

Bainbridge Township, Ohio
Board of Zoning Appeals
October 20, 2005

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:35 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs. The following matters were then heard:

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

Mr. Lamanna announced that beginning this month the board will be recording the entire proceedings of its meetings while in regular session for both the public hearing and business portion of the meeting and this will be used to create the official transcript of the proceedings of the board if that becomes necessary. The audio portion of this will not be transcribed on a regular basis but copies of it can be made available based upon proper requests to the township and the board will only be making transcripts in the event that it is required for an appeal of the board's decision to the common pleas court but this will assure that the board will have a complete record in a case when that happens and everyone should be aware that the board will be making a verbatim tape of what is said here tonight as well as at future meetings.

Application 2005-44 by Brian Winovich for property at 17477 Chillicothe Road

The applicant is requesting area variances for the purpose of constructing multi-family residential – condominiums. The property is located in a R-3A District.

The zoning inspector's letter dated August 24, 2005 was read and photos of the site were submitted.

Mr. Olivier recused himself from this hearing.

Mr. Brian Winovich and Mr. David English were present to represent this application.

Mr. Winovich testified that he is representing one-half of Lake Forest Partners and is here for a continuance on a property at 17477 Chillicothe Road that is a 1.52 acre parcel and they have taken into account from last month's board meeting some of the comments and suggestions from the board and also comments from the neighbors. He said they have a new plan and will talk about it versus the old plan and the old plan had rear yard setbacks of 25' and the new plan has double those setbacks to 50' in the rear. He said there is 44' to the south now and 25' to the north and there are eight units that is still the number of density they are asking for and the 44' on the south is consistent with this building (he referred to another building on the site plan) that is 33' from the property line so they are 10' farther and 25' to the north because there are no buildings beside that.

Mr. Winovich said the road and drive will be governed by ODOT standards so they feel that if ODOT will permit that road it will be a safe drive and safe road. He said there is no mounding shown on this photo or any type of landscaping but landscaping will be included in the project along Rt. 306 with mounding and also along the rear property line and south property line. He asked the board members if they have any specific questions regarding the plan.

The board reviewed the site plan submitted.

Mrs. Stanton asked about the feasibility of fewer units.

Mr. Winovich said they were going to talk about feasibility later and asked if there were any other questions. He referred to another slide and said it is their reasoning behind how they came up with some of the densities and setbacks and they have decided that it is only an economically viable project with eight units. He said the density per acre currently surrounding this is 6.4 units and their proposed condominiums will be 5.3 units per acre which is 17% less than what is currently surrounding them. He said the proposed site coverage is at 33% which is 31% less than the site coverage that is currently surrounding this project. He said currently, all around them, sits six, seven, eight and four units and theirs will be buildings of two units and the current project has existing setbacks of 38' in the front and 50' in the back and ours will be greater than that at a minimum of 50' and the rear yard setbacks currently exist at 18' and 35' on the adjacent property and our rear yard setback will be 50' that is much greater than what currently exists today. He said their side yard setback will be 44' and 25' and currently today there is 20', 30' and 34' and showed the board specifically those are on the map. He also said that within the Tanglewood community the current setbacks that are within Tanglewood today are 50' on the front, 50' on the rear and 15' on the side and they do equal or exceed all of those setbacks that are currently within the Tanglewood PUD. He said they will talk about the feasibility of six units versus eight units and Mr. English will speak to that.

Mr. David English testified that he is working with Mr. Winovich on this project and said the board has two sheets that he will refer to and one of them is entitled "Cost Detail Land Improvements" combining that with "Improved Land Value" sheet.

Mr. Lamanna stated that the board did not have copies of these sheets.

Mr. Matt Lynch testified that he has not seen any of this (economic data) and they were not submitted with the original application, therefore, he has no opportunity to review this information and respond to it so he wants to make sure it is on the record that he gets a standing objection to it. He said the economic data which has not been presented before tonight and now apparently it has been given to the board for consideration, is contrary to the board's own rules of operation. He said the board is supposed to get it 30 days before, but even when they get the notice of the hearing they are told they have to have it in at least the week before, so to present it on the night of the hearing and then ask us to respond to it, really creates a hardship.

Mr. Lamanna said the board will allow the applicant to put this into evidence, and told Mr. Lynch if he would like to request a continuance of this hearing he could.

Mr. Lynch said he did not want a continuance, he just wants the board to follow the rules on things being submitted and if the board is going to consider this, he will request copies for himself and everyone else so they can follow the discussion.

Mr. Orłowski made copies of the documents for the board members and those in attendance.

Mr. Lynch said he just wanted it on the record.

Mr. English said they looked back at the economics in response to the last meeting and prepared this plan and basically all of the financial data backs this plan up and is subject to the board's review, but this is their basis for the whole request. He referred to the Cost Detail Land Improvements sheet and said they assumed engineer's data, they have not gone to the trouble at this time of engineering the property, but they assumed engineering for putting in utilities, drives and landscaping into the project and assumed it based on this plan and assumed it based upon six units with that same plan and the numbers are fairly close, the only ones that would change are the laterals going to each house, but starting basically in the same manner as they would be developing it starting with planning and engineering, demo of the house and hauling, clearing, sanitary sewer, water lines and wells, storm sewer, catch basins and headwalls, underground utilities, main drive including gravel and paving to the driveways, mounding and site landscaping and a number for overhead and profit. He said it is \$224,500 for six units and \$230,500 for eight units and added that this is just the land development that gets this property improved in order to be built upon. He said if they have six units, it will be \$37,400 per unit and if they have eight units, it is \$28,500 per unit and we made assumptions on what we think we are going to sell and we had the same information for last month. He referred to the "Improved Land Value" sheet and we assumed that these units will be 1,800 sq. ft., average, and at \$100 per sq. ft. for building costs plus the developed lot cost or \$55,000 for a total average sales price of \$235,000 which is what we feel is compatible with the area, but is higher than what is there now but we think it is compatible.

Mr. Winovich said if it was higher, we feel it would not be compatible because of what is currently surrounding the property today.

Mr. English referred to the second paragraph and said the second paragraph is really to prove those values and if you assume a sales price of \$235,000, it is somewhere between 20% and 25% of the dollar amount that you can afford to pay to improve land without having askewed value on the total building and this holds true whether this is a single family dwelling or a condominium so at 20% and 25% we are at \$47,000 per unit based on the improved land and somewhere between 20% and 25% is where we are comfortable and based upon the sales contract that we have, and at eight units, we end up with \$26,500 per unit for the raw land.

Mr. English continued by saying they have raw land and improvements and they have a total improved land at six units so they have to add the raw land at \$35,300, we have a contract, so that is fixed and we feel that it is a fair price to the owner and at eight units it is \$26,500 but at six units it is \$35,300 for the land and \$37,400 for the development for sewer, water and road or \$72,700 which is way higher than what you could justify on a \$235,000 sale. He said with eight units they have \$26,500 in raw land and \$28,000 in improvements for a total of \$55,300 which is very close to the \$55,000 that we assumed and it is demonstrable that if you look at the single family homes in the area and if you look at multi-family homes, the 20% - 25% value is almost a rule, but when you get outside that value, and if you pay too much for the land, you will be stuck with a property that won't sell so we tried very hard, we moved setbacks back and we did a lot of things differently but the one thing that we couldn't do is reduce the number of units and still come in with something that makes sense. He said they will tie all that back with the board by saying that from the perspective of the surrounding area that Mr. Winovich showed and what we have done, we are proposing a property that will be less total square footage of building, less density than the surrounding areas, equal to or greater setbacks than the surrounding areas and yet it still works and that is the reason we are here.

Mr. Winovich said if this project would have been built in 1970 with the other condos that were built surrounding it, there is no question that this development would have passed because the density is less, the setbacks are less and everything is less than what is currently surrounding the property today. He said they tried to do everything they could and feel there are no adverse effects to the owners that surround the property today and they stated quite a few times what they feel are the benefits to those property owners. He continued by saying that Mr. Lewis brought up a good point about Chapter 135 which is cluster development zoning and they feel that to try to fit them into that deviation where they have a lot of non-conforming parcels that do not meet the minimum requirements of nine acre minimum would be tough for them to even think about putting them into that category. He said they feel the more correct category to put them in, since Bainbridge does not have multi-family zoning, would be to look at the surrounding area and/or the density and setbacks of Tanglewood and the PUD going back to 1970 and that is what they based their information on. He referred to the site plan and said some distances are 100' and 30' and in some cases the building distances from the front door to the rear are sometimes 100' - 140' and some of the building distances are 60', 70' and 50' from the property lines and our building is going to be the farthest from any other building on the property and referred to the property that is 33' from the property line and said they will be farther away from the property line than they are from us. He said the board also had a concern about the safety of the road but he has a letter from Chief Jimison that was included in the packet that states he does not see any problem with nine to ten units as far as safety is concerned and there should not be an inordinate amount of traffic generated on Rt. 306 from these condos. He said it also states that the drive is approximately 500' south of the crest of the hill which allows for adequate line of sight distance for the proposed driveway.

Mr. Winovich said he also submitted to the board a Crash Summary from Geauga County for a three year period from January 2002 through 2004, and during that three year period there were two accidents near Trillium Drive so that talks about the safety of the proposed drive. He added that Mr. Lamanna stated at the last meeting that eight units would have no traffic impact on Rt. 306.

Ms. Sue Davis, Realtor with Keller Williams Realty and broker for the Burns property, testified that she wrote a letter on behalf of the Burns family, who are the current property owners.

Mr. Lamanna asked if the Burns family ever received any compensation from the State of Ohio for the taking of any of their property road right-of-way.

Ms. Davis said she did not know.

