

Bainbridge Township, Ohio
Board of Zoning Appeals
October 17, 2013

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:02 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis and Mr. Jason Maglietta, Alternate. Mr. Mark Murphy and Mr. Mark Olivier were absent. Ms. Karen Endres, Zoning Inspector was present.

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 and noted the procedures of the meeting that were posted.

Application 2013-22 by Waterway Gas & Wash Company for property at 7010 N. Aurora Road - Continuance

The applicant is requesting a renewal and modification of a conditional use permit for the purpose of a driveway expansion and addition of two canopies. The property is located in a CR District.

Mr. Michael Goldman was present to represent this application.

Mr. Goldman testified that he is representing Waterway Gas and Wash and he is the Vice President and general counsel and they have been in Bainbridge Township and have been open for about four years now and the first step is obviously to renew their conditional use permit. He said they have been very pleased on how their business has grown in the community and they have tried to get involved in the community and he thinks they have been a good service to their neighbors so they have been very pleased with it and hopefully the people feel good about how they have done. He said what they are asking for is a modification to the conditional use permit and what they have currently is an entrance lane into the carwash tunnel and that works fine but they have modified that entrance lane at several of their other carwash locations and they can really make some major improvements. He said what they are doing is they have one lane for people to go through, they actually stay in the car which that is what they do now and a lot of people like that who just want to go through the wash once a week to get the salt off and it makes the circulation a lot more consistent and then in the other interior lane it is just going to be the exact thing. He said they are showing a couple of modifications as based on being on the site for a while they found it would make sense so for people who are riding through they would like to slice back this curve line a little bit so they would ride through, they would still get hand-towel dried, the same way they are now by their employees and we just think it is more convenient.

Mr. Goldman continued by saying this is a little trickier, they have found that there is some back-up with circulation and potentially some safety issues that they don't love the way people come in and we worry about people hitting backs of cars, customers walking around and so they just want to slice that off a little bit too so then for the people who aren't getting gas they can literally just take the curb line and go in. He said because of this change they are asking for a modification in their pervious area, currently they have about 36,000 that is impervious and this change would add about 4,000 to 40,000 sq. ft. of impervious. He said they did go to the owner of the development and he wasn't willing to allow us any more green space in credit.

Mr. Lamanna said you are dead.

Mr. Goldman said that was the question.

Mr. Lamanna said the deal was when the center went in and the board allowed them to make the out-lots that the amount of lot coverage would be done on the basis of the entire center.

Mr. Goldman replied yes.

Mr. Lamanna said once the space is allocated there is no more to be had and the original owner of the center has control of that and everybody was well aware of that and if he was buying an out-lot he would have negotiated some provision to buy some additional lot coverage if he needed it but again the problem is every time someone gets additional lot coverage on any of the separate parcels whatever is left and they well understand that if they get down to the end and suddenly they have a parcel and there is zero lot coverage available on the whole center, they have a worthless parcel so this is structured in a very specific and careful way and so if you can't get lot coverage from them, there is no variance to be granted, you are just locked out, that is the agreement.

Mr. Goldman said one thought he has and he knows a lot of the agreement is based on the aquifers and obviously he was aware of that going in but one thought they had is if it is truly a pervious surface would the board consider if they put in impervious concrete and if they take away 4,000 sq. ft. if they could include 4,000 as concrete so they would still have the water going down to the aquifers, they wouldn't impact that and that was the thought he wanted to share with the board.

Mr. Lamanna said the issue of pervious concrete has come up and basically it has not been accepted by the Zoning Commission.

Ms. Karen Endres, Zoning Inspector testified that there is a re-write of the zoning resolution but it has not been finalized yet.

Mr. Gutoskey said it does not give any credit for pervious pavement as it is written right now.

Mr. Maglietta said the way he understood it is it was green space not impervious.

Mr. Lamanna said this issue has come up in the last couple of years multiple times and he thinks the Zoning Commission has considered it, the topic has come up from time to time but he thinks they have just chosen not to, at least they have not had enough evidence that says they could come up with a provision that this category of things can be granted for this type of credit but they haven't seen fit to change the way the ordinance has been worded. He said that is not something that is within their purview.

Mr. Goldman asked if that is a just a variance the board is not willing to grant.

Mr. Lamanna said he thinks it is the kind of variance where there is not any basis for granting a variance on that and that falls into the rule of you don't grant variances on something that affects every property owner in the district.

Mr. Gutoskey said the problem is somebody could put pervious pavers in the whole site.

Mr. Lamanna said that same condition affects everybody, there is nothing unique about this property with respect to what is pervious and impervious or how that works so from the standpoint of granting the variance the board could not grant variances to things. He added that they will be effectively re-writing the zoning ordinance but this board can't say it doesn't like the zoning code so we are going to re-write it.

