

Bainbridge Township, Ohio
Board of Zoning Appeals
October 22, 2009

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:07 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

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

Mr. Lamanna noted that the board will hear application 2009-27 first.

Application 2009-27 by Kevin & Pam Donovan for property at 18060 Birch Hill Drive

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

The zoning inspector's letter dated October 22, 2009 was read.

Mr. and Mrs. Donovan were present to represent this application.

Mr. Donovan testified that they want to construct a shed in their backyard and said they are actually a one acre property and not a three acre property. He said they originally wanted to get a little closer back to the property line and they are looking at 50' in from the side which is regulation and they talked to the Pilgrim Village board and they suggested to go 50' from the back and originally they had hoped to go a little bit more into the woods but they can understand the request to move it up. He said their concern with moving it forward is they actually have a down slope and it is very wet there and they are concerned for putting it there for the shed's sake. He said they have a Pilgrim Village architectural review board.

Ms. Sass asked if they approved it.

Mr. Donovan said yes and they have a couple of their neighbor's signatures on it.

Mr. Olivier said to Mr. Donovan that he had mentioned a significant slope in the yard.

Mr. Donovan said yes and showed the board per the GIS photo that they get a lot of water there that actually keeps away from the house which is a good thing but unfortunately this winter they had problems with the roof water so they are actually really worried about running water towards the house and they don't think the shed will hold up as long there and they want to preserve the tree there.

Mr. Olivier asked if those are 2' contour lines.

Mr. Michael Joyce, Zoning Inspector testified yes but it would have to go out further to determine which direction the slope is going and explained the contour lines per the GIS photo.

Mr. Olivier asked the applicants if they wanted to go further back into the woods.

Mr. Donovan said yes they thought it would be nice to kind of stick it back in the woods but the Pilgrim Village board suggested bringing it up about 50' because of their regulations so they did.

Mr. Lewis asked Mr. Donovan if he has a rendering of what the shed looks like.

Mr. Donovan said yes and submitted it to the board.

Mr. Lewis asked about the proposed size.

Mr. Donovan said they are planning on building the 12' x 16' shed and that is within the development's standards.

Mr. Lamanna asked if it will be about 10' tall.

Mr. Donovan said yes he thinks it is around there.

Mr. Olivier asked if there are solid woods between his rear yard and the neighbor's.

Mr. Donovan said you can see them in the middle of winter when the leaves are all gone, there are people back there but it does go back past their property line by 20' to 30'.

Mr. Lamanna asked about the entire depth of the lot or if they have a distance from the back of the house to the property line.

The board discussed the setbacks requested and the size of the lot.

Mr. Olivier asked the applicant if it is closer to the house, it will comply with the zoning.

Mr. Donovan said yes but the grass doesn't really grow well there.

Mrs. Donovan testified that it is mossy.

Mr. Joyce asked if this is the area the applicant is talking about per the GIS.

Mr. Donovan replied yes.

Mr. Lamanna asked if the distance to the rear is 190' to 200'.

Mr. Joyce said it is 105' from the back of the house to the line.

Mr. Murphy asked if there are any neighbors present.

Mr. Donovan replied no.

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

Motion BZA 2009-27 – 18060 Birch Hill Drive

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

1. A variance from the minimum required rear yard setback requirement of 90' to 50' for a variance of 40'.

Based on the following findings of fact:

1. There is a practical difficulty because this is only a one acre lot in a three acre area.
2. To move the shed 90' from the rear property line would place it in a wet area on the property and it would also place it in an area that would be highly visible to the neighboring properties and would be inconsistent with the other development in this area.
3. This is a more appropriate place to place it to minimize impact on neighboring properties.

Mr. Lewis seconded the motion.

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

Application 2009-18 by MRM Land Company LLC dba Tanglewood National Golf Club for property at 8745 Tanglewood Trail - Continuance

The applicant is requesting a conditional use permit due to the transfer of ownership and a request for a public golf course. The property is located in a R-3A District.

Mr. Lamanna stated that this is a continuance of an application requesting a conditional use permit for a transfer of ownership including a request to use the property as a public course and added that it is probably a variance applicable to the zoning on the site.

Mr. Marc Strauss was present to represent this application.

Mr. Strauss addressed the board and testified that his name is Marc Strauss and he is the managing partner of MRM Land Company which operates the Tanglewood National Golf Club here in Bainbridge Township. He said without going into a full presentation again that he made at the last meeting, he has taken the opportunity in the last four weeks to put together a presentation binder and he delivered them on October 15th pursuant to the board's request and a business plan for Tanglewood National Golf Club from 2010 through 2012. He said for purposes of informing the public that is here this evening, it is capsulated in a letter to the chair this evening. He read the following letter:

“The purpose of this letter is to outline the position of MRM Land Company LLC as to the Conditional Use Permit applied for on or about July 1, 2009. As the Board is aware MRM Land Company LLC dba Tanglewood National Golf Club has applied for a five (5) year exemption from the original Conditional Use Permit for the golf course land to operate as a public facility from its former status as a private country club due to the recent foreclosure, public auction and economic conditions we are faced with at this time.

Mr. Lamanna, while five (5) years may seem like a considerable amount of time there are at best (40) months of golf during this period or (3) years (4) months of actual operations. It is the hope of MRM Land Company LLC dba Tanglewood National Golf Club to return someday to a fee play or private club, but at this point in time to require the golf course to remain private would create an extreme financial hardship not only upon our group, but will have a ripple effect to the Tanglewood community, Bainbridge Township and Geauga County if this course were to fail once again without giving it an opportunity to reverse the downward spiral the course has experienced the past several years.

I thank you and the Board for your consideration in this matter, and trust that you will make the right decision that will foster success rather another potential failure.”

He said included in this binder that he delivered on October 15th is the Tanglewood National Golf Club business plan from 2010 – 2012 which spells out basically the goals of the club. He read the goal which is:

“Place the club in a profitable position by increasing play by adding additional services and new products to capture income. As well, position the club to return to a future dues structure that will allow growth.”

He said the program has a multiple step program. He read step five which is “Gain Trust of Golfers and add Revenue”

“Once the trust of the golfers is gained, service is consistent and products are good the golfers will then gain the trust of the club and support the club. This support will come in more frequency to the club, referring more friends to the club and utilizing different aspects of the club as well.

Culture of the club needs to be one of inviting and a “Family” fun atmosphere with a “can do” attitude.”

He said he has a business plan that creates a dues structure for 2010 with rates and categories, rules and regulations and an annual membership drive to promote the club. He said they will be reaching out to the community by direct mail, print advertising, hiring key positions for club and general manager and director of sales, activities director, director of golf and they have a superintendent.

He said the mission statement of Tanglewood National Golf Club is to:

“Maintain a golf club in which golfers can enjoy the use of the club’s products and services while utilizing the facilities with their families and guests. These products and services shall set the club apart from others and lead the club to recognition and awards. The club shall also provide a culture and activities that are consistent with a golf club and that will promote a sense of family and common fellowship among its users.”

He said the key to financial success is to brand and promote the club where families come to play, retain existing golfers, re-sign past members of Tanglewood Country Club, sign up new users, increase the use of the club by Tanglewood Lake Homeowners. He said they had a meeting last Thursday at the club that the whole community was invited to and for the next 30 days, starting last Thursday, they have a promotion going for the Tanglewood residents, they have 50 unlimited family memberships for \$1,195.00, they have a five-round gift card of \$159 with the sixth round free and all of these are only available to the Tanglewood residents for the next 30 days. He said they want to invite them back and encourage them to use the club and as a comparison as he said at the meeting last Thursday, a family membership at Stonewater Golf Club is \$6,500, Acacia Country Club is \$4,800 and we are \$1,195 and we feel we bring a significant value to the club and we provided in a reasonable manner that families can afford it and we want to be affordable to families of this area and their goals are to hire good people. He said the facilities goals are to have great service, great products, great culture, separating themselves from the competition and hopefully receive recognition and awards for what they are about to accomplish. He said he can go on and on, it is a 41 page business plan, it goes through the capital improvements that they intend to do over the next several years at the club. He said he attached a code of conduct and it was really taken from Mr. Kraninger who provided to him from the what board would like to see as a code of conduct with regards to how golfers behave and guests behave at Tanglewood National Golf Club. He said Tab #4 sets forth the membership rates and categories that they will hope to list for the 2010 golf season and they will be introducing a links membership that will be about a \$500 fee and they will receive 20% for weekdays and 10% on weekends for greens fees. He said they will attempt to sell single unlimited along with a family unlimited, a TLA Social golf membership which is five rounds weekdays anytime, and weekends after 2:00 P.M., corporate unlimited membership, senior unlimited membership and a junior unlimited membership and on this they indicate the number of memberships they would like to obtain in the 2010 golf season.

Mr. Strauss said in addition, they will have greens fees posted, weekdays and weekends for 9 and 18 holes with a cart, there will be a general greens fee, a senior rate and a junior rate, they will have special rates for ladies, hours will dictate certain pricing, the greens fees may be lower before May 1st and then higher after May 1st and then lower after Labor Day and they will provide for walkers certain times and days to participate and enjoy Tanglewood National Golf Club. He said the last Tab #5 really is the most telling and what these pictures depict is some photos that he took. He showed Boston Hills Country Club at Route 8 and Hines Hill Road in Boston Heights and said this is a golf course that was sold two years ago and was supposed to be open space and supposed to create some character for the area as well as some development. He said the developers are NRP Group, Petros Homes and the project has not gotten off the ground for economic reasons and financial reasons and financing reasons, but he chose to take these pictures because it shows after two years, the deterioration of a golf course not being around, the cart paths, the deterioration of fairways, greens, all of these things clearly could come to pass at Tanglewood National Golf Club and at the Tanglewood Lake Community if the golf course would not survive. He said as he mentioned earlier, they are only asking for a short period of time while it may seem five years, this isn't Florida, this isn't California, this isn't S. Carolina, we do not play golf 12 months a year in northeast Ohio, at best we play seven months. He said when he indicated the 40 months, that would be eight months which is March, April, May, June, July, August, September and October and he can say they have had three days of golf this month, you know what the weather can be like and you know what the weather can be in March and the reality is that we have seven months of golf in northeast Ohio, April 1st to October 31st and seven times five years is 35 months and that is less than three years of public play at Tanglewood National Golf Club and the only reason he mentioned 40 months is that he does not want anyone to say to him if they have a mild March or we have a mild November that they will have the public playing out there. He said the reality of the situation is that we have a limited golf season in northeast Ohio and Tanglewood National Golf Club is only a golf course, it only provides that benefit to the community and to the residents of Tanglewood Lake. He said he asks that the board take this all into consideration and allow them, based upon their plan and based upon their vision and based upon some memberships that they are going to try to sell and packages that they will be given this next five years to rebuild Tanglewood National Golf Club and do what it once was because that is his vision and his goal and he stood here last time and told the board that he would like nothing more for 300 families to be paying \$3,000 a year in dues and at \$900,000 it would be a spectacular facility but it just doesn't exist today, but that is their goal and that is the goal of what he is presenting to the board this evening, so he asks for the board's consideration in this five year exemption and hold him to his plan and hold him to his vision and let us all make this work for the betterment of the township and the betterment of the county. He thanked the board.

Mr. Lamanna asked Mr. Strauss if he discussed any of the particulars with the association.

Mr. Strauss said the problem they have with the association is there are a number of factors and a number of variables that exists today and a number of promises that were made both back and forth with the association and with the golf club. He said he has attempted in good faith to work through those issues and the board is a volunteer board that meets once a month and it has been a very difficult process. He said they need to move on at this particular point in time to secure our future. He said Mr. Kraninger sent a letter to the entire community on October 15th outlining the assessment that was passed to work something out. He said there has been no communication, he has listened to what Mr. Kraninger and the board has said and he tried to incorporate as much of their desire into this notebook and that has what he has done.

Mr. Lamanna asked Mr. Strauss if he provided the Tanglewood board with a copy of this notebook.

Mr. Strauss said yes he did.

Ms. Sass asked Mr. Kraninger if he has seen the notebook and the business plan.