Mr. Winovich said the northern part of that property is still in the right-of-way and it is still owned by the Burns family. He said the right hand side still shoots out into the right-of-way and they definitely have not been paid for that part of the road and the other or the south side was split off in 1970 and is consistent with the right-of-way all the way down the street and they did not own that parcel, they were given that parcel from the back of the property so he would think that they were not compensated for anything that they own in the right-of-way and asked if they are due any money for the right-of-way they own today by law.

Mr. Lamanna said he had no idea what the title situation of this property is but legal descriptions run to the center line of the property and that is the way they did legal descriptions on properties.

Ms. Davis said in her experience she has found that the legal description and the plat is showing the Burns family on that right-of-way, and if they had actually been paid and the title transferred it would show the State of Ohio not the Burns family that still owns it and have not received compensation. She said the way they ended up with that southern lot was when Tanglewood was developed, it was a land trade for the back parcel which is all the condominiums and the front piece was given to them or swapped.

Mr. Lynch asked if the Burns family was not given compensation from the developers of Tanglewood to do that swapping.

Ms. Davis said she did not believe so and she has not found any record indicating that, they were given frontage and gave up the depth.

Mr. Winovich said he is sure the board is aware that this is a unique parcel and they feel that any decision made on this parcel will not have ramifications in the future with people trying to get zoning variances because of the uniqueness of the property surrounded on three sides by multi-family residential and one side by a state route. He said he cannot think of any other property in Bainbridge that would have those characteristics that would challenge the ruling that the board would make today. He said they feel that this residential development would be the least intensive alternative that could be zoned on this property and residential is the least intensive zoning that could be put there besides single family development of which we believe we proved that single family development isn't viable today and we don't believe anybody would build a new home there and we also believe that if someone did decide to build a new home there, the variances would be at least equal to or more than the variances that we are asking for today so we don't feel that our variances are very much more than what would be asked for if it stayed as a single family home, with this house being knocked down and a new one built by the Burns family. He said in conclusion, the board would be remiss to not grant these variances based on the fact that there is more dense development located all around the substantial part of this property. He said the property is not attached to any three acre zoning and is a parcel that is spot zoned among itself and there is no three acre zoning all around it in any way. He said they have provided information regarding a reasonable rate of land return and they provided information on the public safety of the road and hope that the board will take all of these items into consideration and be specific about what they do and don't like regarding the plan before making a decision so that we can make decisions on moving forward. He thanked the board and showed the board on a site plan the neighboring property, the parcel in question and the existing condos. He put an overlay of their current project on the site plan and said that if seventy years ago there were condos on this property, it is probably what it would have looked like. He said it looks like it should have been there and he thinks the board knows that these boxes are envelopes and they won't be solid, they will try to make them look as beautiful as they can and noted the 50' setback line so there is land to possibly move these buildings back to the 50' setback so there is an ability to make the project look better than what is shown here today, but it shows that the condominiums on the site plan are what truly was intended here when the property was zoned for Tanglewood back in 1970. He said this is probably the only alternative for this piece of property.

Mr. Lamanna asked if this property currently sticks out or if there is an indentation into what is currently the road right-of-way.

Mr. Lynch said not the house itself.

Mr. Lamanna said, not the house itself, the property.

Mr. Winovich replied yes and explained the location of the right-of-way and said this piece of property is actually 1.65 acres but they have been doing their calculations on 1.52 acres, deleting that area from their calculations. He referred to the site plan and said the parcel originally was located on the back and English Construction swapped a piece of land so that the condominiums could be built back in 1967 or so and he believes this was all Burns property.

Mr. English explained the yellow line on the map as being the right-of-way and the swapped piece is to the north of the Burns property. He said the yellow line is the current right-of-way for the Burns piece and explained that the other yellow line continues down to Tanglewood and the current defined area shows the right-of-way, instead of being 70' from the center, it is only 35' from the center on the north side where the house is.

Mr. Winovich said the other side was when it was originally swapped, the GIS maps also show that this is the only parcel that sticks out on the whole street.

Mr. Lamanna asked if anyone has actually gone back and looked at the deeds.

Mr. Winovich said yes, he has copies of all of that.

Mr. English said when Tanglewood was developed, the larger right-of-way was added at the time Tanglewood was developed even though the property was swapped with the Burns family. He said going all the way down the golf course and all the way up to the corner of Route 306, there was 70' from the right-of-way.

Mr. Lamanna said this piece of property was never part of that, but it still sticks out into the right-of-way.

Mr. English said that is correct.

Mr. Lamanna said that in this point of time, ODOT has no reason why they really need to acquire that if they are not actually doing something with it.

Mr. Winovich said we are assuming they are going to acquire it so when the property changes hands, it may automatically go, but he does not know how that works.

Mr. Lamanna said if ODOT walked in today and said they want to take that front strip of property, they are essentially going to have to pay for the house because it would render the house valueless at that point in time.

Mr. Winovich said it is not actually in the right-of-way, it is six feet off the right-of-way.

Mr. Lamanna said if he would go to a real estate person and ask what someone would pay for a house that is six feet off the right-of-way of Route 306, he guesses that the value of that would become close to zero and the property would only be valuable as a vacant lot for someone to build something on it far enough back to do that.

Mr. English said when they developed the other side of that property, it was the last phase of Lake Lucerne, the property at that point had the deed going to the centerline of Route 306 so in order to develop it and to be approved by the Geauga County Planning Commission, they had to extend that right-of-way as a part of that process. He said they weren't paid for it and he does not know of anybody that has been paid for this one either, on this side, in order to do it, this is what they have to do.

Mr. Lamanna said it is a different situation, talking about doing a subdivision development that requires planning commission approval because they can exact certain conditions as part of that process to get the approval to develop, but talking about a single lot, if you take a chunk of someone's property away, basically you are saying what is this property worth before you take it away and what is it worth after you take it away, and if you take the property from being 30' from the edge of the right-of-way to be virtually on it, his guess is that it would have a pretty substantial impact on the property as it exists today, so we have this property that is sitting in never-never land as far as this right-of-way is concerned.

Mr. Tom Hannan of 8526 Tanglewood Trail testified that it appears to him that the property keeps shrinking based on what is being said and it puts it that much closer to the right-of-way and it will end up with less frontage.

Mr. Lamanna said the drawings are all showing that the right-of-way line continues on and the drawing ignores the little chunk that sticks out into what everybody assumes the road right-of-way is, so everything is being measured from this extended line that goes through on either side assuming that it continues through the parcel there on the same tract.

Mr. Winovich said it is a straight line and not out into the right-of-way and there will be four parking spaces available for each condo with two in the garage and two in the driveway and four parking spaces for each unit is sufficient.

Mrs. Stanton asked if there are double garages for each unit.

Mr. Winovich replied yes and that Mr. Takacs mentioned at the last meeting that he has problems with the whole project.

Mr. Takacs said the density was one of the big issues.

Mr. Winovich asked even though the density is less than what is surrounding the property.

Mr. Takacs replied yes and said that parcel on the main road at the hill concerns him even though he has driven it for many years, the site distance may be okay, but the density is up there.

Mr. Winovich said that ODOT would decide what kind of throat it would be and it would probably be a very wide throat.

Mr. Takacs referred to the proposed mounding and asked how that figures in on where the property lines are and the right-of-way.

Mr. Winovich said that is all something ODOT would take into consideration.

Mr. Takacs asked if there will be any trees on this mounding.

Mr. Winovich said it depends on the height of the mounding.

Mr. Lynch said that he would like to ask questions of the applicant.

Mr. Winovich asked that the questions be directed to the board.

Mr. Lynch said he has questions for the applicant.

Mr. Lamanna said the board will allow Mr. Lynch to ask questions, but this is not a cross examination.

Mr. Lynch said he wanted to know about the Chief Jimison letter and the accident report and when it was submitted to the board.

Mr. Winovich said it was submitted with the first proposal.

Mr. Lynch asked when the first proposal was submitted.

Mr. Winovich said it was submitted six months ago.

Mr. Lynch said he has not seen them and the Chief Jimison letter and the accident report were not part of this variance request and that was submitted in a different proposal so he is objecting to it. He asked if he could ask Mr. English a question.

Mr. Lamanna said he did not have a problem with him asking the questions, but to conduct it as an inquiry.

Mr. Lynch asked Mr. English if they had done any assessment on the reasonable rate of return on this property as a single family residence.

Mr. English said it does not work as a single family residence, it has been on the market for a year and it has not shown any interest as a single family residence.

Mr. Lynch asked Mr. English if that was his conclusion.

Mr. English replied yes.

Mr. Lynch asked if he understands that the overhead and profit between six and eight units is \$500.00 a unit, if that is correct.

Mr. English said whatever the sheet says.

Mr. Lamanna said he thinks the number is 15% of the sum of the numbers above it.

Mr. Lynch said if less density means \$500.00 less a unit, that is not much of a hardship here and the fact is that more units means more profit but the project can support itself with less density and added that he will make a presentation later.

The board reviewed the documents that were submitted.

Ms. Peggy Hannan of 8526 Tanglewood Trail testified by saying she would like to comment on the density and said the average square footage of any of the condos in the surrounding area is not any more than 1,200 sq. ft. but with this they are talking about 1,800 sq. ft. of living space per unit and that is 50% more than what is in the existing units.

Mr. Lamanna asked Mr. Winovich if he had the lot coverage numbers, or percentage of the lot coverage numbers versus the existing condominium units.

Mr. Winovich said he can give the board lot coverage specific to each development, there are eight condo developments in Tanglewood and he can give specific lot coverage for each one.

Mr. Lamanna said he wanted the lot coverage of those close by.

Mr. Winovich said the lot coverage is 48% total, including the driveways and added that these are all numbers from Geauga County, 48.9% and 48.2% and said he believes the board has that, but he can get it for the board.

Mr. English said even though we are a bit larger, part of the reason is, we are going up to a second floor but the reality is it is considerably less coverage than the existing units, and that is driveways and everything.