Mr. Gutoskey said the way our zoning code is based, it is based on lot coverage as far as pavement and building so it doesn't really say that pervious pavers are open space or green space and he doesn't know how the board can even consider it going forward because it is still lot coverage it is not like it is grass.

Mr. Lamanna said that is one of the reasons why they haven't figured out how to deal with it and how you would calculate it in.

Mr. Gutoskey said with the new EPA regulations you have to have some kind of post construction best management practices, pervious pavers are considered that but normally when people put them in they are taking part of the parking lot and putting them in and to him it is lot coverage.

Mr. Lewis said regardless of the material.

Mr. Goldman said one of his thoughts was to take the current parking area and make that pervious also and then when you do the math it starts getting close. He said his one other thought is the flow will absolutely create a safer situation, he is not going to pretend that there have not been any problems.

Mr. Lewis said you need to pitch that to the developer, if he is willing to allocate you more square footage from the overall aggregate total and short another lot, that is between you and them and then you can come back and visit us and if you (Mr. Goldman) want to make those other changes and make modifications.

Mr. Goldman said if the Home Depot people call him back they have got that big empty lot right there but he hasn't gotten the call back yet but they are working on that. He said that does leave them at a point where they still need to renew their conditional use permit.

Mr. Lamanna said that is a separate issue and asked if there are any pending issues.

Ms. Endres said there have not been any complaints on the car wash.

Mr. Lamanna told Mr. Goldman that if he wants to make some changes to the driveway and move it the board could approve that.

Mr. Gutoskey asked if there is anyone in the audience who has comments or questions.

Mr. Goldman said hopefully they are not very controversial with the people in the neighborhood. He thanked the board and said he will see what he can do. He added that he will withdraw that portion until he can work something out.

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

Motion BZA 2013-22 - 7010 N. Aurora Road (Waterway Gas & Wash Company)

Mr. Lamanna made a motion to renew the existing conditional use permit for this property for the operation of a carwash and gas station for a period of five years from the date of the current expiration of that conditional use permit.

Based on the following findings of fact:

1. The conditional use permit will stay as it is currently with the only modification being that the applicant has proposed two small changes to the driveway which can be made so long as any increase in lot coverage on the property is off-set by removal of existing lot coverage.
2. With respect to the other modifications requested by the applicant, the applicant will withdraw those requests for variances from consideration and those will be struck from the application and will not be part of this decision.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Maglietta, aye.

Application 2013-23 by First National Bank for property at 8500 E. Washington Street –
Continuance

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

Mr. Major Harrison of Brilliant Electric Sign Company was present to represent this application.

Mr. Harrison testified that he is with Brilliant Electric Signs located at 4811 Van Epps Road, Cleveland, Ohio 44131. He stated that they are proposing to install a full-color message center and added that the First National Bank is very pleased to be expanding their services not only in the northeast Ohio region but specifically in this case in Bainbridge and taking over an ideal location on the corner of East Washington and Chillicothe, they are very pleased with that and are very excited about the exposure and the expansion into the area. He said they are proposing to install a ground sign which stands 20'-8" and it is one face of 124.02 sq. ft. He said because of the location and the lights sitting at this intersection they wanted to do something that was pretty elaborate, something that would be kind of a monument of some sort in this particular location in this area. He said it is quite large, they don't feel it is altering the character of the neighborhood, this is a commercially zoned area. He said they also feel that it conforms to the spirit of the zoning resolution because it helps with the identification especially for the branch in this region.

Mr. Lamanna said this property is located right on the corner and it is fairly obvious what this is, there is no reason to have a 20' high sign on the corner, not to mention the fact it is a really busy corner and although the board can't say you can't have a changeable copy on the sign, he thinks it is a really bad place to have it because it is potentially distracting to drivers and that is a fair reason not to have it and being 20' high it is totally incompatible with what is expected to be a ground sign. He said for a single business ground sign even 10' high, the permitted height is really not what people had in mind but fortunately the board allows a higher sign because there are many places where there are eight or ten businesses in a strip mall so they have one ground sign and they have to have room to put eight or ten businesses. He said here we have a single business and frankly a 5' or 6' ground sign is more than adequate. He said this was an existing lot with a gas station on it and to be putting a monster sign on a little tiny lot is just totally inconsistent with everything else around there. He said he doesn't see any basis to give any sign bigger than the permitted size ground sign.

Mr. Gutoskey said he agrees with that and the board is trying to clean that area up, a few properties down, we just got rid of a high sign.

Mr. Lewis asked isn't the bank's name on the front curvature and that is 20' – 30' up in the air.

Mr. Harrison said yes, about 19'.

Mr. Lewis referred to the front elevation and said you can see that from all four corners on the approach so what he is thinking about is that there is no question about what business is there and what business they are in and if you are looking at a ground sign because you want to advertise specific products on a changeable panel, he really does not think it needs to be 20' up in the air and he concurs with the rest of the board that our permitted size is more than adequate particularly for the intended use which is not to identify the nature of what business is located there but it is to advertise your products.

