

Bainbridge Township, Ohio
Board of Zoning Appeals
November 15, 2018

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:15 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all those who intended to testify. He noted that a couple of the applications will be taken out of order and he let the record reflect that everyone had been duly sworn in.

Application 2018-49 by Bainbridge Associates, LTD. for property at 8560 – 8586 E. Washington Street

The applicant is requesting a review, renewal and modification of an existing conditional use permit to include a playground, paths and garden. The property is located in a CB District.

Mr. Larry Moore was present to represent this application.

Mr. Moore testified that their conditional use application was revised from the expansion to just a renewal at this point.

Mr. Lewis asked if there are any new tenants in the last couple of years that are doing different things from the last renewal.

Mr. Moore replied no.

Mr. Lewis said he was trying to remember all of the various tenants there.

Mr. Gutoskey asked if Sherwin Williams moved out.

Mr. Moore said no.

Mr. Gutoskey said he was wondering because they opened a new store on Aurora Road. He asked if the signs are all good here.

Ms. Karen Endres, Zoning Inspector testified that she hasn't had any complaints but she thinks there are a couple of businesses that are new since 2004 but they would be in compliance with what would be permitted in that district. She said every time there is a new business coming into the strip center, she doesn't send it to the board.

Mr. Gutoskey said but as far as the signage, it is good.

Ms. Endres said as far as she knows, she would have to look at someone who has some signs they shouldn't have, that is one of the typical things she would have to clean up, it is not unusual to have window signs but there are no glaring violations.

Mr. Moore said with the new restaurant that went in they have a great breakfast and they are special needs kids there and they do all of the serving and cooking and they are a special group.

Mr. Lamanna asked if anyone else is here with interest for this application. He said he has one slight pet peeve because he goes in and out of there a lot, he thinks the markings at your exit to E. Washington Street could be improved and he doesn't know if there is any way to improve the striping there.

Mr. Moore asked if that is for the left turn.

Mr. Lamanna said yes for cars turning left and right and the people left a lot of times end up straddling that line. He said this picture has the lines very visible but most of the time it is not very visible and what you have are cars coming in this way and suddenly they find out that there is not enough room in between especially with the lane line rather than just paint it, put in the striping pieces, vinyl strips that are glued down are a lot more durable. He said he goes in and out of there a lot and he sees a lot of instances where there is a lot of confusion by people right at that corner.

Mr. Gutoskey said in looking at that entrance it is definitely wide enough for left and right out.

Mr. Lamanna said he thinks it is, it is most of the time but because of the unusual angle, the angle of the street and the angle of the entrance into the street, it is almost more than a 90 degree angle on that right in there and he thinks because of the way everything is coming in there at different angles it makes it difficult for people and he thinks if we worked on the striping there and made sure it was a little more durable.

Mr. Gutoskey said slide the double over and put a white channelizing line there.

Mr. Murphy asked if it is wide enough for a left and right exit.

Mr. Gutoskey said yes.

Mr. Murphy said that would be awesome.

Mr. Gutoskey said if you look at the way the striping is to the side lot, that should be 24' and if you look at how wide the driveway is, it is set up for three lanes and probably 36'.

Mr. Murphy said that would be great, painted and the arrows back so people know the entry, left and right.

Mr. Lamanna said people get confused when they get up there because of the way the road is it makes it difficult for legal exiting and entering and you have people coming down and trying to turn left from E. Washington Street, it is a small thing but an easy improvement.

Mr. Moore said we appreciate you being there.

Mr. Lamanna said he is there at least an average of once a day although once Drug Mart moves he may not be going through there anymore.

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

Motion BZA 2018-49 – 8560 – 8586 E. Washington Street (Bainbridge Associates LTD)

Mr. Lamanna moved to renew the conditional use for this property as a strip center for a period of five years from the date the minutes of this meeting become final.

Mr. Gutoskey seconded the motion.

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

Application 2018-56 by Diane Bija, New Creation Builders for Mr. and Mrs. Conrad/Stewart for property at 8362 Chagrin Road

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

Mr. and Mrs. Rudy Conrad were present to represent this application.

Mr. Conrad testified by introducing himself and his wife Mary Conrad, it is listed as Stewart right now but we have since then gotten married and added that Ms. Diane Bija who represents New Creation Builders could not be here tonight.

Mr. Lamanna said this is for a shed and it is on an existing non-conforming lot and there have been some other things that have been added over time. He asked if this is a 1-1/2 acre lot.

Mr. Conrad stated that it is 1-3/4 acres according to what their deed says.

Mr. Lamanna said it is 1-1/2 acres less the right-of-way and the lot coverage is at 11.50% so there are two issues, one is the lot coverage at 11.50% and the accessory building is 60 sq. ft. over.

Mr. Lewis said and it looks like we have some things that were built without permits.

Mr. Lamanna said hardscaping which also contributes to being over the lot coverage.

Ms. Karen Endres, Zoning Inspector testified by saying the patio area.

Mr. Lamanna said that would have taken them over the 10%. He asked when that was done.

Mr. Conrad said there was an existing patio outside the kitchen door and the new patio, there was an old deck and they replaced the deck with a straight patio and that was done he believes about six or seven years ago, he can't remember the exact date.

Mr. Lamanna asked if he was aware that that was going to take them over the lot coverage at the time.

Mr. Conrad said he was not because the patio was almost that size prior to what you are seeing there now so he wasn't aware that that was what it was going to do.

Mr. Lamanna said otherwise the accessory building is going to be located in the same place.

