

Bainbridge Township, Ohio  
Board of Zoning Appeals  
October 18, 2012

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:03 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, Mr. Jason Maglietta, Alternate and Mr. Mark Murphy. Mr. Mark Olivier was absent. Interim Zoning Inspector Joseph Orłowski 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.

Application 2012-23 by Thomas E. Quinn for property at 17155 Penny Lane

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

The Zoning Inspector's letter dated October 18, 2012 was read.

Mr. Thomas Quinn was present to represent this application.

Mr. Quinn testified that he would like to put up a pre-fab, 10' x 12' storage shed in his yard next to his house and the house is built right on a ravine so there is very little space to construct anything which is why he is requesting a variance. He said when he submitted this the closest to the property line would have been 20' and after having a discussion with his neighbor, yesterday, they requested that he change the location by moving it down the slope a little bit about 15' which would then give a setback of 25' and make it a little bit less visible.

Mr. Lamanna asked Mr. Quinn if he is just going to move it back towards the end of the back of his deck.

Mr. Quinn said exactly.

Mr. Lamanna said it will be 25' at that point.

Mr. Quinn said yes.

Mr. Lamanna asked if currently the house is set at 40'.

Mr. Quinn replied yes.

Mr. Gutoskey asked if the shed will be within 3' of the house.

Mr. Quinn said no.

Mr. Gutoskey said but it will be about 3' off the corner of the house give or take.

Mr. Quinn said no it will be further than that. He said he made a revised map and showed it to the board and said it will be back in this area.

The board reviewed the amended site plan.

Mr. Lewis said it will be 25' off the side yard.

Mr. Quinn replied yes.

Mr. Lamanna asked about the height of the shed.

Mr. Quinn said it will be 11' and added that the owners of the vacant lot are here.

Mr. Murphy asked if there is a development setback for Penny Lane.

Ms. Roseanne Oriella of 17135 Penny Lane and next door neighbor testified that it is 50' from the sidelines.

Mr. Lamanna asked Ms. Oriella if she owns the vacant lot.

Ms. Oriella replied yes and the driveway is on the west side of the vacant lot that is why they requested that it be moved and said the new proposal of 25' will be fine.

Mr. Quinn said it will be on a slope so it will be less than 11' visually.

Mr. Murphy said in the original request, we encourage people to not put sheds next to the house or in front of the house, we like them tucked behind the house and actually from the street so if the house is 27' off the line we would like you to keep the shed 27' off the line as well so moving it back is a good plan.

Mr. Lewis said it will be behind the house rather than on the side of the house for you (Mr. and Mrs. Oriella) being adjacent to it and it will benefit in two different ways and because it is a sloping grade to the rear the overall height isn't going to appear to be what it is because of the slope.

Mr. Lamanna asked if there would be a problem to plant two or three small trees.

Mr. Quinn said there are some there already but yes he could put in some additional screening.

Mr. Lamanna said some landscaping will make it look nice so it will not just be a shed sitting there.

Mr. Quinn said he wants it to look nice from his house too.

Mr. Maglietta asked the Oriellos how far their new driveway is going to come, is it going to be the same distance back etc.

Ms. Oriella said it will be the same distance back.

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

Motion 2012-23 – 17155 Penny Lane

Mr. Lamanna made a motion to grant the applicant the following variance to the side yard setback for the purpose of constructing a 10' x 12' shed with the location as set forth on the revised drawing submitted by the applicant this evening.

1. A variance from the minimum required side yard setback of 50' to 25' for a variance of 25'.

With the following condition:

1. To ameliorate the impact, the applicant will landscape the building at least on the side of the most closely adjacent neighbor.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant's yard slopes severely from the back of the house down to a ravine.
2. There is no other practical place to put the shed.
3. Due to the size and location it will not adversely affect the neighboring property owner.

Mr. Lewis seconded the motion.

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

Application 2012-24 by Frank & Laura DiMarco for property at 18800 Brewster Road

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

The zoning inspector's letter dated October 18, 2012 was read.

Mr. Frank DiMarco was present to represent this application.

Mr. DiMarco testified that he needs a variance because he believes the township's code calls for it to be a permanent structure back off the road and because of the land and the drop-off that is there the furthest he can get it back is 50' off the road and that is what he was asking for is a variance instead of the 100' because the topography drops off dramatically and there is really no other place to put the barn.

Mr. Lewis said what we have is an accessory structure in front of the main structure in the front yard as well as the setback.

