

Bainbridge Township, Ohio
Board of Zoning Appeals
October 16, 2008

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:32 P.M. by Mr. Michael Lamanna, Chairman. Members present were Ms. Joyce Hannum, Alternate, Mr. Todd Lewis, Mr. Mark Olivier and Ms. Lorrie Sass. Mr. Mark Murphy was absent.

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.

Mr. Michael Joyce, Zoning Inspector, presented the Geauga County Pictometry program to the board and explained that it was designed for the Homeland Security and is used by the police and fire departments, the Geauga County Auditor and the zoning department and will be available on-line in January of 2009.

The following matters were then heard:

Application 2008-11 by Vocon (Michael DeMarco) for Key Bank for property at 8481 E. Washington Street - Continuance

The applicant is requesting area variances for the purpose of constructing a new Key Bank branch bank. The property is located in a CB District.

Mr. Lamanna stated that this is a continuance.

Mr. Joyce testified that he has received another letter requesting another continuance because Key Bank is reevaluating the situation and has asked for a continuance for an undetermined period of time.

Mr. Lewis said the board could give them a couple of months and then the application will be pulled.

Mr. Lamanna said they could come in up to the January meeting but they have to give the board enough notice prior to the publication date for that month and if they don't come back by January, they will have to start all over again.

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

Motion BZA 2008-11 – 8481 E. Washington Street (Key Bank)

Mr. Lamanna made a motion to continue this application until the applicant gives the board a notice that they wish the board to hear it and that notice has to be given prior to the date that the publication goes out for the meeting. This continuance is only until the regularly scheduled meeting for January and if the applicant has not asked the board to be on the agenda by the January 2009 meeting, the application will be dismissed.

Ms. Sass seconded the motion.

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

Application 2008-23 by Dinallo & Wittrup Homes, Inc. for property located at the front entrance of Brighton Park Estates - Continuance

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

Mr. Joyce testified that he had talked to Geauga County Engineer, Mr. R. L. Phillips, and as far as he is concerned, any sign other than a traffic or political sign in the road right-of-way would be contrary to the public policy for the county and he would not give that permission, so the applicant has withdrawn his application.

Application 2008-26 by Matthew E. Brett for the Village of South Russell for property at 7860 E. Washington Street

The applicant is requesting area variance(s) for the purpose of installing a parking area for soccer fields. The property is located in a R-3A District.

The zoning inspector's letter dated October 16, 2008 was read and photos of the site were submitted.

Mr. Matt Brett, Mayor of South Russell Village and Mr. Michael Hogan, member of the S. Russell Parks Committee were present to represent this application.

Mayor Brett testified that they are before the board tonight for a small parking area and submitted a site plan to the board. He said approximately four or five years ago S. Russell Village went into a process of acquiring about 87 acres which was a former farm and referred to the GIS program. He said of all of the 87 acres, the vast majority of that is located in S. Russell, the property goes from Bell Road all the way over to E. Washington Street and a portion of it or 17 acres is in Bainbridge Township and did this in partnership with the Chagrin River Watershed Partners and also with the support of the trustees that were in place at the time. He said as time has gone on, what you see on the first page is a view of the whole 87 acres and at the top of the page is Bell Road.