Mr. Harrison said right.

Mr. Maglietta said you have got distractions and hindering views of the intersection there, people are going to be looking at the sign and not paying attention.

Mr. Harrison asked if that is because the electronic message center or because of the height.

Mr. Maglietta said both.

Mr. Harrison said the electronic message center can be programmed to change at the discretion of this board, he has seen instances where it can change once every 24 hours so that it is not distracting to have a constant message. He said ODOT regulates that electronic messaging so it can change every eight seconds without anything flashing, pulsating or scrolling to not cause any distractions, however he is of the understanding of the board and the size of the ground sign and he has spoken with Ms. Endres at length about what the zoning department would support. He said he has an alternate option that will also need a variance.

Mr. Lamanna asked how much they would be using up on the existing signage.

Ms. Endres testified that they have used up all but 16 sq. ft. on the existing sign. She said they have the front sign at 57.5 sq. ft. and the sidewalk sign is 65 sq. ft. and will apply the measurement standards and it is about 45 sq. ft. on that north wall plus the ATM sign would count because it is bigger than 3 sq. ft. so when you calculate the existing signage versus what they are permitted, they are permitted another 16 sq. ft.

Mr. Harrison said so any which way they would need a variance.

Mr. Gutoskey said that includes the bonus for the corner lot correct.

Ms. Endres replied yes.

Mr. Gutoskey said on a corner lot we allow a little more signage and on a corner lot you are already getting a little more signage than if you just had frontage on the one street.

Mr. Lamanna asked if those other signs are there already.

Ms. Endres said the signs are up, yes.

Mr. Lamanna said so we put up the signage and then come to the board and say we used up all of our signage on the existing signs and now we want more for another sign. He said it is really not a good thing to come in and say we have done all of this stuff because what it means is the board doesn't have now the ability to say why don't you make the sign around the top 20% smaller and then you can recover 10 or 15 sq. ft. there and then if the board gives you another 10 or 15 sq. ft. then the board can do what you want to do but now you come to us and say we have eaten up all but 16 sq. ft. of our signage allowance and now we want a ground sign and you only have a 2' x 2' ground sign. He said it gets us to the point where you tie the board's hands.

Mr. Harrison said it was not the intent to tie the board's hands; it was not that intent at all. He said what it was there are 15 branches that need to be changed over by October 13th and it was very important that all of the signage was up so it was not the intent to force the hand of the board in any kind of way. He said First National Bank would want a ground sign anyway, that was something they really wanted and thought it would be great right there on the corner so they would need a variance even if they conform to the 6' and 25 sq. ft. in sign face area or is it 6' and 40 sq. ft.

Ms. Endres said she is not sure what he is talking about right now.

Mr. Harrison said for a ground sign in a commercially zoned area, the maximum height is 6'.

Ms. Endres said the maximum height is 10'.

Mr. Harrison said the maximum height is 10' and the square feet was 40 sq. ft.

Ms. Endres said the square footage is based on that calculation.

Mr. Harrison said the ground signs are 24 sq. ft. or 40 sq. ft.

Mr. Lamanna said we count both sides.

Ms. Endres said both sides are counted.

Mr. Lamanna said we have 16 sq. ft. left.

Ms. Endres explained that if you have a changeable copy portion you get a small bonus so it is a maximum of 50 sq. ft. per face, 10' or less in height but with the changeable copy portion it increases to 54 sq. ft. but that is assuming you install other sign criteria. She said the maximum permitted on one side is 122 sq. ft.

Mr. Harrison said this option is less than 10', if you look at the construction of the sign you have a 3' pole cover and he doesn't think it is counted toward the face, the face area is 32.5 sq. ft., it is double sided and internally illuminated.

Mr. Lamanna said in his view it is way disproportionately large for the size of the lot and location and starting it off on a 3' high base at this location, again, it is out of sync with everything else there, the other signs, the Heiness signs, the Panera signs are not more than maybe 6' high if they are even that and they are on a shorter base than this.

Mr. Harrison said the rational for the size of the base is because of the location of where they are going to be placing it, we have six months of winter where there is constantly two feet or excess of snow.

Mr. Lamanna said everybody else's sign is not a base that is three feet high.

Mr. Lewis said plus your company name is on three sides of the building that you can see from about a mile away coming from any direction and the ground is flat at that intersection so there is full visibility of the building, there is no mounding or trees blocking your three wall signs. He said his thought would be he is inclined to not go with anything higher than what is permitted in the first place but it would be up to you and your customer, the bank if you want to reclaim some sign square footage, change the signs on the building because you are entitled to a ground sign but you are going to eat it up with double sided so figure your square footage and you probably know the sentiments on the board's side.

Mr. Lamanna said since you have 16 sq. ft. left he would be inclined to give them maybe another 16 sq. ft. so they can have a 4' x 4' sign.