Mr. Kraninger said he saw the business plan before tonight, he did not see the letter or anything else in here, but he did see the business plan.

Ms. Sass asked Mr. Kraninger when he received the business plan.

Mr. Kraninger said last week on the 15th.

Mr. Strauss said the code of conduct is almost identical, in fact he added a few comments that Mr. Kraninger had provided to this board with regards to the code of conduct. He said the packages are standard packages in northeast Ohio for public and private golf courses and they tried to draw upon each segment of the market to come up with a number of packages or memberships and a number of greens fees specials they drew from and the letter is simply a summation of what they are asking the board of zoning appeals to consider.

Mr. Todd Hicks of Thrasher, Dinsmore & Dolan testified that he is representing the Tanglewood Lake Association. He said the thing he wants to make clear is the association wants the club and wants Mr. Strauss to succeed but that desire for success has to be balanced and tempered against what this course is and where it is located. He said this has always been a private club and it is the view of the association given the deed restrictions on the property and given the zoning that it must remain a private club so tonight they don't have any objection to the conditional use permit transferring to Mr. Strauss' entity but what they do have a very strong objection to is the notion that in effect a use variance would be granted for a five year period to transform from what has always been a private club that sits right in the middle of a residential subdivision into a public golf course with a liquor license and we think that is problematic for a number of reasons.

Mr. Hicks continued by saying it should not happen and in looking back at the minutes going all the way back to when the conditional use was first granted, and then every time it has been up for renewal, this board's approach has always been first and foremost to recognize that this was designed as a private club in the middle of a residential subdivision and it needs to remain a private club. He said anytime there were issues about noise, about parking, about anything else when this came up for renewal, this board was very, very careful to make sure that those issues were going to get addressed and those issues were going to get taken care of so that the residents of Tanglewood would be taken care of and wouldn't have a problem. He said in effect what is being asked for tonight is a complete 180, there is a business plan and we see things in that business plan that look great and we have no doubt that Mr. Strauss is making a very strong effort to gain numbers but he is not asking to hold him to any business plan, to hold him to any levels, he has come before the board tonight and asked the board to give him a use variance and allow this to be a public golf course and we don't think a public golf course fits in the middle of a residential community, particularly given the deed restrictions on this property, and we think if the board were to grant this it would not only be in violation of what has been a consistent approach to zoning but it also would be in violation of the deed restrictions.

Mr. Lamanna said on the deed restrictions issue, the deed restrictions are the deed restrictions and from this board's standpoint, that is a private matter for the parties of the deed restrictions to enforce and really can't make any determination of what we (the board) ultimately do.

Mr. Hicks said generally that is true but at least with deed restrictions, Bainbridge Township signed off on them and Bainbridge Township is a party that has the right to enforce them, not only as a matter of law but specifically as a matter of contract in the deed restrictions so he says respectfully that he thinks the deed restrictions ought to be considered more in this case than in your average case.

Mr. Lamanna said yes but if the township and let us assume that what you said is correct, if the township could enforce these things itself as a party thereto, then the township would have to choose to do that and the only way they would choose to do that is if the trustees do and he does not see a resolution before him saying the trustees want to do that and he is not sure that even in that case, we still wouldn't be back to where we were, it is a private contractual matter even though it involves the township but we are here not to enforce the township's contractual rights, we are here to enforce the township's governmental interests. He said he is not saying that that changes anything, he does not think it makes a wit of difference to what the board's final decision is.

Mr. Hicks said what he will do is to underscore the compelling nature of the governmental interests here and again, what they are asking for here is a use variance and the board knows all of the factors that are considered in deciding a use variance and is the use consistent.

Mr. Lamanna said he does not necessarily agree that this is a use variance because it is a golf course. He asked Mr. Hicks to tell him how the operation as a public course would differ from the operation as a private course in any meaningful way as would affect the surrounding property owners. He said he wants to divide this into two parts and one is the golf course part and there is another issue that the board has to look at with the restaurant/bar because that adds another level of complications to this issue and he would like to look at them as one and then the other and not run them altogether because he thinks there are different considerations that are going to affect that.

Mr. Hicks said he does understand that there are different considerations but it is hard to separate them out because when you open this up to a public course, obviously one of the concerns you have is you have got people coming that aren't familiar with the area, they are not members, they don't come here regularly and anybody can come in and choose to play and choose to stick around and drink, there is going to be a liquor license, they are not familiar with the area and there is certainly a difference between a private club that has members and those members have a vested interest in the upkeep of that club and how its members are perceived and how they conduct themselves when they are on that golf course and are at that club versus opening it up to anyone who wants to come in and to act however they want. He said again this is in the middle of a residential neighborhood with relatively narrow roads and twisty roads and we just think there is a concern about just opening it up and having no limit on the number of people playing there on a given day, on a given weekend, at a given time.

Ms. Sass asked Mr. Hicks what his proposal would be and said she heard him start off saying that he hoped that Mr. Strauss is successful, so his proposal would be what.

Mr. Hicks said their proposal is done as a private club and within the term private there is obviously room for flexibility and we understand that because of the state of the club, he does not have a core base number and he needs to find a way to get that core base of numbers to make it successful. He said we support him opening it up at times to targeted designated groups to get them in to show them the facilities, to play a round of golf and to try to convince them that it is something they want to become a part of and we are fine with that but we think there is a drastic difference between doing that and marketing it as a private club, come out I will let you play, I would like you to consider joining versus saying it is a public club, come play whenever you want.

Ms. Sass asked Mr. Hicks if he has ever seen a proposal like that and be successful in generating business for a private club.

Mr. Hicks said he does not know, he is not a golf course operator, but what he does know is that the applicant bought the property with knowledge of the zoning and what he understood is he is now trying to some degree to turn that on its head and say because of the foreclosure, because of the condition of the club and because of the economic conditions in general, you should give me this but he does not think that any of those factors militate in favor of granting relief that he is asking for in fact they militate against granting him what he is asking for and in closing, five years is a long time and he has not heard a reason why he needs to be given this unfettered right to a five year period. He said he understands that he (Mr. Strauss) may have a business plan and he thinks that he can execute on that business plan every five year period but why not come back after a year, why not come back after two years and examine how it is doing and hear from the community and let them have feedback and obviously the biggest concern is if you give him everything he wants, five years is a long time.

Ms. Sass said and that proposal that you talked about, individualized drives to generate a private membership, is that proposal supported by the entire homeowner's association.

Mr. Hicks said yes, supported by the board, absolutely. He said he thinks Mr. Strauss hit on that tonight already, he has talked about these \$1,195 memberships and these other types of memberships, that is fine and we are not here to say that is not enough, that is too much, at one point in time he thinks something was said off the cuff, fine you want private, I will just have \$5.00 memberships and we do object to that. He said as far as him making a business plan and saying it will succeed at this threshold and this is what he needs to charge, we are not going to stick our nose in that.

Mr. Strauss said while he respects what Mr. Hicks has said here this evening, he disagrees with his assertion and Mr. Kraninger's assertion and he believes there are a number of people here from the community that will tell you that they do not favor a private club at this particular point in time. He said the board favors private, the board favors deed restrictions. He said he will tell you that and he told this last Thursday to the homeowner's association meeting that we had at the club, a town hall meeting, if private appears anywhere at this particular point in time, we might as well just take the keys, take the toys, close the club and just walk away. He said restricting it to open play at restricted times will kill this club, golfers don't choose to play golf one particular day or another particular day, if it is a nice day or if it is a rainy day, if you decide to on Thursdays from 11:00 – 4:00 it can be open for public play and that summer it rains every Thursday, where is he at that particular point in time. He said he disagrees with Mr. Hicks with lets look at it one year from now, two years from now, if we lived in Florida or California and he could have golfers on that course 12 months a year, he might consider it, at best we are six months. He said this board knows it, this community knows it and Mr. Hicks knows it. He said the majority of the income and revenue, and he can show the financial statements from 1997 to 2005 the majority of the income, 80% of Mr. Romanini's golf income came from May 15th to September 15th, 80% of golf revenue in a four month period.

Mr. Strauss continued by saying we have restrictions on that four months, we have restrictions on public and private play and he admitted we have no members, we have no one paying, when he closes the doors on November 1st, a week from Sunday, there is zero revenue until they can put a golf ball on a tee and hit it down the fairway, at best May 1st of next year. He said there are property taxes to pay, there is insurance to pay, there are utility bills to pay, there are salaried employees to pay from November 1, 2009 until May 1, 2010. He said Mr. Hicks said that we heard Mr. Strauss say, you make it private, he will charge \$5.00, there is no definition. He said that he stands here in good faith before this board, he stood in good faith before the Tanglewood board and said to you that is not that game, he is telling you his game, he is telling you his plan and his vision. He said 80% of their revenue comes in a four month period and we need this opportunity, Bainbridge Township needs this opportunity, you sit on a jewel, PGA tournaments, LPG tournaments, Bernie Kosar Open and some of the top quarterbacks in the NFL came to support Bernie Kosar. He said they had 1100 golf outing rounds and every golf outing has re-signed for next year, everyone loves Tanglewood and this is an opportunity to allow the public and there is no correlation between public play and private play and conduct on a course. He said he belonged in his lifetime to Beechmont Country Club, Signature of Solon and Quail Hollow and he can tell you the quality of golfers at those clubs and the quality of golfers on a public course are no different, they swear the same, they drink the same, and sometimes, pardon his comment, urinate in a tree the same, it doesn't matter, private or public, it is not going to change. He said he had 22 families that he supports, he has 22 employees and they have not had 22 employees at the club for three or four years and if they annualized their rounds for the short period of time they owned it, they would have done 16,000 rounds, everyone is going public, Acacia is opening up to the public next year, Stonewater, all of these clubs, Aurora may not reopen, we are in trying times in the golf industry right now, he put his money where his mouth is, the board needs to support that. He said he will close with this comment, he spoke to a realtor about a week and one half ago about the Tanglewood community home values, if you have a home that sits on the lake, it is worth \$50,000 more than a house that doesn't sit on the lake and if you have a home that sits on the golf course, the home is worth \$25,000 more than if it is not on the golf course. He said there are 120 homes on the golf course at Tanglewood, \$25,000 times 120 homes, if his math is correct, is 3 million dollars and if that golf course isn't there, and that golf course isn't successful, there is 3 million dollars of home values that will diminish in the Tanglewood community and that is what we need to address and that is what we need to focus on.

Mr. Lamanna asked about the history of outings that have been at the club in prior years.

Mr. Strauss said he thinks that the number range is between 2,200 and 3,000 rounds and you can't go by that because we could have 50 outings but we could have 30 of them when there are only 20 golfers so you look at it as outings and to be truthful, when you look at golf, people think if there are 16,000 rounds, there are going to be 16,000 cars but that is not how you judge a successful golf course.

Mr. Strauss said a successful golf course is based upon revenue, not rounds because the average fee that they earned this year per round was only \$27.50 because you have the free rounds and the rounds he gives to a charity or an auction and you have got outings that are only paying \$25.00 but then they are getting lunch so actual revenue that they are going to try to drive next year is the key, and the revenue that they are going to try to achieve next year to be successful is \$700,000, that is their goal and next year it is going to cost them \$400,000 at a minimum just to operate with a course and that does not account for the clubhouse staff, it doesn't account for real estate taxes or anything like that. He said to maintain that golf course, with equipment and employees and pesticides and fertilizers and miscellaneous equipment is \$400,000. He said he indicated that he listened to what the Tanglewood board had to say and in the presentation in the notebook he presented this evening and he is committed to that. He said they are not going to be a Grantwood, that is not their goal, nor a Glen Eagles or are we going to be a Pepper Pike club or a Barrington, there are different tiers. He said northeast Ohio has three tiers of golf courses, there are private high end country clubs, you have the low-end public courses, Tanglewood fits in tier two and that is their goal so the reality is when Mr. Kraninger and Mr. Hicks say that five years is too long, 80% of his revenue for the next five years is only going to come from 20 months, less than two years of golf and that is what they are asking for.