Ms. Hannan asked why the driveways are blacked out on the site plan so we can't get the whole perspective and why is it only the main drive and not the concrete that is going to each unit itself.

Mr. English said with that chart they were trying to show particular things and they could have shown that.

Ms. Jackie Nailler of 8546 Tanglewood Trail asked what each condo will look like, a picture was submitted last time but these seem to be longer and asked if they will still look the same as the last picture.

Mr. English replied yes.

Ms. Nailler asked about the extra parking and said right now she has a two car garage with a spot for two cars to park and there are times when they have people parking in their extra parking, so she would like to know where the extra parking is going to be.

Ms. Hannan said she also has the same situation often.

Mr. English said the drawing that they show has that and they also have the ability for additional parking on the main road, more south there, which is 20' so they have the ability to do parking there but when they get down to the final plan, they may end up with some head-ons too, but he does not know.

Mr. Winovich referred to a certain area on the map and said there is easily parking for six to eight cars right there but parking for four cars would be a sufficient amount for each unit.

Mr. English said it is enough code wise.

Mr. Hannan asked if he understood correctly that no one made any offers on the property and that is the only offer of that value. He said he thought there were other offers made on the property.

Ms. Davis said it was considerably less money but there were some stipulations in the contract, it was not the money issue, it was the stipulations on that particular contract that was not acceptable.

Mr. Hannan said the house and the land does have some reasonable value.

Ms. Davis said no, unreasonable value.

Mr. Hannan asked if it was for \$175,000.

Ms. Davis said it was a \$175,000 contract but was not cash up front and the way it was structured was not acceptable.

Mr. Lewis asked Ms. Davis if she was talking about the economic terms.

Ms. Davis replied yes.

Mr. Hannan said the seller is probably asking too much for the property, for what it is and what it is worth, but it is not un-buildable for a single family lot. He said there would be less variances and less problems putting a single family home there.

Ms. Davis said actually there would be more variances for a single family home.

Mr. Hannan said he can't see why they can't put one home on there and here we are trying to put eight on there and it doesn't make sense to him.

Ms. Hannan asked if they are saying a single family home would take up more space than all eight of those units and all of those driveways and all the parking and the road.

Ms. Davis said if someone wanted to come in and pay in excess of \$150,000 for a building lot, they are going to probably build at least a 5,000 sq. ft. house and that is a big footprint.

Ms. Hannan said this project is 9,600 sq. ft. and that is not counting all the drives and walkways and the parking and roadway coming in.

Mr. Hannan said they will remove all of those trees and they are beautiful trees on that lot and once the bulldozer goes in the trees will be down.

Ms. Davis told the people if they like the lot so much, they should buy it.

Mr. Hannan said it is overpriced and the Burns family was compensated when the property was initially bought off of them.

Ms. Davis said no they were not compensated.

Mr. Hannan asked if they didn't own more property, they had 40 acres.

Ms. Davis said that is apples and oranges and it does not even go into this present proposal whatsoever.

Mr. Hannan said it does because they are asking too much for the property as it sits.

Ms. Davis said real estate agents do not come up with a value on the property, a buyer and seller at a given moment decide to sell and buy for a particular price and that is the value of the house right there.

Ms. Hannan asked what the appraised value is of that property.

Ms. Davis asked based on what and told Ms. Hannan that she believes her attorney had it appraised.

Mr. Lynch said he has the appraisal sitting right here.

Ms. Davis said she does not see what that has to do with this proposal and if there is a connection, she would like it explained to her.

Mr. Hannan said there is a connection because they want to put eight units on this piece of property.

Ms. Cameron Winovich of 8678 Lake Forest Trail asked why they would want to buy this house with all those condos surrounding it, and wouldn't they rather see condominiums than see a big house right there and there is no one that is going to buy it and tear down that house and put in all new piping and sewage in and be surrounded by condos, it does not make any sense.

Mr. Lynch said that is exactly what you are proposing.

Ms. Winovich testified by saying no, they are proposing condos.

Mr. Lynch said those are homes.

Ms. Winovich said they are condos.

Mr. Lynch said those same homes will be surrounded by the newer condos that are closer to the road and if your reasoning holds up then, the condos will never sell.

Mr. Hannan asked who would want to buy a condo on a piece of property like that and said the point is the neighbors are objecting to this because there are too many units on a small piece of property.

Ms. Davis asked if she could tell how many calls she has received over the past year from commercial brokers who would very much like to change that to commercial zoning but the Burns family does not want to go through having it changed to commercial zoning.

Ms. Hannan said the board made it pretty clear at the last meeting that they would not even consider that.

Mr. Hannan said commercial is not suitable for that property and will not happen.

Mr. Winovich asked Mr. Lamanna to speak to that.

Mr. Lamanna said he can't speculate what would or wouldn't happen in this particular case or might happen, but someone could come in and ask for a use variance on the property.

Mr. Winovich said somebody could come in and take it to court.

Mr. Lamanna said in that particular case it would be total speculation to say.

Mr. Hannan asked if it is not the same as the Bank One property.

Ms. Davis said that is part of the green space for Tanglewood.

Mr. Lynch said that is the Miller property.

Mr. Lamanna said there has never been an issue with the Bank One property, it is the piece of property in front that has been the subject of 15 or 20 years of litigation, but that was a whole different circumstance and it was a piece that was carved out of the original Tanglewood Mall property and that was an issue more with lot coverage and it is an area that was zoned commercial originally so that piece of property is not really germane to this session here.

Mr. Lamanna asked what the property is currently appraised for by the county auditor.

Mr. Lynch said \$112,000.00.

Ms. Davis said you would hope that the assessed value is not even close to what it is worth because then your taxes would really be high.

Mr. Lamanna said that he also hopes that the auditor is doing his job so it is assessed for something that bears a reasonable resemblance to the value.

Ms. Davis said the property has not changed hands in many years.

Mr. Winovich said it is currently appraised for \$167,000.00.

Mr. Lamanna said there are two parcels there.

Mr. Winovich said the market value on both parcels shows the same.

Mr. Lynch said the \$112,000.00 was from 2004.

Mr. Winovich said he wanted to make a note on the year built, and it was 1847. He also said if anybody would like to have the house he is not opposed to giving it to anybody who would like to have it.

The board discussed the application, sewer etc.

Ms. Nailler said in the presentation, they keep referring to the existing condominiums but ours were built in 1969 and 1970 and the zoning guidelines and laws were a lot different than they are now and 35 years have gone by and they have been improved hopefully, so why would we want to go back to those guidelines of 1970. She said we have new guidelines now that we should be following and they are asking for all these variances and they want to go from single housing to multiple housing and they need variances on three sides because they are not meeting the 100' setbacks and she does not think it is right to compare what we have done 35 years ago because things have changed since then, we have made new guidelines to make Bainbridge a better place.

Mr. Lamanna said that is true and that is why the board starts with the standpoint of what the law is today, but one of the factors you have to consider is what the neighborhood is and what the existing development is around it. He said that is a fact and something that the board has to consider because it does affect what is going on here. He added that if somebody is looking at the reasonableness of the zoning, they will look at one parcel surrounded by everything else a certain way and then to hold this one parcel to a totally different standard, is a difficult thing to do and if you don't consider it, it is a factor among many other factors to go into the board's decision but it is what it is and you cannot change what the facts are on the ground and they are what they are and what is there already has a bearing on this case.

Ms. Nailler said yes it does and there are 26 units and 21 that face that piece of property, so whatever happens to that piece of property, affects them and she knows these gentlemen are doing this to make money and she is not against that, but it is affecting 21 homeowners directly.

Ms. Nancy Connell of 8516 Tanglewood Trail testified that she lives along Tanglewood Trail and not directly affected by this but she agrees with the 21 homeowners who are affected. She said that one of the things she would like the board to consider is that green space is important out here and it is one of the reasons people have moved out here. She said these people are looking out to green space now and with this proposal, it will be a house and concrete and maybe some landscaping and again some of these things that are agreed upon aren't always done and said she is not sure they addressed all of the considerations and there were problems with the proposal and she thinks they are still out there and there is a huge amount variances and an adverse thing to all of the condo owners and if there is anyone who doesn't object to this should they speak their peace. She asked if well water will support eight condos and said she would be very concerned about that and she thinks there is horrible traffic out there right now, so with these extra cars she cannot imagine it.

Ms. Connell referred to the condos coming into the area that will sell and increase the values, but she knows for a fact that the condos in Chagrin are not selling, they are not very attractive, so why would these sell and if they don't sell, then what happens and again, why could we not have a home business there, like an insurance company and there has been an offer that she knows of to buy that property for \$175,000.00 so it isn't as though there is no offer.

Ms. Susan Rogoff of 8548 Tanglewood Trail testified that she wants to read a letter that was written by Laurie Stefan because she couldn't be here tonight.

Mr. Lamanna said told Ms. Rogoff that if she wanted to express her own opinion she could but not to read an opinion into the record that was prepared by someone else.

Ms. Rogoff referred to what Ms. Connell had to say and said the green space we are looking at now does not belong to us, it belongs to this piece of property so whomever it is that buys it can do whatever they want and if somebody were to buy it and put a single family home on that, they can come within 10' or 25' from the driveway and put anything there, so she does not see what the difference is because that green space does not belong to us. She said regarding other ramifications of commercial going in there, or traffic, and the comment about 16 cars going in and out, they are not going anywhere near where we live. She said she has looked at and walked that property for the last year, the trees are dead, the house is dead and something needs to be done with it so what is the lesser evil. She said her concern is having a body of people speak for her and that is the same way Ms. Stefan feels and a couple of other people.

Mr. Lamanna said that everybody is entitled to present how they feel and how it will impact them and that is what the board wants to hear, individual impressions on how this will affect them.

Ms. Rogoff said that something is going to be built there whether it is commercial or single family and it is not our yard.

