

Bainbridge Township, Ohio
Board of Zoning Appeals
October 19, 2017

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:10 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Todd Lewis and Mr. Mark Murphy. Mr. Joseph Gutoskey was absent. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all those who intended to testify.

Application 2017-26 by Kevin Bock for property at 8483 Trillium Drive - Continuance

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 Bock was present to represent this application.

Mr. Bock testified that last month there was a question of the validity of his documents so he resubmitted notarized documents from all of his surrounding neighbors and his homeowner's association as a whole. He said they all have lives and they didn't want to come tonight so he couldn't get them here. He said if there are any questions to the number of email responses there he has two more that he wasn't able to submit by last Tuesday or Wednesday or whenever the deadline was.

Mr. Murphy asked Ms. Endres if she had the original documents.

Ms. Karen Endres, Zoning Inspector testified that she has the originals.

Mr. Murphy asked Mr. Bock if he is proposing to put it in the open grassy area.

Mr. Bock said correct.

Mr. Murphy said it is only 5' off of this line but you are saying it is 60' off of that line.

Mr. Bock said right and moving it any forward on this line, you can physically put it there but then you wouldn't be able to open the door, it is a very narrow area.

Mr. Murphy asked Mr. Bock if he could get rid of the trees and asked if the neighbors to the west are Lastoria.

Mr. Bock said Lastoria would be the property to the left, the property below would be Morganroth and the Vokas' would be across the street.

Mr. Murphy asked if Lastoria is part of this homeowner's association.

Mr. Bock said all of these individuals are all part of the homeowner's association so he got notarized statements from the three surrounding neighbors and the homeowner's association.

Mr. Murphy asked if anyone else is here for this application.

Mr. Bock said he didn't think anybody was here.

Mr. Murphy said that 5' is tough, it is close and asked if 10' would make it horrible.

Mr. Bock said 10' would impede his entry, not that it couldn't physically be put there but 10' would give him roughly less than 6' to open the doors and have any kind of entry. He said he understands that last month the board mentioned about water run-off etc. and it could be closer to the property line but he feels that is a moot point because it is uphill into Ms. Morganroth's yard in the first place.

Mr. Murphy said and the top of the hill in your yard, that is like a high point.

Mr. Bock said yes, that is like a high point in his yard that he has measured from his house and the topographic map shows the elevation that goes all the way up to the church yard.

Mr. Lamanna asked Ms. Endres to show the contour lines to the south.

Mr. Bock said another reason two is Traymore Drive, a lot of people have their lights shining up the driveway and he has been asked by a few neighbors if it could be back in the woods hiding behind some stuff so it is not such an eyesore, visible to them driving up the street and he doesn't see why this 5' isn't perfect, it would make everybody happy and even with some of the measurements he has taken, there is a little dip in the yard so there is kind of a wet spot in this area and it is simply just the highest elevation in that whole area, the whole backyard so that is why he feels it is the best location for it.

Mr. Lamanna asked what are those contour lines on there right now.

Ms. Endres said they are 2'.

Mr. DeWater asked about the diameter of the tree if you moved the shed forward.

Mr. Bock said it is maybe 2-1/2' around, it is a large tree.

Mr. DeWater asked if he could rotate the building one way or the other and still slide it forward and still have more access for the doors.

Mr. Bock said he could put it catty-corner in there he guesses but the building being 16' long is going to still need this 5' over here and he has a 10' building and roughly about 17' of space to play with there.

Mr. Murphy asked if we are siting the side of your house and looking at the 10' front here.

Mr. Bock said it is the long way.

Mr. Murphy asked if it is square to the house.

Mr. Bock said that is his plan yes.

Mr. Murphy said and so it is this corner, this 5', this corner would be more.

Mr. Bock said correct.

Mr. Lamanna asked from the back of the house to the building.

Mr. Bock said to the property line it is 72'.

Mr. Murphy said from the house to the shed it is 57'.

Mr. Bock said when he submitted this last month nothing has changed from that master drawing.

Mr. Murphy said this is your woods opening but in fact you are saying it is going to be over here (he referred to the site plan).

Mr. Bock said he did not make his drawing to scale.

Mr. Lamanna said this will be oriented so that it is parallel to the house.

Mr. Bock said correct.

Mr. Lewis said within the shoulders of the house.

Mr. Murphy said and behind the house.

Mr. Lamanna asked what the distance is from the back of the house to the rear lot line.

Mr. Bock said according to his measurements from this corner of the house here (he referred to the site plan) using a straight line to this point here is 72' so behind the house there is 25' of grass area and then another 25' of a wooded area and after that there is just a little clearing area.

Mr. Lamanna said he is trying to get an idea how far back from the house, what is the space in-between.

Mr. Bock said the way he figures it from that corner of the house.

Mr. Lamanna said you don't have the shed oriented to the house so if he measures from the house to the shed what is that distance.

Mr. Bock said the way he wants to do it would be 72 minus 5 minus 10 so it is 57'.

Mr. Lewis said that is at the furthest point.

Mr. Lamanna said the distance between the house doesn't change but it is parallel to the house.

Mr. Lewis said he is going from this corner to the lot line and doing his deductions.

Mr. Lamanna said it is going to be around 50' to 55'.

Mr. Murphy asked if it is not just open lawn between the back of the house and that 16' shed, you've got 25' of lawn and then a spur of woods and you are tucking it back in another opening behind.

Mr. Bock said and also on top if it this other 15 or so feet of wooded area is lower than either one of these two elevations, near the house or near the back line so it kind of swoops down a little bit so it would be the least ideal place to put it in that area if he were to cut those trees down because not only would he have to cut the trees down then he would have to backfill that area so it is level or higher so he has drainage, he would rather put it right where it is already going to naturally drain at that 5' part.

Mr. Lamanna asked if the shed is about 14' high.

Mr. Bock said he thinks it is 10' but he hasn't measured the height.

Mr. Murphy said he thinks if the homeowner's association said they have no problem with it he doesn't have a problem with it.

Mr. Lamanna asked if it is woods between the property line and the back of this.

Mr. Bock said pretty much yes, the entire property is surrounded by trees or some form of trees.

Mr. Lamanna asked once this is actually put in, will there be trees between it and the property line, in the location it is going in.

Mr. Bock said he can plant something short if that is required.

Mr. Lamanna said that might be helpful and generally when the board allows people to be this close we have required some kind of planting as a buffer.

Mr. Bock said alright.

Mr. Lamanna said it has been pretty consistent when you are this close and it is only 16' long so probably three plantings.

Mr. Lewis said that would be great.

Mr. Murphy asked if the neighbors have a tennis court back there.

Mr. Bock said that is a playground, that square box to the left, that is a swing set area with railroad ties and gravel.

Mr. Lamanna asked if the shed will have any lights on it.

Mr. Block said he doesn't plan to, he plans to put his lawnmower and seasonal stuff in there. He said he already has lights on the exterior of his house that all he has to do is turn a beam and he is on it. He said he doesn't plan on having any exterior lighting on it, the lights on the house itself, security lights, are plenty to shine that way.

Ms. Endres asked if there is a determination on how far the building would be from the back of the house, she will need to know that information for her field measurements.

Mr. Lamanna asked in terms of knowing that it is actually 5' off the property line.

Ms. Endres said her understanding is he is able to find the survey pins.

Mr. Bock said he is looking at both rear pins on the property, the one in that corner which is not far from the swing set and the one on the opposite corner on the Rt. 306 side which is buried in the brush behind the telephone pole.

Ms. Endres said ReaLink is at 52' but these parcel lines might not be accurate, we just want to be sure that when you build the building it is really not on your neighbor's property.

Mr. Murphy said if you have the pins you could easily show Ms. Endres if you take a half a dozen stakes out there, flags, and walk from one to the other three times and you will end up with a straight line and make sure you are 5' off of that back line for her to look at.

Mr. Bock said that is acceptable.

Mr. Lamanna said it would appear, going straight to the rear line, you have got about 75'.

Mr. Murphy said Mr. Bock said 72' and it will be up to you (Mr. Bock) to make sure that you don't put the shed in the wrong place.

Mr. Bock said he will have the burden of proof and he will prove it.

Mr. Murphy said and make it easy enough for Ms. Endres to check on it, even before would be good.

Mr. Lamanna said don't err on making it 5' maybe make it what you think is 7' that way if there is a little bit of a mistake it doesn't end up being an issue.

Mr. Murphy asked Mr. Bock if he is pouring concrete.

Mr. Bock said no.

Mr. Lamanna said you (Mr. Bock) should be able to calculate pretty closely using the back corner of the house. He said he can do the calculation on the angle and get an idea, if you measure back straight from the house what that should be roughly but he thinks he would err on being a couple of feet farther away because he guesses it won't make a whole lot of difference if it is moved another 2' closer because you are trying to get away from the tree line anyway that is back there.

Mr. Murphy said if you move it closer, the doors come into the secondary tree line, there is a little cove back there he is trying to squeeze it in.

Mr. Lamanna said be careful and probably the safest thing is to make sure you get a line between them that is clear because when you are going this close we expect you to come out accurately, we don't want people coming back in saying they weren't careful and they are only 4' off because when we are going this close to the line you want to make sure to get the entire distance there. He asked why there are two rear lot lines listed.

Ms. Endres explained that it is a corner lot.

Mr. DeWater said Chillicothe and Trillium both would be front yards.

Mr. Murphy said if that west lot line is a side yard it doesn't even need a variance.

Mr. Lamanna said the front yard is still Trillium.

Mr. Murphy said that is what we are saying, yes.

Mr. Lamanna said the way everything is faced it is on Trillium so the fact that the corner lot, since it is a 100' setback from that side, isn't the right hand side still a side lot, it is not another rear lot.

Ms. Endres said the way you define the lot lines the rear lines are lines parallel to the road, if it is not a front line and not a rear line it is a side line.

Mr. Lamanna asked if that is done by exclusion.

Ms. Endres said yes and there can be a lot more than two side lines too.

Mr. Lamanna said that whole concept doesn't make any sense and in normal cases the corner lot the one other thing, it should not be a rear setback line it should be a side setback line.

Ms. Endres said that is how she originally had it called out because it was pointed out by one of the board members in the last meeting so she changed it from the former original letter because she did have it as a side lot line, one of the board members mentioned it and thought they were probably right so she rewrote the letter.

Mr. Lamanna said we just want to make sure that we get everything copasetic and conforming with the precise language of the ordinance.