Mr. Lamanna said his problem with five years is if we go five years, then we are going to have to spend a lot of time here trying to figure out a whole bunch of potential conditions and other details to address potential issues for the next five years when it is a lot easier to say let us have a small number to see how it works and in two years we come back and look at it and say if this is working or not working.

Mr. Strauss said so to come back in two years, he will have eight months of revenue, you will judge me on eight months of revenue and you are putting conditions on me in December, January and February when no one is over there, you want me to abide by conditions when it is a non-operating business, put conditions on me during operating business, he is asking for three years as an operating business, 36 months, golf season is six months a year in northeast Ohio, that is six years, he is only asking for 36 months, you can't put conditions on a business that doesn't operate 365 days a year and expect in two years of eight months of operations to have solved the world's problems.

Mr. Lamanna said he does not expect to solve the world's problems, all he wants to do is be in a position to come back and see whether or not things have happened that we didn't anticipate so that we don't have to sit here and try to anticipate everything that might happen over a five year period.

Ms. Sass said to see if the membership drives are working.

Mr. Lamanna said yes.

Mr. Strauss said he does not have a problem with the review process, there is no problem with that, there are conditions, conditions on him, he meets the conditions and continues on that is all. He said the five years is important with a review after two or three golf seasons. He said on November 1, 2012, we come in with our books, we show you what we did in 2010, 2011 and 2012 and we show the community, we show how many rounds but the thing that disturbs him the most of the comments made by Mr. Hicks is he makes all these comments about a public course. He said to ask Mr. Joyce and he will tell you that since July 1, 2009 since we took over, he has not had one complaint about what is going on at Tanglewood National Golf Club. He said the only complaints he has received are from Mr. Kraninger and two other individuals who say he is operating outside the conditional use permit, not about the golfers, not about their attitude, not about what they are doing, that is it. He said Mr. Joyce who is the zoning inspector received the emails, the letters and not one since July 1st complaining about operations of the course, not one.

Mr. Olivier asked Mr. Strauss if he is planning on closing the course, restaurant if there is one and the bar from November 1st to May 1st and not planning on doing any business from November 1st to May 1st for five years.

Mr. Strauss said MRM Land Company is not. He said he is not going to mislead the board, they have signed a listing agreement for the sale of the clubhouse and what they do and what they come in and ask the board of zoning appeals to do, whoever buys it from him, that is their decision, he as a golf course operator is all he is standing here before you today, because that is all he understands the conditional use permit to be.

Mr. Lewis asked if the homeowner's association is aware that the clubhouse entity is for sale and being separated off from the golf course property.

Mr. Kraninger and Mr. Hicks replied no.

Ms. Sass asked Mr. Kraninger and Mr. Hicks if this is the first they have heard of it.

Mr. Kraninger and Mr. Hicks said yes.

Mr. Lamanna said that is why he said there is a big difference between the golf course and the clubhouse restaurant part and if you go and say now we want to establish essentially a commercial restaurant.

Mr. Strauss said that is not what he said and that is not how it is being marketed. He said the building is on the market for sale, he is in the golf course business, he is not in the wedding business, he is not in the corporate party business, he is not in the beverage business, he bought this for the golf course and there is a 27,000 sq. ft. building that is \$4,000 a month to heat in the winter and is 40 years old and there are issues with it.

Mr. Lewis asked if that is on a separate piece of property and if it is deeded separately.

Mr. Strauss replied no.

Mr. Lewis said if the building is sold, is the new owner coming in for a lot split because that takes it away as a separate business entity and a separate parcel from the golf course because you are in the golf course business so he is trying to see what is coming down the pike.

Mr. Strauss said what is coming down the pike is the change at Tanglewood National Golf Club for what it has been for the last 40 years to today and is not going to affect what has gone on the last 40 years. He said what he is saying to the board is that there were weddings at that building and there were parties at that building.

Mr. Lewis asked Mr. Strauss if he is selling all of his food service areas because part of the business plan takes into account food sales and if he is selling the restaurant is he serving food somewhere else on the golf course so that that revenue is specifically attached to his golf course.

Mr. Strauss said he has a complete vision and if he had a crystal ball, he would sell the building and the plan is to lease back the lower level, to gut it, to put a grill room in, a members' locker room, members' bathrooms and health club but he can't tell you that until someone walks in the door and says Mr. Strauss, here is a check for the building, here is what we want to do but in fact he will tell the buyer that he wants the lower level to lease back for \$2,000 per month, he will put \$60,000 into it and put in a new locker room and a grill room but he can't tell the board today, all he can tell the board today is he has to get golfers on the course and get revenue and turn this thing around and that is what it is, it is a turn around.

Ms. Sass said she wants to go back on the golfing issue and to the proposal that the homeowner's association would prefer to see and she knows that under Mr. Romanini's ownership, there were times that he opened it to public play. She asked Mr. Strauss how is what he is proposing different from the underlying approach that Mr. Romanini did and do you (Mr. Strauss) know if Mr. Romanini's approach to try and open it up and get the public in and if her recollection is correct to generate more private memberships, was he successful in that undertaking.

Mr. Kraninger said he does not know what was behind Mr. Romanini's attempts to get membership, he saw a lot of open play there which in his opinion was against the deed restrictions and covenants so he does not know what his intentions were, he can't go back there. He said their (Tanglewood board) proposal in all this is to have a private club with lots of room for open play when members don't want to play and the members would have to reserve time so far in advance and after that it would be open for other people to come and play, try the course and play.

Mr. Kraninger continued by saying an option to start thinking about is two or three weeks in advance a standing member would have to call and make reservations and within that window of time within a week or two whoever else who would like to call up and fill in the rest of the time would be open to because the idea would be membership has some privileges but Mr. Strauss has to fill in the rest of the playing time, the club would be a private club and as far as he is concerned along with the board makes perfect sense. He said they would call it a start-up private club with less flexibility on allowing open play and open play as opposed to calling it a public course and letting anybody play anytime they want and Mr. Strauss is saying his intention over time is to build it back into a private club.

Mr. Lewis said so it is being suggested that he can sell his rounds to anybody anytime and a member would have a first right of refusal on a time slot if booked in advanced but not reclassifying the course as public.

Mr. Kraninger said correct.

Mr. Lewis said that would be the homeowner's association position on that and the counsel is okay with that also.

Mr. Kraninger said yes.

Mr. Lewis said he is just trying to garner the homeowner's association position on this with accuracy and added that he thinks he has it now.

Ms. Sass said it goes back to the last meeting when it was addressed, we had an observation by Ms. O'Neill who said having had discussions with both of you, you were not terribly far apart in resolving these outstanding issues and it still sounds as if it is the same although we are calling these animals different creatures. She said with that in mind, she would like to hear what the public has to say again.

Mr. Jim La Rocco of 8661 Tanglewood Trail testified that he has lived in Tanglewood for 25 years and has been playing golf at Tanglewood Country Club for 25 years and he thinks what everybody has said is accurate in terms of open play or public play and does not see that the homeowners and Mr. Strauss are very far apart. He said he is not clear about having public play and as he understands it jeopardizes the deed restrictions so it would be pretty unacceptable to him to call it public play which jeopardizes the deed restrictions and violates our rights of the board with the country club.

Mr. Brad Ross of 17491 Merry Oaks Trail testified that he does not see the thing that the community is against the golf course, people using the golf course and encouraging membership. He said there is a sense that we don't have all the details of what the intent of this land is and as a homeowner, when he purchased the property, he read the deed restrictions cover to cover and he made a choice to buy in a planned community versus a county, township or somewhere else just based on the fact the course offers some protection as a homeowner, so he does not see it as the community is opposed to promote a successful business that serves as our green space but there seems to be stuff that we are not privy to, there is more to the story that is not coming out that is not being evaluated as the total picture. He said just today he found out they are looking to sell the other buildings to do other things with the property so we are not addressing the totality of what is to happen with the land within the community so to that point, he thinks it is a consideration that the deed restrictions and the use of the land be considered and he does not think the board, if you look at what has been presented, as the definition of private really contradicts what has been good for it, a golfer looks outside and sees a sunny day and they decide they want to play golf and they call the golf course and if there is no compete time, they can play but if you look at what the board has suggested, you will see that it is right in there, the only thing that is different is trying to encourage the way the community and the land can be used and also being a bit guarded in making sure we know everything that is happening, not just build this thing piecemeal as we go along the way. He said it seems as though there is one more thing around the corner.

Mr. Lewis said there was one thing he did not get when he was making his notes from the Tanglewood Homeowner's Association position and the one thing he did not get a real finite understanding of was that if it stayed titled private but relaxed to public, he wants to be sure he understood what time duration you (Tanglewood board) were okay with, that relaxed period and he does not perceive it as indefinite but he did not think it was just for one day.

Mr. Kraninger said in their letter to the board, dated the 14th, we suggested two or three years, not knowing what might be definitive one way or the other or how he might go with the board's feeling or the BZA might be feeling on this but, five years we definitely feel is too long and their preference would probably be to renew every year but in talking to Mr. Strauss, he acknowledged to him that one season alone is not enough and he probably should have an opportunity to build membership and to have this open play versus public play to build this membership and it would take a couple of years minimum to be able to see how this is going and if it is going to be moving in the right direction or if a private club will never go again and at that point in time, in two years, Mr. Strauss and the community can take a look at it again to see if we really put hardships on Mr. Strauss and we really don't know because the first time he saw this plan was a week ago and it is really just being laid out now and what happens when he broadcasts this or when he tries to draw in membership and gets his membership, allows some open play and work within the definition, who is to say that within a year or two it would be very much successful, he does not know.

Ms. Sass asked if anybody has numbers and she asked the question about whether we saw any kind of effect from Mr. Romanini's opening it and calling it whatever you want to call it, do we have any numbers.

Mr. Strauss said it went in the toilet and that was 1999. He said the problem is this, you can't judge Tanglewood by what Mr. Romanini did or didn't do. He said Mr. Romanini didn't pay his real estate taxes.

Mr. Lewis said we understand the history.

Mr. Strauss said he has always come to this board and said what he is going to do and how he is going to try and accomplish that and there is no definition of a private country club or private play and their deed restrictions are the conditional use permit. He said it is not a threat, he can charge \$5.00 but what you are letting Mr. Kraninger and Mr. Hicks do this evening is let them dictate how I am going to run my business, when open play can happen, when times, two weeks in advance, this or that. He asked Mr. Ross how many times he has played at Tanglewood this year.

Mr. Ross said he does not golf, he did join the previous golf course and attempt to try to foster its success for the community but he is a non-golfer so even though he is not a golfer, he has spent a lot of time, energy and effort as a vested member of the community to attempt to support it and he has even gone as far as to suggest some level of membership that he could participate in that doesn't have golf tied to it.

Mr. Strauss said there is no money to provide right now today for a social club, it is golf and it may not be the right thing to say and referred to the members who sit on the board but they want me to be a private country club so I would accept their \$850,000 offer to buy the course from me, give up my development rights and give up my mineral rights, that is what the letter is to me, that is what this is all about, it is pressure on Marc Strauss to buy this thing for \$850,000 which they offered to me and he paid \$1.45 million. He said he will tell the board and the paper this, the Tanglewood residents got an assessment of \$300 per home, I will walk out of here and shake your hand, you give me my \$1.45 million back and you (Tanglewood board) make it work as a private golf course. He said the board needs to know where this is going, the board does not enforce the deed restrictions, the board has to enforce the zoning code of Bainbridge Township and where this is going is that they don't want gas wells, they don't want development, they want a legal defense fund, they want to shove it you know where for \$850,000 and that is why we are here tonight. He said if he would have accepted their \$850,000 offer, he (Mr. Kraninger) would not be sitting here right now.

Mr. Hicks said he is not sure that the discussions that have been had that Mr. Strauss who has been a willing participant to about the purchase are that relevant but it seems to him that he (Mr. Strauss) is neglecting to tell the board one point. He said he believes that all of the discussions about purchase have included essentially a lease-back for another vehicle so Mr. Strauss continues to operate the golf course so the suggestion that has just been made to the board that there is some effort to shake Mr. Strauss down for \$850,000 to get this land and get him out of here is not accurate.

Mr. Strauss said absolutely it is.