Mr. Lynch said there are a lot of different issues to be considered on this proposal and he is amazed at these suggestions that we should throw out sections of the zoning code, but we have to consider Sections 135 and 139 to control this property as a cluster development and those requirements are being asked to be essentially destroyed in order to produce this project. He said that Section 139.04 requires nine acres and it is no where near nine acres, it is 1.65 acres or less by their calculations. He said that Section 139.04 also requires that there be three acres, four for every unit, so if they are going to have 8 units they need 24 acres and it is so grossly less than that here and it also says that any particular acre within that property, you cannot have three units on an acre and here they want to put 4.8 units per acre so they are grossly beyond the requirements of Section 139.

Mr. Lynch referred to Section 135.04 that requires a common area and we don't see any common areas designated on these drawings because there aren't any common areas even though the code requires 25% common areas for cluster homes and condominiums and the reason there are no common areas, is that once you exclude the building, the lots and the setbacks, there is no room left for common areas so it is a complete destruction of that requirement. He said that Section 135 requires 15% lot coverage and they want 30% or more. He said Section 135.04 requires detailed road, erosion and sediment control plans to be submitted first to the county and then to the township and none of those have been prepared or submitted to the county or to the township and there is supposed to be a buffer, not just vague references to mounding and trees, and a detailed buffer plan for the board to consider and approve. He said the only thing about this proposal that is different from what they proposed a month ago is they did change the rear setback, at first they wanted 25' off and then they said they will go to 50' off but they should go to 100', that is what Section 117 requires, and the language in Section 117 is very interesting where it actually says that for cluster housing, to get a CUP, it is mandatory that it is a 100' setback, and said he encourages the board in its executive session to look at that language, so this is a substantial variance and can't imagine a greater variance requested for any property. He said there was a question about the return on the property and in all of this discussion on how much per unit, their own proposal shows that they don't have to have eight units to make money, they can make money with six units or four units and that aside, the issue is not whether their proposal is a reasonable return but rather as currently zoned whether it would be a reasonable return. He said the county set the value at \$167,000 and we know there is an offer for \$175,000 and the question is what is a reasonable return as a single family residence and to speak to that issue Ms. Cynthia Casto is present who is a certified appraiser who has done an appraisal on this property and Ms. Casto will take two minutes to explain her credentials and her background and she will briefly summarize her appraisal.

Ms. Cynthia Casto testified that she is a certified residential appraiser in the State of Ohio and she is also holds a professional appraiser designation through the National Association of Independent Fee Appraisers. She continued by saying that she has her own private appraisal practice focusing strictly on residential properties since 1980 and her company's name is Lake Geauga Appraisals and those are the only two counties in which she conducts appraisals.

Mr. Lynch said he asked Ms. Casto to appraise this property as the Burns property and as a single family residence.

Ms. Casto said that is correct.

Mr. Lynch asked Ms. Casto what methodology she used to do that.

Ms. Casto said that Mr. Lynch asked her to specifically value this property as a continuation of this current single family use so she conducted a typical appraisal process which would have included a tour of the present property, she sketched the floor plan and looked at the foundation and made a lot of detail notes as to its current condition. She said she was informed that it has been vacant for over a couple of years and she did find evidence of dampness in the basement and some settlement and some wear and tear that you would normally associate with a property built in 1847 and having been vacant for a couple of years. She said the most important methodology for measuring value in the marketplace is by direct sales comparison and all the appraiser is doing is interpreting the actions of buyers and sellers in the marketplace and she was able to find three comparable sales of century homes and two of them are actually fabulous comparable sales and two of them are located right on Chillicothe Road, one in South Russell and one in Chesterland. She said both of them are 100 years or older and one of them was in very comparable condition and there were other smaller differences such as the size of the garages and amenities such as an enclosed porch or a fireplace. She said the property that intrigued her the most was the sale on Chillicothe Road in Chesterland because it actually sits closer to Chillicothe Road than the subject property does and by having analyzed all of these sales and making adjustments for the condition, garage space etc., she had a conclusion as to the subject's value as continued as a single family residence and that value conclusion is \$150,000.

Mr. Lynch asked Ms. Casto if she went through the property.

Ms. Casto replied yes.

Mr. Lynch said a statement was made that the property is decrepit.

Ms. Casto said she would not say it is decrepit, it definitely needs repair and updating but it is definitely not decrepit.

Mr. Lynch said the point of the appraisal is what is a reasonable return and if the county says the property is worth \$167,000 and if a certified appraiser says it is worth \$150,000, is it reasonable to suggest that the property has to be sold for over \$200,000 to put condominiums on it in order to get a reasonable return and the obvious answer is no. He said if the property is sold anywhere in the \$150,000 to \$175,000 range, you are getting a reasonable return on the property and that is the issue that this board needs to consider. He said the other issue is if building these condominiums don't have an adverse affect on these 21 other condominiums and the ones particularly that face onto it. He said he asked Ms. Casto to give her opinion as to how the building of these eight units would impact the surrounding condominiums.

Ms. Casto stated that Mr. Lynch asked her to look at the view amenity and how it contributes to the value of the condominiums and noted that condominiums are not prevalent in Geauga County so the pool from which she could select to do her study was not abundant. She said she wanted to do a matched pairs analysis, comparing homes with fireplaces, or two sales of two homes that are pretty much similar all the way down the line except one has a fireplace and one does not, the difference in the selling price is the contribution to the value of that fireplace and that is over simplifying it but in the interest of time, it will side right in with the research and study she has prepared. She said the question proposed was is there a definition in value that would be recognized in the marketplace for condominium units that back up and view other condominium units versus those that back up to something to be more favorable amenities such as green space, a lake or a golf course and she was able to find two different condominium developments in Geauga County in which she was able to find sales that back up to either a golf course, or a lake or a green space versus comparably sold properties that back up to the view overlooking other units. She said the first study she did was very close to the affected subject area and that would be in Fairlawn condominiums, some of them back up to the golf course and some of them back up to other units or back up to the property by the shopping plaza.

Mr. Lynch submitted a copy of Ms. Casto's report to the board.

Ms. Casto said on page two of the report, there are two charts and both of those charts are related to specific sales on Fairlawn that she was able to pull up and confirm. She said she did have to make some adjustments because some of the units have basements and some did not and one of them in particular had been just custom refurbished whereas others were in average condition but by making adjustments the net result can be compared and you can see there is a difference and people will pay a premium for a more favorable view amenity. She said she determined that the sales that have preferred favorable golf course or green space views within that section of Fairlawn would have a value of \$168,000 whereas those that backed up to a less favorable view, such as other units or a shopping center have an adjusted value of \$158,000. She said when you do the math it is 6.33% which can be said to be attributed to the view. She said the second community she studied was totally different in Middlefield, Nantucket, and the reason she expressed this in the form of percent is because that is a more accurate methodology because a selling price of \$100,000 versus a selling price if \$200,000 makes no sense but when it is converted to a percent at 6% in both developments, it does make sense. She said Nantucket has a wonderful pool of data because several units back up to a very scenic lake and others back up to other units and the market in that particular development was recognizing a cash difference of \$7,000 difference or 6.5% and the bottom line is the marketplace obviously in these two scenarios is paying and recognizing the value of a green space, golf course or lake view versus backing up to other units. She said she does not have a specific conclusion as to exactly what dollar figure or exactly what percent because the proposed units don't exist so there is nothing for her to actually see but in looking at the marketplace and extracting information from comparable sales, it is apparent that the market is willing to pay a premium for a more favorable view and homes that do not have a favorable view are going to sell for less.

Mr. Lynch asked Ms. Casto if the percentage premium that she concluded in her opinion is 6.25%.

Ms. Casto said the Fairlawn condominiums was the 6.33% and Nantucket was the 6.5% but this would be the deduction in value of exactly that percentage because these proposed condominiums are just proposed.

Mr. Lynch said you can almost say historically that people will pay more for green space views versus back of buildings views.

Ms. Casto replied by saying yes.

Mr. Lynch said that Ms. Casto's testimony amounts to that the property value is substantially less than \$212,000 and the property could be sold for a value substantially less than \$212,000 as a single family residence and get a reasonable rate of return which is all this board really has to be concerned about, and added that he is not saying a maximum return, he is saying a reasonable return. He added that secondly her testimony was that, yes there will be a detrimental affect on these other units and common sense tells us if you are looking out at an apple orchard one day and the next year you are looking out the back of garages, it will have an effect on the marketability and value of those existing units and if it is not insignificant, even at 6%, if we have a market value of \$150,000, 6% is \$9,000 times 21 units, we are looking at \$200,000 or more in economic deprivation potentially as a result of this development and that is a very significant factor for this board to consider. He said the other issues that the board has to consider is if this will affect government services, where there has already been a lot of talk about traffic and referred to Mr. Winovich quoting Mr. Lamanna last time about his views of the traffic because when we here once before, Mr. Lamanna had a different view that if the properties were to come off of Rt. 306 they wouldn't be very attractive and in March 2005, Mr. Lamanna was quoted as saying "it is better to reduce the number of entrances off of Route 306 because it is not a very happy traffic spot right there" and later said "if it creates what they think is an adverse effect on the neighbors it makes it difficult for the board to act on this" and later he said "if that is coming off Route 306 such safety issues and a problem could be created" so it is common sense that tells us if we have 32 parking spaces in these eight units, we have a potential for a safety issue. He asked if the developer knew about the zoning requirements when they got involved with this property and said obviously he did. He asked if the developer or owners can avoid these apparent difficulties with the property some other way, well yes, there are two other ways, it can be sold as a single family residence at a reasonable price or they could cut the units maybe in one-half because their own records show it is only \$500.00 per unit, there is a question whether or not the variance upholds the intent of the zoning code and this is something that has to be a matter of opinion because the intent of the zoning code is stated in the zoning code.

