exhibits and expert reports may be refused admission to evidence at the meeting, all subject to the discretion of the chairman.

Alternate Board Member

"Alternate Member" The Trustees may appoint one (or more) people to be designated alternate member(s) of the Board. The alternate member(s) will serve in place of the regular member(s) whenever a member is absent from the meeting, or with respect to an individual matter before the board, when a member declares that the member will recuse themselves from participation in the matter. The Chairman (or acting Chairman, if the Chairman is absent) will (if applicable) select the alternate member to serve and will state in the record that such alternate is serving either for the entire meeting or the particular matter. Alternate members may attend meetings where they are not serving but will have no rights to participate as a board member or engage in the board's deliberations. An alternate member will not automatically succeed to the term of any member who resigns or whose term ends.

The alternate member would not be required to attend every meeting but would be welcome to do so. If there were a substantial matter that we expected to continue over more than one meeting, the board might request that the alternate attend so they would be ready to step in if someone was absent at a subsequent meeting on the same matter. As noted, they would not participate as a board member unless there was a vacancy. They would receive the information packet that all the members receive each month and would be asked to attend joint meetings, educational situations, etc. If their attendance is required we would notify them as soon as we knew that a member would not be available. Subsequent appointment to the board should be understood as neither automatic or assured.

Meeting Proceedings

As part of its proceedings, the board of zoning appeals may upon motion of one of its members and acceptance by the board adjourn into executive session for the purpose of conducting its business meeting and/or deliberations.

Procedural Rules

A. Court Reporters

1. The applicant must request at least one week in advance to have a court reporter present.
2. The proceedings of the court reporter will become a part of the record to supplement the official record as taken by the secretary to the board but will not supersede that record.
3. Prior to that transcript becoming an official part of the record, the applicant must at the applicant's sole cost, furnish a copy of the transcript to the secretary of the board for the board's review to determine the accuracy of that transcript.

B. Expert Witnesses

If any applicant or other party plans to introduce or use testimony of any expert, said person will file with the secretary at least three copies of the written report of such expert or a written summary of the planned testimony and a statement of credentials, not later than ten days prior to the meeting. The Board may refuse to hear any expert without such written report but may waive this requirement for good cause shown. When an applicant or opposition presents expert testimony, the opposing party will be provided an opportunity to present opposing expert testimony on such terms as the Board will determine. The Board may also establish specific procedures in individual matters regarding timing of expert testimony and exchange of expert reports.

C. Documentary Evidence

All documents requested to be admitted to the record will be the subject of a formal request by the interested party. At least three copies must be provided (unless the Board grants an exception), one of which will be marked as part of the record by the Secretary. The Chairman will rule on whether any document will be admitted in whole or part, including any restrictions and limitations.

D. Applications

The application (and all associated drawings) will be part of the official record. The relief requested and any relief allowed will be limited to that stated in the application (unless the Board specifically grants greater relief). No factual information contained in the application will be deemed as true or in evidence unless testified to at hearing by the applicant; provided that adverse admissions of the applicant in the application may be relied upon by the Board.

E. Zoning Inspector's Report

The Zoning Inspector will provide a written summary of the variances the application seeks or would be otherwise needed, any questions, pertinent facts concerning the premises and the application, and/or photographs. Such reports, information and photos will be part of the official record and considered to be given under oath. The contents of such report may be questioned by the applicant or other interested parties.

F. Consensual Changes by Applicant

If the Applicant makes changes to the application either sua sponte or upon request of the board during the meeting, all such changes will be deemed consensual changes and will become part of the record. Such changes will be marked on the official copies of documents in the record (such as drawings), but failure to make such notation will not make the changes invalid.

G. Letters and Other Communications

All letters and other communications regarding an application whether directed to the Board or individual members will be placed in the file. Such letters and other communications will not be part of the record as they are not sworn or subject to cross examination. They will not be used by the Board in making its decisions. Information which would be admissible under exceptions to the hearsay rule (such as public document) in such communications may be admitted by ruling of the Chairman.

H. Attendance of Property Owner

On each application there will be present either the property owner or a person who has received written authority from the property owner to act upon their behalf and bind them with respect to the application and any of the matters therein.

Mr. Takacs seconded the motion.

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

Applications for February 15, 2007

Application 2006-36 by David J. Koenig for property at 18862 Rivers Edge Drive East -
Continuance

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

Application 2007-2 by Nicholas D'Amico for property at 18367 Snyder Road

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

Application 2007-3 by Jataya Wren-Wiley for property at 16682 Lorain Street

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.

Application 2007-4 by McMillon Construction for property at 7045 Lewis Drive

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

Application 2007-5 by Larry Licata of Cicogna Electric Sign Company for Bainbridge North Land Development, LLC for property at 7020 Aurora Road

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

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for February 15, 2007 at 7:30 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 8:28 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Donald Takacs

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

Date: February 15, 2007