Mr. Lamanna interrupted Mr. Hicks and Mr. Strauss and said it is not advancing the board's work here and it is probably irrelevant to what this board is doing.

Mr. Hicks said he agrees it is irrelevant but one thing he sees happening here is there seems to be this challenge being made and there is an effort to suggest that the association bears the burden in this proceeding. He said the association is not the applicant here tonight, the course is the applicant and the course is asking the board to make a rather drastic change to say give me five years with no restrictions on me whatsoever. He said the board has not heard a single piece of evidence tonight, fact versus the opinion of someone with a vested interest, he seems to point the finger at my client and say they can't be believed and they can't be trusted because they have a vested interest. He said everyone here speaking tonight has a vested interest and the board members are all capable of weighing that but the board has to make a decision tonight based on evidence and what you have heard repeatedly he thinks is that 80% of the revenues come in a five month period and that is not unique to Tanglewood Golf Course, that is the case with any golf course in northeast Ohio and guess what, that was the case with golf courses before Mr. Strauss and his entity bought the golf course and everything he has told you tonight about a justification on this must be private is something that he knew before he bought the course and he is now using that as a justification of why you must change the restrictions so the restrictions that were on the course and he noted a few circumstances such as the recent foreclosure, the public auction and the economic conditions, those are all things that impact the price of this asset and what he had to pay for the asset. He said you the board is being told that because of all of these things you have got to change it and he needs it to be public and that is not the case. He said there needs to be evidence to make this drastic change and you have heard no evidence to support that.

Ms. Sass said she would like to hear some numbers on memberships and she understands that Mr. Romanini may have had questionable business practices and what he paid and what he didn't pay but when there was an opening to semi-public or periods of time when it was open to the public, was there any kind of correlation in the status of private membership and that is a numbers question and asked if there is any way to gather that information to see after it was opened for six months, private membership, we had a membership drive and it increased by X.

Mr. Strauss said Mr. Romanini never opened it up for public play unless someone walked up and put \$50 in cash in his hand, there were memberships, it was \$1,000 for a single person to play for the year, it was never a public course ever when Mr. Romanini tried to do it. He said he (Romanini) offered packages, he offered ground packages, he did all of those things, some of the things we are talking about doing but again, all we have to do regardless of what Mr. Hicks says or what Mr. Kraninger says, Sandrich in Mayfield merged in the last couple of years, Acacia is open for public play, Aurora went into foreclosure. He said golf in northeast Ohio is opening up for public and people are leaving the private clubs at alarming numbers and there are only two private clubs in northeast Ohio that gained members last year, Beechmont and Canterbury. He said Canterbury because of the fact they were having the senior PGA and they were waiving their \$30,000 initiation fee if you agreed to pay dues for two years and Beechmont did the same thing. He said those are only two clubs and we belong to Quail and Quail lost 508 members, gained 510 members, lost 90 golf members, we dropped out of Quail, it is \$350.00 per month and it is not because we bought a golf course it is because we can't afford it, there is no money, we dropped out, I am a golf course owner. He said his kids love to swim and play, they have a great pool, a great clubhouse, they've got good food, it is a warm atmosphere and they have a lot of activities but we can't afford it right now and when we go back to it, if the Chagrin Valley Times runs an article next week and says Tanglewood National Golf Club denied public play to remain private, 50,000 people who get the Chagrin Valley Times will know that they can't come to Tanglewood regardless of whether it is true or not, they can't play Tanglewood next year unless they join because it is a private club and Strauss did not get his public play. He said it will be devastating and he can't reverse those 50,000 people to get to the course to say he is doing improvements, it is looking good and he has put together a decent dues structure, it is \$175 a month or it is \$150 a month or weekday play is \$150 a month. He said he has never stood up here and said to the board he wouldn't love to have 300 members paying him \$250 a month and that is \$900,000 per year but the bottom line, it is not going to happen. He said it is said he does not have a plan but that is what we discussed last time, he sat down and put together a 40 page business plan, put it together in categories, memberships, offered family memberships to the Tanglewood homeowners and they sit here and they say, try to do private. He said he will tell the board what he told Mr. Kraninger and these are the true facts, there are 600 homes, we did about 10,000 rounds in about 90 - 105 days and 18% of the rounds came from Tanglewood residents and he can back that up. He then said they are not supporting it and if they want to live by the deed restrictions, support the club and that is what he wants. He said if you want it private, support the club but it is not being supported. He said there are 600 homes, lets take 1/2 of those residents and pay \$250/month or \$3,000 per year, that is \$900,000 and he would be happy. He said those 300 people can come and go whenever they want and play golf whenever they want but it is not happening today and it is not going to happen anytime in the near future. He said you read the paper everyday and he is a developer and Congress is now talking about extending the \$8,000 tax credit to next June. He said they thought they were going to turn the home building industry around but it hasn't turned around and referred to Squires, Sanders & Dempsey.

Mr. Lamanna said that is not germane to this issue.

Mr. Strauss said the main thing is, are we going to let Tanglewood come back or are we going to stymie it, that is what the bottom line is.

Mr. Lewis said he was looking at the business plan and he cannot locate the real hard economic model in it of what the revenues are, what the fees have to be, what it means to total out and what your bogie is and said to Mr. Strauss that he must have it if he is able to acquire funding from investors or whomever to buy this, he just can't find it.

Mr. Strauss said he is not going to turn over his proprietary numbers as far as revenue.

Mr. Lewis said he is trying to get an understanding, you (Mr. Strauss) are telling me that you need public play because of economic duress but you can't show me where you are suffering other than yes we are having talks about the hardship on the economy. He said if you couldn't survive the course, why buy it and said again he is trying to understand this.

Mr. Strauss said he could survive it.

Mr. Lewis said not under the terms that you bought it. He said it was a private course so now you got it and you need some relief.

Mr. Strauss said the bank asked for relief and you gave the bank relief and you understood it when you gave them public play until the transfer of ownership. He said the only reason why he is here owning this club today, truthfully, is because they did not get their vote in time to bid it at the public auction, their vote was confirmed June 16th. He said all he thought truthfully, and maybe it is his fault, but he was their bank, he saved them. He said they went out and got an assessment from up to 1.7 million dollars and he saved them \$650,000 if you look at it. He said he is their bank because they don't want gas wells, they don't want development and Mr. Kraninger wants a legal defense fund to fight me.

Mr. Lewis asked if gas wells are planned for on the golf course by Mr. Strauss.

Mr. Strauss said not currently but if it is private he may have to because he has to have revenue to meet his bills and make expenses but he promised everyone of the homeowners in Tanglewood that if they work out a deal based upon that assessment there will never be a gas well, there will never be another house built and all of those things will transpire. He said this was supposed to be a partnership, this was supposed to be an agreement and a deal and now it is not and it is not because they want to buy it from him for \$850,000 and want his mineral rights. He said his mineral rights are valued at \$375,000 because he had them appraised so really what they are buying is a golf course for \$475,000. He said they want his mineral rights and the golf course for \$850,000. He said to ask them, that is the offer.

Mr. Hicks said he thinks we are kicking a dead horse and he wants to bring this back to the zoning issue because he thinks we got side-tracked. He said from their (Tanglewood board) view this is pretty simple. He said Mr. Strauss took control of this course earlier this year and no one has asked that he has made efforts and he has done some nice things but what we are saying is that it is far too early that after these few months it is clear that this can't be a private course because that is Mr. Strauss' opinion and we should just give in to what his opinion is. He said Mr. Strauss has told the board that he is disappointed that only 18% of rounds have been played by Tanglewood residents and that he hasn't gotten enough social memberships from Tanglewood residents but again we are still early in the game and he knew this when he bought it but we are a few months into this and to make this drastic change that he is asking for based on a few months and what he perceives to be his lack of success, he does not think you can and should do that under your zoning and you also have to ask yourself if there has been a lack of success so far, what is the cause of it and you can't just force it upon Tanglewood residents and say Tanglewood residents haven't been supportive. He said as Mr. Ross pointed out tonight, he just heard for the very first time that most of the improvements that would be useful to someone that buys a social membership are up for sale and Mr. Strauss said he can't speak to what might happen with those improvements, he may not be the operator so he can't tell the board anything that may happen. He said naturally that is going to impact the willingness of a Tanglewood resident or a Bainbridge resident to decide whether they want to pay a membership fee to join when there is no certainty whatsoever so that is what we are asking for tonight, we are asking for some certainty, not to take all of the restrictions off and for a five year period, Mr. Strauss gets to do whatever he wants to do because then we have no control.

Mr. Lamanna said we should step back to the beginning here. He said the way he sees it is Mr. Strauss wants to attempt to generate some kind of a membership situation and obviously he is going to have to do this over time and in the mean time what he would like to do is fill in the play by essentially making it open or open/public. He said he is assuming that he is going to pursue this in good faith, he doesn't know why he wouldn't because it certainly seems to be in his economic interest to do so and if it develops successfully it is going to be to his benefit, he does not see something here that would indicate that this thing is a ruse and there would be no point in him doing this. He asked what if he makes all reasonable and good faith efforts and two years from now 25% of his play is annual memberships and the other 75% isn't, then where are we and asked for an opinion at that point in time.

Mr. Kraninger asked what would the Tanglewood association do, if he has made every effort and earnest effort to try to get a private club established with memberships and open play and hasn't been able to do it in two to three years, then he would say maybe it should be a public club.

Mr. Hicks said at least there would be much greater willingness to examine that possibility then we think there ought to be after a few months.

Mr. Lamanna said but in the mean time you are acceptable to some kind of controlled open play while he tries to develop this within the parameters that this is going to be run with the demeanor of a private club or whatever that means.

Mr. Hicks replied yes.

Mr. Lamanna said he tends to agree that you can find many obnoxious people on a private course because they think they own the world as they do sometimes on a public course because you have people whose general etiquette and manners is not at the same standards as you might desire. He said that is hard to gauge but we can certainly put in the conditions that hold him to those kinds of standards. He said he does not see that we have got this huge chasm between the parties here. He said Mr. Strauss would like to have this defined for a period of time and from the board's standpoint, it is a lot easier to say what the parameters are and then it will be reviewed again in two years to see if the board needs to make a mid-course correction, to see if things are going the way they should be going, or unanticipated problems that could develop that Mr. Strauss may need an adjustment to help him or issues with the neighbors that need to be addressed plus there will be the opportunity to fine-tune it without trying to see here with three crystal balls to figure out what is going to be happening going forward. He said at this point he will give other people a chance to make comments.

Ms. Sylvia Piper of 17630 East Brook Trail testified that she used to golf but she wants to mention the fact that there are 596 homes in the Tanglewood vicinity and 315 of those are condo owners, there are only 281 homeowners and how can a man be successful with 281 because the condo owners are widows, retirees, people that are divorced who are fighting their husbands in court for alimony so where is this going. She said as far as catering is concerned, he could get a catering company in there overnight, she was a caterer and manager for the Marriott for 5-1/2 years in Beachwood and that is easily done so if you want the man to be successful, give him a chance.

Mr. Skip Walter of 17546 Fairlawn Drive testified that he is the president of the Tanglewood Greens Association condo owners and there are 60 owners and they are one of nine associations. He said he is not on the board of directors for the Tanglewood Lake Association but he certainly wants them to be successful as a homeowners association and to do that we are inextricably tied to the future of whatever that so-called green space is or is going to be. He said he has lived here for 22 years and it has taken more than five years which is the time Mr. Strauss is asking for in terms of turning the club around and building it back up to whatever it can be and he does think that there needs to be some review time set in that process and the homeowners he has spoken with are in agreement with that but it has been more than five years for the club to find its way to the foreclosure state, it is probably going to take at least five years of good weather, fair skies and lots of positive talk about the club to build it back. He said relative to the type of golfer you would have on a private versus a public course, he remembers when they had all of the so-called outings here, the Kosar Open etc. and if he is not mistaken, most of those people who came to those outings weren't members, they were public players and they conducted themselves generally speaking in a gentlemanly fashion.

Mr. Lamanna said with one exception.