Mayor Brett said this property is an odd shape lot but at the bottom of the page is E. Washington Street running at an angle and you will see on the first page the ten acres that was carved out for a more accurate application which is what Mr. Joyce has up there in red. He said when they acquired this 87 acres, the intention of the Village was to preserve this property and one of the things they did not want to see is this property developed so they went through a process of working with their residents to understand what was their intention outside of just being preserved of what they wanted the Village to do with it and one of the recommendations was 77 acres of the 87 be carved out for only passive applications such as walking trails, a pavilion etc. and right now they just have mowed walking trails. He said the ten acres is carved out for more of an active application and there is a demand for more playing fields and noted a few fields that already exist in S. Russell and they wanted to carve out some property that they can use for a more active application. He said they actually finished this land acquisition the first half of last year and one of the things that they have been trying to be very careful about is they formed a parks committee and they have tried to move rather slowly and very carefully. He said based on that, the mid part of this year, they were approached by one of the sports organizations in Chagrin Valley and they asked us if they could start to use a portion of the ten acres for soccer practice this year and his response was that depends because currently there is no place to park so they would have to cross that hurdle and the second thing is the Village is not in a position to smooth out these fields at this point in time. He said as time goes on, they might evaluate putting in more formalized fields that are graded, they might have some drainage and striping to them but at this point in time, S. Russell Village has enough other things on their plate to worry about as opposed to doing stuff with these fields. He continued by saying that the Chagrin Soccer Association made a request to use these for some practice fields this year and the Village did go into an agreement with the Chagrin Soccer Association to authorize that but they needed to have some sort of parking area. He said directly across the street from where this property is would be Frohring Meadows and there is an area currently that is part of the CEI easement (he referred to the GIS aerial map) however he was clearly not comfortable with having little kids crossing E. Washington Street, hence the other option is the CEI easement for the power lines that run throughout Bainbridge and S. Russell. He referred to the aerial map and showed the board the location of the CEI easement, the ten acres he was referring to and E. Washington Street. He said on page two, they decided to look forward and put in a small parking area and actually on page three, there is a small photograph of what that parking area actually is because they have all ready done it so he is here to ask for the board's forgiveness. He said the intention, which is the same thing they did on the Bell Road side, they put in a very small, not fancy, parking area there and this is the same sort of thing so this parking area is actually located here (he referred to the GIS aerial map) and the edge of the parking area needs to be 50' from the lot line and that lot line for this ten acres runs around this red area here (he referred to the GIS aerial map). He said they did split that off as part of the process of making it a more passive and active use of the property. He said the parking area is intended to house as few cars as they really need and they would rather not have this immense parking area in the middle of the land they want to preserve however if they are going to let people use it, they have to have access for them so that is their application and he believes the request for the variance is due to the fact this is zoned residential R-3A and based on that to conform with the zoning, they would need to have a structure before the parking area and they have no plans to have a structure there, just open fields.

Mr. Lewis asked how many fields will be on this property.

Mayor Brett said at this point, he really does not know but they have plans to have no formal fields until organizations like CSA and CAA pursue it and they want to use the property for a more formal use, at this point in time, the Village does not have it in the budget to make them more active permanent fields so it is a relatively open, semi-flat area. He said as time goes on, the folks from CSA have talked about maybe having, based on the age of the kids, two of the smaller fields and one of the larger fields.

Mr. Lewis asked about equipment that is being left on the fields and added that he understands the difference of a practice field but soccer also has some pretty big sized goals and he is curious if that type of equipment is going to be left there, if it is going to be placed and removed per practice or will be coming in with the tenant for that block of time.

Mayor Brett said he would probably envision something similar to what is at Gurney School and they have a couple of more permanent goals that are weighted down with sandbags that can be moved but he would think if there are true graded fields, he would assume there will be goals there.

Mr. Lewis asked since the property is in Bainbridge Township if S. Russell has extended the invitation for the use of the fields to Kenston Community Education for any use.

Mayor Brett said right now anyone is welcome to use either the property on E. Washington Street or the property on Bell.

Mr. Michel Hogan testified that invitations have not been extended to anybody yet, CSA approached them and at this point in the foreseeable future, he can't see any permanent goals there.

Mayor Brett said they have not approached anybody, but in regards to when something can occur, it depends on who you talk to. He said on the CSA side, they would love to see something next year but he does not know if that is real or not because the cost of putting in those fields is not insignificant and the Village spent just about every nickel they had in order to acquire the property, they drained the bank to acquire it, so there is nothing left to do anything hugely significant with it so if it is going to be made into fields, they will need somebody else to step up.

Mr. Lamanna said he thinks that technically, this should be a conditional use.

Mr. Olivier asked if this is considered an active park versus passive.

Mayor Brett said that is the intent of those ten acres.

The board reviewed the zoning code regarding parks and Chapter 135.02 (B).

Ms. Sass said it is a conditional use in a R-3A District.

Mayor Brett asked if they wanted to use it as a truly formally athletic field, then they would also need to apply for a conditional use permit.

Mr. Lamanna said yes.

Mayor Brett asked if there is anything they can do in conjunction with this application.

Ms. Sass said she would not think so.

Mr. Joyce said it has not been advertised.

Mr. Lamanna said he agrees because it is just different enough.

Mayor Brett said he understands but if he would have a sense that the board was either in favor or not in favor of that it would help but at this point in time as far as having a parking area over there, their intention was to have a parking area to give access.

The board discussed the application as a conditional use.

Mayor Brett said as they were going through this process one of the reasons they thought this property was so compelling was that this property is right where Chagrin, S. Russell and Bainbridge all come together and we have always viewed this as something that is great for all of the communities involved so when residents or when anybody goes to take a walk on the property, anybody can access it and that is one of the intentions, this is not just a S. Russell thing, this is a Chagrin Valley, Bainbridge, S. Russell thing and when you follow this corridor, it takes you over to the Frohring Meadows, Founders Field and Chagrin Falls High School so the reason for the acquisition was they thought that this was in a perfect spot to pull everything together.