Mr. Lewis said and control it height-wise.

Mr. Maglietta said 10' is still a big sign, and it creates a distraction.

Mr. Harrison asked how is it a stagnant sign is a distraction and considering that it is set back from the right-of-way, your right-of-way is 72' from the curb into the face of the building so how is that a distraction, it is nowhere near in the right-of-way, it is not blocking anything so he doesn't understand how that is a distraction.

Mr. Lewis said he thinks we go back to the board's original position on this and it is we are also looking for things to stay consistent with the other ground monument signs.

Mr. Lamanna asked how big the right-of-way is here when you get down to that point.

Mr. Gutoskey said there is probably some kind of turn-out in there that they added to that turn.

Mr. Lamanna said he is wondering how much right-of-way is actually left there, especially when you go around that curve, there may zero right-of-way left at the point of the curb.

Mr. Harrison said from the curb to the building is 72'.

Mr. Lamanna said but it doesn't tell us what the right-of-way is because there was originally two right-of-ways that came down there in a point, there was no curb on the right-of-way, the right-of-way came to a point at some time and that turn curb was added later on and it could be that at the inside point of that curb there could be zero right-of-way there, the right-of-way actually ends at the end of the pavement or very close thereto so there is no extra space between the pavement and the road because it has been widened. He said it may have started off originally as a 60' right-of-way there but as they added turn lanes and expanded the pavement out the amount of actual right-of-way left could be virtually zero.

Mr. Gutoskey said beyond the curb it could be zero to a couple of feet.

Mr. Harrison said his position is that he doesn't understand how the sign is a distraction, it is not blocking anything and it is dead-center on the lot. He said Ms. Endres measured it at 67' and he did it off of Google Earth and got 72'.

Mr. Lamanna asked Mr. Harrison where he is planning on putting the sign.

Mr. Harrison said dead-center.

Mr. Maglietta asked if it is as shown on the map.

Mr. Harrison replied yes.

Mr. Lewis said regardless on the distraction element anything with changeable copy is a distraction at an intersection regardless of the interval but it doesn't change the fact that you are out of space, you have got 16 sq. ft. left. He asked how high the letters are on the front of the building, the existing.

Mr. Harrison said two feet.

Mr. Lewis asked 24".

Mr. Harrison said he believes so.

Mr. Lewis said that is really interesting because his sign chart says that a 24" letter has high easy readable distance impact for 240' so what he is stating is with a 2' high letter on the front of the building up top you can see that letter anywhere in the intersection and anywhere on your approach so he thinks the business is properly presented to the intersection and the passersby.

Mr. Harrison said if you are traveling south on E. Washington Street you can't see the sign.

Mr. Lewis said you have a sign on the side of that building too.

Mr. Harrison said right but you would be more apt to see the ground sign because you are on the curve.

Mr. Lewis said what he wants to suggest here, it is a local branch serving the local community and most of your customers will be local and they are pretty much familiar and after a couple of times through the intersection they are pretty well aware of what businesses are there so to catch an occasional drive-by person.

The board discussed the existing signage and drawings submitted.

Mr. Harrison said it is not to scale.

Mr. Lamanna said they could do a 3' x 5' on a 2' pedestal. He said if you take the sign and shrink it down to 3' tall there is enough room to get First National Bank in there.

Mr. Harrison said so 5' wide and 3' high.

Mr. Lamanna said right with a 2' pedestal so that would give you 30 sq. ft. so you would need 14 sq. ft. extra.

Ms. Endres asked if that would be a changeable copy sign.

Mr. Lewis said no that is just the size.

Ms. Endres said she hasn't seen plan B.

Mr. Lamanna said the board was talking about making part of the sign 3' x 5' and the base 2' high and then it will only be 5' high which he thinks is pretty consistent with what is in the area and then you would be only talking about 14 sq. ft., it would be 14 sq. ft. over so it would be about 10%.

Mr. Harrison asked if they could have an overall sign of 6' with the side face being 4' x 3.5' and said he thinks the numbers come out the same pretty close. He said overall it would be a 6' high, 2' pole cover so the sign face would be 4' high by 3.5'.

The board discussed the request by Mr. Harrison.

Ms. Endres said there are architectural design standards too that seem to require a brick base.

Mr. Harrison asked if Key Bank has a brick base.

Ms. Endres said Key Bank has been there.

Mr. Harrison said he came here for the variances for Key Bank.

Ms. Endres said the Zoning Resolution for signs changed in 2011.

The board discussed the architectural features of the building that includes brick and wood.

Mr. Lamanna said the sign is in the front so it should be similar to the front. He added that the base should look like a base and not an extension of the sign, the intent of that provision is to make the base look like the rest of the building. He said he doesn't see a basis to make a change to that (the requirement to make it consistent with the building). He said because of the nature of the building with multiple designs is something that can be worked out with the zoning inspector as to something that will make sense and be consistent with the current architecture of the building otherwise without a specific plan in front of the board it would have to be continued to next month to be considering exactly what the base looks like. He said it would be better off if it was worked out with the zoning inspector.