Mr. Walter said that is a problem anytime you bring people together so his concern as a homeowner is, and the reason he is active in his association is he wants to make sure he has a hand in whatever the value is in his home, this association and this community moving forward and that is why he moved here originally because it had great value, it had amenities, the kids all grew up here and now he has younger families in the community now and they have kids that want to grow up here. He said we have an opportunity here and he thinks the central issue is, do we help this club get back on its feet if in fact it can be a club and put some sensible parameters around it or do we just concern ourselves with terminology and he thinks we need to be big people and realize that as the club goes, so will the value of the houses and so will the community. He said the board certainly sits in the cat-bird seat to make the ultimate decisions but he thinks we need to give this gentleman who is the new horse in town the opportunity to saddle up and get on down the trail and give him every opportunity and every support that we can because he is the best game in town right now and it sure beats the way that course looked before he arrived on the scene, he has made tremendous improvements, he has more on the drawing board and what we didn't hear tonight and he will throw it out is that he has already formed basic focus groups for homeowners to give him input on how to develop the club not only as a national golf club but as a social community responsive club and that is from most of the homeowners he talked with because most of mine don't play golf. He thanked the board.

Mr. Olivier asked Mr. Strauss regarding the issue of marketing the club and marketing the club as a private club with open play and marketing it as semi-private, marketing as public and asked why he feels there is such a difference in how you market the club if it is open play, Tanglewood now has open play for the next two years or if you are a Bainbridge resident you can join Tanglewood for \$200.00 and have unlimited pay to play golf, that meets a private criteria but it opens it up and is advertised to the Bainbridge community as an opportunity to come and play at Tanglewood for the next couple of years. He said Mr. Strauss made comments that it has to be public to market it, does semi-private not work, does private with open play open at certain times or unlimited open play for 2010 or some of those aspects and asked for Mr. Strauss's opinion.

Mr. Strauss said he is glad that was asked because they had done marketing studies and they have hired some individuals to give them a focus on the difference between public and private definitions, the verbiage and the usage of it all. He said people are expecting something from the people we talked to and they are expecting to see is it going to be private or is it going to be public and the problem that they have is that people have been run away from Tanglewood over the last several years, in their mind, when they think of Tanglewood they refer to it as a cow pasture, and the greens were cracked with weeds in the bunkers and things like that. He said they have been led to believe and he told the homeowners when he tried to buy this in April of 2008 that he did not know anything about golf courses but he will surround himself with people who do and it will make him better and Tanglewood better.

Mr. Strauss said he surrounded himself with those people to tell him what is the key element here and the key element is you have to reacquaint and bring back and invite the public to Tanglewood because the minute they see private, semi-private, open play at restricted times, they are going to say they need to plan farther in advance and that is not what the public does because things come up. He said their kids have tee-ball, or softball, summer vacations or if it rains on the days it is open for public play so therefore they think they can't play Tanglewood this week because it is only open on Tuesdays and Thursdays for open play. He said he has told the board before, he has no problem with the review process, what he needs, the best advertising that he is going to achieve to make this turn around is for the Chagrin Valley Times and the Spirit of Bainbridge and some other paper to say Bainbridge Board of Zoning Appeals allows open play at Tanglewood National Golf Club for the next two years and he can't buy anything better than that. He said if the Chagrin Valley Times or the Spirit of Bainbridge and Crain's tomorrow said Bainbridge Township Zoning Appeals denies Strauss' request for public play, Tanglewood National to remain a private course, he might as well put a key in it and just walk away. He said he told the board at the last meeting that he offered three years of unlimited golf for \$5,000 with a 6% return and you get your money back in three years, he only got 34 people to do it. He said he announced a family membership for \$1,195 to the Tanglewood residents, they put a flier in everyone's mailbox and they only got four people to sign up, it is \$6,500 at Stonewater and \$4,500 at Acacia, it is \$1,195 and on top of it what we haven't gotten into today is there are seven bridges on the course and every one of the bridges need to be replaced. He said his insurance company told him he needs to replace every one of those bridges this winter to a tune of probably \$3,500 or \$5,000 a bridge, he is going to have to replace a pump station that is going to cost him \$35,000 so he can irrigate the course to keep it green. He said he has seven bunkers that hold water the minute it drizzles so it is going to cost him \$3,500 for each of those seven bunkers to replace the drainage and everyone of those bunkers needs new sand and he needs 10 semis of sand at \$3,000 a semi and said he is committing that to Tanglewood National because he wants it to be successful but he just gave \$100,000 in improvements that he has to do this winter just to get those people back. He said do you know how many rounds he has to have at \$35.00 or \$40.00 a round just to get back his improvements, not paying his employees to get your bag out of the car next year or wash your clubs at the end of the round or cut the fairways or rake the bunkers or buy the beer or the hotdogs or whatever.

Mr. Lamanna asked Mr. Strauss that if the board said he could have open play if he could live with that.

Mr. Olivier asked Mr. Strauss if open play on a private club works for him, not that you have to say the word private club.

Mr. Lamanna said memberships and open play.

Mr. Hicks said that was what we said the entire time.

Ms. Piper said what she does not understand is that in Florida, the majority of golf courses are all public and that is where you get an opportunity of meeting one another and those people are from all over the country.

Mr. Lamanna said he does not to try to debate the changing nature of golf courses.

Mr. Olivier said if we give him open play for a couple of years there is an opportunity for the homeowner's association to look out to its residents and ask what the residents want. He said you vote to change the deed restrictions and if the majority of the people want public play in these next two years, you can come back with a deed restriction change and you can champion it because you are a member of the homeowner's association and you can make a change and come back and it is in support by the homeowners, it is a step closer.

Mr. Alan Cubberley of 8708 Lake Forest Trail testified that Mr. Strauss can do that as a member of the association, he can take a petition to the community and get it passed and have their deed restrictions changed to public play.

Mr. Strauss said he was told he is not a voting member, he can't do that.

Mr. Hicks said he does not think the question is whether or not he is a voting member, he could circulate a petition but the two are very separate things. He said Mr. Kraninger's letter to the board was clear that the association would support some open play to try to gain members and that is what seems to be the chasm between us and Mr. Strauss said something in response that is he needs open play in order to reacquaint people with Tanglewood and all we are asking is that when we are trying to reacquaint people with Tanglewood, the theme is consistent, I'm trying to get you to come back to Tanglewood and join a private club, not that I'm trying to acquaint you with something brand new which is a public golf course and that is the difference between our positions.

Mr. Bill Oler of 17118 North Brook Trail testified that he has been a Tanglewood resident for 16 years and he thinks the whole question here is about value and he does not think anybody in this room has any doubt about the fact that Mr. Strauss wants to build value and the values are going to spill over to the values of Tanglewood but before we put a fork in the aspect of Tanglewood being a private course, he suggests that we give him three years of open play to enable us to get a good baseline and establish whether or not these economic trends are sustained or are going to reverse. He said one man cannot change the economy and for us to expect any different is fallacious and he thinks the reasonable thing is for this board to adjudicate on the side of a man whose entire financial future is on the line by allowing him to make some decisions that will contribute to the overall value of this community. He said he has no doubt that that will happen, he just wants to say he hopes the board is reasonable and comes to that conclusion and makes the right decision about this matter.

Mr. Lamanna said a collateral issue came up here and it is right now the board is addressing only the golf part of this thing, but there is still a question of the clubhouse, restaurant, maybe a pool and those ancillary situations, they raise a lot of issues very distinct from the golf course itself, especially if you are talking about some kind of future plan of somebody buying it to make it a party center, which he thinks is not the kind of thing that is going to fly because then you are talking about a flat out use variance to turn this thing into some kind of separate free-standing commercial enterprise that is not an ancillary operation to a golf course. He told Mr. Strauss to be aware of where he is going down that path because this is stepping into a whole different set of issues and if somebody thinks they are going to come in and buy that piece of the property and use it for something as a free-standing commercial enterprise or semi free-standing commercial enterprise, that insinuates totally different issues than the golf club does. He said he can go a long way towards looking at operating the areas as a golf club in various forms and manners and still keep within the zoning. He said if somebody comes in and wants to put a party center here, he thinks that is going to be an extremely difficult sell and he does not know what basis the board can ever support such a thing and he does not see any facts that can be brought to the board or they could ever justify that kind of a variance. He told Mr. Strauss to just be aware and he does not want him to go forward with some kind of illusion that if we go forward on the golf aspect of it, that it says anything about how we deal with the restaurant/bar aspect of it.

Mr. Strauss said he understands what the board is trying to communicate to him but this is not a commercial enterprise, all he is simply saying is that Marc Strauss and Tanglewood National Golf Club and MRM Land Company don't want to be in the food and beverage business but there is a food and beverage segment of the overall golf operation.

Mr. Lamanna said to Mr. Strauss that he may want to sub-contract that whole piece of it out and just have somebody pay him a percentage of the revenue or something like that.

Mr. Strauss said correct but use the lower level for a grill, indoor driving, locker rooms etc.

Mr. Lamanna said obviously those are things that are ancillary to a golf course, he does not think anybody has an issue with an operation that is incidental to the golf course and will serve golfers coming there.

Mr. Strauss said he did not want anyone to be misled by him this evening when the sign goes up next week that the building is for lease or such to do that to assist in the golf operations and he does not want anyone to ask why didn't he tell us about that the week before.

Mr. Lamanna said that is fair and he just wants Mr. Strauss to make sure he understands.

Mr. Strauss said as he mentioned, there were some discussions about purchasing it but they have not come to fruition and he has to do what is necessary to make this successful and to take this to the next level if other things aren't going to come together to help generate revenue.

Mr. Ross said as the board is making requirements for revisiting he would ask for one condition to change such as incidental to the golf course and along that line and he would like to be a trigger as far as the conditional use as well because one of the concerns he has with the people he talked with in the community is not so much the fact that the golf course's operation, it is the property as a whole and this is the first step toward a multi-phase approach toward a bigger goal and vision.

Mr. Lamanna said unfortunately we can only address what is before us and that is why he was making the point now, as a practical matter, if he wants to separate this off and try to sell it, he is going to have to go and get approval for a lot split, and he is not going to be able to get an approval for a lot split unless the existing thing complies with zoning which means he will probably have to be right back here before us before the county will approve that.

Mr. Joyce said most definitely.

Mr. Lamanna said before anything goes too far, it will be back before the board for that particular aspect of it and it is a lot easier to consider a specific proposal than it is to start trying to figure out what it might have for the future but he just wants to make sure the applicant understands that what we are doing with the golf course has a whole different set of parameters than the food service side.

Ms. Piper said she has a lady sitting next to her with 16 holes in her back yard so she is a resident and she said it was wonderful this summer to see golfers walking around and golfing.

Mr. Murphy said he sees both sides and he understands the time involved with the short season etc. so he would go for three years as opposed to two or five.

Mr. Lamanna said the board can make it a condition to come back in three years. He asked the representatives from the association if they are comfortable with three years.

Mr. Kraninger said he is comfortable with two or three but not five.

Mr. Lamanna said obviously if some problem develops beyond the restrictions the board can deal with that even sooner.

Mr. Lewis said either party can ask to revisit.

Mr. Lamanna said there are going to be some conditions here in the interim, it is not a totally free hand but we are in the situation where in three years we can come back and look at it and decide what other essential conditions or operational limitations might be appropriate.

Mr. Lamanna officially closed the public hearing portion for this application.

Mr. Lewis said he likes the terminology of open play, it doesn't reclassify it but it gives the applicant the phraseology to take it to market and not scare people away because of using the word private that way you can get golfers out and you can begin to re-present the golf course to market and start to develop it to what you want, you will have revenue and maybe you can work towards private play in three years, we have our fingers crossed for you.

Mr. Olivier said he would like Mr. Strauss as he goes through these three years to track the types of memberships he is selling, what seems to be working so that in three years if it is a \$250.00 family membership that seems to work and we are moving towards that then we can come to some agreement based on trends of memberships that you offer because you certainly have a wide variety of them and initially you were going to ask for semi-private and you certainly seem to be getting into the flavor of semi-private with memberships as well as open play so certainly he would like to see Mr. Strauss track that information.

The board reviewed this conditional use request.