Mr. Joyce said a parking lot is a structure according to the zoning resolution and a structure without a principal building is why they are here and a conditional use was not really thought about.

Mr. Lamanna said if they need a conditional use, he would say if they are granting a conditional use for a park application, one could argue that the parking lot is the principal building in some ways because that is what people need to use so you don't need a variance, you need a conditional use.

Mr. Joyce said he talked to the fire department and did assign this parcel an address as if it were built upon for the sole reason of making any response from the fire or rescue faster to the area in case someone gets hurt.

The board discussed considering this application as a conditional use instead of a variance.

Mr. Lamanna referred to the notice that went out and said it noted that it will be clearly used as a soccer field and parking lot so it covers the moment until whatever is done in the future, then the board can revisit that in the future if permanent fields are developed but for the purpose of using it for practice fields, there is enough on the notice so that the board can consider this as a conditional use and with that use he is not sure that Chapter 161.05 really applies. He asked Mayor Brett if they are going to have any signage or are they are going to keep it low-key.

Mayor Brett said they are going to keep it low-key but they will have the rules for the park, hours of operation etc. and they probably will not have a sign on that side for a little while because job number one would be to get a sign on the Bell Road side and see what happens with the budget. He said their intention was for the parking lot to hold 10 – 12 cars and the way they did this was they used the grindings from a road project so they had material that they did not have to go out and buy and they ran out of the material so when you pull in the intention was to turn to the right to park but currently you can only turn to the left but when they add in the other side of that, there would be 10 – 12 cars and the intention is to give people enough access to use the property and it is identical to the size of the parking lot on the Bell Road side and that has served them very well. He said he loves driving down the road and seeing cars there and that is the whole purpose, they want the people from the area to use that.

Mr. Lamanna said at some point in time, if fields are developed there, the board would like to see some landscaping around the parking areas, some small berms around it and some landscaping so when you drive by you see an entrance, you don't really see just a parking lot sitting there and it would enhance the park but since it is not going to be formally developed right now, the board can defer that to the future, but that is one thing the board would be looking for because it would give it a nicer appearance and would be in keeping with the rural look and it would be consistent with everything else that is being done in the township such as getting the parking areas screened off a little bit.

Mayor Brett said that is right in line with what they are doing on the Bell Road side and on that side, up until a month ago, it had the same look and feel, they added one corner of a split rail fence and they had an Eagle Scout do landscaping around it which is kind of easing the corners. He said as projects and dollars become more available and Eagle Scouts need projects, that is the intention.

Mr. Lamanna said hopefully in terms of the management and use of this, it will be planned to keep it consistent with the amount of parking that is there so there will not be a situation of there being 50 cars trying to shoehorn their way in there because that will create a problem for everybody. He added that that is a management and scheduling issue because the board doesn't want people parking along E. Washington Street or crossing the street because it would create a hazard. He said "No Parking" signs may have to be put there.

Mayor Brett said he agrees and one of the intentions was when CSA said they want to do this, the compelling thought to the Village was lets walk before we run and see what the demand is and the pitfalls in doing this, lets start small with a small parking area and see what the true demand is for this.

Mr. Lamanna said this has to be used in a way consistent to the amount of parking that is there and "No Parking" signs should be posted along E. Washington Street because that would be a disaster waiting to happen.

Mayor Brett asked if E. Washington Street was the responsibility of Bainbridge Township or the county.

Ms. Sass said she thinks it is the county.

Mayor Brett said they are the fortunate owners of a little section in S. Russell when the State turned it over to them.

Mr. Olivier asked if they will finish it this fall.

Mayor Brett said they will wait until next year, they are out of material and there is not really a need at this point. He said they put in some walking trails and one of the nice things of having the parking lot is those paths go right over there and when he has gone over there, he has run into more folks from Bainbridge than from Chagrin or S. Russell but when they went through the acquisition phase of this, part of the plan was they had presented this idea in conjunction with the Geauga Park District that there would be this thought that they have the Frohring Meadows and if they could safely make those line up it would good but he is concerned about people crossing E. Washington Street.

Mr. Lamanna asked if this will close down at dusk and nobody will be using it before 8:00 A.M. so there will be no issues with the neighbors.

Mayor Brett said the rules for the park are they go dawn to dusk.

Mr. Lamanna said in terms of people using it for organized activity, the board would not want anybody on there before 8:00 A.M.