Mr. Maglietta asked what it is going to be used for.

Mr. DiMarco said storage and he wants to be able to put his truck in there. He said the third garage he has from when he moved from his other home is just packed and there is nowhere to put anything.

Mr. Maglietta said so you are going to be putting a driveway in there.

Mr. DiMarco said correct and actually it is going to come off his existing driveway.

Mr. Gutoskey asked where the septic replacement field is and said normally there is another area reserved for the replacement field and asked where that section is on the lot and if there is enough room.

Mr. DiMarco said he does not know but he knows where the well opening is.

Mr. Lewis asked what the front building is to the north of it.

Mr. DiMarco said that is a barn.

Mr. Gutoskey referred to the site plan and said this needs to be checked with the health department.

Mr. Murphy said unless it is the big flat area down by the pond, this is 11 acres so there is a second buildable five acre lot.

Mr. Gutoskey said he just pointed that out as something that needs to be verified.

Mr. DiMarco said he is surprised they decided to pump it up into the front because there is room in the back.

Mr. Lewis said this structure is 32' x 32' and it is 1,000 sq. ft. He asked Mr. DiMarco if he submitted anything as to what the structure looks like.

Mr. DiMarco said it should be in there, it is a pole barn that is 32' x 32', two story with a gambrel roof.

Mr. Lamanna said it is 24' high.

The board reviewed and discussed the site plan, elevation, riparian and stream.

Mr. Lamanna asked if this building can be moved back another 30' or so because the topography still looks like it is not sloping away yet.

Mr. Murphy referred to the 2' contours and said the problem is you are asking for a variance off the road and asking to put an accessory structure in front of the house which almost never gets approved. He said it is very rare that anybody is allowed to put something closer to the street than their house and normally if you are putting up a shed or a barn behind the house and even tucked behind the house where it is not visible it would likely be approved. He said you have some topography here and the board has been looking at it and there is also a riparian in this area (he referred to the site plan).

Mr. Gutoskey said the board is looking at the site plan and this corner of the garage is 126' but it would have to be turned to get access from here (he referred to the site plan) and it would probably put it at less than 100' off the right-of-way. He said it could be squeezed in here at 100' but you would have to face the door to the front.

Mr. DiMarco asked if that is facing the road.

Mr. Gutoskey said yes and he doesn't think the board wants to see that.

Mr. Murphy said he (Mr. DiMarco) probably doesn't either.

Mr. DiMarco said it was a two-fold purpose here and one was to get more parking and a turn-around area because you are coming onto Brewster to open that up for parking and to be able to maneuver through there. He said right off the existing driveway is the flattest area he can pick, to come in and back in and do it safely and correct. He said he pulls a small trailer and the further he gets to the road the higher the mound is and the more severe the cut is trying to get the driveway in here and it becomes literally a nightmare.

Mr. Lewis said this structure is the size of a house in the front yard, 50' off of the road and it is mammoth.

The board discussed the other structures on the property.

Mr. DiMarco said he does understand what the board is saying having a storage area out in front of the house but if you walk that property you will see.

Mr. Lewis said you could put several vehicles in it.

Mr. DiMarco said because of the lay of the land there is no place else to put it.

The board discussed alternate locations for the structure.

Mr. Gutoskey explained that it could be rotated and still get a driveway in. He said the pavement may be 24' but the road right-of-way is 60' so it may be 50' off the end of the pavement but it is only 15' off the edge of the right-of-way.

Mr. DiMarco said okay and he thinks when they measured they measured from the edge of the street in to 50'.

Mr. Gutoskey explained that the right-of-way is 60' in there so if the road is in the center of the right-of-way, you measure 30' off of that and that is where the right-of-way would be and that is where the setbacks are based on, off of the right-of-way line. He said it might be 50' off the pavement but not 50' off the road right-of-way and it is shown about 35' off the pavement.

Mr. DiMarco asked the board what they want him to do.

Mr. Lamanna said it is extraordinary to allow a building to be built in what is technically in the front yard and this is a really unusual case so how can we minimize the amount of variance necessary and when we look at the topography here it certainly appears that it would not be a big problem to move this structure back where it can be 80' to 90' back off the road.

Mr. Phil Talarico, builder, testified that when you look at the property this is going this way from the house instead of this way (he referred to the site plan) and this ends up a lot farther when it is going down hill and there is a giant drop-off.

The board reviewed the GIS aerial photo.