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

Motion BZA 2017- 26 - 8483 Trillium Drive

Mr. Lamanna moved to grant the applicant a variance for the purpose of constructing a 10' x 16' accessory structure with a height that appears to be less than 14' in accordance with the description provided in the application as follows:

1. A variance with respect to the two rear yard setbacks on this corner lot with respect to the rear yard to the south a variance from 90' to 5' for a variance of 85'.
2. A variance on the west side from 90' to 60' for a variance of 30'.
3. The applicant has agreed to provide three (3) evergreens to be planted between the completed shed and the south rear property line in order to screen the property from the neighbors and minimize the impact on the neighboring properties and will also not have any lights located on this particular structure.

Based on the following findings of fact:

1. A practical difficulty exists because of the location of the house on this lot because it is at one end and it is facing Trillium Drive so it is located on the narrow side of the lot which leaves a limited distance behind the existing house.
2. It would be impossible to place an accessory structure behind the house without a variance from the rear yard.
3. With respect to the west side, effectively, although by definition this is a rear yard and practically it is a side yard and it meets the side yard setback requirements so it will not adversely affect the neighboring property owner and any impact on the other rear property owner will be ameliorated by screening.
4. The board notes that this placement will keep the accessory structure between the sides of the house so it will be directly behind the house and as such will not adversely affect the character of the neighborhood.
5. The board notes that the applicant also submitted documents from the homeowner's association showing that the members have approved this location which would otherwise be contrary to their governing documents.

Mr. Lewis seconded the motion.

Vote: Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2017-30 by 7-Eleven, Inc. for property at 17644 Chillicothe Road

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

Ms. Kathleen Tomaro and Ms. Cindy McFall were present to represent this application.

Mr. Lamanna said this is a belated review of a conditional use and it looks like we have some housekeeping issues.

Ms. Tomaro testified that the landscaping is corrected now.

Mr. Lamanna asked what the obstructing bush issue is because at that location it is potentially a more serious matter obviously if there is something that could be obstructing. He said we all know the way traffic is there and everything else it would only take a momentary lapse of being able to see and somebody would be in a very difficult situation and it is not a place you want to see any unnecessary accidents.

Ms. Karen Endres, Zoning Inspector testified that it is this bush right here and showed the board a photo. She said this is Chillicothe Road and she took the picture out her car window as she was making a right-hand turn. She said she had some complaints about the landscaping and vision of site and they have done a great job in cleaning that up.

Ms. Cindy McFall testified that Ms. Tomaro did that.

Mr. Lamanna asked if this is a size issue or placement issue and in looking at this picture it looks like the telephone pole is doing a much better job of blocking the view than the shrub.

Ms. McFall said you can't move that.

Ms. Endres said she thought they did a good job cleaning up the bushes and the grass was mowed and this is the only bush but it is up to the board.

Mr. Lamanna said given that the telephone pole is there, that is really going to be the thing that is blocking the immediate view here even if the bush was gone.

Ms. McFall said they do have someone who comes on a weekly basis.

Mr. Lamanna said it looks like the bush is pretty neatly trimmed and hypothetically if you removed that bush that telephone pole is still going to be there and that is going to be blocking more than the bush so it doesn't look like a problem. He asked if there is a dedicated trash dumpster.

Ms. McFall said yes they have an enclosed dumpster.

Mr. Lamanna referred to a photo and asked if this is a random tank.

Ms. Tomaro said she doesn't know what that is.

Ms. McFall said she knows what it is but she doesn't know why it is there unless somebody had exchanged it and it didn't get put back into the propane cage. She said the other silver tank is a CO2 tank.

Mr. Lamanna asked if it is used for beverages.

Ms. McFall said yes and it is by the building.

Mr. Lamanna asked if there is anything else significant like this.

Mr. DeWater asked if the storage bins are outside all of the time.

Ms. Tomaro said they don't have to be.

Mr. Lamanna said he sees some random things and everybody from time to time has something out there that shouldn't be out there but it looks like something they are regularly keeping there.

Ms. Tomaro said that is how they bring all of the groceries, they bring them in and take them back and most of the time they take them with them.

Mr. Lamanna said he would rather see those inside.

Ms. McFall said they have a shed, they could put them in there then they would only have to bring them out at night when the driver comes to pick them up so they would only be out at night. She said they could put them in the shed the night the truck comes, they could do that.

Mr. Lamanna referred to the window signs and asked if there are any permits for the window signs at this point.

Ms. Endres said they are supposed to get permits for the window signs but that is a constant battle but in this case she decided just to put everything out because it hasn't been reviewed in several years so she went through and identified all of the issues that she could find and added there are no permits for the window signs.

Ms. McFall said to let them know what they need to do and asked if there is a variance they need to get for every sign they put up.

Ms. Endres said you are allowed to have a certain percentage of the glass area covered by window signs and they cannot exceed 25% of the glass area so she doesn't think it is reasonable for them to come here and pay an application fee every time they put up a window sign.

Ms. McFall said they have to limit the amount of signs they put up.

Mr. Lamanna said obviously there is an overall sign limitation but to come up with something that says these are the kinds of signs you want generally and if you take one down and put another one up just be aware that you have to stay within what is allowed. He said we don't want windows to turn into all signage where people can't see out of them, it is not meant to be another sign location, it is supposed to be ancillary.

Mr. Lewis asked if that is a sign on the propane cage.

Mr. Lamanna said it is technically signage he believes.

Ms. Endres said it would be yes.

Mr. Lamanna said it is certainly advertising the propane and that effectively is a wall sign.

Ms. McFall said it is not on a window.

Mr. Lamanna said you are going to have to review your whole signage situation.

Ms. Tomaro said you give us some parameters.

Mr. Lamanna told them to come in and talk with Ms. Endres and the difficulty is everybody wants to put up signs in all of these sort of kiosks they have got going with things and it is eating into your total amount of signage because every one of these is another sign so ideally we want a limited number of signs and you have a certain amount of square footage you can use and if you have a lot of little signs it may mean that you may have to cut down on your main sign or have a smaller propane sign.

Ms. Tomaro said they don't have to have the propane sign out there.

Mr. Lamanna said propane is self-evident when you have a cage with propane tanks in it so that is something you need to address separately with Ms. Endres and get all of the signs properly permitted.

Ms. Tomaro said okay.

Ms. Endres said she just recently dealt with the McDonald's in Aurora redoing their whole sign package and we went through the wall signs and ground signs, they are on a corner lot so they have a little more signage, so we just have to figure out how much signage you are allowed and then figure out how you want to use it, you've already got wall signs and ground signs on the property so we will have to figure out how much signage is left.

Mr. Lamanna asked if there are any difficulties with traffic management, people coming in and out, what has the history been on any accidents people have had. He said the thing that he finds troublesome is people going northbound on Chillicothe Road who try to turn into the gas station because what happens is they suddenly pull up in the main line of traffic on Chillicothe Road. He asked if there have been any issues with excessive accidents there.

Ms. Endres said she doesn't know, the police department doesn't give her reports.

Ms. McFall said she doesn't know of any, if there is any on the road she wouldn't know but on the property, they are turning in, not really.

Mr. Lamanna said it gets very noticeable when somebody has an accident out there.

Ms. Tomaro said now that the landscaping is under control you can see.

Mr. Lamanna said one of the concerns the board had way back originally was the whole question of left-hand turns into the station and he goes by there a lot and you see people come up and go to stop to make that left-hand turn and you see the people behind them startled and the road narrows down.

Mr. Matthew Maistros said with all due respect what does people turning in and out of anywhere have to do with getting a variance.

Mr. Lamanna explained that this is a conditional use which means that we get to examine the way they operate the business and what impact it has and establish reasonable conditions for the operation of that business so it does not adversely affect the township,

Mr. Maistros testified that it hasn't for the 25 years that he has lived here.

Mr. Lamanna said that is what we are examining right now, this was a concern when this was originally done and we have done this before and we have limited turns in and out of businesses because of the fact that it can create a traffic hazard because of the location of where they are and we are re-examining this to assure that it doesn't create an undue problem. He asked if zoning has received anything regarding problems at this location.

Ms. Endres said she hasn't heard anything from the police department, no. She said they were supposed to come back in 2013 regarding the traffic she believes but it slipped between the cracks.

Mr. Lamanna said if we haven't seen anything happening, but again, this is potentially a continuing issue because as traffic continues to increase the day may come when we have to say you will have to put up some signs that say "no left turn" into the station because you may have to at some point try to consider if you can get an access in from McDonald's etc. so people can use the left-hand turn lane and get in that way but so far so good but with the ever increasing traffic the day may come when we have to look at some measures because it does impede the flow of traffic, that is very clear so if somebody stops there to turn left and they can't get across because the traffic is backed up the other way it puts that through lane on Chillicothe to a stop and that really clogs the traffic up especially in the afternoon and you have people coming off the freeway and everything else, it keeps getting busier and busier at that intersection which is a good thing from your standpoint but it creates some other issues that we have to keep looking at to try to figure out the best way to deal with that so it may be something you can think about for the future, is there another way to get access where cars wouldn't have to make a left-hand turn but can turn onto Chagrin Road and get access that way, just kind of a long term, as you go forward, think about if there is some opportunity to do something or if you are doing something else, think about the issue because it may come to be a problem five years from now when we look at this thing again because of the increasing traffic through that intersection, it can go from being okay to not okay. He said if the police say there were three accidents a week there with people turning into the gas station then the board may have to take a different attitude but it is something to keep in mind.

Ms. Tomaro and Ms. McFall said okay.

Mr. Lamanna asked if there is anything else.

Mr. Lewis said yes, outside storage.

Ms. Tomaro said in the front.

Mr. Lewis said it is in our code that it is not permitted.

Mr. Lamanna said obviously the propane tanks have to be stored outside and the ice machine is separate, basically like a mini-shed so those two items we are not worried about but one of the things we are trying to control and the township has had rules on is selling merchandise outside, especially the kind of normal stuff like windshield washer fluid and that sort of thing.

Ms. Tomaro said a lot of cities don't allow sales outside so we just move it inside.

Mr. Lamanna said if you can move that inside that would be good.

Ms. Tomaro said they can move it inside.

Mr. Lewis said that would be wonderful.

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

Motion BZA 2017-30 – 17644 Chillicothe Road (7-Eleven, Inc.)

Mr. Lamanna moved to grant the applicant an extension of the conditional use for an additional period of five years from the date this decision becomes final.