Mr. Lamanna asked if there are any operating hours issues in terms of when it is going to open in the morning.

Mr. Strauss said their first tee time in June or July is 6:50 A.M. until Labor Day we send them off at 6:50 A.M. otherwise it would be 8:30 A.M. or 9:00 A.M.

Mr. Lewis said regardless of how it is classified it has always been sunrise to sunset. He asked where we left off with residents having preferential access to tee times and did we resolve that so that if a gentleman calls the clubhouse and he is a Tanglewood resident is it the first available tee time.

Mr. Hicks said their concern is more if you are keeping the essence of this as a private club then at all times members of the club are going to have preferential tee times.

Mr. Strauss referred to memberships that you get a 20% discount during the week and 10% off on weekends. He said they are going to have an unlimited weekday pass, they are going to sell passes and he is going to sell them during the winter and it would be great if he was private but we just went through one of the worst October's ever, if he had 300 people pay him \$250 a month he would have gotten in \$75,000 this month as opposed to where they are right now and their revenue is about \$19,000 this month so in a perfect world he would love to be a private country club and if 300 people would pay him \$250 a month, we wouldn't be sitting here.

Mr. Olivier said he is not condoning a floor on the rates and not suggesting a floor on the rates but he is wondering if there are any issues relative to them and he understands from the last time Mr. Strauss was before us that he wanted to discount the rates on the slower days so he wants to make certain there are no issues on him offering better rates than what was previously restricted.

Mr. Strauss said he can address that and because the rates are where they are already, he is not going to be offering a tremendous amount of discounts because people will sit around and wait for those discounts and not come at another time and if you are charging \$30.00 you get a pretty good value for \$30.00 so the fact that they will offer discounts, yes maybe they will find that between 10:30 and 2:00 on a Wednesday, they are not so busy so they will do that.

Mr. Lamanna asked what the base rate will be for weekdays.

Mr. Strauss mentioned last time that it will be \$30.00 during weekdays and \$40.00 on the weekends and he is not going to go below that.

Mr. Lamanna said the board has 27 pages of former conditions, some of which were temporary.

Mr. Olivier asked if the board has looked at all of the conditions and one he always recalls is you couldn't have more than 300 non-resident members because when it was first built, they wanted to make sure the homeowners had an opportunity to join the course and that was a concern of the township to limit to no more than 300 non-resident members.

Mr. Lamanna said that is not really an issue.

Mr. Olivier said that is a former condition that has been there from the beginning and he doesn't disagree with working through the conditions.

Mr. Strauss said he thinks the flip side to that would be if he only had 200 Tanglewood members he should be able to sell 700 memberships outside the community, you are giving me 300 outside the community and with 600 homes he should be able to have 900 memberships at any given time.

Mr. Olivier said assuming they knew how big Tanglewood was going to grow to be at the time it was permitted, which he has no idea, he heard Tanglewood has changed the iteration over time and more condos got in but he does not know.

Mr. Strauss said probably the most successful club right now as far as the numbers is Quail Hollow and they have 535 members and they are the most successful in the area with two golf courses.

The board reviewed the prior conditions.

Mr. Lamanna said there is a condition from 1997 that has to do with parking cars on the grass.

Ms. Sass said the board may want to have a work session to work through all of the conditions.

Mr. Hicks said he doesn't think it is necessary to review every single condition unless the applicant is seeking relief from a specific condition and we address the issue we were here about.

Mr. Lamanna said there have been a lot things that have been resolved over time where it is no longer germane but the only thing that is still relevant is no parking on the lawn along Tanglewood Trail because they used to park cars there and it makes for a real hazard if there are cars parked all along the grass in front of the clubhouse and they were even parking on the other side of the street so it is a little harder now with the curbs than it was in the past but nonetheless it created a lot of issues.

Mr. Olivier said other than that, leave the conditions as is and he has the right to come up and petition a change to the conditions.

The board discussed the application and the existing conditions.

Mr. Strauss said if there is a problem, we talk about it and we deal with, he does not have a problem if it is three years open play, and the conditions are, selling memberships and the number of memberships that he put in his business plan, if you take out the 200 family social memberships, there is probably about 150 memberships that they want to sell between single unlimited, couple unlimited, family unlimited and corporate memberships and all of the other things, he has not a problem with that being a series of category memberships that they are going to offer over the next three years and even expand upon so open play will be the beginning of those memberships they are going to offer.

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

Motion BZA 2009-18 – 8745 Tanglewood Trail (Tanglewood National Golf Club)

Mr. Lamanna made a motion to grant the applicant the conditional use permit with respect to the transfer of ownership and the operation of a golf course for property at 8745 Tanglewood Trail.

The following conditions will apply to this conditional use permit.

1. This permit shall be subject to review and re-examination after a period of three years on February 1, 2013.
2. The applicant will use all reasonable efforts to implement his annual membership drive plan as he has outlined in his business plan/development strategy that he submitted to the board and while he is doing that he will be permitted to have open play.
3. The applicant will operate the club in accordance with the code of conduct that he has also submitted and to otherwise maintain the demeanor as would be expected from a private club.
4. The applicant will have a base rate of not less than \$30.00 for an 18-hole round on weekdays and \$40.00 on weekends or holidays.
5. The applicant will not permit parking of automobiles on the grass areas along Tanglewood Trail and Sugar Hill Trail.
6. The applicant will mark all private lot areas along the course as out-of-bounds so that golfers are aware that they are not to be playing on private backyards or other properties.
7. The board notes that as a conditional use permit, all other conditions under the current zoning ordinance which generally apply to any conditional uses will also apply to this conditional use.
8. This action the board is taking relates only to the operation of the golf course and the operation of ancillary facilities in connection with such operation. In particular, this decision applies to the use of restaurants or bar facilities only (1) incidental to course use, i.e. serving golfers during the time that they are actively involved in playing golf or immediately prior or subsequent thereto or (2) for members. Any other use of such facilities requires a separate application to this board.

This action is based upon the following findings of fact and conclusions of law.

The subject property is allowed to be used for a private golf club under a conditional use provided for in a provision of the zoning ordinance which is now no longer in effect. This determination is made upon the provisions of the applicable code as last in effect, (as a presently non conforming use) subject to any provisions of the current law which applies to conditional uses.

The board will treat the request to relax the requirements of the “private” nature of the golf club under the standards for an area variance.

The subject property is encumbered by certain deed restrictions which may affect its use as is permitted by the conditional use. Nothing herein will in any way affect the validity of those restrictions and the board’s decision is made without reference to such restrictions.

The applicant has not proved at this time that a private club is not a viable use of the property, but the board has determined that such a showing is not necessary for our current decision, but may be so in the future.

The current condition of the recent sale of the golf club as the result of seizure by creditors has created a situation that was not contemplated by the ordinance. Under these circumstances, certain allowances should be made to operate the facility while trying to reestablish it as a private club if that is viable. The club can be operated in a manner that will not create any undue burdens on the adjacent property owners, or create a situation substantially different from a private club.

The conditional use must be reviewed in three years to determine if the conditions are effective in ameliorating any impacts and to determine if the transitory reasons for the inability to operate as a private club have ceased or remain in existence.

The conditions established herein are integral and necessary to the decision granting this conditional use and must be in place to prevent any undue impact on the neighborhood and adjacent property owners.

Mr. Lewis seconded the motion.

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

Application 2009-22 by ECHO Real Estate Services, Inc. for Getgo Partners South for property at 17675 Chillicothe Road - Continuance

The applicant is requesting area variance(s) for the purpose of constructing an access drive. The property is located in a CB (Convenience Business) District.

Mr. Lamanna noted that this is a continuance.

Mr. Joe Tassone of Echo Real Estate Services on behalf of Getgo Partners South and Mr. Mark Schwartz of Tanglewood Partners were present to represent this application.

Mr. Tassone testified that he is here for an area variance for an access drive between the Getgo and Tanglewood Square Shopping Center. He said from the last meeting and the discussions they had about the benefits of the access drive, they worked around the location that would be best suited for the shopping center. He said one of the areas that they looked at was where the ATM used to be and the proposed location in front of the bank. He noted that Mr. Mark Schwartz was present and he is one of the owners of the Tanglewood Shopping Center and he can answer all of the board's questions. He said the first location ended up being the only viable location that the owner can live with for their access drive so they are pretty much back to square one from Getgo's standpoint on where they will be allowed to put this access drive. He referred to the overall plan for Giant Eagle and the drawing was updated to show the bank drive-thru on the southwest corner.

Mr. Lewis said the stand-alone structure for the ATM bank has been removed and asked if that is correct.

Mr. Schwartz said removed and relocated.

Mr. Lewis said so there is no longer that obstruction in the way.

Mr. Schwartz said correct.

Mr. Lewis said so actually it does make that area eligible even if it is not the property owner's preference.

Mr. Schwartz said you are thinking of an access that goes to the east.

Mr. Tassone said one of the locations the last time he was here (he referred to the site plan) is where the ATM used to be.

Mr. Schwartz said it is physically possible but it is not realistically feasible for the landowner and the reason is two-fold. He said the first is although the ATM has been removed, the location in which it has been relocated is such that it is not unlikely that on certain times of the week there is going to be a stacking concept and there will be a lot of vehicular traffic in the vicinity of that ATM for ATM purposes and it is going to conflict with the close proximity of where cars will be exiting from the gas station parcel onto the shopping center parcel and we foresee a vehicle issue there that they would like to avoid. He said the second problem that they have is exiting from the gas station parcel onto the shopping center parcel in the easterly direction is that although the shopping center is well within the regulations and code for the minimum number of parking spaces with the amount of retail, nevertheless, all parking obviously is at a premium and this is a varied traffic area, there are two to three buildings in addition to Kmart or actually four buildings that use this field of parking as their own source of parking and in particular there are existing tenancies, there is a bank which faces west and then there are tenancies on the opposite side of the building which has parking from the east that require all of the existing parking as close proximity to their store and if it was removed they would regard that obviously as a burden and we would be concerned with that.

He said speaking from the landlord's perspective we recognize the protection of directing the traffic in front of what is the bank building that is going in a northerly direction from the gas station but for purposes of maintaining the existing parking and avoiding what we would describe as a possibility of a problem to occur with the relocation of the ATM, we strongly prefer the earlier suggested plan in which it does go in front of the bank in a northerly direction.

Mr. Lamanna asked Mr. Schwartz if he understands what the board's concern was that all of that traffic will go between that bank but the biggest concern is the traffic coming down the main access drive and turning left in front of the bank and the left turning traffic when people will be turning left into that lane and there will be cars coming in off of Rt. 306 who tend to come off pretty quickly off of Rt. 306 because if you dilly-dally making that turn, you will have somebody stuck right in your tail-end and if somebody goes half way around there and they hit a car turning left and they have to stop suddenly, then somebody is going to get smacked on 306 because there is not a lot of room there. He said if you get two cars coming in and the first one has stopped because somebody is making a left turn there and the guy stops behind him and he gets nailed, that is the board's concern there.

Mr. Schwartz said he understands but the problem that varies from the existing situation right now is all of the automobiles that parked here, he referred to the site plan, and now are exiting, need to go elsewhere within the shopping center or parked onto Chillicothe going left or right, you have the same situation there now.

Mr. Lamanna said the idea is that cars would exit the Getgo going that way, he referred to the site plan, because they would be going in and turning right to go into the shopping center.

Mr. Schwartz said he is referring to the vehicular traffic which is the current condition.

Mr. Lewis said that is a minimal amount of traffic in there.

Mr. Lamanna said yes a minimal amount of traffic.

Mr. Tassone explained how the traffic will be coming in and said he does not think there are a lot of cars coming this way and then turning here (he referred to the site plan).

The board discussed the existing traffic pattern.

Mr. Tassone said he sat in the parking lot at about 5:30 tonight for about an hour eating his dinner watching people coming in off of this road here (he referred to the site plan) and he saw very few people coming off there in a hurry and everyone seemed to be aware of the traffic.

Mr. Lewis said you need to come up here on a Saturday morning around 10:00 when everybody is hitting the grocery store.

Mr. Lamanna explained the preferred traffic pattern on the site plan and looked at the proposed traffic pattern on the site plan.