Ms. Endres said she will be looking for brick or stone to be consistent with the other signs along E. Washington Street.

Mr. Gutoskey asked about the landscaping.

Ms. Endres said there is supposed to be landscaping maintained around the perimeter of the ground sign so if they have a sign that is 30 sq. ft. she would be looking for 30 sq. ft. of landscaping around it.

Mr. Lamanna said he sees no reason to change that requirement, you would have to come here and say here is a very particular reason why this requirement doesn't work because of the nature of this property because of the nature of the building or something else this requirement doesn't work. He said this type of base which makes it look like an extension of the sign he thinks is not what they intended with that requirement, they did not want the base to look like an extension of the sign and make the sign itself look bigger so the board is not going to approve something that looks like the sign, so you have a choice of either working it out with the zoning inspector or you are going to have to come back with a specific proposal next month with what you want to do and why because you can't comply with the requirement. He told Mr. Harrison that he has to give the zoning inspector specific plans for approval or not and two choices are you want to come back next month and present a specific plan which you may or may not get or the board can approve the additional square footage and you can work it out with her and we can just close the application, we will give you the approval tonight so it will be final at our next meeting.

Mr. Harrison said so we are looking at the total overall height of 6' with a 2' base which will be brick or stone and a 4' cabinet by 3.5' and he will work it out with the zoning inspector.

Mr. Lamanna said okay.

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

Motion BZA 2013-23 – 8500 E. Washington Street (First National Bank)

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of installing a ground sign at the property.

1. A variance for an additional 12 sq. ft. of signage allowance for the purpose of constructing a 4' high x 3.5' wide sign which will not exceed 6' in total height so it will be on a base a maximum of 2'-0".
2. The applicant will work out with the zoning inspector a suitable brick or stone base that meets the architectural requirements of the zoning ordinance and will also satisfy the appropriate landscaping requirements.

Motion BZA 2013-23 – 8500 E. Washington Street (First National Bank) - Continued

Based on the following findings of fact:

1. It is a small variance and the applicant would otherwise be unable to have a ground sign.
2. The limitations on the size that have been made for this ground sign are such that it will be consistent with the neighborhood and will not adversely affect the neighboring properties.
3. The board would not make this finding absent such restrictions on the size of the sign.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Maglietta, aye.

Application 2013-24 by McKnowles LLC for property at 16695 W. Park Circle Drive – Continuance

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

Mr. Mark Lyndall was present to represent this application.

Mr. Lyndall testified that he is one of the owners at 16695 W. Park Circle Drive and apologized that his brother did not show up at the last meeting. He said very simply they just want to replace the existing sign, it is starting to rot and not look professional anymore. He asked if the board has a mock-up of the sign.

The board reviewed the applicant's request.

Mr. Lewis asked what the overall height is of the existing sign.

Mr. Lyndall said he doesn't have that.

Mr. Lamanna asked if the issue here is the setback.

Ms. Karen Endres, Zoning Inspector testified that it is the setback from the road right-of-way. She said they are operating under an agreed judgment entry and the agreed judgment entry references the zoning resolution that was in effect in the 1970s when the requirement then was a 25' setback. She said the setback today is 16' and she has been working with the property owner and the prosecutor's office for an amendment on that agreed judgment entry to address signage issues. She said one of the things they were looking at is the 5' setback for ground signs from the right-of-way and added that this is an industrial park and there is not a lot of traffic and not fast traffic.

Mr. Gutoskey asked where the other signs are located.

Ms. Endres said actually most every sign is located in about the same location and she did go out there last week and took some pictures but it is consistent with other signage on that road.

Mr. Lamanna said they ignored what the zoning requirement was.

Ms. Endres said there is no change in the location of the sign, it is the same location, they are putting a new sign on the same existing base, same location and approximately the same size.

Mr. Lamanna said it is either 15' or 25' and his view is you don't get to choose the one you like best and if truly the old zoning continues to apply that is another issue as to how that works and he thinks there are some serious issues on whether one board of trustees has the power by a judgment entry to foreclose into the future any changes to the zoning on a particular parcel. He said you may be able to say you can build something here now but to say 100 years from now somebody can't decide they want to change how the signs go.

Ms. Endres said that is why she gave the board all of the information.

Mr. Lamanna said either way it is 5' but you are saying that most of the other ones are 5' as well.

Ms. Endres said this is correct.

Mr. Lyndall said his business is across the street from a new veterinary office.

Mr. Lamanna told Ms. Endres that if she has looked at it and feels that it is consistent with everything else there and asked if anybody else had any issues with the application.

Ms. Endres said that if in good conscience she could have approved it she would have.