Mayor Brett said currently with CSA, they put it at 4:00 in the afternoon and will be done in a week or two.

Mr. Lamanna said if you get formal fields put in there then people will be wanting to play games there and they will be there Saturday mornings and since it is a residential area there, starting too early could be an issue.

Ms. Sass asked how long the walking trails are.

Mr. Hogan said they might be a couple of miles.

Mayor Brett said they are probably pretty close to two miles and right now they are just mowed paths and their intention was to mow them first and see if it makes sense to do more such as gravel and the feedback they received so far is that people love them the way they are.

Ms. Sass said sometimes in the summertime it is not unusual for training groups, running or walking, to meet at a centralized location on a little more organized basis so she likes the open dawn to dusk time but as far as organized activities occurring before 8:00 A.M. in the summertime it is a possibility and the one good thing is as far as Bainbridge goes there is not a lot of residential.

Mayor Brett explained the homes that are in Bainbridge, S. Russell and the CEI corridor and the Woods of Wembley.

Mr. Joyce referred to the GIS aerial and said it is .68 miles in a straight line so with paths going back and forth and curving it is easily two miles.

The board discussed the two parcels and one will be an active park and one will be a passive park so the parcels should be treated separately so only the one with the soccer fields will be addressed for now.

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

Motion BZA 2008-26 – 7860 E. Washington Street (Village of South Russell)

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

1. After further consideration of what the applicant is seeking that the board convert the application to a request for a conditional use as a publicly owned park, playground or other recreational facility and that notice, as given, fairly advises anybody receiving notice of this proposed use, specifically at this time, to use the area for two practice soccer fields which will be developed beyond what is naturally occurring at this point in time on the property. The applicant is also installing a parking lot area which is partially completed and will be at a later date extended out as shown on the drawing submitted by the applicant. The board is viewing this parking lot as the integral structure of the public park at this time and does not believe that the provisions of Chapter 161.05 would apply.
2. The board also grants the applicant a conditional use permit for the purpose of using this area as a publicly owned park in an undeveloped soccer field basis with the addition of the parking area as described in the application. This park will be subject to the usual rules and regulations of South Russell Village for such parks but will provide that activities will not go beyond dusk. At this time since this is a temporary development of the park and not on a permanent facility basis, the board will not apply any other conditions to the conditional use but at such time as the applicant wishes to provide a permanent development of formal fields, the applicant will need to return to modify this conditional use and at that time additional conditions may be added with respect to landscaping the parking lot and other concerns that may arise at the time that a more permanent development takes place.

Mr. Lewis seconded the motion.

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

Application 2008-27 by Mitchell D. Bowlus for property at 17596 Stockton Lane

The applicant is requesting area variance(s) for the purpose of constructing an accessory structure. The property is located in a R-5A District.

The zoning inspector's letter dated October 16, 2008 was read and photos of the site were submitted.

Mr. Mitchell Bowlus was present to represent this application.

Mr. Bowlus testified that he would like to build a 20' x 50' structure because he purchased a motor home recently and he would like to park it inside for a myriad of reasons and the variance for where he wanted to put it which is 20' from the lot line is way in the back of his lot and it would be adjacent to his existing barn which he uses as his shop and he stores all of his equipment in there such as snowmobiles so it would be right next to the existing barn which is only 10' from the lot line. He said there is another variance from the riparian setback.

Mr. Joyce explained, per the GIS aerial map, the location of the existing barn, the proposed barn and the 75' riparian setback from the stream and floodplain. He said there is a side yard setback variance and riparian setback variance.

Mr. Olivier asked if the riparian setback regulations were not in place when the first structure was built.

Mr. Joyce said that is correct and continued explaining the setbacks required.

Mr. Lamanna asked if the riparian setback is in the entire blue area.

Mr. Joyce referred to the yellow area and said both of the color areas are part of the riparian setback.

Mr. Lamanna asked how far the existing building is from the side yard.

Mr. Joyce said it is about 42' – 43'.

Mr. Bowlus said that was there when he bought the house in 2002 so the previous owner put it up.

Mr. Joyce said he does not know if there was a variance on the existing structure but there was not a riparian setback at the time it went up.

Ms. Sass asked if there was a permit issued in violation of the side yard lot line.

Mr. Joyce said he does not know if a permit was issued.

The board discussed the setback of the existing structure.

Mr. Joyce said the zoning department goes by the drawings that were furnished by the applicant.

Mr. Bowlus said he wants to build this structure between the lot line and the existing barn.

Mr. Olivier asked Mr. Joyce to pull up the topography for this property.