With the following conditions:

1. The applicant will review the signage situation and make the appropriate application for any permits that are required to cover the existing signage.
2. The applicant will also store the crates and bins in the storage building and will also no longer have outside storage of materials for sale. The board will note that that doesn't apply to the ice machine or the propane tank cage because they are special situations and not within the intent of that part of the ordinance.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2017-31 by Janna Lutz for property at 7170 Chagrin Road

The applicant is requesting a substitution of a non-conforming use for the purpose of furniture repair. The property is located in a R-3A District.

Ms. Janna Lutz was present to represent this application.

Ms. Lutz testified that she lives at 25 Olive Street in Chagrin Falls and she owns and operates a business in Chagrin Falls, Chestnut Hill Homes and as a background they provide interior design services and they sell all types of home furnishings and they do simple home remodeling and part of what they do is specialty finishes to furniture, painted finishes. She said she started renting a property at 7170 Chagrin Road and that triggered this variance request. She said there are two buildings on that property, the larger building in front is an office building, she is leasing the structure behind that, it is a single room cinder block with a flat tar roof and cement floor, it has a commercial gas blower for heat, has a man-door and a garage door. She said it was vacant for some years and she guesses her taking over the lease triggered this request.

Mr. Lewis asked if she is the tenant.

Ms. Lutz replied yes.

Mr. Lewis asked if the property owner is here.

Ms. Lutz said she is not.

Mr. Lewis said there is actually a whole lot more history on this property than you signing a lease.

Ms. Lutz said she is sure there is, she is unaware of it, she had to have Ms. Endres explain it to her three times.

Mr. Lamanna asked if we have a written authorization.

Mr. Murphy said yes and asked how long she has been there.

Ms. Lutz said she thinks it has been about a 1-1/2 years.

Mr. Lewis said this is really tricky because of the nature of this property and there are major access issues into this building in the rear without trespassing on an adjacent property which certainly suggests that some modification to the access to that building is going to have to happen, probably coming in from the other side and we don't have the property owner here and he realizes that we have an authorization form to let you present or represent. He asked Ms. Lutz if she is going to assume any of the financial costs to modify that structure, add driveways, access points.

Ms. Lutz said she is not, she knows there have been discussions about doing exactly that and putting a garage door on the east side of the building and adding a driveway.

Mr. Lamanna asked Ms. Lutz what her plan is right now as to how she accesses the building.

Ms. Lutz said right now they walk between the buildings and stay close to the building so they are not trespassing on the other property.

Mr. Lamanna said you walk down along that little strip in there.

Ms. Lutz said yes.

Mr. Lewis said it is about 2' wide.

Ms. Karen Endres, Zoning Inspector testified that the buildings are not actually connected.

Ms. Lutz said they park in front and there is only one truck there every day.

Mr. Lewis asked if you have that little 2' path how do you move furniture.

Ms. Lutz said it is actually about this wide, she demonstrated to the board with her arms and said it is difficult she will say but it is possible.

Mr. Lewis said he doesn't have any problem with the use of the building but he does not want it to be crossing somebody else's property for access.

Mr. Lamanna said when you say furniture refinishing, do you use any flammable or hazardous chemicals.

Ms. Lutz said no it is all waterborne materials.

Mr. Lamanna said no solvent based.

Ms. Lutz said no, they don't do any stripping there at all.

Mr. Lewis said there is a lot more going on here too, there is a lot combining, there is a about a half dozen things in play.

Mr. Lamanna asked if the chiropractic business is in there now.

Ms. Endres said they have signage out, which is temporary signage and their sign company has been in contact with her and she is expecting an application.

Mr. Lamanna asked if they are conducting business there now.

Ms. Endres said she is not sure because she goes there sometimes and there are cars there occasionally, Ms. Lutz is in a better position to know if they are actually open.

Ms. Lutz said she doesn't know the answer to that question, she honestly doesn't go to that property all that often.

Ms. Endres said sometimes it looks like they are doing business there but they may be doing prep work. She said she drove by just to take a quick look prior to this hearing a week or so ago to get an update on what the status was.

Mr. Lamanna asked if there is organized parking there, is it striped.

Ms. Endres said she doesn't believe it is striped.

Mr. Lamanna said one of the problems is this board has already granted a non-conforming substitution for the people in front so that has got certain conditions attached to it so if we told the people in front that you have got to have X number of parking spaces for your employees and customers then we have to know what other spaces will be used on another business.

Ms. Lutz said she understands.

Mr. Lamanna said that is why we are trying to figure out exactly what is going on because there has already been an approval of a non-conforming use in the front part of the building which certain conditions have already been applied and certain parking spots and parking areas have been dedicated to that use so they are no longer available for this use.

Ms. Lutz said they would require a single parking space.

Mr. Lamanna asked about the employees.

Ms. Lutz said there is one employee who works there.

Mr. Lamanna asked about the delivery truck.

Ms. Lutz said he brings it in his pickup truck.

Mr. Lamanna said he uses his truck to bring the stuff back and forth so there is not any additional so we have one parking space.

Ms. Lutz said yes.

Mr. Lamanna asked if there is a parking space available that wasn't allocated to the other business. He said he doesn't know why the board is figuring it out. He asked if there is a parking spot left over or should a new spot be made for this so the board is in a bit of a quandary here.

Ms. Endres said they don't have to stripe their lot because it is less than 100 parking spaces so it does not require striped parking.

Mr. Lamanna said the code doesn't require striped parking.

Ms. Endres said right.

Mr. Lamanna said but somebody has to demonstrate that there is actually space there for parking, you don't have to stripe but you still have to show that you've got the square footage based upon aisles and stalls of a defined size that actually lays out the parking spaces, you don't have to paint the lines but we need some kind of demonstration if there is enough there.

Mr. DeWater said when we approved that Joe Gutoskey drew a preliminary parking area and asked if any of the work has been done.

Mr. Lamanna said they put in the driveway.

Ms. Endres said this is the 2017 aerials and it is showing that driveway. She said the parking lot is roughly 50 x 60.

Mr. Lamanna asked if the property owner removed the 2' of parking between the neighbor's driveway and the business.

Ms. Endres said no, not as of the last time she was there. She said a fence permit has been issued to the neighbor to the north.

Mr. Murphy said that homeowner is here and that fence was allowed and once that fence goes in that garage door essentially becomes inoperable he is guessing. He said as he recalls the green line that was up there before on the GIS, the property line is right next to the building isn't it.

Ms. Endres said it is very close and added that there was a survey performed so they know exactly what the setbacks are from the building.

Mr. Lamanna asked if there is a copy of that survey perhaps.

Mr. Lewis asked so based on that survey without stepping on the adjacent property which will have a fence barricade there is there even passage anymore to get to that building.

Ms. Endres said there are a couple of feet.

Mr. Murphy said there is that triangle and you can walk between the buildings but the property owner hasn't put a sidewalk back there, you are walking on grass, correct.

Ms. Lutz said yes you are walking on grass and then it is paved in the front where the garage door is on the building.

Ms. Endres showed the survey to the board. She said this is the exhibit from the BZA hearing and it is her only copy.

Mr. Murphy said he thinks that green line is incorrect.

Mr. Lamanna said according to the survey it is 2'.

Mr. Murphy said the green line should be right up against the roof of that angle, they clipped the corner of the back side of the building to match that property line so that green line should probably be sitting right underneath that roof overhang right there so essentially you will lose that ability to actually go out onto the road and come around that way, you will have to go through that little triangle and come across between the buildings and come out this bottom side. He asked if you can walk between the buildings.

Ms. Lutz said yes.

Mr. Murphy said that is basically what is being asked for you to do that.

Mr. Lamanna asked how much room there is between the buildings.

Ms. Lutz said a little more than 3' she thinks.

Mr. Lamanna asked if this is a single room building.

Ms. Lutz said yes.

Mr. Lamanna said we are not talking about an impossible task to put a door on the other side to have an access on the other side. He said if they want to walk down that narrow pathway that is fine if that is big enough to accommodate what you need to do.

Ms. Lutz said it is awkward but where there is a will there is a way, it is definitely awkward but it is doable.

Mr. Lewis said that looks like the access issue has been resolved so we are down to parking.

Mr. Lamanna said two things you have to understand, if the board approves this it is going to be on the basis that you are using another access point, you are not going around the building, you go in between the buildings and the other option is we will approve this but only approve it if another access is granted.

Ms. Lutz said they understand that and if that is stipulated we will be sure that we follow it.

Mr. Lewis asked if they can get a fire truck back there.

Mr. Lamanna said they will just drive up the neighbor's driveway, when there is an emergency there is an emergency, all rules are somewhat temporarily suspended in those cases, if there is an emergency, if they need to get onto somebody's property to gain access, somebody's insurance company will be paying.

Ms. Endres said the drawing she gave the board does have parking spaces drawn on there.

Mr. Lamanna said which he assumes are all allocated.

Ms. Endres said she doesn't know if that was the intent.

Mr. Lamanna said the drawing shows a little bump out extension over here at the bottom of the picture that adds additional parking spots. He said it is a little bit the landlord's fault because of the situation that is going on with the other proposed purchaser or tenant so we have got overlapping issues here because when the other application was done we had a difficult time determining what the minimum number would be by code but beside the minimum by code there is also the question that he wanted more spaces because he thought the minimum number required by code would may not be sufficient for his business because it is two separate considerations, one is how many you have to have and how many do you really need to operate your business effectively so now we have a bit of a conflict here because he was thinking he needed additional space and we actually allowed three more spaces to be added on the south side. He said we told him if he needed three more spaces he could add three more spaces down on the south side in the future so now you have a question of do we have enough spaces.

Mr. Lewis asked if they were all allocated to his business so can one get redirected to the back business.

Mr. Murphy said you (Ms. Lutz) have a rental agreement with Mrs. Evans.

Ms. Lutz said yes.

Mr. Murphy said and she has the building up for sale, is it in the process of being sold while your new lease will continue with the purchaser.

Ms. Lutz said he has said he would like us to stay.

Mr. Murphy said it seems that there is plenty of parking even if he is required to have six, there are ten there.

Mr. Lamanna said the board granted a variance for six versus the ten we thought would be required so now we got back to ten and six spaces was for his use.

Ms. Lutz said she thinks when they put the driveway in it got a little bit bigger.

Mr. Lamanna said they extended the parking lot by 9' towards Chagrin Road so that doesn't exist, neither of these two things exists, there are only six parking spots right now.