Mr. Lamanna said it is 25' or 15' at best and if this is only 5' then it needs to be heard.

Mr. Gutoskey said it is next door to the car place the board approved.

Mr. Lamanna said if it is consistent with the other signs that are on the street already then he doesn't have an issue with it.

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

Motion BZA 2013-24 – 16695 W. Park Circle Drive (McKnowles LLC)

Mr. Lamanna made a motion grant the applicant the following variance for the purpose of replacing a ground sign in accordance with the plans submitted with the application.

1. A variance to the setback from the right-of-way requirements. The setback allowed will be 5' from either the 15' or 25' required at this location.

Based on the following findings of fact:

1. This is a replacement of an existing sign which is in the same location.
2. The general placement of the other signs on West Park Circle Drive where the property is located have similar setbacks so this is consistent with the neighborhood and will not adversely affect any of the adjacent property owners.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Maglietta, aye.

Application 2013-25 by Daniel T. Vossler for property at 8269 Summit Drive

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

Mr. Daniel Vossler was present to represent this application.

Mr. Vossler testified that he would like to tear down the existing garage and carport and put up a more appropriate two-car garage and room above. He said he is asking for a variance because there is an issue with coverage percentage and he is also on two lots and the existing driveway and garage and carport cover both lots.

The board reviewed the variance request.

Mr. Vossler showed the board a photo and added that he has spent a lot of time, money and energy over the past few years improving the house, the whole roof structure has been rebuilt because it had two by sixes, he added the porch, all of the windows in the front are brand new and this really needs to be improved.

Mr. Lamanna asked about the footprint for his house.

Mr. Vossler said the footprint across is actually 3' less but he is adding 8' to the front so there will be a 2' setback.

Mr. Lamanna asked how deep it will be.

Mr. Vossler said it will be 28' feet.

Mr. Lamanna asked if it will be as far as the house is.

Mr. Vossler said no and added that there is a small addition added to the back that extends the kitchen out 8' right at the back wall and explained the garage structure and the roofline.

Mr. Maglietta asked if this is the same footprint as the garage is now.

Mr. Vossler said yes and explained that this is the back of the existing garage so it is an addition of a little less than 700 sq. ft. of living space.

Mr. Lamanna said we have the two lot issue here, they are not merged.

Ms. Endres said that might be a candidate for a lot consolidation or an affidavit of fact.

Mr. Lamanna said one of the things the board is trying to do is, years ago there was a contiguous lot allowance that said originally if he owns two lots side by side they were treated as one even though they weren't consolidated.

Mr. Vossler said yes he understands.

Mr. Lamanna said there are preferences to have the lots consolidated so that it is a single lot.

Mr. Vossler said he understands that but it is a very large expense.

Mr. Lamanna said right so what we are doing in lieu of that is we are having people execute an affidavit, a recordable instrument that basically states these two lots are one lot and that is a relatively inexpensive process, it is a filing fee basically.

Mr. Vossler said he would be happy to do that.

Mr. Lamanna said that is a process as these things come through we want to get them cleaned up since it no longer says you can treat them as one and also that created some problems so we want to get everybody to understand that once you start using them together to build on or say you are going to come up 2' from the sideline because you own the next lot, then understand you no longer have a separate lot.

Mr. Vossler said the existing driveway and carport already are on it.

Mr. Lamanna said the board will treat them that way if you go ahead and execute that.

Mr. Vossler said sure.

Ms. Endres said the lot coverage issue is reduced.

Mr. Lamanna said you have ½ acre here.

Mr. Vossler replied yes.

Mr. Lamanna said there are no issues on the setback.

Ms. Endres said other than the internal lot line.

Mr. Lamanna said if Mr. Vossler agrees to execute the affidavit of fact the board will ignore the internal lot line.

Ms. Endres said she still needs a sediment control plan, she didn't require him to get it beforehand in case something changed so she needs the sediment control plan before she issues the permit.

Mr. Vossler said he doesn't understand what that is.

Ms. Endres explained that he needs to contact Geauga Soil and Water Conservation District and that will ensure you have silt fencing.

Mr. Gutoskey said they will take your site plan and mark up the erosion control on it.

Mr. Vossler said he did get approval from the Lake Lucerne ARB but he didn't bring it with him, he has stamped approval.

Mr. Lamanna said it is not the board's obligation to enforce those but he also wants people to understand the fact that if the board approves it, it does not mean you don't have to get their approval.

Mr. Vossler said he has been on their board before so he understands.

Mr. Lamanna said he just wants people to understand that because the BZA approves it therefore they don't have to get approval from the association and added that this board and ARBs are two separate boards.

Mr. Vossler said they ask people to come to the ARB first before they come to zoning.

Mr. Lamanna said if somebody wants to come here first before they get the other approval so be it, we just want people to understand that they have to satisfy both obligations.

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

Motion BZA 2013-25 – 8269 Summit Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of constructing an addition.