Mr. Lewis asked Mr. Bowlus what the reason was for putting this other structure in that location.

Mr. Bowlus said it is to put his RV in.

Mr. Lewis asked why this proximity was selected on this property.

Mr. Bowlus said he wanted to put it in the back so no one will see it and he has a gravel drive that goes back there that he could easily back up and park it back there rather than keep it around his circular drive where people will see it.

Mr. Lewis referred to the existing building that is in and asked where are the entrances for it and if it is a side entrance.

Mr. Bowlus said it is a side entrance and there are two garage doors and a man-door.

Mr. Lewis said he is looking at other ways to put another building in the area using the same driveway and not put it 20' off the adjacent property.

Mr. Bowlus said before he thought about the existing structure because he didn't really want to spend money to do it, he thought about gutting out his existing barn and putting it in there but to do that, the floors are very uneven, and to tear everything out and level out the floor, he would spend more money than he would if he built a second structure.

Mr. Lamanna asked what if the structure is located at the back end of the existing driveway so that the buildings are kind of staggered, so the corners are almost touching.

The board talked with Mr. Bowlus about an alternative location for the proposed structure.

Mr. Bowlus said where it is at the neighbors won't even see it back there and when someone drives by the street they won't see anything back there.

Mr. Lamanna said it is being put in the riparian.

Mr. Lewis said there is the riparian, floodplain and 20' off of a lot line and this is a big enough lot where there is no reason why the topography or the characteristics of the lot that says you can't put it anywhere in this area so what the board is trying to do is look at the existing gravel drive and it would make sense to take advantage of that.

Mr. Bowlus showed the board on the site plan how it is situated on the lot and said right now he can pull right in. He added that the neighbors would not even see it because it is all wooded.

Mr. Lamanna said technically to grant a variance there has to be a practical difficulty which means there has to be something with the physical arrangement of the property that says you couldn't put it in a defined position on the property and given the nature and size of the lot, there are other places it could be put where there would not be a rather significant variance because there is a riparian variance and a pretty major side lot variance where as if it is placed in a different location, a variance would still be needed but it would not be really much of an issue.

Mr. Lewis said the building is pretty tall also, it is almost 22' tall.

Mr. Lamanna asked Mr. Bowlus if he thinks he could relocate it to a position in front of the existing structure.

Mr. Bowlus said he could look and see if he could do that.

Mr. Olivier asked about the big open field to the west.

Mr. Bowlus said it is a big open area, the problem is the parking, the nice thing about the location is there is a nice straight gravel road to pull back and pull right out.

Mr. Lamanna told Mr. Bowlus that he can either go back and look at it or the board could grant a variance on the riparian to put it there and if he decides by the next meeting that that is not going to work, it can be redone at the next meeting.

Mr. Bowlus said the preferred place is where he proposed it but if that is not going to work, it is not going to work and he just wanted to have it built soon before the snow starts.

Mr. Lamanna said the board could act on it and if he decides it is okay, he could move ahead on it.

The board discussed the proposed location versus another location and the variances requested and the dock area on the pond.

Mr. Joyce said there was no structure there in 2007.

The board discussed the third accessory structure (dock).

Mr. Bowlus said he will rip the dock out.

Mr. Lamanna said no, the board wants to make sure they do it right so when you go away from here, we want your property to be in compliance.

Mr. Joyce said the dock is 144 sq. ft.

The board discussed the dock and did not have a problem with it. The members discussed the required variances.

Mr. Lamanna told Mr. Bowlus that he can come back next month if he decides these variances are not going to work.

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

Motion BZA 2008-27 – 17596 Stockton Lane

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

1. A variance from the riparian setback for the purpose of constructing an accessory structure, approximately 20' x 50' x 21'-8" high as shown on the application provided that this structure is located in front of the existing accessory structure on the property and is located no closer to the side lot line than the existing accessory structure.
2. A variance for a third accessory structure on the property.

Based on the following findings of fact:

Riparian variance:

1. A practical difficulty exists because this property is located in a floodplain and nearly the entire property is subject to a riparian setback and given there is already an existing building which will be located closer to the stream, the addition of this building will not create any additional impact on the riparian area.

Additional accessory structure:

1. One of the existing structures is a small swimming dock on the stream and given the large lot size it is a fairly insignificant structure and is not readily visible to the neighboring properties and therefore will not cause any adverse impact to those properties.

Mr. Lewis seconded the motion.

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

Secretary's Note: Mr. Lamanna noted for the record that if the applicant determines that location is a problem, he can return next month and request further reconsideration of this issue.