Ms. Lutz said she doesn't think that is true actually there is a lot of parking there.

Mr. Lamanna said not based on this.

Ms. Lutz said when they put the driveway in, she could be mistaken but she thinks there are well beyond six spaces there.

Mr. Murphy said we don't have enough information in front of us.

Mr. Lamanna said if you look at the drawing here and the hatch lines that goes around he believes that is the existing line of the paved area and where it looks like there is room there, there is not really actually.

Ms. Lutz asked if the hatch marks area is paved.

Mr. Lamanna said that is the limit, in-between the hatch marks is what is paved so this little extension here is we granted a variance to come out this far to add additional paving if he needed additional parking spots. He said it may look like there is room in here but if you add up the depth required for the parking spot plus the depth required for the drive between the parking spots and then another parking spot there is not really enough room across there to satisfy that requirement.

Ms. Lutz said that is something we have to find out.

Mr. Lamanna said right and what we could do is we could approve the substitution but based upon you satisfying certain conditions to the zoning inspector before you actually get your certificate.

Ms. Lutz said okay.

Mr. Lamanna said one of them is the parking because right now, as it appears here, all of the parking spaces that legally exist have been assigned on a previous decision so we need to have some resolution of where your additional parking spaces come from. He addressed the other board members and asked what should be done about access, are we satisfied that they can use that little pathway in-between the buildings or do we need to require that there be a practical access.

Mr. Lewis said a man door on the other end of the building even if it is not a truck delivery type door but there should be a man door there.

Mr. DeWater said and a formal sidewalk going down that side of the building.

Mr. Lamanna said basically a proper access, if this is going to be a business there should be a proper access to the business. He said there is certainly not enough room for proper access on the north side, that is clear and if we are going to have a separate business operating out of this building it needs to have a proper access.

Ms. Lutz said okay.

Mr. Lamanna said the landlord is just going to have to understand that.

Mr. Murphy asked if there is anyone else interested in this application.

Mr. Lamanna swore in Ms. Kim Portman.

Ms. Kim Portman of 7168 Chagrin Road testified that she brought pictures to show the board, she doesn't want to elongate the meeting anymore but they are in business down there and there are seven, eight, nine cars at a time. She said they are not always there to take pictures, we just want to prove that there is a mess down there, it is very hard to park, she has seen people that have literally driven through the barricades, over the grass, through their property and here is another incidence, one was pulling out so there are eight cars there and she thinks that needs to be addressed and getting access to the building. She said here are the actual yellow lines so their property line is on the right and we would like to see what was proposed in March and April in the zoning minutes about putting a man door access on the other side where there is plenty of room and everything the board said today supported how we feel. She asked if it is a separate business, there is no water back there, there are no bathrooms, there is nothing.

Mr. Lamanna said that is another issue.

Ms. Portman said there is only hose access.

Mr. Lamanna said that is not the board's issue technically but asked isn't that a building code issue.

Ms. Portman showed a photo of the back of the building, the mold, the deterioration of the building, trash cans etc., trash that we have to drive by on a daily basis.

Mr. Lamanna asked does this building meet the building code.

Ms. Endres said that would up to the building department, they can get a zoning permit but they have to get an occupancy permit through the building department and fire department so there is still another hurdle to go through and she doesn't regulate electricity and plumbing.

Mr. Lewis asked can they even get an occupancy permit.

Ms. Portman thanked the board for giving her the time.

Mr. Lewis said if there is no occupancy permit because there are no facilities, there is limited access, there is no real direct access to the building formally without cutting through grass, there are a lot of loose ends here. He asked if the business is currently active in this space now.

Ms. Lutz replied yes.

Mr. Lamanna said we have all this parking going on here.

Ms. Portman said it is very hard to back in and out, she had literally watched people trying to figure out how to get through the mess and out that new driveway, they have literally driven over what we put up, where the fence lines are going to be.

Mr. Lamanna said they don't have a big enough lane, when people park like this there is not enough room.

Mr. Lewis said they haven't extended the parking lot the way the board approved it to create the additional spaces.

Mr. Lamanna said he thinks two things have to be resolved here. He said this is an enforcement situation.

Ms. Endres said she is not sure what was going on there, if it was workers.

Ms. Portman said they are definitely in business which is fine.

Mr. Lamanna said the board's intent was that if this was a regular occurrence that they have to extend the parking spots and he can get four spots by extending it. He said there are two things, one is to extend to the west toward the street and that gives him four more spots and then if that is insufficient then he can get three more by adding on the other way.

Ms. Endres said she will have to go through some measuring and take a look and she figured they would handle all of that when they restored the greenspace between the lot lines.

Mr. Lewis said which hasn't been done.

Ms. Endres said it hasn't happened yet.

Mr. Murphy asked if the board should give them a timeframe when it is supposed to be done.

Ms. Endres said she didn't think there was a timeframe in the minutes. She said the lots were supposed to be consolidated when the property changes hands.

Mr. Murphy said and that hasn't happened yet either.

Mr. Lewis asked Ms. Portman when her fence is going up.

Ms. Portman said soon, they are in the middle of negotiations.

Mr. Murphy asked if she is pulling the asphalt out.

Ms. Portman said they did not yet.

Mr. Murphy said but it is your intent that you would do that on your side of the property line.

Ms. Portman said it is scheduled to go and we are taking out 2' and obviously we can't come to an agreement with the building owner or the possible new person who is going to purchase the building so we got our own estimates, we have already okayed it, we are just kind of like on hold at this point. She said the problem they see with the parking is that people, they get agitated when they are trying to back out so they literally will drive over the grass, through the other side of the driveway, our driveway, through the grass and around the temporary gate that we put up. She said they have pictures of a couple of cars that actually drove through the grass and we stopped the people and asked them why they were driving through a barricade but we never reported anybody to the police yet, we are just really tired of all of it.

Mr. Lamanna said technically it doesn't say when they have to have this done, actually the way it is put in here, they should have had it done before they actually started operation so if they started operating the business they should have had that completed by the time they started operating the business.

Ms. Endres said she will get ahold of the property owner to see what her intentions are.

Ms. Portman said they filed zoning for the fence and got that approved, we followed all of the rules and she thinks she has one year under the zoning to start.

Ms. Endres said she talked to the fence contractor and her understanding is part of what he is doing is removing the concrete on their side.

Ms. Portman said we are supposed to be 2' and they are supposed to be 2' and she would like to see the first car drive through that. She said if you look back at the minutes as well, Dr. Nassif, in reading the minutes for March and April, both the property owner and Dr. Nassif had said that if he acquires the property that he would be willing to put in the accesses back there, it is in the minutes, on the other side.

Mr. Lamanna said people are going to have to understand now that they will have to deal with the building department, that is a whole separate issue as to what they say is required with regard to using this building in this way, what their minimum requirements are and from our standpoint if we are going to allow a substitution of use because of this other issue he thinks there has to be a formal access to that building, a real business style formal access with a door and a walkway for appropriate use of the building and the parking situation has to be worked out, there is the question of how many parking spots are required for that building.

Ms. Endres said it is based on the size and use and she thinks we figured it out during Dr. Nassif's hearing.

Mr. Murphy said he doesn't think we have to answer that tonight, he thinks there are so many open things here.

Mr. Lamanna asked do we even try to approve this or do they need to come back and address all of these issues.

Mr. Murphy said he thinks the board needs to know more about if these issues are being taken care of and going to be carried out, these were all conditions on that building for the transfer of property/ownership and none of them seem to have been done yet and one of the things that was agreed upon was the sidewalk and an entry on the back building, not that we can throw you (Ms. Lutz) out or anything now that you are there but within days or weeks there will be a fence along the north side and there will be no access and in days or weeks you will be in 4' of snow walking to the building. He said we have no communication with the building department but obviously whoever has been working there knows there is no bathroom in the place.

Ms. Lutz said there are a lot of things in flux right now, there are a lot of things in negotiations on different things and we would like to have the opportunity to stay there until things shake out and we know what our position really is.

Mr. Lamanna said he doesn't think the board has an issue with the use.

Mr. Murphy said it is a residentially zoned property.

Mr. Lamanna said the board will continue this to the next meeting, but somebody has got to come back and be ready to address the parking situation which means you are going to have to determine with the zoning inspector how many parking spaces are actually required, the board can then deal with how many you actually need and then the landlord has got to come and tell us where those parking spaces are, we have a separate issue for the zoning inspector to deal with the fact that there now appears to be more cars parking there than we anticipated in the earlier decision. He said secondly if they are operating there and one of the things the board wanted done is the removal of this pavement and as to why that is not done and when is it going to be done and because the landlord wants this substitution approved they need to tell us why they haven't come into compliance with that aspect of the property because it ties into the use of this building as well and then finally you have got to address the question of the proper access to the building with at least some kind of a man door and a paved pathway from the parking lot to that.

Mr. Lewis asked about sanitary.

Mr. Lamanna said that is up to the building department because they may say it is okay if they can use the adjacent building.

Ms. Lutz said that is in the arrangement yes.

Mr. Lamanna said that has got to be okay with them (building department) because that is not our jurisdiction.

Ms. Lutz said so the issues are how many parking spaces are required, and is there an extra one for us.

Mr. Lamanna said and what is available based on the board's earlier decision.

Ms. Lutz said and the removal of the pavement and proper access to the building, a man door and walkway.

Mr. Lewis said on the parking spaces it may not just be one, when you work with Ms. Endres on the size of that building she is going to be able to tell you exactly how many you need. He said he knows it puts you (Ms. Lutz) in a difficult position because you are a renter and not the landlord.

Mr. Lamanna said for example if it comes back and you have to have four parking spaces, the board may be willing to say okay you can have less than that, one is probably not going to be okay if it requires four or five because one is no margin for somebody else coming there to see what is going on, if you come out there to see what is going on, now there are two cars so it will probably be more than one that will be necessary it will be at least two to make sure and again we already see we have a problem here and so somebody can't come in and say there is a parking problem.

Ms. Lutz said the Eagles spill-over, it is very popular there on the weekends.

Ms. Portman said they are not open on the weekends, that is during the day.

Mr. Lamanna said this is not spill-over and added that the board has made provisions already in our earlier decision that there is room enough to create ample parking here, we have given them already the variances that they need to put in seven more spots.

Ms. Portman asked wasn't it to merge the two lots to get nine more feet.