Mr. Lynch asked the secretary to enter into the record a copy of Chapter 165.01 which gives the intent of the zoning code.

Secretary's note: Chapter 165.01 is stated as follows:

“165.01 INTENT.

Within Bainbridge Township there exists lots, buildings, structures and uses of land which were lawful prior to the effective date of this Zoning Resolution or amendments thereto but which would be prohibited, regulated or restricted under the terms of this Zoning Resolution or which may hereafter be prohibited, regulated or restricted by amendments. It is the intent of this Zoning Resolution to permit these nonconformities to continue until lawful elimination but not to encourage their survival. It is further the intent of this Zoning Resolution that nonconformities shall not be enlarged, expanded, extended or materially altered, and that their existence shall not be used as a reason for permitting new or additional buildings, structures or uses of land which do not conform to the provisions of this Zoning Resolution.”

Mr. Lynch quoted a small section of it that says “It is further the intent of this Zoning Resolution that nonconformities” and added that this is a nonconforming lot “shall not be enlarged, expanded, extended or materially altered, and that their existence shall not be used as a reason for permitting new or additional buildings, structures or uses of land which do not conform to the zoning code”. He said that is exactly what is happening here because they are coming in and saying that this lot does not conform to the zoning code, so now they are going to build some condominiums that don’t conform to the zoning code either so you are changing one set of unusual circumstances for another set of unusual circumstances and that is clearly in violation of the intent of the zoning code. He said, finally, the board is to consider whether the purpose of the overall zoning resolution is served by this variance and again asked the secretary to enter into the record a copy of Chapter 101.02 which clearly states the purpose of the code, which he knows the board knows it well. He recited one sentence that says “It has been further determined that the major asset to the community is the natural rural quality of the landscape, and that this quality, insofar as possible, should be preserved.” He said that is all they are asking for with the denial of this variance that we fulfill the intent and purpose of the code, that we preserve the natural beauty of that property, let it go as a single family residence and deny this variance.

Mr. Hannan said that he seconds that.

Secretary’s note: Chapter 101.02 is stated as follows:

“101.02 DECLARATION OF PURPOSE.

The Board of Trustees and Zoning Commission of Bainbridge Township have, through an evaluation of development factors, anticipated future growth and basic community goals, established basic guidelines and objectives for future development in the Township. It has been determined, due to the location of the Township within the area, the natural limitations of soil and geologic conditions which affect water supply and sewage treatment, the limited capability of the Township to provide urban services, the current character of development within the Township, and the expressed objective of the residents of the community, that Bainbridge Township shall be essentially a low density residential community, with nonresidential development generally limited to that necessary for the convenience of residents.

It has natural rural quality of the landscape, and that this quality, insofar as possible, should be preserved. To achieve these basic objectives, to promote public health, safety and morals, to insure the preservation of open space, adequate light and air, freedom from congestion and objectionable or noxious uses, and to provide for the orderly and efficient growth of the community, the Board of Trustees of Bainbridge R. C, Chapter 519, to regulate the use of land, the size and location of buildings, yards and open space and other characteristics of future development within the Township, and hereby adopts and enacts the following Resolution which shall be in force and effect within the unincorporated territory of Bainbridge Township. The Board of Trustees of Bainbridge Township intends to exercise all zoning and planning powers now or hereafter conferred by the Ohio General Assembly and has enacted this Zoning Resolution to be consistent with and to implement the Bainbridge Township Guide Plan for Land Development, 2000.”

Ms. Davis asked Mr. Lamanna if he can ascertain in that report when that Chillicothe Road sale was.

Ms. Casto replied it was July 2005.

Mr. Lamanna asked about those other properties and what were they surrounded by, and said it looks like they are primarily in residential developments already.

Ms. Casto asked which ones he was referring to.

Mr. Lamanna said the Chillicothe Road property.

Ms. Casto said the first one was in a superior location and she did not address that in her report, but the sale of the Chillicothe home in Chesterland was actually mixed because there were some commercial properties within view.

Mr. Lamanna asked if it was north of Mayfield Road.

Ms. Casto replied yes.

Ms. Davis said she thinks Chesterland is a reach.

Mr. Lynch asked if the board had any further questions for Ms. Casto.

Mr. Lamanna said the board needs five minutes to review the information submitted by Ms. Casto to see if there are any more questions for her. He asked Ms. Casto if one of the properties she looked at was in a more desirable location.

Ms. Casto said yes, the third comparable sale.

Mr. Lamanna asked what she would say about the more desirable location and how much impact it had on the value of the house.

Ms. Casto said she rated it as being superior by 5% - 10%.

Mr. Lamanna asked if that is because of the location.

Ms. Casto said correct.

Mr. Lamanna said he is just trying to understand, if he would put the house on Thwing Road versus being on Route 306 what her conclusion would be regarding its value.

Ms. Casto said if the subject house were on Thwing Road, it would be worth substantially more.

Mr. Lamanna asked how much substantially more.

Ms. Casto said in the range of 5% - 10% more or a \$10,000 adjustment and referred to the report.

Mr. Lamanna said so the location would only make it a 10% - 15% difference in the value of the property.

Ms. Casto said correct and if you look at the values on the report, you will see that they are all within a reasonable range which supports the adjustment that was made and if she had sales ranging in value from \$100,000 to \$300,000 something would have been wrong with the adjustment.

Mr. Lamanna said his interest is if there is a piece of property that is located at this point in the world, the property is worth \$150,000 but he would pick it up and move it ten blocks over and put it on a residential street, it would sell for \$300,000 because people have found that the location is so undesirable that it dramatically affects the value.

Ms. Casto said that is very well reflected in the two sales that are on Chillicothe Road in S. Russell and Chesterland.

Mr. Lamanna said that indicates that there is some market for the property but he is more interested in reasonable return and the fact that the property sells for something tells him nothing whether it is a reasonable return or not.

Ms. Casto said she cannot speak to return, she was asked what this is worth.

Mr. Lamanna said if somebody brings him a piece of property and they say because of where this property is, he is going to get 50% less for this property than he would if it was two blocks away because nobody wants to live on this corner because there are three gas stations and this is the only house on the corner, that is what goes towards reasonableness of return but if maybe the price is 10% - 15% different, he may come to a different conclusion as to whether or not a 10% - 15% difference really affects reasonable return all that much and that is what Ms. Casto is saying, that the value of this property is affected maybe 10% - 15% by its location where it is on a high traffic area.

Ms. Casto said correct.

Mr. English asked Ms. Casto when she did the evaluation of the value of condominiums on a green space versus backing up to a another unit, he would accept the numbers completely because what that would show is the folks would do well to buy the property at \$200,000 and asked if she did any of the studies where the condominiums were on the property and a more expensive condominium and a newer condominium was built next to them because that is really the question that we are looking at here.

Ms. Casto said basically no, because she was not able to find the same instance.

Mr. English said he was just wanting to make that clear and the second issue is relative to the value of the property, the hardship is not the value of the property, the hardship is what has gone on with this particular property around it that has caused it to not be as valuable as otherwise might be, and the properties that were looked at are century houses on main roads and he would guess they don't have condominiums around them on three sides, so that is germane to what we are trying to do and that is the hardship that has been demonstrated.

Mr. Winovich asked Ms. Casto why she did not look at Auburn Lakes for example because they have been building condos for 20 years and he cannot imagine that any condominiums went down in value when the new condominiums went in right around them, he can only imagine that they went up in value.

Ms. Casto said she did consider Auburn Lakes but Auburn Lakes is such a different animal, it is much larger it just did not have enough common physical characteristics than what is happening here and that was strictly related to the amount of land that is associated with each particular unit.

Ms. Davis said initially when the new condos went in, in Auburn, there may have been a slow down of existing condominiums selling because of the competition, however, after that was all done, the values have maintained themselves, plus on the resale they have gone up considerably in the last three years.

Mr. Winovich asked if Ms. Davis feels there is a need in Bainbridge Township for condominiums along the \$300,000 price range.

Ms. Davis said from pricing alone, absolutely.

Mr. Winovich asked Ms. Davis if it is a niche that is not being filled in the county at all.

Ms. Davis said not at all. She said the ones in Chagrin along the old railroad tracks, are way up there in price and so are the ones in Canyon Lakes but someone needs something between Canyon Lakes and Tanglewood and there is a market for them in between and it is only going to bring up the value of the existing condominiums and that is a fact.

Mr. Winovich asked Ms. Casto who paid for the appraisal.

Ms. Casto said Mr. Lynch paid for it who is representing a homeowner.

Mr. Winovich asked Mr. Lynch if he talked to the homeowners and tried to get them to approve to have the appraisal done and paid for by the homeowners.

Mr. Lynch said sure, he talked to the homeowners about it.

Mr. Winovich asked what the outcome was of that.

Mr. Lamanna said that is not germane, it is their expert report.

Mr. Winovich said that Mr. Lynch paid for the appraisal and the condo association decided not to pay for the appraisal and the board approved that.

Mr. Lamanna said it does not matter who paid for it, it is a party's expert opinion, just like the applicant can put on experts to support their side of it and the board takes that as such. He said the board realizes and takes it for what it is, it is an expert report prepared by a partisan in the case.

Ms. Casto said the uniform standards of professional appraisers to which all licensed and certified appraisers adhere indicates that we are independent and objective and she does not care who hires her, market value is market value and had it been George Bush who had hired her and wanted that house appraised at one million dollars, she still would have appraised it at \$150,000 so regardless of who her client is, she is seeking market value and has support for that conclusion which she provided in her report.

Mr. Lamanna said the board can look at her report and look at the methodology used and standards that are ascribed and all of that will be weighed in judging the report.

Mr. Winovich asked Ms. Davis how many offers she received at \$175,000 or below.

Ms. Davis replied by saying two.