Application 2008-28 by Reed Gilbert for property at 7774 Bainbridge Road

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

The zoning inspector's letter dated October 16, 2008 was read and photos of the site were submitted.

Mr. Reed Gilbert was present to represent this application.

Mr. Gilbert testified that he is requesting a variance to build a swimming pool in his front yard. He said originally with his property, the past zoning official had the front of his house on the side of the road or perpendicular to Bainbridge Road, but once he got in there and bought the property and construction got started, now Bainbridge Road is determined to be his front yard so his frontage is actually the right side of his house. He said the reason why he has to put it in that particular location is because the way the septic had to be installed to what he calls the rear of his home, but it is officially the right side of his house and he can't put the pool directly in the back of his house and he will not be able to put it to the left side of his garage because the property is wooded so where his frontage is, the pool would be 25' off of the lot line. He said the property is all wooded and kind of swampy and quite a considerable distance away from anything visible from the property that is actually located on Bainbridge Road so they wouldn't see it at all. He referred to the GIS aerial map and showed the board the location of his house and driveway and pointed out the front of his house and the proposed location of the pool.

Mr. Michael Joyce, Zoning Inspector testified that the pre-existing variance on the driveway that runs up here (he showed the board on the GIS aerial) and because of the pre-existing driveway, it is not private per the county, it is not any kind of road, it is a driveway and it is an old variance that permitted that driveway to go in so that means that all of these lots front on Bainbridge Road.

Mr. Lewis said right now the frontage, since it is off of Bainbridge Road, is really 75.67'.

Mr. Gilbert said correct.

Mr. Lewis said even though it is a long way off, what you want to do is within that 75', come 12' from the house and then the width of the pool and it will leave at a diagonal about 45' and asked Mr. Gilbert if that is what the board is looking at.

Mr. Gilbert said yes but by the time the fence and the pool goes in, it is actually 25' away from the line.

Mr. Lewis said that is what the board has to look at.

Mr. Gilbert said he had to have the lots changed and just to get the house put on there he had to move the line.

Mr. Lamanna asked if there was an easement for the drive on that back lot.

Mr. Joyce said they did it for all of them, it is not an easement, but it is a variance that was granted with easements to allow the driveway to meander back there.

Ms. Sass asked when the variance was granted.

Mr. Joyce said quite a long time ago, as he understands it.

Mr. Lamanna said if a fire truck can be driven back there it is big enough.

Mr. Olivier asked if the second lot next door is a buildable lot.

Mr. Joyce said yes and referred to a house that is being built currently on another lot in that area.

Mr. Gilbert said that is swampy with trees and showed the board the area that cannot be built upon. He said he wanted to make sure before he bought that property that nothing could be built there.

The board discussed the variance, setbacks and the front lot line.

Mr. Gilbert described the location of the septic system.

The board discussed the pool dimensions and setbacks.

Mr. Gilbert said the 12' is actually off an extended chimney and his chimney is on the outside so it is 15' from the house.

The board discussed the front lot lines.

Mr. Joyce said the orientation of the house makes no difference to the front of the lot.

The board discussed the determination of the location of the front of the house and the front lot line.

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

Motion BZA 2008-28 – 7774 Bainbridge Road

Mr. Lamanna made a motion to grant the applicant a variance for the purpose of installing a pool as shown on the drawing attached to the application:

1. A variance from the minimum side yard setback of 50' to 35' for a variance of 15'. The board notes that it is treating this location as a side yard location.

Based on the following findings of fact:

1. There is a practical difficulty because of the irregular shaped lot and the fact that the applicant is confined by his replacement leach field and severe topography on other parts of the lot which would not make them suitable for installing the pool.

Mr. Lewis seconded the motion.

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

Application 2008-29 by Debra L. Simmons for property at 7386 Chagrin Road

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

The zoning inspector's letter dated October 15, 2008 was read and photos of the site were submitted.

Ms. Debra Simmons was present to represent this application.

Ms. Simmons testified that she is requesting a variance for a 4' x 18' addition and a deck. She referred to the plot plan that was submitted and said she just had the soil inspectors come out and there are three lots.

Mr. Lewis asked if the lots are joined.

Ms. Simmons said yes they are and she researched back to 1927 and there have always been three lots.

Mr. Michael Joyce, Zoning Inspector testified that they are not physically joined, there are three separate tax bills issued but they have been sold as a group.

Mr. Lewis said one lot is three tenths of an acre and there is a residence on one of these three in this trio and the other one is the existing veterinary clinic, or was at one time and he thinks the applicant is making the veterinary clinic her primary home and adding onto it.