Mr. Lamanna said they could extend towards Chagrin Road and then they could add a little bump out to the south for three more spots so he thinks the board has already made ample provision in our earlier decision to create parking spots there to cover everybody's needs.

Ms. Endres said her expectation was the property owner would be here tonight, she was given notice just like she is at every hearing. Ms. Endres said she will make sure to give her a special invitation.

Mr. Murphy said if they are under contract for the sale of the property then she is hoping that that will become somebody else's problem.

Mr. Lamanna said this unfortunately is a case where he doesn't think the tenant can adequately represent the property owner, the property owner either has to come here or they have got to send a true agent like an attorney or somebody like that who understands if they say yes they are going to do this that the property owner is bound to follow it, this is a little more serious than the normal. He said you normally don't get into such large substantive issues where the property owner needs to be present. He said it is an implausibility to authorize tenants to seek variances.

Ms. Endres said ideally next month we should have Dr. Nassif and Mrs. Evans here.

Mr. Lamanna said he almost needs to come because he is buying the property and he is also the applicant on the other decision too that creates a lot of the questions here so everybody needs to be a part of this.

Ms. Lutz thanked the board.

Mr. Lamanna said sorry we couldn't give a firm decision but you understand where the board is going and where we need to get to make this all happen.

Ms. Lutz said she does understand.

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

Motion BZA 2017-31 – 7170 Chagrin Road

Mr. Lamanna moved to continue this application to the next regularly scheduled meeting to be held November 16, 2017.

Mr. Murphy seconded the motion.

Vote: Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2017-32 by AER Chagrin, Inc. for property at 8405 Bainbridge Road aka 17800 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of a dog daycare and boarding. The property is located in a CB District.

Ms. Amy Ryan was present to represent this application.

Ms. Amy Ryan testified that she is just here because she didn't realize that she needed a renewal. She said she is no longer with Camp BowWow it is Chagrin Valley Lucky Dog Club.

Mr. Lamanna asked if she owns the business individually, LLC or.

Ms. Ryan said it is an S Corp.

Mr. Lamanna asked if it has always been the same S Corp.

Ms. Ryan said yes the same S Corp, they just changed names, she left the franchise and went independent, it is AER Chagrin, a new corporation and she does business as now Chagrin Valley Lucky Dog Club.

Mr. Lamanna asked if AER always, when she originally applied, was the business.

Ms. Ryan replied yes.

Mr. Lamanna said so the actual legal entity has not changed, only the DBA.

Ms. Ryan said exactly.

Mr. Lamanna said he just wanted to clarify it because technically this is not really a transfer even though all you did was change the name.

Ms. Karen Endres, Zoning Inspector testified that she just wanted to cover all of the bases.

Mr. Lamanna said with the clarification that this is the same legal owner that is not an issue.

Ms. Ryan said exactly.

Mr. Lamanna said it doesn't seem like it has been five years. He asked if there have been any complaints.

Ms. Endres said she hasn't heard any complaints.

Mr. Lamanna asked if there are any open issues or any conditions.

Ms. Endres said they are working on new signage and her understanding is they are going to do a sign package and she will be working with the sign company and they were going to put up a sign that needed a variance a number of years ago but the variance goes with the property so they will be able put up that ground sign without returning to the board and there will be a small sign above the entry door and a wall sign facing Bainbridge Road and there is actually signage allowed for the property.

Mr. Lamanna asked if there any outstanding conditions from the original application that weren't done.

Ms. Endres said she doesn't think so.

Mr. Lamanna said he didn't think there were that many to deal with and asked if they got the landscaping done.

Mr. Larry Shibley, owner of the property testified that they planted grass between the building and the road and shrubs in front and along the south side as well and they actually had done some replacement recently.

Ms. Ryan said Mr. Shibley owns the land but she owns the building on his land.

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

Motion BZA 2017-32 – 8405 Bainbridge Road aka 17800 Chillicothe Road (Dog Day Care and Boarding)

Mr. Lamanna moved to grant the applicant the renewal of the conditional use permit for the day care of dogs for a period of five years commencing on the date this decision becomes final.

Mr. Lewis seconded the motion.

Vote: Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2017-33 by Diana Wiebusch for properties at 18389 and 18399 Geauga Lake Road

The application is requesting area variance(s) for the purpose of lot splits and consolidations. The property is located in a R-5A District.

Ms. Diana Wiebusch was present to represent this application.

Ms. Wiebusch testified that she is asking for these variances for a lot consolidation and split so that she can correct a shared driveway situation and encroachment issues between the two properties. She said to give the board a little background, her in-laws bought four acres of land and built their house in the late forties, early fifties, the lot is narrow and long and extends from Geauga Lake Road back to the river and its heavily wooded, it is hilly and there is a ravine that runs through most of it. She said in the mid-seventies she and her husband bought the back two acres from his parents and they built their house. She said our driveway runs through the back of their property and as it gets closer to the road and to their house it merged with their drive and then that is how they had access to the road. She said this never was a problem, it has been like this for 40 years. She said her husband Tom passed away in 2016 and his parents had died years before and she has to sell the properties, she can't sell them as they are, financing for any new buyer is going to be impossible with the current situation, she has to fix the problem to sell these houses. She said the lot consolidation and split will enable her to provide a separate driveway for each house and it will resolve the encroachment issues. She said there will be minimal physical change to the properties and it will have no impact on the neighbors or the neighborhood and she has pictures of the northern boundary to kind of show that area what it looks like now and how little it is going to change. She said that is the picture from the road, the top picture and you can see where the driveway is to the right and there is a garbage can and the other drive circles around the house and the Pine tree will probably have to come out but that is about it so it is not really going to change very much. She said she doesn't have much of an alternative here, there is access to the road from her house on the southern boundary line but the cost of putting a new driveway in would be staggering, her house is not quite 700' off the road and the terrain is difficult to say the least, it is wooded and it has an impress ably steep hill on it and she has pictures of this too, she tried to take them this Spring because it is hard to get pictures when it is all wooded. She said constructing a new driveway there would be the removal of a lot of trees and there would be a lot of excavating and this would have a negative effect on her neighbors to the south because all of those trees are running on his property line. She said she is just really hoping that you will agree that the lot consolidation and split is the most feasible and best solution for the problem. She said the alternative is just terrible.

Mr. Lamanna said trying to do it along the south side is where we would run into all of this.

Ms. Wiebusch said yes that is where it is really hilly, the whole property is hilly, it has got a big hill there.

Ms. Endres said she walked the property and there is a lot of topography and ravines.

Mr. Lamanna asked on that side, the south side.

Ms. Endres said yes.

Mr. Murphy said he knows where the lot is. He asked as existing right now, what are the lot sizes.

Ms. Wiebusch said now it is two acres for the front parcel and two for the back.

Mr. Murphy said so that is the difference you will end up with a one acre front parcel and a three acre back parcel.

Ms. Wiebusch said correct.

Mr. Lamanna asked if there is enough room for a secondary septic area on the front parcel.

Ms. Wiebusch said yes, she believes so and actually it would give more usable land to the front parcel.

Ms. Endres said the land that currently goes with the rear lot will then go with the front parcel.

Ms. Wiebusch said it is kind of like we are flip flopping it a little.

Mr. Lamanna said the flag is going over to the other side.

Ms. Wiebusch said correct.

Mr. Lamanna said the flag is going to the other side but you are going to follow the existing.

Ms. Endres said what is happening on some of these older situations as property owners are trying to sell their properties banks don't like the shared driveway situation and they don't like encroachments.

Mr. Lamanna said that is what we tell people all of the time and that is why we try to fix all of these things because otherwise you are going to find out in the future and the reason we are making you do these things is otherwise when you go to sell your property and you are going to go down to the bank and the bank is going to say no we won't approve this you will be three or four months running around in circles coming back here trying to get it all fixed but you will be a much happier person if you don't run into that problem.

Ms. Wiebusch said that is what she is trying to do to get it done now.

Mr. Lamanna said it is a new reality with real property now, they don't want anything that is not copasetic now.

Ms. Wiebusch said they want it all squared away.

Mr. Lamanna said no issues and no potential future problems if they have to sell the property. He asked if anyone is having any difficulties with this layout.

Mr. Lewis said he doesn't see any other practical approach to it.

Mr. Lamanna said maybe the driveway could be moved a little bit but you would still have the problem with the riparian setback over there, you could move it back a little bit but it is owned by the same party so whoever buys the front parcel knows exactly what they are getting and it is almost an acre so it is not ridiculously small given the way this land is set up and the topography.

Ms. Wiebusch said it is difficult.

Ms. Endres said they will be making one lot less conforming but one lot more conforming.

Mr. Lamanna said at this point in time we have two lots and we have to figure out a way to practically separate them and it does not look like it makes sense to try to reroute the road and whether you can even do it.

Ms. Endres said she didn't think it would be practical.

Mr. Lamanna said just looking at the contour lines there and we would be talking about a major job, you would be cutting into the embankment and filling plus we will also be a lot closer to that other neighboring property, they are going to be looking out and seeing a road cut in the side of the hill whereas on the other side there is nobody right there along that property line.

Ms. Wiebusch said on the northern boundary his driveway to her driveway is half a mile away and added you know where Snake Hill is.

Mr. Lewis said there are some setbacks on the small lot.

Mr. Lamanna said the other thing too is if you brought the driveway out it would be brought out right at the Jackson Road intersection which is a little less desirable than having it 120' down the road.

Mr. Murphy asked if there are any neighbors here interested in this.

Ms. Wiebusch said she doesn't see them.

Mr. Lamanna asked the board if they have any issues.

Mr. Murphy said you can't even move the driveway where it is further back because you are in the ravine, the riparian setback.

Ms. Wiebusch said right.

Mr. Murphy said he thinks it is a fairly logical proposal.

Mr. Lamanna said otherwise you could maybe get 1.2 or 1.3 acres but that means doing a whole new driveway cut and cutting and filling and all of the mess that that is going to make and destroying the trees and the topography and we are not really gaining anything of practical use.

Mr. Lewis said there was an address recommendation that Ms. Endres noted.

Ms. Endres said when the driveways switch they are addressed in such a manner that the expectation that the driveway is right by Jackson Street so she would recommend that when the rear house sells that the address be changed so that they are in sequential order because the driveway serving 18399 will actually be before the driveway serving 18389 and she and Ms. Wiebusch talked about this. She said she talked to the services in the county and we all tend to agree that when the property sells it is the time to give it that new address, it is important that the addresses be in the right order when emergency services are called.