Mr. Winovich asked if there is anyone in this room that made one of those offers.

Ms. Davis said yes.

Mr. Winovich said it was not him, so if it was somebody in this room that made the offer and if they want to come forward and say who they were but if they don't want to come forward that is okay. He then said that Mr. Lynch made the offer and he thinks it is relevant here that an offer they are stating from their lawyer that came to the table was made by the lawyer himself.

Mr. Lynch said it is just as relevant as Mr. Winovich's offer.

Mr. Lamanna said he is not sure the board is considering whether this offer has any relevance but certainly partisans in the case cannot come in and make offers to show there is an interest in the property, but does not think it is an issue.

Ms. Davis said in respect to the appraiser, it is an opinion, but however, right now we actually have an agreed upon price so to me that is saying what the value is right there because you have a buyer and a seller.

Mr. Lamanna said it is not because the agreement is contingent upon certain variances being granted so it is not really a willing buyer and willing seller. He said where there is a contingency associated with someone who will buy the property for a certain amount, if the zoning can get changed, and that happens all of the time and it does not create the market value for that property in its present condition.

Ms. Davis said the county has already stated that it is worth more than \$150,000 according to the tax records.

Mr. Lamanna said that tax assessments are sometimes wrong.

Ms. Davis said the tax assessment is never more than the actual value.

Mr. Lamanna said if the county said it was worth \$300,000 he would be concerned because it would be a huge discrepancy but this is not a huge discrepancy and added that these are pieces of evidence.

Mr. Winovich asked where in the county can you find a house that the county has it appraised for a certain value and an appraiser comes in and appraises it for less than the county says it is worth and he thinks it is a very unusual circumstance.

Ms. Casto said it is when you realize the condition of the property.

Mr. Winovich said yes that is their point.

Mr. Lamanna said that is a problem because very rarely the county actually does physical appraisals of the property, they don't actually, in most cases look at it, they don't do every property, they look at a few properties and if nobody goes inside, they are going to appraise it based on the exterior condition of the house and they are going to assume the interior is in some kind of reasonable condition so to be off by \$10,000 - \$15,000 based on the actual condition of the house and if the house is in much worse condition than what appears on the outside, it is not necessarily that surprising because the county is doing it on a grosser basis than an individual appraiser does it and that is a fact and it is what it is and her appraisal is what it is and you have to look at why there are differences and judge it accordingly.

Mr. Hannan said that he and his wife bought a condominium in Tanglewood about a year ago and their condo looks right out at this property and will look right down the backs of all the units. He said what concerns him is the way it is proposed and they will lose money and the value of the their condo will go down and will be less than other more desirable condos someplace else if this goes through and that is not why they bought the condominium and if they knew this was going to happen, they would not have bought their condominium at that location so it has a definite impact on the value of our units plus all of the 20 other units that face that and our condos will become less desirable than they are right now.

Ms. Hannan said that most specifically they would not have invested over \$30,000 in upgrading and refurbishing it.

Mr. Hannan said he hopes the board considers that our units will go up but with a lesser value than if it was not there.

Mr. Lamanna said the view of the property could change at any time.

Mr. Hannan said yes, but he did not know it would change that drastically.

Mr. Lamanna referred to the enjoyment of the view on someone else's property and referred to situations where someone may have 60 acres next to them that is going to be developed and they fear it will reduce the value of their property, but people have a right to develop their properties.

Mr. Hannan said not by taking an extreme variance.

Mr. Lynch said they should develop the property according to the code.

Mr. Hannan said a burden will be put on all those residences and added that he does not object to lesser units.

Mr. Lewis stated that he wanted to review a couple of the economic slides that were presented and he wants to make sure he has an understanding. He referred to the last line regarding overhead and profit of 15% and he was of the understanding that those figures were derived at 15% of the aggregate costs of the expenses above it.

Mr. English replied yes.

Mr. Lewis said it was added up and that is how the two totals of the \$224,000 and \$230,000 were derived.

Mr. English said yes.

Mr. Lewis said there is not a lot of impact between six units and eight units as far as the overall costs on the infrastructure and if he looks at the second page, the target is for an 1,800 sq. ft. at \$100.00 per sq. ft. which is \$180,000 plus \$55,000 and the target includes land cost so between the price of buying the property divided over the units and the land development improvements and asked if the model was to go to market at a \$235,000 selling price.

Mr. Winovich replied yes.

Mr. Lewis asked if the building cost is \$100.00 per sq. ft. today.

Mr. English said yes for this kind of house.

Mr. Lewis asked if that is the cost to build or the selling price.

Mr. English said that is the cost to build which is the same thing. He said the cost to build is the selling price plus the land.

Mr. Lewis said on the \$180,000 of the structure, the overhead and profit element was omitted.

Mr. English said that is part of the \$100.00 per sq. ft.

Mr. Lewis asked if that is still in the 10% - 15% range.

Mr. English said seldom do they make 15%, they usually end up with 8% - 9% and said there are sales commissions and soft transfer fees in that \$100.00 per sq. ft. and that total number is what it takes to market the kinds of units they are talking about.

Mr. Lewis said on the sheet the overhead and profit was identified and on the other it wasn't so he was trying to fairly weigh the fact that they brought an economic model to the board and if they want it to part be of the consideration, he needs to see both elements of it, so he is left in the position where he can only estimate the economic benefit of the structure.

Mr. English said when they look, as a developer at buying a piece of property, and developing it and selling the lots, they sometimes build their own and sometimes sell lots to others so the question here is a lot more having to do with the developed lot because the hardship is with the land and it has nothing to do with the building, and if any builder ever got to a net 10%, he would like to be a part of that.

Mr. Lewis said it gives him a baseline because part of the consideration is you are stating that the project either does or does not work and it does or does not work on meeting your self imposed economic targets.

Mr. English said that land development is a different business than building houses so land development is what they are trying to prove here regardless of when or who builds them so the economics of it that they are trying to show is that it does not work at six units and everybody has to accept that there is a total dollar amount for developed land as part of a sales package that is reasonable and normal and that is somewhere in the 25% range so they could add the 15% in overhead and profit on the other sheet into the numbers but they are trying to be as open as they could be in terms of what they are doing.

Mr. Lewis said he was just trying to be sure.

Mr. Winovich said it is a good observation.

Mrs. Stanton said the average selling price is \$235,000 and asked if they had mentioned that they will be selling them for less than \$300,000 each and said that is a pretty big difference.

Mr. English said what they are looking to do is to build one unit that is probably 2,000 sq. ft. and another that is probably 1,400 sq. ft. and making them as a group, one next to the other, so they are targeting that kind of a market. He said they are looking at, for example, one of the units would be sold with a mother-in-law suite attached to it.

Mr. Takacs referred to the numbers in developing the land and getting ready to build a house on it and said in these costs the highest number is for mounding and site landscaping and asked does that not go with the house rather than land, you clear the land for utilities and said he thinks it is a separate piece.

Mr. English said normally it would if you were building a single family home, but the reason they put it into the development is because most of the cost will be project oriented rather than house oriented and the number that they used reflects that in the entire perimeter of the property and they will be doing a lot of landscaping, planting and mounding and you can't separate that house by house because it is overall on the property so that is why they put it into that number and it is a lot of dollars and he is sure that is one of the things they are going to look at when they come back to talk about it so they are trying to get that covered. He said there will be additional landscaping for each house but this is the project landscaping.

Mr. Takacs said but you also have here, the main drive and you are talking about paving the individual driveways too, and asked if that is part of the house cost.

Mr. English said the main drive in is the T-shape and that is the main drive in the land development costs.

Mr. Takacs said you have paving the driveways in this cost too.

Mr. English said he is calling it the driveway as well as the individual pieces going to the houses because it is a drive, it is a private drive.

Mr. Takacs said you have the main drive including gravel and paving to the driveways.

Mr. English said the main drive is the T-shape and that is what those numbers are.

Mr. Takacs said then from there to the house is in the house costs.

Mr. English replied yes and it is similar to the landscaping from the driveway to the house to the front door or in the back patio areas would be in the house costs.

Mr. Takacs said this is only for the mounding and the trees on the mounding and anything else for the site, itself, perimeter to that.

Mr. English said correct.

Mr. Hannan questioned the landscaping and if it won't create run-off to the existing properties that are there with the mounds around the property because the properties already have difficulties with drainage and asked if it won't create more drainage from the water running down into the driveways.

Mr. English said that will all be part of their engineering plan that will be approved.

Mr. Takacs said it has got to be.

Mr. Lamanna said there would be no control over it with someone building one house, but in this case they would have to submit a site drainage plan to the soil and water conservation department to be approved so actually from a control standpoint, this is a far better situation than a single family house, because someone could build a single family house and put mounds all over the place and nobody is really going to be watching what they are doing in terms of any kind of coordinated drainage plans.

Mr. Hannan said the land is flat right now and it soaks up the water.

Mr. Takacs said they have money allocated for storm sewers and catch basins and headwalls in their numbers so they are planning on taking care of some of that to contain the water on their property.

Mr. Lamanna said they will have to have a site drainage plan approved with regards to where the run-off is going and where they are collecting it.

Mr. Hannan said they already have some drainage problems on their properties so they don't want to have more.

Mr. Lamanna said with this kind of project, there is actually somebody monitoring that.

Mr. Lynch asked if all of those issues are supposed to be submitted at the time of the application.

Mr. Lamanna said no, that is not the way the board processes those things.

Mr. Lynch asked if the variance will be approved without those items.

Mr. Lamanna said no, the variance would be approved subject to those plans being submitted and approved which is consistent with what the board has done because part of the problem is, people come in here with plans that end up being changed and it is asking people to incur a lot of money for no real good purpose and the board has found that it makes more sense for some of these requirements to be conditions to the issuance of the zoning certificate itself.