1. A variance from maximum 10% lot coverage to 20.8% for a variance of 10.8%.

With the following condition:

1. The applicant owns two lots and is going to be adding a garage structure in accordance with the plans submitted with this application and has agreed, and as a condition of the granting of this variance, the applicant will execute an affidavit recordable form with respect to the two lots and when that is complete it will mean that there will be no issues with the setbacks against the existing lot lines and the crossing of the lot lines by a structure.

Based on the following findings of fact:

1. The increase in lot coverage is based on a practical difficulty because the small size of this lot being only .51 acres.
2. The total lot coverage is consistent with the Lake Lucerne area so it will not change the character of the neighborhood and nor will it adversely affect any of the neighboring properties.
3. The board does note that the applicant needs to submit a sediment control plan to the zoning inspector to complete the application.
4. The applicant will submit a copy of the Lake Lucerne ARB approval to be filed with the variance application.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Maglietta, aye.

Application 2013-26 by Kevin McCausland for property at 8496 W. Craig Drive

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

Mr. Kevin McCausland was present to represent this application.

Mr. McCausland testified that lives at 8496 W. Craig Drive and his property is a corner lot, W. Craig and Rt. 306 and he would like to build a shed just outside of the current restrictions for a couple of reasons, Lowes garden center is at the back of his property, they keep a beautiful property but they have a very large neon sign and in the fall and winter months it shines into the back window of his house. He said it changes to beautiful colors and it looks nice but it takes away from his living room and dining room and can't relax in his home. He said that is not the reason to build the shed, it is to mainly cleanup the rest of his yard and he will be able to park his truck in the garage instead of parking it outside, he would be able to get rid of the lawnmower and put it in the shed, the wheelbarrow would go into the shed and other various equipment. He said there are several sheds up and down his road that people have and it wouldn't change the character of the property and one of the reasons for the variance, he too has a second property line similar to the last gentleman just located in a different area. He said two other small reasons for having it outside of the current restrictions, he does have a fire pit and you can see his lot is quite wooded (he referred to the GIS aerial photo) and he would have to take down several large trees to have it closer to the home, those are some of the more important reasons.

The board reviewed the application.

Mr. Lamanna asked if he has strategically located the shed to block the sign off somewhat.

Mr. McCausland said somewhat, it is strategically located to somewhat block the sign, some will block headlights from vehicles traveling south on Rt. 306, the lights from the sign are only in the winter months when the leaves are off the trees so maybe four or five months of the year. He said he would also hope that having a shed would up the property value of the home and in turn that would probably be more tax dollars to the township.

Mr. Lamanna said he is not worried about the rear setback because it is bordering onto a commercial business on Rt. 306 and there are woods back there and it will still be 72' away from the right-of-way.

Ms. Endres said she was concerned that not everybody was sworn in at the beginning.

Mr. Lamanna said he feels that everyone was sworn in. He said given the issue with the sign and the shed is in the woods he doesn't see any issues and he doesn't think that Lowes is going to be adversely affected by a 16' x 18' shed.

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

Motion BZA 2013-26 – 8496 W. Craig Drive

Mr. Lamanna made a motion to grant the following variances for the purpose of constructing a 16' x 18' x 15' high shed in accordance with the plans submitted by the applicant.

1. A variance from the minimum required 90' rear yard setback to 68' for a variance of 22'.
2. A variance from the side setback of 100' for a corner lot to 72' for a variance of 28'.

Based on the following findings of fact:

1. A practical difficulty exists because this is approximately a little over an acre 1.6 acres.
2. It is also located along Chillicothe Road and the area where the shed will be placed is in a wooded area so it is not going to adversely affect any of the neighbors on the other side of Chillicothe Road.
3. With respect to the rear lot line, it abuts a commercial nursery so the small decrease in the setback, especially given the total lot depth, will not adversely affect that property.
4. Given the size of this shed it will not be inconsistent with the neighborhood and will be in conformity with the character of the neighborhood.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Maglietta, aye.

Application 2013-27 by Micah and Laurie Sanders for property at 7429 Chagrin Road

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

Mr. Micah Sanders was present to represent this application.

Mr. Sanders testified that he lives at 7429 Chagrin Road and they are requesting a variance for the side lot clearance and they are constructing an addition or proposing to construct an addition. He said they have a downstairs master bedroom and wanted to extend that for a living space to move his grandmother in with them and with that would be a one-car garage for her and then coming around the corner a three-car garage. He said they had contacted the neighbor next to them that would be directly affected by it to see what his take on it was before he even submitted the application.

Mr. Sanders continued by saying there was a letter he submitted with the application that stated that he has reviewed the plans in detail and has no issues with the proposed plans and how they affect his property. He said also with that being said, because a portion of that is a three-car garage that would be facing his property, they, in the design figured if he was a neighbor he wouldn't want to look at a long-sided wall and a long black roof so they put dormers in the garage roof with windows and put windows on the back side and then a man-door and took that into consideration that what would you want if you were looking at it.