Mr. Murphy said from the proposed location and what we are showing it should only be 4' lower.

Mr. Talarico said it is a lot more than 4' if you look at the property and the way we looked at it when we mapped it out.

The board discussed the drives and contour lines on the GIS photo.

Mr. Talarico explained per the GIS photo that it drops off drastically and the drive would come from here and maybe back here is somewhat level but then it drops off more dramatically than what is shown but the thing we looked at also was the neighbors were farther back from the road than we thought.

Mr. Lamanna said there is a lot right across the street from that and if somebody builds a house on that lot they are facing right at this thing.

Mr. DiMarco said the lot directly across from this is vacant, they just cleared that area.

Mr. Lewis said it is a buildable lot and this is a 1,000 sq. ft. per level two-story, 24 ft. high structure and this is a two story house being asked to be built 35' into the lot in the front yard. He said the setback is 100' so we have been able to find a spot pushing it 85' back into that area.

Mr. Gutoskey said and that is 85' off of the right-of-way.

Mr. Lewis said we need to figure out a way to shoe-horn this in there because he doesn't see this happening 15' off of the road. He explained to Mr. Talarico that by putting it back into this area that coming off the driveway, we are still approximately at the same topo and we haven't entered into this riparian area plus we left the front area as a secondary replacement leach field which will satisfy the board of health. He asked how can we make this possible.

Mr. Talarico asked if they were to put it 85' back would they get approval.

Mr. Lewis said the board hasn't voted on it yet but part of what we are trying to do is to re-establish the consensus of what is practical and satisfy the board and also the applicant.

Mr. Talarico said they want to try to get it in this season and if they can get approval based on what the board suggests they will go back and see if it will work, then they will do it that way, otherwise they will have to come back.

Mr. Lewis recommended checking with the county health department just to make sure.

Mr. DiMarco said they brought the leach field up in the front, they had acres in the back and he doesn't know why they chose the front but he knows as far as having an alternate leach field he has all the land in the back that they need.

Mr. Lewis said it would be gravity fed too.

Mr. DiMarco said right.

The board discussed the leach field and replacement leach field.

The board was in agreement to permit 85' off the road right-of-way.

Mr. Lamanna said if there is any doubt it should be surveyed.

Mr. Gutoskey explained that Brewster is an old road with angles in it.

Mr. Lamanna said the board would prefer if it is surveyed.

Mr. DiMarco agreed to have it surveyed.

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

Motion BZA 2012-24 – 18800 Brewster Road

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of erecting a 32' x 32' building in a shape and design submitted by the applicant in the existing front yard of the property.

1. A variance from the minimum required front yard setback of 100' to 85' for a variance of 15'.

With the following condition:

1. The applicant will have a survey conducted to ensure that the building maintains the setback.
2. To minimize the impact on the adjacent properties the applicant will appropriately landscape the front of the building as if it were a residential type structure.

Based on the following findings of fact:

1. There is a practical difficulty because of the unusual topography of the property and the large ravine and riparian that runs through it.
2. There are unusual location restrictions on where you can erect structures on the property.
3. At this distance back it will still maintain consistency with the neighborhood and will not adversely affect the neighboring property owners.

Mr. Lewis seconded the motion.

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



Application 2012-25 by Carole Reitz for property at 17695 Snyder Road

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

The zoning inspector's letter dated October 18, 2012 was read.

Mr. Don Simpson of Auburn Fence was present to represent this application.

Mr. Simpson testified that the property is a corner lot which is two front yards and they would like some privacy and they are enclosing the backyard on both sides.

Mr. Lewis asked Mr. Simpson if he is Auburn Fence.

Mr. Simpson replied yes.

Mr. Gutoskey asked if this is the one that just put a new patio in.

Mr. Simpson said yes and they want some privacy for their patio.

Mr. Gutoskey said this is at the southeast corner of Snyder and Bainbridge.

The board referred to the GIS aerial photo and reviewed the site plan.

Mr. Gutoskey said the fence goes down the north side then down the east side and it ties into the southeast corner and noted the location of the driveway.

Mr. Simpson said the house faces Snyder Road.

Mr. Lewis asked if this fencing is around the patio in the backyard and if there is board on board and black vinyl coated chain link and if that is the gate.

Mr. Simpson said yes and explained that it is on the side for privacy and the back side backs up to Gardiner School.

Mr. Lewis said they want it for privacy and asked what the chain link does for privacy in the back.

Mr. Simpson said to the back is Gardiner School and it is all wooded there anyway.