Mr. Lynch said he thinks the code says that they are to bring that stuff in at the time the variance is applied for.

Mr. Lamanna said he knows but that is the way the board has chosen to handle it and it also reduces the burden on the board and makes the process go better, otherwise it ends up with multiple re-hearings on things.

Mr. Lynch said that is what we are doing now.

Mr. Lamanna said the board would have five hearings on things instead of two.

Mr. Takacs asked Mr. English what is in the number on water lines and wells.

Mr. English said they are contemplating that they will need two wells, one as a primary and one as a backup and then distributing that water to the units.

Mr. Takacs said okay.

Mr. Lamanna closed the testimony on this application.

Mr. Takacs said he is still concerned about eight units versus something less just because of where it is located and the size of the lot.

Mr. Winovich said he just wanted to reiterate that it is less density than what is surrounding the property today.

Mr. Lamanna said this is the board's internal discussion and there is a specific question and what is presented here is not for comment, it is presented here as the board's deliberation.

Mr. Takacs said with fairness to all, and the testimony the board has heard already on the subject, they have had a house there and it is not their property, it is somebody else's but in retrospect of where it is located, he feels it will be too much density there.

Mrs. Stanton said she still thinks it is too dense and even though the applicant has said it is not economically feasible with six units, but questions that, and in looking at the numbers presented and other numbers today, if the selling price is closer to \$300,000 then it would be feasible to do it with six units.

Mr. Lewis said he tends to agree with his colleagues on this and said a couple of his sidebar comments is that some folks have already made substantial investments into their properties while it is very important to give an applicant every opportunity to do something with their property, he always concerns himself that it is going to have some kind of meaningful impact on somebody who has already made an investment in an adjacent property. He said with regards to the economics and the feasibilities of the project, there is profiting to be had and he thinks there can be profiting in four units, scaling them with size, the board has implied before to see the amount of the units halved so there will be less of a structural impact on the adjacent properties and he is sensitive to the builder/developer because they also have some economic goals, however their economic goals are their goals, not necessarily other's goals to aspire to, so he is still back with where the board left this a month ago looking for a meaningful reduction in the amount of units and said he stated the reasons why.

Mr. Lamanna said he thinks the conclusion of the board is pretty unanimous because he shares the same concerns that have been expressed here and in this case, the weight of adverse impact of the development of eight condos in there and coupled with the substantial number of variances and degree of variances that are required to put that number of condos in there, it does outweigh the issues in terms of the reasonable economic return because there is certainly enough evidence here that there can be a decent economic return on this property even in its present condition and certainly it is somewhat adversely affected by its peculiar location. He said one of the difficulties here is it appears that at least some of the loss of value in this particular property is because of the right-of-way issue and it is kind of in a rather peculiar situation that it appears the purchaser of the property is going to look at where the right-of-way will be whereas the state has not yet come in and actually acquired that right-of-way from the property owner so it puts them in a rather unusual circumstance where some of their loss of value is due to a situation for which they will probably ultimately be entitled to compensation for the taking of that part of the property so that is difficult, also it appears that, and this is not a case of a huge difference in what the property is worth, because of its peculiar location versus what it would be worth if it was located somewhere else, and from a reasonable economic return it is not a question of what the absolute value is it is a question of what the relative value is of that property and they are entitled to the highest and best use they get out of the property. He said if they can develop it any way they wanted it is whether given the nature and condition of the property you are getting what is reasonable for that property. He said in many cases there are situations where properties are substantially devalued because somebody would want a substantial discount to take on a property as a residential property because of the surrounding properties and what is going on with them, highway traffic and noise and those types of issues but here it doesn't seem that we are in that kind of situation and it seems that one of the issues is that the property is being sold for actually more than its reasonable value as a residential property, it is the intermediate price that says if the property was in a nicer location it would be worth \$200,000 or \$175,000 but if it is only worth \$150,000 where it is, and now they want to sell it for \$225,000 because it can be developed at a higher use and it makes it worth more money at that point and when you take that all into consideration, and when you look at some of the error of the plus or minus of some of the estimates that are made he doesn't think it has been adequately demonstrated that eight units are required here and since the board works on the standard of what is the minimal amount necessary in terms of granting a variance in this case, the applicant is not carrying the day on that aspect of it. He said when you weigh the closeness of those questions with the adverse impacts that will take place, even if they are somewhat smaller than the six thousand per unit, he wouldn't accept that as necessarily the number but certainly there is some impact there and it is not de minimis or materially substantial. He said when you weigh all of those factors together, he thinks that it certainly means that the requested development at eight units has not been justified. He then asked the applicants if they want the board to proceed with this.

Mr. Winovich stated that they would like to continue and added that the reason the condos were priced at the level that they are and not \$300,000 or \$400,000 is that there are \$300,000 and \$400,000 condos all over and they were trying to build some condos and make it economically viable to build condos at that price level so that people could actually buy them and we understand that at \$350,000 we could build a few less units but that was not their goal or his goal when they started this project and his goal was to build something that everyone could buy.

Mr. Lamanna said the board understands that but the tension that you run into in these cases is that, yes you have a concept of a project and it may be a good concept of a project but the difficulty you run into is that the project has impacts and the project has a certain impact on the surrounding neighbors and it may mean that it is not the right project for this piece of property because the impact on the neighbors overwhelm the other considerations when it is being developed to that density and he thinks it is the kind of conclusion the board has come to from the evidence before it. He said that at this point the board can render a decision or the applicant can request a continuance or go back and reconsider the options or withdraw the application.

Mr. Winovich stated that he would like to continue.

Mr. Lynch stated that he wanted to speak to the continuance and said that it was not without expense to hire an appraiser to render opinions, all of these folks are here tonight, he is here tonight and this is actually a third time here.

Mr. Lamanna stated that everything has been entered into the record on this particular application and if the application continues, it stays in the record and if they render a decision against them and they come back with a new plan that is materially different so that it is not subject to the res judicata bar on further appeals, you start back from the beginning.

Mr. Lynch said he understands, but the point is if the board continues this and they come back with six units or four units, all of these homeowners have to show up here again, late at night, the appraiser has to redo her work and everything has to be redone and this is the third time through and he objects to a continuance.

Mr. Lamanna said they can come back with another application.

Mr. Lynch said they can come back to the board with another application if they want and let them do that if they want, but that is different than granting a continuance again, and this creates a burden. He said the applicant has the burden, they are supposed to come in with their plan and last time the board gave some very specific comments about what the board thought they should do and most of which they did not do, so how many times can you expect these citizens to show up and how many times am I expected to bring in an appraiser to respond yet to another proposal, and said lets vote on it.

Mr. Lynch continued by saying the other problem is that as long as the board holds out, this tells the property owner that maybe he will get that extra \$50,000 for the property and it is not going to sell to anybody else either.

Ms. Davis said yes it will because they do not have an actual contract.

Mr. Lynch said as long as they think they can get more money for the property, it will linger on the market.

Mr. Lamanna said he thinks what the board said here is we think the property is priced at a higher price than its value so one possibility is they go back and say the price is \$50,000 too high.

Mr. Lynch said he agrees and he thinks a continuance is counterproductive at this point.

Mr. Lamanna reminded everyone that this portion is for procedural comments and there is no testimony in connection with that.

Mrs. Stanton stated that since everything is going to stay in the record, the board may as well do a continuance versus starting all over again.

Mr. Lynch said if they put in four units, that is a whole different proposal.

Mr. Lamanna said it does not change the appraiser's testimony at all.

Mr. Lynch said it changes the economic impact and it certainly changes the project as a new project and new application that should be addressed in an open fashion rather than to keep rolling over again and again.

Mr. Lewis said the board, with the consideration of a continuance, has made it crystal clear that it is looking for an extraordinarily meaningful revision so that we are not wasting the applicant's time or the board's time and he firmly suggests that the applicant do their business model long before there is a presentation to the board again, of a site plan, because he thinks the applicant knows where the board is heading and if we are going to call it a day, lets call it a day without wasting anymore time but the board has that regard and that respect for the applicant and the applicant must decide if to meet what the board is looking for, if it is going to hit the applicant's economic targets and the board's targets, then we have something to talk about but if we cannot get there, lets throw in the towel and move on. He said with respect to Mr. Lynch's comments, he would move that the board give the applicant one more turn at the bat and that is next month, not in six months, he wants to dispose of this for everyone and if we cannot get it to work, let's move on with it.

Mr. Lamanna said he would ask to be fair to the residents, that two weeks before the meeting, the board wants to see everything that the applicant is going to put into evidence so that the other side has a chance to look at it and be prepared.

Mr. Lynch said last time, it was supposed to be 30 days and we barely had this appraisal done, so two weeks is just not enough time and there would be enough time if there was a new application.

Mr. Lamanna said the application is the application and he is actually extending this to make sure they actually put in all the documents and other items that they intend to put in the evidence beforehand, and the problem with the procedure is that people can come in and present all of their evidence and the other parties have no idea what it is until it is actually presented so the board ends up having to grant a continuance if somebody wants to bring in opposing evidence.

Mr. Lynch said he does not want to stand here next month with them saying they need more time.

Mr. Lamanna said that is why he wants to make sure they have two weeks to submit all of the documents and exhibits that they want to put forward because typically most of the items are coming in a day before or at the meeting and in this case it will be two weeks before the meeting or the board is not going forward. He asked Mr. Winovich if he can get that done for the next meeting to be held in November or if he wants to postpone into the December meeting.

Mr. Winovich said they will cancel if they cannot get it done for the next meeting.

Mr. Lewis said he wants to rule on this application next month.

Mr. Winovich said this is not his day job, so they are going to do the best they can.

Ms. Nailler asked when the next meeting will be held.

Mr. Lamanna said the next meeting will be held the week before Thanksgiving on November 17, 2005.