Mr. Lamanna said so we have two lots here.

Ms. Endres said she did one variance for each lot.

Mr. Lamanna said they are on the same case but two variances.

Ms. Endres said she called out the variances because of the side lot lines, the front setback stays the same but we have a new rear line for the front lot, she tried to make it as clear as possible but there is a lot going on.

Mr. Lamanna said and they are going to keep the same permanent parcel numbers respectively.

Ms. Endres said right she would expect the permanent parcel numbers to stay the same, the county assigns those.

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

Motion BZA 2017-33 – 18389 and 18399 Geauga Lake Road

Mr. Lamanna moved to grant the following variances with respect to the consolidation of two existing parcels PP# 02-400610 and PP# 02-400600 and then a split of those parcels into new non-conforming lots as follows:

These two lots PP# 02-400610 and PP# 02-600 will be consolidated. The consolidated lot will be re-split into two lots to encompass the two existing dwellings that exist on the referenced permanent parcel numbers and for reference purposes the permanent parcel number 02-400600 is the front parcel with the larger frontage on Geauga Lake Road and the permanent parcel number 02-400610 referred to as the back parcel which is a flag parcel that will have a revised relocated frontage onto Geauga Lake Road. The applicant has submitted a survey showing the proposed new property lines for these parcels. In connection with the split of these lots in order to conform to the drawing of the revised plat plan that was submitted the board will grant the following variances:

PP# 02-400610

1. With respect to what will become the back lot a variance is granted to the maximum lot coverage of 10% to 14.14% for a variance of 4.14%.
2. With respect to the minimum lot width a variance to 185' which is not a change from the existing.
3. The minimum front yard is satisfied.
4. With respect to the minimum rear yard a variance from 90' to 71' for an existing shed. This is not a change because this is an existing shed.
5. With respect to the north side yard setback a variance to 30' and again this is an existing variance and there is no change to that.
6. With respect to the side yard on the south side a variance to 36' from 50' and that represents no change from the existing non-conformity.
7. A variance to the minimum lot size from 5 acres to 3.045 acres less the right-of-way for a variance of 1.955 acres.
8. A variance to the minimum road frontage from 60' to 16.77' for a variance of 43.23'.
9. A variance to the maximum accessory building height to reflect the existing shed.
10. A variance to the maximum accessory building size on non-conforming lots of 300 sq. ft. to that of the existing shed.
11. The board notes that since some of the dimensions here are estimates so that minor variances to conform to the actual situation as reflected in the final drawings will be entered into the record as the actual formal variances granted based upon the determination of the actual dimensions to a certain number.

Based on the following findings of fact:

1. After reviewing this application it is the most practical way to do this.
2. It relocates the access to a better location for creating an actual driveway because the prior access to the street had severe topographical issues and to install a driveway in that area would involve substantial costs and substantial destruction of the bank with a risk of future erosion and land sliding.
3. It would also have been visible from the adjacent property owner and would have adversely affected their view.
4. This is to correct an existing difficulty with a shared driveway.
5. There were already two lots existing on this approximately four acre plat so the actual non-conformance with this lot will be slightly decreased.
6. All of the existing non-conformities with respect to the side yard setbacks have been existing on this lot because it is a pre-existing lot of record prior to the five acre zoning.

PP# 02-400600

With respect to lot 02-400600 the board will grant the following variances:

1. A variance to the maximum lot coverage of 10% to 11.8% for a variance of 1.8%.
2. A variance for the minimum lot width to 150'.
3. A minimum front yard of 85' with a note that this is the existing setback of the dwelling.
4. A variance to the minimum side yard to the north from 50' to 3.7'.
5. A variance to the minimum lot size to .887 acre based on excluding the right-of-way.

Based on the following findings of fact:

1. A practical difficulty exists in trying to relocate the driveway.
2. Because of the position of the existing house, in order to have the driveway come through on the north side it allows only a small setback on the north side.
3. The board notes that this setback is from a flag of a lot behind and formerly a driveway was passing through so that property owner will not be adversely affected and the next adjacent property owner's house is a long distance away from this property line.
4. This lot becomes more non-conforming but it is still nearly an acre and there is sufficient space on the property for an alternate septic area.
5. It maintains all of its frontage on the road and this division of the land represents the most practical reallocation of the property given the terrain considerations and the riparian setback considerations that are present on this property.
6. The board would like to see, since the access point is being relocated, that the addresses be adjusted so that they follow sequentially with the other addresses on Geauga Lake Road.

7. The same provision, with respect to final adjustment of these numbers, be based upon the final drawing from the surveyor with respect to the final accurate determination of the actual location of the existing dwelling from the setback that they have.

Mr. DeWater seconded the motion.

Vote: Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2017-34 by Travis Owens/Prestige Service All LLC for property at 17800 Chillicothe Road

The applicant is requesting area variance(s) for the purpose of establishing an auto repair facility. The property is located in a CB District.

Application 2017-35 by Travis Owens/Prestige Service All LLC for property at 17800 Chillicothe Road

The applicant is requesting a conditional use permit for the purpose of establishing an auto repair facility. The property is located in a CB District.

Mr. Travis Owens and Mr. Larry Shibley were present to represent these applications.

Mr. Owens testified that it is a service for automotive vehicles, trucks, lawn mowers and anything in-between there.

Mr. Lamanna asked if this will be all kinds of service, mechanical, body.

Mr. Owens said strictly mechanical.

Mr. Shibley testified that it will be strictly mechanical and strictly interior so no exterior staging areas or storage or anything like that. He said a vehicle could approach and park but no tire storage or anything like that.

Mr. Lamanna said we are not going to have 47 lawn mowers stacked up outside.

Mr. Owens said no.

Mr. Shibley said the lease requires that there is nothing outside and to give you a little background, the original use of this space was automotive, it was built as automotive and then was converted later to the print shop and the print shop has been sold, Minuteman Press bought the print shop and moved it to another location in the plaza. He said the original use of this space was automotive, it was built as automotive and then was converted later to the print shop and the print shop has been sold and moved to another location in the plaza, we built out the space for them and are dividing up this space so that the rear end of it will be automotive.

Mr. Lamanna asked if there is an existing bay door.

Mr. Shibley said there is a bay door and the print shop used it industrially, they had probably more noise than what Mr. Owens will have with the printers and folders but it is all concrete enclosed.

Mr. Murphy asked if we are looking at the service door there.

Mr. Shibley replied yes.

Mr. Murphy asked if they are taking that whole end of the building.

Mr. Shibley said on the other end of it is the bar but there is a concrete separation, the bar is over there and that section he believes is about 3,000 sq. ft.

Ms. Karen Endres, Zoning Inspector pointed out the Doggy Day Care.

Mr. Shibley said that is the other building now so it is totally buffered, there is no view to the street.

Mr. Lamanna asked if there are lifts in there or are they adding lifts.

Mr. Shibley said surface lifts.

Mr. Murphy said the striped walkway in the sidewalk actually goes into the bar.

Mr. Shibley said that goes into the bar, that is a secondary access to the bar, it is hidden by the shrub but just to this side of that there is another entrance to the automotive space.

Mr. Murphy said you actually have parking and an entrance there.

Mr. Shibley said right and that is originally what that entrance was for and how it was used, there is a reception area and the ventilation and everything is still there.

Mr. Lamanna asked how many bays.

Mr. Owens said one for right now.

Mr. Shibley said it is intended and in our agreement that it is one or two cars at a time.

Mr. DeWater asked what was the previous auto repair that was in there years ago.

Mr. Shibley said he doesn't remember the name of it because he didn't own the plaza then but he thinks they worked on a lot of race cars is what he knows and he doesn't know that it was normal automotive service but he really doesn't know. He said the print shop was there for a number of years, Excel Printing.

Mr. DeWater said vans.

Mr. Shibley said that was probably it and he did hear something about mobile homes.

Mr. Lamanna asked if there will be painting.

Mr. Shibley said it is forbidden in the lease.

Mr. Lewis said brakes, oil changes.

Mr. Owens said correct.

Mr. Lamanna asked what the provision is for waste oil, etc.

Mr. Owns said he will have containers for waste oil, toxic materials and another container for tires, all inside of course and then different recycle companies will also be coming.

Mr. DeWater asked what about the use of cutting torches or any welders or anything.

Mr. Owens said the tanks are going to be tied with chains to the wall so they are not going to fall over or burst or anything like that.

Mr. DeWater asked Ms. Endres how that plays into the fire department.

Ms. Endres said she imagines that will be examined during the occupancy permit, she doesn't enforce the fire code so she is not really sure what all the fire department looks at.

Mr. Shibley said he had some conversation and as long as we follow what Mr. Owns is saying the chaining and that sort of thing and added it is not a wood structure at all, it is all block.

Ms. Endres said they will have to get an occupancy permit from the building department and before the building and fire departments sign off on the occupancy they will come and take a look at the building, at least that is her understanding how the process works.

Mr. Lamanna said neither of the two existing gas stations are doing repair work, right.

Mr. Shibley said no.

Mr. Lamanna said they are just fuel dispensing.

Mr. Shibley said and convenient stores.

Mr. Lamanna said somebody should probably think about updating this provision because the whole method of operation in the way business is conducted is totally different and now typically all people do is dispense gas and have convenient stores and you've got people who are doing repair work in separate garages and who are not selling gas.

Mr. Shibley said the reality of the mixture and auto repair and gasoline based on the profit of gasoline doesn't work.

Mr. Lamanna said it becomes a totally different thing, gasoline sales is gasoline and convenient stores now.

Mr. Shibley said and the real successful gasoline stations are owned by the oil companies.

Mr. Lamanna said it has all gone high volume, you make it with high volume and what you make on your convenience store, the whole business model is different, it is not like people come to one place for the full service for the vehicle, they get the repairs done.

Mr. Shibley said another thing that works is what Waterway is doing, gas and wash.

Mr. Lamanna said it is gas and something else.

Mr. Shibley said and a convenient store.

Mr. Lamanna said the whole automotive repair thing is different too, it used to be that you had your car in for something all of the time, there was a lot more routine maintenance that had to go on and now it is more complicated so he thinks from that standpoint he doesn't think there is really any issue with having another repair shop, this is a fairly small scale and it is already in a facility that was an industrial type operation previously.

Mr. Lewis said it is almost a purposed built building.

Mr. Shibley said Mr. Tony Campana built it for an automotive facility.