The board reviewed the site plan.

Mr. Simpson explained the location of the fence, patio and basement entrance and the fence is board on board along Bainbridge Road.

Mr. Lamanna asked how far the board on board fence is from the right-of-way.

Mr. Gutoskey said it is 10' from the right-of-way so it would be at least 20' from the road.

Mr. Murphy said it doesn't obstruct anybody's view off of either one of the streets at all.

Mr. Lewis said we do have a traffic light there too.

The board reviewed the zoning regulations for corner lots.

Mr. Lamanna said the house becomes an obstruction before the fence.

Mr. Murphy asked if we know how far the house is actually off the street.

Mr. Gutoskey said the house is only 10' off the right-of-way.

Mr. Lamanna said this is a variance for the height.

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

#### Motion BZA 2012-25 – 17695 Snyder Road

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of constructing a fence as submitted in the application.

1. The fence will be located on the Bainbridge Road side of the corner lot which is considered a front yard and the board will grant the variance for a fence of 5' in this area that is technically a front yard. The board notes that it does not appear that this fence creates any issue with respect to the restrictions on impeding vision at this location. In any event it would not obstruct the vision any more than the already existing house does so the board does not see that there is a variance required with respect to that aspect of the zoning code.

Based on the following findings of fact:

1. A practical difficulty exists due to the pre-existing house which is very close to the road.
2. The fence provides privacy without being contrary to the character of the neighborhood nor will it adversely affect any of the neighboring property owners.

Mr. Lewis seconded the motion.

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

Application 2012-20 by Dr. Bob Lee/Kenston Schools for property at 17419 Snyder Road - Continuance

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

Mr. Lamanna noted that the applicant was not present.

Mr. and Mrs. Jim Smith of 17383 Snyder Road were in attendance.

Mrs. Smith testified that Dr. Lee came over to their house last week.

Mr. Smith testified that the kids go in the exit and come out the entrance and now they want to put a sign there.

Mr. Murphy said and they are talking about putting the sign instead of parallel to the road, perpendicular to the road and being an obstruction of the view from one drive to the other. He asked if the school called and said they are not coming or was there a notification that they abandoned the sign or do we just vote no because they are not here.

Mr. Lamanna told Mr. and Mrs. Smith that whatever they say is on the record and will be considered by the board.

Mr. Smith said he doesn't want the sign illuminated.

Mr. Lewis said so this is going to illuminate the whole side of your house.

Mrs. Smith said right and added that the football lights were on again, all night long.

Mr. Smith said that Dr. Lee stopped over and was talking about a privacy fence for them.

Mr. Lamanna said this application will probably be continued again.

Since there was no further testimony, this application was concluded

Motion BZA 2012-20 – 17419 Snyder Road – Kenston Schools/Sign

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held November 15, 2012. The district has submitted a letter from the Prosecutor's Office regarding their responsibilities for applying for this variance. The board does not agree with the conclusions but they did not have to proceed with the variance and for that reason the board will leave this application open until their obligations are sorted out through other means.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:45 P.M.

Respectfully submitted,

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

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

Date: November 15, 2012

AUDIO RECORDING ON FILE

BZA PH 10/18/2012

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Bainbridge Township, Ohio  
Board of Zoning Appeals  
October 18, 2012

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:45 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, Mr. Jason Maglietta and Mr. Mark Murphy. Mr. Mark Olivier was absent. Interim Zoning Inspector Joseph Orłowski was present.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the September 20, 2012 meeting as written.

Mr. Lewis seconded the motion.

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

Applications for November 15, 2012

Application 2012-20 by Dr. Bob Lee/Kenston Schools for property at 17419 Snyder Road - Continuance

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

Application 2012-26 by 7-Eleven for property at 17644 Chillicothe Road

The applicant is requesting a review and renewal request of an existing conditional use permit for the purpose of continuing a gas station/convenience store. The property is located in a CB District.

Application 2012-27 by Emeil Soryal (ASZ LLZ) for property at 8450 E. Washington Street

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

Application 2012-28 by Roland & Rose Motley for property at 16683 Elyria Street

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

Application 2012-29 by Dovetail Construction Inc. dba Dovetail Solar & Wind for Kenston Board of Education for property at 17419 Snyder Road

The applicant is requesting a use variance for the purpose of installing solar panels. 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 November 15, 2012 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 8:59 P.M.

Respectfully submitted,

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

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

Date: November 15, 2012