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

Motion BZA 2005-44 – 17477 Chillicothe Road

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held November 17, 2005 with the proviso that the applicant has all changes to his application and all supporting evidence and documents delivered no less than two weeks before the meeting.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Mr. Olivier joined the meeting at this time.

Application 2005-54 by James C. Adair for property at 8765 Taylor May Road

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

The zoning inspector's letter dated October 13, 2005 was read and photos of the site were submitted.

Mr. James Adair was present to represent this application.

Mr. Adair testified that he is here with his wife Lisa and they are in pursuit of a variance for their house on Taylor May Road, between Chillicothe and Haskins, south of the right-of-way at the top of a hill and said they want to do a front porch on their house and it is a 75' setback and we are just a couple of feet short, 2' short. He gave an overview of the process and how they thought about it so far and said they bought the house four years ago and he put a split rail fence in and at that time he had a permit to put the fence in and found out the setback was roughly 85' or 96' depending on the computer records or the written records of the township, so he figured he had 10' available to put the porch on so they did the blueprints for what would be 6' out from the existing foundation but found out through the title survey that they got from their bank when they bought the house that it is roughly 75' right now plus or minus 5' 0" so it leaves them with a little under 2' over their limit and rather than to have a four foot extension in front of their house, they would like a 6' front porch and said that briefly sums it up. He added that the neighbor's house to the east is roughly 40' of setback and it really wouldn't appear to damage the spirit of the setback rule.

Mr. Dick Howard of 17678 Plum Creek Trail testified that he owns the property to the east and said he just wanted to see the layout.

Mr. Adair said the house needs a porch for a couple of issues because the lot slopes towards their house pretty steeply and there is an issue with water in their basement so having a little additional foundation would give them a little more water protection and at the same time they are putting in waterproofing and the house could really use the front porch and it will do a lot to add value to the entire street if they do that. He added that the grandmother-in-law may be moving in at some point and it would simply help her to have a 6' porch rather than 4'.

Mr. Lamanna said it is pretty clear that this variance is not going to affect anything.

Mr. Takacs said it is minimal.

Mr. Howard said that he did not have a problem with it.

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

Motion BZA 2005-54 – 8765 Taylor May Road

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of constructing a 6' porch on his house.

1. A variance from the minimum front yard setback of 75' to 73' for a variance of 2'.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant has an existing house built by the zoning code and the only way to add a porch on the front would be to slightly extend into the front yard setback.
2. This variance is not inconsistent with the setbacks of some of the other houses on this part of the street so it will not adversely affect any of the adjacent property owners and will be consistent with the neighborhood.

Mr. Takacs seconded the motion that passed unanimously.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2005-53 by RCV Investments for property at 8388 E. Washington Street

The applicant is requesting area variances for the purpose of replacing a former retail (hardware) store with a new building for a game arcade. The property is located in a CB District.

The zoning inspector's letter dated October 14, 2005 was read and photos of the site were submitted.

Mr. Steve Ciciretto was present to represent this application.

Mr. Ciciretto testified that as we got into the study of this building, the existing hardware building, we found there were a lot of structural short comings to it and we needed a little more height for some of the attractions that are going to be part of this, so rather than getting into reusing this building, as we proposed earlier and adding on, (he referred to the footprint of the formerly proposed addition) and the 14,000 sq. ft existing building and they had approval to add on for a total of 24,000 sq. ft. and with the adjacent surrounding parking. He said they are proposing a new building, after tearing this building down, but because of a conditional use, it requires 100' setbacks from all of the property lines and so the lot is only 240' deep so it would make it pretty difficult to get any parking in on the side yard aspect and naturally from the front yard it would actually sit us back behind the corner of the existing building and the possible building site on the Lanza property next door. He said he is going to show the board tonight that they would like to propose a new building, clearing the front yard of all the parking which was an issue so they are actually going to create a 70' buffer of green space along the front except for the drive and that is one of the less restrictive uses that they had from the originally approved drawing. He said the building is actually going to be reduced in size from what they had applied for originally and it will be a similar type of building that they were showing before, a masonry type building that will fit with McFarland's corners and everything that is happening along that line and there will be some fun elements and some big windows and explained the part that will be recessed back with a little bit of signage and some accent lighting, but this is actually a reduction from the building size that was formally approved from 24,000 sq. ft. to 13,000 sq. ft. He said one of the reasons is that when the RCV Group started to do their studies, their consultants told them that actually for that large of a structure, even though they were meeting zoning parking, they actually really needed more parking so the new layout provides 131 spaces and it is still under the lot coverage minimum and it is at 37% coverage. He said they find the 131 spaces to be the right relationship for this type of facility and the majority of the parking field will be behind the building so it will not be seen as much as before and the actual entrance to the building will be on the east side and referred to the elevation element that will define the entrance. He said this proposal does increase the side yard buffers to 20' and they laid this out as the CB District would require along this route so as if this were in conformance with all of the requirements of the CB District with 20' side yards to the parking and referred to the prior plans that were very tight along the side lines and so they gave a little more buffer to the neighbors there and that also works to make it a little less intrusive on the neighborhood. He said lastly that in terms to the relative stages, the overall height will stay about the same as the structure that they were going to build before because they wanted a two story mansard that had kind of a small scale front but it was a taller mass in the back, although he liked that building, he thinks this will look more in scale with the rest of the neighborhood. He said the short elevation is actually the front and explained that the front of the building will face Mr. Lanza's property. He said they had a parking canopy that was 60' and now they are 70' so they pushed the building back so they need a variance from the front yard setback of 30' but the building is really on the same line that it currently is except they will not have any parking in the front, so although they had to change the application from what they presented earlier, all of those factors they had talked about regarding operating hours and games will all stay the same.

Mr. Takacs asked about the proposed height of the building.

Mr. Ciciretto said the main building is 18' – 19' but the peak is just under 35' and that is the same height as they had before but it was a much bigger mass.

Ms. Stanton said she recalled drainage problems at the site.

Mr. Ciciretto said they are still intending to have a retaining pond and are negotiating with the neighbor and explained how the water comes down and goes through so they would like to bring it all back across all these yards to the Laughing Coyote and John G. Johnson's property to the creek, but otherwise it will probably turn and go to the street and it is in the engineering. He said the neighbor has indicated to us that he did not really want us to alter the water shed through his yard although Mr. Lanza's, his property and Johnson's has done it and we believe he created an illegal blockage but we have Geauga County Soil & Water taking a look at this right now and it is an engineering thing that can be solved and is really what is best for all of these properties. He said he has not been directly involved in all of the discussions but it is a real issue still and added that the real variances are on the setbacks of the zoning and he thinks everyone can see that because of the nature of this building it would be appropriate to actually free up the front of the building.

Mr. Lamanna said the main thing people will be looking at as you come down the street is the side of the building.

Mr. Ciciretto said as you recall that Mr. Lanza had a building in the front that was torn down and in his long term plans he has not totally ruled out the possibility of building at the 70' setback line or possibly building it at his lot coverage in the future but he does not want to put words in his mouth.

Mr. Lamanna said that maybe he has not ruled it out but the board ruled it out here and it seems to him that when this was done originally the board said it was very unlikely that we would ever allow anything to be built there because of the nature of that piece of property and it is really a gateway to what is behind it, there are all kinds of setback issues on the property that has plenty of room behind it so there is going to be very little justification for putting a building in that area. He said the main reason he is going to have a problem is because the neighbor next door is sitting so far up and they don't want to actually move this building back too far.

Mr. Lewis said this is a new building, better side yard with no parking in the front and it will be great on Washington Street.

Mr. Lamanna said the fact that there is not going to be parking in the front is another good reason for having a 70' setback.

Mr. Ciciretto said and of course there will be landscaping.

Mrs. Stanton asked about signage.

Mr. Ciciretto explained where the monument sign will be located and there will be signage above the door frame although on the original drawing we did show some signage set back pretty far but it was a little bigger in scale.

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

Motion BZA 2005-53 - 8388 E. Washington Street

Mr. Lamanna made a motion to grant the following amendments to the previously issued conditional use permit for the purposes of modifying an existing building to use as a game room provided that the existing building will be torn down and replaced with a new building according to the plans submitted by the applicant.

With respect to this new building the board will grant the following variances:

1. A variance from the minimum required front yard setback to the 100' setback requirements for conditional use permits to 70' for a variance of 30'.
2. A variance from the minimum required side yard setback of 100' to 41' for a variance of 59'.
3. A variance from the minimum required side yard and the other side yard to 75' for a variance of 25'.

Based on the following findings of fact:

1. With respect to the side yard variances granted, there is a practical difficulty because the lot is only 240' wide so holding to the requirements would make it virtually impossible to build a building on the property.
2. The replacement building will substantially reduce the existing non-conformities of the building presently there.
3. With respect to the front yard setback, the applicant is providing as part of his plans and also a condition of his variance that there will not be any parking in front of the building which will provide substantial green space.
4. Owing to the setback of the building on the adjacent property, the 70' will be consistent with what is present in the immediate neighborhood and would not adversely affect the neighboring properties.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Since there was no further testimony, the public hearing was closed at 10:32 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Olivier
Ellen Stanton
Donald Takacs

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

Date: November 17, 2005

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Bainbridge Township, Ohio
Board of Zoning Appeals
October 20, 2005

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:32 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the September 15, 2005 and September 22, 2005 meetings as written.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Applications for November 17, 2005

Application 2005-55 by Johnny Adams for property at 7279 Rocker Avenue

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

Application 2005-56 by Robert E. Staehle for property at 8383 Chagrin Road

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

Application 2005-57 by G. Jonah Koslen for property at 17157 Eastview Drive

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

Application 2005-58 by Holly Teague for property at 7102 Oak Street

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

Since there was no further business, the meeting was adjourned at 10:40 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Olivier
Ellen Stanton
Donald Takacs

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

Date: November 17, 2005

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