Ms. Simmons replied yes.

Mr. Lewis asked what is going on with the old house.

Ms. Simmons said she is not sure yet because her understanding was that it may be one of the first homes built in Bainbridge so she does not know if it can be restored or bulldozed, she is not sure.

Mr. Lamanna asked about the building.

Ms. Simmons said it is the one to the left.

Mr. Joyce explained which building is the former veterinary building.

Ms. Simmons said it used to be a home.

Mr. Lamanna asked if it is not going to be a home anymore.

Ms. Simmons said it is a home to the raccoons.

Mr. Joyce explained the two buildings and said it is a residential area, the veterinary clinic was in the one building and is a grandfathered use and the house has always been used as residential and it is on a separate parcel and he does not believe it is livable at this time due to the condition of the house. He said the variance request is to put an addition and a deck on the veterinary clinic building and to live in that building and the residential use is not an issue it is just the addition and the deck.

Mr. Lamanna said it is a permitted use as residential.

Mr. Joyce said yes it is a permitted use but the deck and the addition are too close to the lot line and because there is a small independent lot, it also goes over the permitted coverage. He said if the three lots were joined into a single lot, then the coverage issue is moot.

Mr. Lamanna asked about the other triangle lot that is landlocked and if the lots have always been sold together.

Mr. Joyce said they have always been sold together but they are independent lots.

Ms. Sass asked if there is any interest in merging them together.

Mr. Lewis said he would like them merged together.

Mr. Joyce noted the size of the lots as 1.44, .49 and .36 for a total of about 2.5 acres.

Mr. Lamanna said the county may require a variance to merge them.

Ms. Sass said yes.

Mr. Joyce said the county does not require merging but a lot cannot be split.

Mr. Lamanna said the county will allow you to merge sub-standard lots because it is reducing the number of sub-standard lots.

Mr. Joyce said exactly.

Mr. Olivier asked if it would just be a side yard variance if the parcels were merged.

Mr. Joyce explained that the way it has been drawn up, the GIS does not reflect this, he would have to assume the drawing was correct because it was furnished.

The board discussed the landlocked parcel.

Mr. Joyce said it does not have frontage on any road.

Mr. Lewis said the lot joining takes care of that too, it takes care of all three.

Mr. Lamanna asked which side the addition is going on.

Ms. Simmons showed the board per the site plan submitted.

Mr. Lamanna said it is really a side yard variance only if you merge the lots together and added that the board would like to have the lots merged together.

Ms. Simmons asked what would be involved in merging the lots together.

Mr. Lamanna said it would have to be surveyed.

Ms. Simmons asked if there is a timeline because she does not know if she can afford to do that now.

Mr. Lamanna said the board will give a period of time to do that, probably within the next year.

Ms. Simmons said she thinks that would work.

Mr. Lewis asked if the merger will occur before the property is improved.

Mr. Lamanna said no, the merger will be done within one year of the current date.

Mr. Lewis asked what will happen to the other house once the lots are merged.

Mr. Lamanna said that would be an accessory structure, it cannot become another dwelling unit again. He told Ms. Simmons if she wishes to keep it as a storage building that is fine.

Ms. Sass told Ms. Simmons that she could not turn it back into a house and sell it.

Mr. Lamanna said nor could she rent it.

Ms. Simmons said it is not hooked into the septic system anyway.

Mr. Joyce said the ruling was changed about ten months ago so you can have multiple septic systems on one lot, there is no limit but they have to be large enough to be functional.

The board discussed zoning regulations and septic systems on a property.

Mr. Joyce said the State has imposed several new laws on the health and building departments that they did not have before. He said for instance any size deck that is built is required to have a county building permit and in the past it was only if it was covered but as of May of last year, any size deck has to have a county building permit. He said an accessory building less than 200 sq. ft. does not require a county building permit.

The board discussed merging the parcels within a year and the variances requested.

Mr. Joyce said if the lots are merged, the lot coverage variance would go away.

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

Motion BZA 2008-29 – 7386 Chagrin Road

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing an addition and deck to an existing building on the property which will become a residence.

1. A variance to the side yard setback such that the addition and deck will follow the existing side of the structure so that it will not be any closer than the right rear corner of the structure as facing the street which is approximately 20' from the side lot line. A variance will be granted accordingly to that dimension as it tapers back from 20'.
2. A lot coverage variance as necessary because of the nature of the lot this is on and to raise the lot coverage from the existing approximately 46.8% to 46.9%.