Mr. Schwartz said he does see Mr. Lamanna's point but from the landlord's perspective, it would be an exchange of unfavorable conditions not just for the landlord but for the tenants and they will not be pleased with the loss of the parking spaces.

Mr. Lamanna said you would only be losing two of them.

Mr. Schwartz said it isn't that important for them over here (he referred to the site plan) but it is critical for them over here.

Mr. Olivier asked Mr. Schwartz if he will be losing some configuration with Giant Eagle.

The board discussed the parking situation at the shopping center.

Mr. Michael Joyce, Zoning Inspector referred to the GIS and said for some general information, the ATM is going in here so they will have two drive-thru windows in series with each other and they have asked for permission and it was granted some time ago, they have not built it yet so in reality there will be two drive-thru windows and will assume if someone wants to pick up a cup of coffee or pizza from the pizza parlor, they would go around the other one, not wait in line for it so your queuing area is going to be much wider than you suspect.

Mr. Tassone said the way it is laid out now, having a by-pass to the rear of the building is what you talking about, stacking for a pizza at the rear of the building.

Mr. Joyce explained the location of the proposed pizza drive-up window on the GIS photo.

Mr. Tassone said he can't imagine having them stack back where the bank is.

Mr. Lewis said he does not see a downside in exiting to the rear of the property, you have good site lines, you are not crossing traffic, you don't put any of the inbound traffic at 306 in jeopardy and when the snow is mounded up on the sides of the entrance at 306 there is even a more restrictive view. He said most people are going to go to the GetGo after they have come from the Giant Eagle and they have got their receipt and they see that they have \$1.70 on a gallon of gas, they are going to go there and to have them have to cross traffic or engage 306, we are creating more potential hazards and duress for other motorists and keeping our police and fire busy than we are cutting across full visibility of green space out the back end in an area that there was an ATM but it is not there anymore and you just can't convince him that taking the hard way by any stretch of the imagination outweighs a 20' shot that could be coming in and going, two lanes wide with no impact on the traffic patterns, so that is where he is at.

Mr. Tassone said it doesn't directly impact the left turn. He asked what if they made a right in and right out only and showed the intersection on the site so no one coming out of here can make a left and no coming in can make a left there so that way you are cleaning up that side of the intersection.

Mr. Lewis said you can't police that.

Ms. Sass said most people coming in turn left all of the time right there.

Mr. Lewis said yes they do rather than having to swing all the way down because if you are going to go to Giant Eagle, they are going to want to try to make a left into Giant Eagle's parking lot rather than the round about way.

Mr. Tassone explained the turning patterns and said cleaning up this intersection makes it a less unsafe area.

Mr. Lewis said the guy coming down the driveway, he is going to make the left to cut in front of the other stuff to get to the Getgo and he is going to get T-boned by the traffic coming in.

Mr. Lamanna said you can also stack cars making a left hand turn onto 306 at that exit too, you stack cars coming back so you are going to have people who don't want to wait, so they will cheat their way up there and then they will be face to face with an entering car.

Mr. Tassone said another option from two months ago is only a one-way access from the Getgo toward the Giant Eagle that way it eliminates the traffic coming from the Giant Eagle down making a left turn, one way coming up, a 12' access drive and the Getgo to the back. He said they talked about two separate access drives and explained the traffic pattern via the site plan. He said from the owner's standpoint and Getgo's standpoint, this isn't an option for us any longer.

Mr. Lewis said he does not understand why, it serves the local community, the stores are all frequented by local residents and they are going to find this driveway in a very short period of time.

Mr. Lamanna said Giant Eagle to Getgo, not the other way around.

Mr. Lewis said they are going to find this very quickly.

Mr. Tassone said he found a concern regarding removing the parking.

Mr. Lewis said there is no parking there now.

Mr. Schwartz said yes there is.

The board discussed the parking concerns.

Mr. Murphy said the last time you (Mr. Tassone) were here, the ATM was there and there was no parking there so now it will only take up two new spaces, you are still gaining five new spaces and a drive.

Mr. Tassone explained the proposed drive per the site plan and said they will be losing parking spaces along the suggested drive location.

Mr. Lewis said you would be losing two parking spaces.

Mr. Tassone said at least three maybe four, but it's the owner's decision, not mine but the rear access is not an option and he asked that the board consider the one-way access from the Getgo to the Giant Eagle.

Mr. Olivier said a one-way proposal is probably not enforceable.

Mr. Lewis said the Bainbridge Police Department does not have jurisdiction, so it is not enforceable.

Mr. Murphy asked if that is inflexible entirely, no chance whatsoever. He said it is a mess up there when you are trying to get in and out of that.

Mr. Schwartz said he is mindful of the board's comments and can see the validity and was sent here by his partner who was unable to attend but gave him the instructions and he has been through this with him and he is well aware of the importance of the closely located tenants put upon those spaces and the argument may be that those spaces are seen secondary and not primary spaces but you would be speaking for it rather than the tenant making that comment.

Mr. Schwartz continued by saying the ATM seems to be a distance from the driveway however you can anticipate that on a Friday or a day before a holiday there would likely be a lot of stacking and the tail end of the line waiting to go through that ATM that is currently relocated is not going to be that far from where the driveway is going to be and there will be incidents.

Mr. Lewis said versus 306 and the entrance.

Mr. Lamanna said people will have to wait and the worst that can happen is they will have to wait until the traffic clears and it is going to be an occasional inconvenience for people but the other one would be a potential collision.

Mr. Lewis asked if they could add directional signs at where that driveway came through the back such as in/out Getgo.

Mr. Tassone said the parking is the only issue and they could put one-way going north, do not enter signs, two of them at the top of the drive on both sides but other than that there is not much else we could do aside from putting a gate across there.

Mr. Lewis said it is really dangerous.

Mr. Olivier said it is kind of a shame to push people out onto 306 to make a left and then make another left into Giant Eagle to use their Giant Eagle dollars, that is a tough one.

Mr. Lewis said you don't want to delete the shopping center but you don't want to put them at risk.

Mr. Tassone said although making a bad situation, it is still better off than sending them out onto the road and back in.

Mr. Murphy said he cuts over to the Kmart parking lot and makes a right and makes another right into the gas station.

Mr. Lewis said we all go right, right. He said the purpose of this is to give safe and easy access to Giant Eagle customers, not the drive-by customers as much as it is those that are coming from the shopping center, as Giant Eagle customers and then would like to patronize Giant Eagle's gas station and we want them to be able to get there safely with no impact on traffic.

Mr. Tassone said it is still better keeping them in the shopping center than sending them out to the road and back in.

Mr. Lamanna said you have people coming out of the back end of the Giant Eagle parking lot to 306 and trying to jump across all three lanes and turn left into the gas station.

Mr. Murphy asked who owns all of the grass.

Mr. Tassone explained, per the site plan, the Getgo property.

Mr. Murphy said Getgo is the one who is going to benefit from this and if you put a double driveway in and lose three parking spaces, why not put three parking spaces in parallel and add those spaces back to the shopping center. He said it is horrible to think about more coming across in front of the bank.

Mr. Lewis suggested tabling this or disposing of this application because the board made it pretty clear, so we can either work toward a ruling with what is acceptable or we can work on either accepting or not accepting the application.

Ms. Sass said the board should rule on the application as it is submitted.

Mr. Lamanna said the board could rule on the application as submitted, it could rule on an exit only from the Getgo or the board could table it or it could be withdrawn until another time.

Mr. Tassone said he would like to have it tabled.

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

Motion BZA 2009-22 – 17675 (Getgo Partners South)

Mr. Lamanna made a motion to table this application until the next regularly scheduled meeting to be held November 19, 2009 at the request of the applicant.

Mr. Lewis seconded the motion.

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

Application 2009-28 by Lou Belknap of Agile Sign & Lighting for Giant Eagle for property at 8535 Tanglewood Square

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

Mr. Lou Belknap of Agile Sign & Lighting and Ms. Melissa Cobb, Architect were present to represent Giant Eagle.

Mr. Olivier asked about the variance.

Mr. Lamanna asked what is changing.

Mr. Belknap testified that Giant Eagle is renovating the entire building, expanding and stretching it out and enlarging the whole fascia itself and going down the side elevation as well and obviously they are taking down what is existing and they are putting all new signage up bringing it all up to LED instead of neon and it will be a much more efficient lighting and energy efficient.

Mr. Lamanna asked if the existing porte-cochere will be changing.

Mr. Belknap said the whole frontage is changing.

Mr. Lamanna asked if it will be changing from the peak down.

Mr. Belknap said the entire frontage will change and that is why they are going to a whole different format of signage and changing out the whole sign program.

Mr. Lamanna asked if it will be centered on the whole existing frontage.

Mr. Belknap said correct.

Mr. Belknap introduced Ms. Melissa Cobb and said she is part of the architecture.

Ms. Cobb testified that with the expansion of the store, they are relocating the entrance into the store, it is shifting from one side of the store over to the other side and they wanted to be able to bring in the corporate identity for Giant Eagle.

Mr. Belknap referred to the GIS photo and showed the board the current entrance and the proposed build-out and the proposed new entrance and showed where the new signs will be placed with the allowances for the future tenant which will be in the corner. He said it will be a proposed bank but he is not sure if that will happen or who it might be at this point but they do like the idea of having an additional tenant and Charter Bank just moved out

Ms. Cobb said they are expanding the store and they are taking all of that and making it the Giant Eagle and no there will not be a tenant, there is an existing bank inside the Giant Eagle so the bank sign they have shown here is an existing bank sign that is already in the Giant Eagle, it is just being relocated.

Mr. Lewis said the bank sign is just being moved down to the corner.

Ms. Cobb said right, they have an existing sign.

Mr. Lewis said the board is looking at the square footage first of the Giant Eagle sign.

Mr. Michael Joyce, Zoning Inspector testified that there are two signs that will exceed the height limitation and four signs with three additional over what is there and the Giant Eagle sign on the wall that is there will be increased in size. He noted the new sign and the three additional signs, two will be drive-thru signs.

Mr. Lewis said that is a big sign.

Mr. Belknap said square footage is an issue and the overall height because the code allows 15' and it is 20.8' to the total top based upon the new frontage so that is where they have to be.

Mr. Lamanna said that is really not an issue because the sign is consistent with the architectural structure of the building.

Mr. Belknap said that is the reason for the 20.8'. He said the next one would be adding the words Food and Drug to the frontage as well and that is an additional sign and it is 13.9' for the height which is within code and that will be sign number two.

Mr. Olivier asked if there is Food and Drug currently on the front.

Ms. Cobb said right now it is just the Giant Eagle sign.

Mr. Belknap said with all the new build-out and changes that they are doing at all of the store fronts we are changing everything out with this verbiage and with the new LED change-outs so they are getting rid of the old neon signs. He said the third sign he has is a Drive-Thru Pharmacy sign on the top corner of the building and they feel this is really, really necessary because if you are driving from the south to the north, you will never see the new drive-thru that is over here (he referred to the GIS photo), you will not have any idea that the drive-thru is around that side so they want to put a sign up so the people coming southbound are going to see that corner because currently, the drive-thru is not there and the canopy is not there but as we were driving through there, there is a row of trees in the front half of the lot and referred to the GIS photo and you have the other bank that sits over here so it is going to be very, very difficult to see that little canopy that is going to be for the drive-thru and we have to let people know there is a drive-thru.

Mr. Lewis said after the local people that have used this pharmacy and have found it the first time, do they really need two signs to find their way back.

Mr. Belknap said he does not think it is finding their way back, it is identifying for on-going people, but what they found with most of the Giant Eagle areas, it is not just local people. He said for example, he lives in Concord and he is coming down here and he can buy his prescriptions from this area as well so it is transient people as well as the local people.

Mr. Lamanna told Mr. Belknap that he has to decide which one of these signs is the most important because the two of them are just not necessary. He said if you want to have one on the building, he thinks people will be able to figure out if there is just a little thing sticking out at the end of the building that is probably where the drive-thru is. He said he thinks the average Joe can figure that out.