Mr. Lamanna said the other issues are just basically the existing building is non-conforming on setbacks.

Ms. Endres asked because of the 100'.

Mr. Lamanna said yes but it was always that way.

Ms. Endres said she tried to call out all of them.

Mr. Lamanna said so basically everything is going to be inside, nothing is going to be stored outside.

Mr. Shibley said other than their little directional sign, nobody is going to see anything, there is a little bit of a display window but it is not a high traffic window so he won't need to use any signage of any significance and if he gets passed for a regular identification sign he would do that too.

Ms. Endres said she has been allowing small directional signs if they are 3 sq. ft. or smaller, she has been approving those as an exemption.

Mr. Shibley said they have those signs that are under the overhang for each tenant so at least people can find the tenancies and some of them have their own electronic signs so he would have something comparable and of course you all approved the big electronic sign we have out front and any time we get a new tenant we feature them on there and that is really what gets them going.

Ms. Endres said just for the board's information we recently did a sign inventory on the property and you are familiar with aggregate signage we deal with and we finally came to a point where we had a tenant come in and he was going into a place where there was no signage and she couldn't simply say X Y Z business came down and it was 12 sq. ft..

Mr. Shibley asked if that was for the home care company.

Ms. Endres said this was for Minuteman.

Mr. Shibley said but they were approved right.

Ms. Endres said yes.

Mr. Lewis said he doesn't have any issue with this application, it is a perfect fit.

The board was in agreement to approve it with a five year period.

Mr. Lewis said just because of the nature of that piece of the building as long as he stores indoors.

Mr. Shibley said between the two of them they will make sure that it happens and he thinks the board knows that whatever you have asked in the past for the various things we have come to we tried to comply 100% and beyond.

Ms. Endres said there is probably a firewall already in place.

Mr. Shibley said there is a firewall and a fire door.

Mr. Murphy asked if there is a waiting line for cars to get inside the building are we worried about ten or fifteen cars in the parking lot outside of the building.

Mr. Shibley said we have surplus parking everywhere, our lot is never filled, we have people that rent spaces from us, we have park and ride that happens and we provide to the township extra parking spaces.

Mr. Lamanna asked what the plan is, customers will come in and leave their cars and park in the parking lot somewhere.

Mr. Owens said yes.

Mr. Shibley said there are places to park cars behind by the overhead door that are not even part of our parking field.

Mr. Lamanna asked what would be the maximum number you would ever have there, ten, is that enough.

Mr. Owens said five to ten at the most at one time.

Mr. Lamanna said then a maximum of ten cars.

Mr. Shibley said and we have a provision in the lease also for no long time outdoor storage so they can go in and out but somebody can't leave a car there for three months.

Mr. Lamanna said this is the expectation, the normal circulation of the cars.

Mr. Shibley said they will have to make other arrangements if it is long-term if somebody doesn't come and pay etc.

Mr. Lamanna said it will be a maximum of ten cars, that is some control over it but it shouldn't impinge on the normal operations because you have a lot of parking.

Mr. Shibley said they have provided a lot of park and ride there and semis have come in and we are not preventing semis from coming in and using the convenient store and lots of different larger repair trucks.

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

Motion BZA 2017-34 and 2017-35 – 17800 Chillicothe Road (Prestige Service All LLC

Mr. Lamanna moved to grant the applicant a conditional use permit for an auto repair facility as follows:

1. The applicant can conduct an indoor auto repair facility and other ancillary mechanical repair.
2. Everything is going to be kept on the inside of the building.
3. There will be no exterior storage of waste materials or used tires, they will all remain inside.
4. All repair work will be conducted inside.
5. There will be no other outside storage of materials for use in the business.
6. The applicant and landlord have made certain representations with respect to limitations on certain kinds of repair work that will be done and those limitations are incorporated in this conditional use.
7. The initial period of the conditional use will be granted for five years because there are no significant issues with respect to this conditional use.
8. The board notes that all of the general provisions with respect to conditional uses set forth in the zoning code will also apply here unless they are the subject of a specific variance.
9. There will be a maximum of ten cars at one time.

With the following variances:

1. A variance with respect to the requirement that the buildings for conditional uses be 100' from the property lines. With respect to the northeast side lot line, 75' from the portion of the building to be used for the auto repair business and 35' from the northeast end of the building to the property line.
2. A variance to allow for a repair garage to be located on a lot that is within 3,000' of another service station garage or repair garage facility.

Based on the following findings of fact:

1. This is a pre-existing building.
2. Given the nature of this repair business and where the access is behind the building the fact that the building and type of building is not 100' will not adversely affect the character of the neighborhood or the adjacent property owners.

Mr. Lewis seconded the motion.

Vote: Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Application 2017-36 by David and Melissa Willkomm for property at 8173 Quarry Circle

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

Mr. David Willkomm, property owner and Mr. Matt Charles, builder were present to represent this application.

Mr. David Willkomm testified that they just moved into a brand new house and they have lived in Bainbridge for 15 years, they used to live in the other Canyon Lakes and they have no idea why they moved, his wife is not here, but we have a new house and they want to build another pool and they ran into a little snag and that is why he brought Mr. Matt Charles here who is building their pool.

Mr. Matt Charles testified that he has been in the pool business longer than he cares to say and what they have proposed here for the Willkomm's is a 20' x 40' swimming pool which he feels is moderately sized and very average for a residence and so when he thinks about variance meetings and he has been to quite a few in his day he thinks about hardship so in this case they have three things they would like to talk about tonight. He said the first one being the lot configuration or the lot shape, when you are looking at the rear lot line there are some dramatic angles that are with this particular property and he thinks in the old days things were more rectangular so his first consideration would be this kind of oddly shaped lot configuration. He said the second would be the dimension of 50' for a setback, and he realizes this was probably established some time ago, but he has put pools in in many municipalities in the Cleveland area and beyond and it seems like a rather stringent dimension, a lot of times they run into 10', 20' and 25' for a rear lot line setback but very rarely the 50' and what the 50' is doing here as you can see in the dotted diagonal line is creating a very small triangle where they could put this pool without a variance and it is either you move it so close to the house so when the kids jump into the water they are splashing the kitchen windows or move this thing out and give them a little bit of deck around it so that they've got some room for chaise lounges and to be able to enjoy their property like everyone else in Canyon Lakes is doing. He said the third thing that comes into play is when they laid out Quarry Circle, the road itself, the developers of this property, he is not sure if they really knew when they brought the culdesac out so far and the scenario is starting to happen in Mr. Willkomm's backyard so if they would have even cut Quarry Circle short 30' which wouldn't have done anything, it wouldn't have impacted anyone else's lot, actually it would have made the next door neighbor's lot a little bit more usable as well and he thinks that would have been very helpful so he does think that they have some hardship here in a couple of different ways.

Mr. Lamanna asked if these were all of the dimensions that were set in the judgment entry.

Ms. Karen Endres, Zoning Inspector testified by saying yes and these are not actually zoning requirements, these are judgment entry requirements, there are provisions and we have done variances from the judgment entry. She said this has been done before and we haven't required the applicant to go to the courts to do this.

Mr. Charles said that Ms. Laura Cramer, the head of the homeowner's association for Canyon Lakes has already approved these changes initially.

Ms. Endres said variances have been granted based on the provisions from the judgment entry rather than provisions on our zoning resolution. She said our zoning resolution actually is 90' from the rear line.

Mr. Lamanna said the difference here is that someone went to court and got a judgment entry and agreed upon certain things and then they created the subdivision so this is a little different from the normal situation so to some extent the developers created what they created knowing full well what requirements they specifically got through a court judgment so this is not like we have a typical requirement for a three acre lot and for whatever reason somebody has a problem with that. He said they were allowed to create specifically smaller lots with a smaller setback so on which are being built very large houses so now when people come in and say well knowing all of that they want to build even farther back, what is the practical difficulty. He said the practical difficulty is not that they went and got the right to build on smaller lots with a smaller setback and now they want to put even more stuff on the lot.

Mr. Charles said he thinks they are moved as far forward as they can be with the house and he can see on the long rectangular lots of yesterday 50' or even 90'.

Mr. Willkomm said there are a lot of lots in there that are like that but this is on a culdesac.

Ms. Endres said the setbacks for these larger lots, this is actually a larger lot, it is not a townhouse, 50' rear, 50' front and 15' sidelines so there would have been room to move the house forward but because of the way it is angled they would have been contending with a sideline setback.

Mr. Charles said he thinks that they discussed it and there is an easement actually and that is why it is as far forward as it can be.

Mr. Lamanna said the other thing too is choices are made all along the way and somebody might decide to build a house a certain way and decide to set it back a certain distance and what you do is you make those choices and you are limiting what you can do elsewhere and then when somebody comes in and says they built their house this big at this location and now they have decided that they would like to build a whole list of stuff in the back and there is no more room to do it.

Mr. Willkomm said this was the plan from the beginning they just underestimated certain things so it wasn't like they built the house and then all of sudden they came into all of this money and they are going to build a pool. He said plus the builder and again the builder can do whatever he wants but the house next door, you certainly don't want to move your house up and his house is back.

Mr. Lamanna said again people are making choices.

The board viewed the aerial photos.

Ms. Endres said these are the 2017 aerials.

Mr. DeWater asked how far the pool is on the neighbor's lot.

Mr. Lamanna said he has more room in the back or he made his lot bigger.

Mr. Charles said it is a pretty sharp angle where the upper side lot meets the rear, that is less than a 45° angle and if that came out a little that would have really helped.

Mr. Murphy asked who owns the property to the southwest.

Mr. Willkomm said the property is protected land and Canyon Lakes owns that and there are two lots they could build next door right now it is protected land and they have gone and cleared out all of the back for a condo development so there is really nothing back there right now, he doesn't know what the ultimate plans are because of the protected land.

Ms. Endres said off of Northview they are working on the roads, Northview comes through here and they are working on putting a new development all the way back through here.

Mr. Lamanna said and that is going to swing back.

Mr. Willkomm referred to the aerial and said this through here and here is all protected land which he has no idea what the legal ramifications are so this goes all the way back there now so they are working on these townhomes back there.

Ms. Endres said there will be townhomes back there.

Mr. Willkomm said he thinks their plan like Ms. Endres said is to take a road here and it goes around here (he referred to the aerial photo).

Ms. Endres said they are going to be renaming Northview something else and this section right here will be the original Northview that will retain that name but it doesn't comply with 911 conventions so when this new subdivision goes in Northview is going to be renamed.