Mr. Lamanna said he would be looking at a normal side of a house.

Mr. Sanders said correct.

Mr. Lamanna asked Ms. Endres if that is a Chagrin Road property or Brigadoon Drive (neighbor), the drive is on both roads.

Mr. Sanders said it is Chagrin Road.

Ms. Karen Endres, Zoning Inspector testified that their drive is off Chagrin but they are a corner lot (neighbors).

Mr. Lamanna said it looks like there are two houses.

Mr. Sanders said that is their garage.

Mr. Lamanna said the property was there before Brigadoon.

Mr. Norman Schultz testified it is not that far and added that the property has been there for 80 – 90 years.

Mr. Lamanna asked about the two white areas on the photo.

Mr. Sanders said those two white areas are existing garages that would be demolished and added that they are an eyesore and at the closest point it would be 15' and added the property line splays out. He said the downstairs master bedroom is on that side of the house and the other side is a porch so to make any living space for her on the first floor would be a huge addition.

Mr. Lamanna asked about the current house setback.

Mr. Sanders said he believes at the closest point it is 30' – 40'.

The board reviewed the setbacks.

Mr. Sanders said right now it would be the front of the house.

Mr. Gutoskey said it is scaling about 38'.

Mr. Schultz said he lives across the street and has no issues with it.

Mr. Lamanna said they are getting rid of the existing structures given the arrangement of the property here.

Mr. Gutoskey asked about the septic system.

Mr. Sanders said it is further back, it is an aeration system and is an on-lot system and it is new when they put on the first addition in 2002 – 2003, he had to get a new system through Geauga County and they require an aeration system so that is what they designed and approved.

Mr. Lamanna said there is still a pretty good separation between the houses.

Mr. Lewis said they have added the architectural features.

Mr. Lamanna said they are going to be parallel to the other existing house there, they are not going to be out in front of it or way back behind it so it will pretty much line up with the other house.

Mr. Lewis said there is no view into the garage.

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

Motion BZA 2013-27 -7429 Chagrin Road

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of constructing an addition in accordance with the plan that was submitted together with the application

1. A variance from the minimum required side yard setback of 50' to 15' for a variance of 35'.

Based on the following findings of fact:

1. A practical difficulty exists because of the location of the existing house on the lot.
2. It is skewed to one side and it has only a 38' setback and in order to practically make this addition requires a smaller setback of 15'. The adjacent property owner has indicated that he has no objection to that.
3. After reviewing the location there will still be a substantial separation between the houses.

Motion BZA 2013-27 -7429 Chagrin Road - Continued

4. The proposed expansion will be parallel to the adjacent property owner's dwelling so it should not adversely affect his line of site.
5. The applicant has designed the addition so that even though it is a garage it looks like a house with windows and other architectural features so that it will minimize any adverse impact.
6. As part of this project regarding two existing structures on the property, the applicant has agreed they will be demolished as part of the project which will improve the view from the adjacent property owner.
7. The board believes that this modified structure will be consistent with the neighborhood and as indicated should not adversely affect any of the other property owners to the other side of this location.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Maglietta, aye.

Since there was no further testimony, the public hearing was closed at 8:36 P.M.

Respectfully submitted,

Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Jason Maglietta

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

Date: November 21, 2013

AUDIO RECORDING ON FILE

BZA PH 10/17/2013

-24-

Bainbridge Township, Ohio
Board of Zoning Appeals
October 17, 2013

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:36 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, and Mr. Jason Maglietta, Alternate. Mr. Mark Murphy and Mr. Mark Olivier were absent. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the September 19, 2013 meeting as written.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Maglietta, abstain.

Applications for November 21, 2013

Application 2013-28 by The Montefiore Housing Corporation for property at 16695 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of a Residential Care Facility and Skilled Nursing Facility. The property is located in a R-3A District.

Application 2013-29 by Henry J. Prijatel for property at 18063 Harvest Drive

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

Application 2013-30 by Ryan Sanders/Premier Custom Builders for Cynthia Vasu for property at (PP# 02-421250) Ober Lane

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

Application 2013-31 by Dr. Caleb Chou, The Church in Solon for property at 7765 Country Lane

The applicant is requesting a modification of an existing conditional use permit that was approved 8/15/2013 (2013-7), Condition #2, from the maximum capacity of 80 people to 135 people to conform with septic capacity. The property is located in a R-5A District.

Application 2013-32 by Parkside Church for property at 7100 Pettibone Road

The applicant is requesting a modification of an existing conditional use permit for the purpose of adding an expansion to the existing Fellowship Hall. The property is located in a R-5A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for October 17, 2013 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 9:42 P.M.

Respectfully submitted,

Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Jason Maglietta

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

Date: November 21, 2013