Mr. Lewis said he is looking at the drawing with it on the canopy of the pharmacy drive-thru and he is trying to get an idea from the corner of the building how far set back this is.

Mr. Belknap said it is 12' back from the edge of the building.

Ms. Sass asked if that is where the canopy is going to be.

Mr. Belknap said yes on the edge of the building.

Mr. Lewis asked if underneath the canopy there is going to be down-lighting and will it be illuminated.

Ms. Cobb yes said it will be illuminated.

Mr. Lewis said so during the day, it is only 12' back so everybody is going to be able to see this canopy, and during dusk or dawn or whatever, you are going to have the automatic pharmacy lights on. He asked if the pharmacy is open 24 hours per day.

Ms. Cobb said the drive-thru pharmacy is only open the hours the pharmacy inside the store is open.

Mr. Lewis asked if that is a subcontracted department.

Ms. Cobb said it is a subcontracted department.

Mr. Lewis said generally speaking he does not think it is going to be too tough to find. He said had that canopy been 50' down the side of the wall but he is thinking between some directional signs and this behemoth thing in the top corner of the building and added that he did not say it in bad faith he just said that you are going to be able to see it pretty good.

The board discussed the variances requested.

Mr. Lewis asked how far off of the road this is.

Mr. Belknap said about 500' and the way the building is placed on the property you will not see the canopy at all until you are around that corner.

The board discussed the placement of the canopy on the building.

Ms. Cobb said it is more of an image for Giant Eagle.

Ms. Sass asked what the distance is.

Mr. Belknap said it is 330' to the door and 420' to the center of the road from the corner of the building (pharmacy).

Mr. Lewis said that would put you into a 10" tall letter to be seen from Rt. 306 but these are 1'-6" so they will have to pick whether or not they want the canopy or the building and there are directional signs too. He said he does not think people will have a hard time finding this and he realizes that there may be a random out-of-towner getting his prescription filled there but he is going to suggest that the vast majority of the folks coming through are going to be the local residents and the idea here is to support the local residents.

Mr. Lamanna asked which sign the applicant is getting rid of.

Mr. Lewis said they have not told us yet.

Mr. Belknap asked if they can come back on that particular matter so the Giant Eagle Corporation can actually tell them which one they prefer.

Mr. Lamanna said they can pick which one they want because if they take that sign away, then they will be within the total amount, whichever one they take away.

Mr. Lewis said the board doesn't even have to define which location, we can just delete one.

Mr. Belknap said he would like to table this for the moment.

Mr. Lamanna said the board can approve it based on having four wall signs and Mr. Belknap can pick which ones.

Mr. Belknap said no, he does not think he wants to do that.

Ms. Cobb said she would like to table it so she can go back to the client and relay the board's feelings to them and see how they want to proceed.

Mr. Lamanna said that also gets them within the total square footage limitation which given the size of the building, they ought to be able to live within that, there is not really any reason to give more than the code allows when there is almost 400 sq. ft. of signage permitted because of the size of the building.

Mr. Lewis said it is a big façade.

Ms. Cobb asked if that is the only sticking point with the sign package and that is the two pharmacy signs.

Mr. Lamanna said yes, the height is fine with where it is located on the building, it fits within the architectural design.

Mr. Murphy asked if there is architecturally a problem with it going up over the line.

Ms. Cobb said that is just a recess in the façade and it is the same color as the field area and it is actually not noticeable with the line going behind the letters.

Mr. Belknap said it is more of a groove.

Mr. Murphy said this is a lot of light.

Mr. Joyce asked if the LED lights will be going into a diffuser.

Ms. Cobb said yes.

Mr. Belknap said none of the LED lights are exposed, they are all behind plastic and diffused.

Mr. Murphy said if they were smaller maybe there wouldn't be the height issue.

Mr. Belknap said that is not going to limit the height issue.

Mr. Lamanna asked about the total wattage.

Mr. Belknap said the LEDs wattage is actually less than normal fluorescent wattages, you have the intensity but it does not travel far from the proximity of the letters so the distance of it is not as penetrating as a fluorescent. He said he does not know if that makes sense to the board.

Mr. Lamanna said it doesn't because of the ones they put on the traffic lights and the advantage of the LEDs is that they penetrate forever.

Mr. Belknap said the thing is after you focus in the light it doesn't really go that far but these are all on ½" centers and the lighting is within the confines of the letter itself and if it is red, it is an intense red but it doesn't drift far from it so the traveling light distance is not the same as it would be if it was a neon or a fluorescent light.

Mr. Murphy asked if it will be red in the daytime too, a red plastic.

Mr. Belknap said yes, that is part of the diffusion of it.

Mr. Lamanna said everyone worries about down lighting but if you put up a sign like this, they could put 5,000 watts of light behind it and it would light up the entire sky.

Mr. Murphy asked if the food and drug is in the same plane as the Giant Eagle sign.

Ms. Cobb said no, there is a 12" offset.

The board discussed the requested signage and the architectural style of the building.

Ms. Cobb described the new vestibule that will be beveled. She said the peak and the Giant Eagle sign are on the same plane.

Mr. Belknap explained how it steps in.

Mr. Lamanna asked how many lumens the sign puts out.

Mr. Belknap said he is not sure about this particular one, he would have to look it up, but typically a 96 watt light puts out about 50 to 60 lumens, like an 8' fluorescent lamp so if a light is 100 watts, it is actually less, it is only about 78 watts so the lumens are less than the watts so the lumens is not as much as the LEDs have versus what standard lighting or fluorescent has. He said fluorescent might be softer but the lumens actually travel further than LED lights.

Mr. Lamanna said the distance light travels depends upon the color of the light.

Mr. Belknap said correct but the bigger issue is they are trying to go more green, trying to use energy efficient lights.

Mr. Lamanna said he is just wondering what kind of overall lumen output this will be and he is trying to get a comparison to a 100 watt street light.

Mr. Joyce said they had a demonstration Monday evening with the Board of Trustees with a 28 watt street light that lit up the room quite nicely.

Mr. Lamanna asked if it was LED.

Mr. Joyce said yes.

Mr. Lamanna said that is what he means is every type of lighting can be different.

Mr. Belknap said the whole lens of the light is only about 1/8" wide and explained how the light fractures out of it.

Mr. Lamanna asked when looking at the sign what kind of light is going to be generated compared to a standard streetlight.

Mr. Belknap said he does not have that information.

Mr. Lamanna said he wanted to know the illuminating power of it.

Ms. Cobb said it is not that strong.

Mr. Belknap said currently what they have in there now is neon and neon is actually going to project out more.

Mr. Lamanna asked about the total LED wattage.

Mr. Belknap said he is not sure but he thinks each one of the watts are a 12 watt as far as a watt rating but he is not sure and you have to look at the pattern of the light itself, some are 20 watt and some are 5 watt and the white color has different intensities, some are very white and some are blue.

Mr. Lamanna said the board will see this application again next month.

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

Motion BZA 2009-28 – 8535 Tanglewood Square (Agile Sign for Giant Eagle)

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held November 19, 2009 at the request of the applicant.

Ms. Sass seconded the motion.

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

Application 2009-29 by Chuck Agnew of Agnew Sign Company for A & E Real Estate, LLC for property at 17800 Chillicothe Road

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

The zoning inspector's letter dated October 22, 2009 was read.

Mr. Richard Stump of Agnew Sign Company was present to represent this application.

Mr. Stump testified that he is asking for a real estate company around the corner from here and he is basically asking to put a sign on the front of his building that lists his building, Bainbridge Commons, and his other request is for the back entrance sign and it would not be illuminated, it is just a sign for the back entrance.

Ms. Sass asked if it is for Bainbridge Road.

Mr. Stump said a lot of people didn't even know there was a back entrance there and he is asking for an illuminated sign on the front of his building.

Mr. Lewis asked if this is a ground sign and a fluorescent illuminated one on the front and asked if that one is facing Chillicothe.

Mr. Stump replied yes.

Mr. Olivier asked if that big sign board is still out front.

Mr. Joyce said the sign board was there prior to him coming here and it exceeds the limit permitted.

Mr. Olivier asked if the variances are for the number of signs.

Mr. Lamanna said he thinks technically it is an extra sign.

Mr. Michael Joyce, Zoning Inspector testified that it is a second ground sign and there is a wall sign on the building.

Mr. Stump said each sign is just listing his business and the one out front has all of the other tenants so he just wants to list his by itself. He said he was quite impressed when he saw the front sign.

Mr. Lamanna said this is a sign with just the building name.

Mr. Lewis said he thinks the applicant is advertising the offices, not the retail.

Mr. Stump said exactly.

The board discussed the existing and proposed signage.

Mr. Joyce said there are many offices on the second floor and referred to the proposed dentist office sign that will be going up.

Ms. Sass asked how many businesses are up there.

Mr. Joyce said there are no less than four and possibly more.

Mr. Olivier said some of them may have some signs on the front.

Mr. Joyce said the ground sign is 82 sq. ft. in area but was originally authorized to be 66 sq. ft. and added that it was there when he got here.

Mr. Lamanna said there is a second ground sign and too much signage.

Mr. Joyce said there is somewhat of a technical difficulty with this building.

Mr. Lamanna said yes because of the way it faces.

Mr. Joyce referred to the zoning resolution regarding secondary faces.

Mr. Murphy asked where the proposed ground sign is going to be, which side of the driveway.

Mr. Stump showed the board the location per the site plan and said it will be non-illuminated.

The board discussed the signage request.

Mr. Stump described the sign to the board.

Mr. Murphy asked if that driveway has an address.

Mr. Joyce said the address for the building is 17800 Chillicothe Road.

Mr. Stump said he does not know the address for the back of the building. He said we put the address on the sign for safety reasons.

The board discussed the fact that the Chillicothe Road address is showing on the Bainbridge Road side sign but there is no actual address on Bainbridge Road.

Mr. Murphy said you can't have the Chillicothe Road address at the Bainbridge Road entrance.

Mr. Stump said they can take the address off, it is an easy fix.

Mr. Lamanna said that would confuse people.

Mr. Olivier asked about the black lettering on the wall sign.

Mr. Stump said it will be white plexi with black or gray silver letters. He said whatever the board says the letters are to be, he will definitely do but he is filling in for Mr. Agnew tonight so he has to apologize, he does not know the color.

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

Motion BZA 2009-29 – 17800 Chillicothe Road

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

1. A variance for the purposes of erecting a second ground sign on Bainbridge Road of 32 sq. ft.
2. A variance for an additional wall sign of 36 sq. ft. which will bring the total square footage of wall signs to 388 sq. ft. which exceeds the permitted 132 sq. ft. allowed.

Motion BZA 2009-29 – 17800 Chillicothe Road - Continued

Based on the following findings of fact:

1. This location has two separate entrances which are widely separated therefore it is reasonable to allow a second ground sign to identify the rear entrance.
2. Due to the unusual location of this building, the definition of its frontage area is really restricted but when looking at the overall layout, the size of the building and number of tenants and the size of all of the existing signs, they are all reasonable in size.
3. It is appropriate to grant a variance to the total square footage given the large number of businesses in this center.

Ms. Sass seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 10:30 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: November 19, 2009

AUDIO RECORDING ON FILE

BZA PH 10/22/2009

-50-

Bainbridge Township, Ohio
Board of Zoning Appeals
October 22, 2009

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:30 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass

Minutes

Mr. Lamanna made a motion to adopt the minutes of the September 17, 2009 meeting as written.

Mr. Lewis seconded the motion.

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

Applications for Next Month

Application 2009-22 by ECHO Real Estate Services, Inc. for Getgo Partners South for property at 17675 Chillicothe Road - Continuance

The applicant is requesting area variance(s) for the purpose of constructing an access drive. The property is located in a CB (Convenience Business) District.

Application 2009-28 by Lou Belknap of Agile Sign & Lighting for Giant Eagle for property at 8535 Tanglewood Square - Continuance

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

Application 2009-30 by Alexander Kourakine for property at 8105 Bainbridge Road

The applicant is requesting area variances for the purpose of installing an in-line pond. The property is located in a R-3A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for November 19, 2009 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

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

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: November 19, 2009