Mr. Lamanna asked how far around can they go, what limitation do they have from swinging all the way around and backing up onto that lot.

Mr. Murphy said that road is going in right now, it is alongside the freeway.

Ms. Endres said she has the plans somewhere but they haven't platted it yet, at one point she saw the proposed plan but she is not sure what they are actually doing.

Mr. Lamanna said but there is nothing to prevent them from having lots backing up against his.

Mr. Willkomm said no but they are separated by protected land.

Ms. Endres said there may be townhomes but it also could be open space, right now she doesn't know what they are doing, they are working on the roads and you can see the roads in the 2017 aerials.

Mr. Lamanna asked if there is a lot next door as well.

Mr. Willkomm said there are two.

Mr. Lamanna said there are two other lots on the culdesac there.

Ms. Endres said right there are two sublots that are not built out yet.

Mr. Willkomm said they are not for sale because it is protected land.

Mr. Lamanna asked him what he means by protected land.

Mr. Willkomm said it is protected land, wetlands.

Ms. Endres said they are dedicated as sublots.

Mr. Lamanna said they are platted sublots.

Ms. Endres said yes.

Mr. Lamanna said if they are platted sublots they are buildable.

Ms. Endres said they are going to try to sell them.

Mr. Lamanna said unless there is some legal document that says they have given a conservation easement or something else.

Mr. Willkomm said they have to get it approved to build on them. He said if you go on the Canyon Lakes website they have so much more detail than that.

Ms. Endres referred to the aerial and said this is open space where it says Canyon right here and Canyon right along here. She said those parcels are part of the Canyon open space, the green space.

Mr. Lamanna said but they are platted as such.

Ms. Endres said yes.

Mr. Charles said you can see the first lot on the left as you come into Quarry Circle off of Northview it is huge, it is like four times the size as Mr. Willkomm's. He said if they would have left that a little less wide it would have opened up that whole back area where his house is. He said as far as he is concerned the way the development was laid out under a microscope he would have a few things to say.

Ms. Endres said it was a decision of the developer.

Mr. Charles said yes, each lot is created equal. He said he doesn't know what the average square footage of the homes are but Mr. Willkomm's footprint looks a lot smaller than some of those in there. He said it is a tough lot to work with and they have worked with a lot of challenging sites. He said there will also be a landscape plan that will provide screening around between the pool and the rear lot line and there will be evergreens and such.

Mr. Murphy asked if they have plans to take down more trees or your fence will go through the trees.

Mr. Willkomm said it is pretty much cleared out right now, there may be a few trees not on the side but in the backyard.

Mr. Charles said there are a couple of little scrubby guys when you take out some of the big crowns and the ones that aren't going to survive but no, anything that has a nice established crown would stay. He said there are three little scrubby Maples that aren't going to make it so they figured they would take those out of their misery.

Mr. Willkomm said they are going to do a fair amount of landscaping, their last home was well landscaped.

Mr. Murphy said it doesn't look like it is getting any better if you spin it 90°.

Mr. Charles said they have tried.

Mr. Willkomm said for informational purposes the last house they had, they had a pool and it was well landscaped.

Mr. Lamanna asked if there is a slope down there.

Mr. Lewis said there was an elevation on one of these, the drop off looked pretty rambunctious.

Mr. Lamanna said it looks like a drop and asked if it drops down quite a bit back there.

Mr. Willkomm said he thinks it is a big tree.

Mr. Lamanna said so it is pretty flat back there.

Mr. Willkomm said yes.

Mr. Charles said they will drive the pool down about 2' into the landscaping and then there would be a sitting wall between the pool and the house that would be all topnotch material.

Mr. Lamanna asked if it is going to be fenced.

Mr. Charles said yes, fence the surrounding to the property line using the house as part of it

Mr. Lamanna asked if that is going to be in the woods.

Mr. Charles said it will be 6" in from the lot line.

Mr. Lamanna said right now there is a large cleared area, how close does that get to the property line.

Mr. Charles said it comes off the back of the garage and down finishing on that sideline and then along the back.

Mr. Lamanna asked if we can see the property line on the aerial. He said you are cleared pretty darn close to the property line. He said one issue is we don't know what is happening, are there going to be lots abutting the back property line, sharing your lot line with somebody.

Mr. Willkomm said they have a pretty detailed plan on their website.

Mr. Lewis said so the request for the pool is 34' off of the property line but when you add the concrete decking around it it is 27'.

Mr. Charles said Ms. Endres said that wasn't part of the 50' setback, the actual concrete apron could go closer to the lot line.

Ms. Endres explained there is a provision in our zoning that allows for concrete areas to be within the required yards so she has been allowing pools, vertical structures, anything above ground or below, she has been requiring those to meet all of the setbacks, sidewalks, uncovered patios and those types of things she has been allowing in the required yard.

Mr. Lewis said they are looking at 16' and a ton of landscaping in here. He said he is looking to approach that there is going to be another lot abutting, this is somebody else's backyard down the road so permanent screening.

Mr. Charles said we could even specify if you would want an evergreen so it is not deciduous.

Mr. Lamanna said yes we would like some evergreens.

Mr. Lewis said so you have a year round effect.

Mr. Charles said we could use the spoils of excavation to put something in there.

Mr. Lamanna said it could be done in a way that because if you are looking to cover that corner you can do it in a way that anything coming down will work its way around the end of it.

Mr. Lewis said that gives you a higher point.

Mr. Lamanna said we are not talking about some 20' berm, maybe 3' or 4' at the most.

Mr. Charles said they are more than prepared to do so.

Mr. Lamanna said it is a tough lot and their big issue is they want to protect because we don't know exactly what is going to be back there and there is a certain lack of sympathy, these lots were created and they knew what the requirements were where you know what the limitations are and you create funky lots, this isn't the case where somebody had a lot and the zoning requirement came in over the top of the lot like a lot of lots are.

Mr. Willkomm said he understands the point.

Mr. Charles said he thinks the disclosure from the developer and the builder was a little sketchy.

Mr. Lamanna said if we knew exactly what was back there it would make it a lot easier.

Mr. Willkomm said that is why they are here.

Mr. Lamanna said we are thinking let's assume that another culdesac like yours went in back there what do we need to do.

Mr. Willkomm said coach Edwards a little bit more.

Mr. Lamanna said he thinks the board would like to see is a landscaping plan that has a 3' to 4' berm in that area with some evergreens and that sort of thing and we will allow you to submit that to the zoning inspector for her approval, she will review it so it will provide reasonable screening assuming that another house has to go in behind it.

Mr. Charles said they talked about doing it anyway.

Mr. Lamanna said you will have to submit that before you get your certificate.

Mr. Willkomm said he will have the landscaper bring the landscaping plan up to Ms. Endres.

Mr. Lamanna said the board is approving this subject to your submitting a landscaping plan for her approval and that it meets what the board is intending in our decision that it provides a reasonable all year round screening from a lot that could be developed behind you.

Mr. Charles asked if there is a specific placement or minimum caliper for installation or just let them grow a little bit.

Mr. Lamanna said come up with something, you don't have to have ten footers.

Mr. Charles said that is what he wanted to know. He said they can use the spoils of the excavation to be able to do that.

Mr. Murphy said Canyon Lakes does have quite a few areas where they have backyards separated from each other and he was just looking at ReaLink maps and some back right up to other houses and some don't. He said if you were to present us with something that says that 60' of trees is greenspace.

Ms. Endres said Silica Ridge and Quarry Circle, these houses all share rear lot lines.

Mr. Murphy said yes but there are other places in the development that they don't.

Ms. Endres said in some places there is open space that separates the streets.

Mr. Murphy said if you were to find out that that is a permanent green space back there.

Mr. Lamanna said unless they dedicated it already and platted it and it is a permanent green zone then there is nothing we can do.

Mr. Lewis said if you share a rear lot line with somebody, everybody is covered and either way you are also a beneficiary because it gives you privacy screening as well when your family is using the pool and you don't have somebody looking at you.

Mr. Charles said let's hope they put a little barrier before someone else's rear lot line but again, we don't know.

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

Motion BZA 2017-36 – 8173 Quarry Circle

Mr. Lamanna moved to grant the applicant a variance for the purposes of installing a pool in accordance with the plans submitted with the application.

1. A variance from the minimum rear yard setback of 50' to 34' for a variance of 16'.
2. With respect to the variance the applicant will provide a landscape plan with a berm and evergreens to provide 12 month screening from possible rear yard neighbors.
3. The applicant will submit this to the zoning inspector for approval that it meets the intent of this decision prior to the actual issuance of the zoning certificate.

Based on the following findings of fact:

1. The variance is granted because a practical difficulty exists due to the lot shape.
2. With the condition on the landscaping that it will satisfy any issues with respect to the diverse effect on potential neighboring properties.

Mr. Murphy seconded the motion.

Vote: Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Since there was no further testimony, the public hearing was closed at 10:26 P.M.

Respectfully submitted,

Ted DeWater, Member, Board of Zoning Appeals

Michael Lamanna, Chairman, Board of Zoning Appeals

Todd Lewis, Vice Chairman, Board of Zoning Appeals

Mark Murphy, Member, Board of Zoning Appeals

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

Date: _____

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
October 19, 2017

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:26 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Todd Lewis and Mr. Mark Murphy. Mr. Joseph Gutoskey was absent. Ms. Karen Endres, Zoning Inspector was present.

Meeting Minutes

Mr. Lamanna moved to adopt the meeting minutes dated September 21, 2017 and September 28, 2017 as written.

Mr. Lewis seconded the motion.

Vote: Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye.

Applications for Next Month

Application 2017-31 by Janna Lutz for property at 7170 Chagrin Road - Continuance

The applicant is requesting a substitution of a non-conforming use for the purpose of furniture repair. The property is located in a R-3A District.

Application 2017-37 by Micah Kaufman for Eric Huff for property at 18003 Snyder Road

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

Application 2017-38 by Aurora Cooperative Preschool for property at 8558 Crackel Road

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of operating a preschool. The property is located in an Active Public Park District (APP).

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for November 16, 2017 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:45 P.M.

Respectfully submitted,

Ted DeWater, Member, Board of Zoning Appeals

Michael Lamanna, Chairman, Board of Zoning Appeals

Todd Lewis, Vice Chairman, Board of Zoning Appeals

Mark Murphy, Member, Board of Zoning Appeals

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

Date: _____