Motion BZA 2008-29 – 7386 Chagrin Road - Continued

With the following condition:

1. As a condition for granting this variance the applicant will merge the existing three lots that have been effectively used as a single parcel and will complete that merger within one year from the date that the board's decision becomes final.

Based on the following findings of fact:

1. A practical difficulty exists because of the existing location of the structure.
2. The fact that the extension and deck will not increase the existing non-conformity and in fact will be less than the existing non-conformity and will not adversely affect the neighboring properties.
3. With respect to the lot coverage, once the three lots are merged together there will no longer be a lot coverage variance because the total lot coverage will be less than the permitted 10%.

Ms. Sass seconded the motion.

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

Application 2008-30 by Laura and Mark Kikel for property at 16347 (231) S. Franklin Street

The applicant is requesting an area variance for the purpose of installing a masonry fireplace. The property is located in a R-3A District.

The zoning inspector's letter dated October 16, 2008 was read and photos of the site were submitted.

Ms. Laura Kikel was present to represent this application.

Ms. Kikel testified that she brought pictures and explained that they want to put a fireplace in on the side of the house. She referred to the photos and showed the board the location of the proposed fireplace. She said the variance is about the setback.

Mr. Michael Joyce, Zoning Inspector testified that this house is in the existing Church Walker Subdivision which traditionally has been held as a 10' side yard setback and traditionally a 10' side yard setback has always been used for this subdivision.

The board reviewed the variance requested.

Mr. Lamanna asked if this is going to be a real working fireplace, chimney, going up above the roofline at the recommended height which is 5.6 sq. ft. which is also adding to the overall lot coverage.

Ms. Kikel replied yes.

Mr. Joyce displayed the pictometry of this property.

Mr. Lamanna said it will be a .06% increase in lot coverage.

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

Motion BZA 2008-30 – 16347 (213) S. Franklin Street

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of installing a fireplace bump-out and chimney to an existing dwelling to reduce the existing side yard setback from 4.65' to 3.65' and from 4.55' to 3.55' and to increase the lot coverage approximately 6 sq. ft. for .06 of one percent of the total lot coverage.

Based on the following findings of fact:

1. There is a practical difficulty because of the existing location of the house and the narrowness of the lot.
2. The variances being requested are infinitesimal and do not adversely impact any of the neighboring properties and are consistent with all of the development in this area.
3. The neighboring house is over 20' from the side line which is much greater than most of the setbacks so that the slight additional encroachment of this chimney will not have any measurable effect.

Ms. Sass seconded the motion.

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

Public Comments

Ms. Frances Cahill of 7822 E. Washington Street stated that she did not get here in time for the hearing regarding BZA 2008-26 for the Village of South Russell and apologized for that but expressed her concerns with the soccer fields, driveway and parking lot that were installed before getting a permit and added that people are walking in her woods.

Mr. Lamanna said the board will ask the Village of South Russell to post signs designating their property lines.

Ms. Sass explained that this is a conditional use so if the property is to be further developed, the Village of South Russell will have to come back to this board for any requests.

Ms. Cahill stated that the driveway location is in a very hazardous location on E. Washington Street and it should have been installed closer to the high tension wires where it is not as big of a hazard and asked why the soccer fields were not installed on the Bell Road side where a driveway already exists, where it is flat and safe to pull out versus on the E. Washington Street side.

The zoning inspector will send a letter to the Village of South Russell requesting them to post signs along the property line.

Since there was no further testimony, the public hearing was closed at 9:45 P.M.

Respectfully submitted,

Joyce Hannum, Alternate
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Olivier
Lorrie Sass

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

Date: November 20, 2008

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
October 16, 2008

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:45 P.M. by Mr. Michael Lamanna, Chairman. Members present were Ms. Joyce Hannum, Alternate, Mr. Todd Lewis, Mr. Mark Olivier and Ms. Lorrie Sass. Mr. Mark Murphy was absent.

MINUTES

Mr. Lamanna made a motion to adopt the minutes dated September 18, 2008 as written.

Mr. Lewis seconded the motion.

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

Applications for November 20, 2008

Application 2008-31 by Jo Byron and Nicole LaGanke for property at 7395 Chagrin Road (Briar Holdings, LLC)

The applicant is requesting to expand a use variance for the purpose of establishing a Wellness and Rehabilitation Center for Pets. The property is located in a R-3A District.

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

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

Application 2008-33 by Waterway Gas & Wash for property at 7010 N. Aurora Road

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

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for November 20, 2008 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 9:55 P.M.

Respectfully submitted,

Joyce Hannum, Alternate
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Olivier
Lorrie Sass

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

Date: November 20, 2008