Mr. Conrad said where the same building is down at the right hand corner there it already exists here (he referred to the aerial photo) and we were looking to have them put a new one there. He said that one is about 14-1/2' x 21' and the proposal we are asking for is 18' x 20' so it is about an additional 60 sq. ft. or so and we are looking to add on partly because to house lawn equipment, we have a tractor for cutting the lawns there and we own the property directly across the street which he cuts both lawns and they have quite a bit of lawn furniture which last year for the most part they had to store outside and things like that get weather damaged so we would like to put all of it in the garage and organize it a little better.

Mr. Lamanna said it is 12' tall, a basic structure, a garage door and window, plenty of separation from the neighbors, plenty of woods, a 1-1/2 acre lot. He said 1-1/2% over is certainly not inconsistent with 1-1/2 acre lots and this is still a small building, it is only 60 sq. ft. over the maximum permitted allowed without getting a variance. He said it is not tall and is a very reasonable size and is consistent with the neighborhood and it is all within the setbacks so we don't have any issues there. He asked if anybody else has any comments on this application.

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

Motion BZA 2018-56 – 8362 Chagrin Road

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing a 360 sq. ft. accessory building as shown on the application.

1. A variance from the maximum lot coverage of 10% to 11.50% to include some hardscaping done behind the house at a previous time which appears to have slightly exceeded the permitted 10% at that time.
2. A variance with respect to the maximum accessory building size on a non-conforming lot from 300 sq. ft. to 360 sq. ft.

Based on the following findings of fact:

1. A practical difficulty exists due to the fact that this is actually less than a 1.5 acre lot after you take out the right-of-way.
2. An additional 1.5% lot coverage is not unusual or unreasonable for this size lot and is consistent with other similar lots within the township and within the neighborhood of this lot.
3. In addition, this accessory building is less than 12' high, it is a reasonable size, again consistent with the neighborhood.
4. It is located fully within the setback area screened by trees so it will not have any adverse effect on the neighboring properties.

Motion BZA 2018-56 – 8362 Chagrin Road - Continued

5. It will not change the character of the neighborhood.
6. The board also notes that there is an existing shed in the location where this shed is to go and the applicant has represented to the board tonight that that shed will be removed before the new shed is put in place.

Mr. DeWater seconded the motion.

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

Application 2018-50 by Luigi (Gino) Oppedisano for property at 8575 Washington Street

The applicants are requesting a review, renewal and expansion of an existing conditional use permit to include an existing patio. The property is located in a R-3A District.

Application 2018-51 by Luigi (Gino) Oppedisano for property at 8575 Washington Street

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

The board was in agreement to hear the above two applications together.

Mr. Gino Oppedisano and Mr. Steve Ciciretto were present to represent these applications.

Mr. Ciciretto testified that he is representing Mr. Oppedisano. He said he has a couple of questions on what will be discussed tonight and one is the renewal of the conditional use and it was for only three years and he thought conditional uses ran for five years but there is a condition or something that limited it to three years and we should look at that also. He said he also had a question on why Ms. Endres deemed a variance was required for this.

Mr. Gutoskey said he can answer the first one and as far as the renewal it looks like you were here, the permit is dated January of 2015 and the board gave a time period of three years.

Mr. Ciciretto said that was different than the standard and added that he thought they were always five years but he must have missed that.

Mr. Lamanna said it is up to five years but often the board sometimes has shorter periods of time and we want the applicant to come back and review things because there were things we were a little unsure of so if any problems develop they can come back for example if there is a traffic issue that has presented itself. He said there are situations that we can't perhaps anticipate everything that might develop once something is actually done so that is why we often have a shorter period of time.

Mr. Ciciretto said we will be addressing the conditional use. He said the current issue has to do with the pergola and the patio at the rear of the building and it goes back to the 2014 meeting and at that time this was the building as it stood and we had come back in to do a facelift on the front and it included some landscaping etc. and as a result of that meeting there were some discussions of how over time dining occurred on the outside front patio so this board restricted the use of the existing front patio and suggested that we should take a look at moving that to the back side of the building and he thinks that was a little more literally taken because we constructed the addition for the patio and dining thinking he was following the original recommendation and restrictions but in any case that pergola element in the back that you see looks like this, he showed the board photos of the back. He said he also wanted to include this picture to the east that shows the Arborvitae and the dense screening that is along that residential property right behind the trees that are all in there now. He said since 2014 and since this addition was built the property to the east did sell and he thinks it established market value with the restaurant in play there so that person bought that knowing those exact conditions and the dumpster has been screened off.

Mr. Gutoskey asked where the dumpster is located.

Mr. Ciciretto referred to the aerial photo and said the dumpster is back in this corner here in the screened element and there was some complaint that some papers and trash were blowing into her yard so we have made sure that that doesn't happen anymore and by building that surround it helps contain it and you can't really see it through the trees anyway but it stops papers and things from blowing into that yard.

Mr. DeWater said the rubbish hauler empties the dumpster at 4:00 in the morning.

Mr. Oppedisano testified that he doesn't know when they do it.

Mr. DeWater said you would have to call them and tell them to empty it after 7:00 or 8:00 in the morning.

Mr. Oppedisano said he had no idea it was emptied that early.

Mr. DeWater said he has a question, in 2014 when you came for the front of the building that you constructed with no zoning certificate, no building permits or anything and you basically snubbed your nose at the building and zoning departments.

Mr. Oppedisano said that will never happen again and he is sorry.

Mr. DeWater said once again, the pergola is a substantial construction and there is a full bar built under that thing and he knows that a couple of months ago there was a huge party tent out there with a wedding and music that went on until 1:00 in the morning with no consideration for any of the neighbors, he does not understand why you (Mr. Oppedisano) feel the need to just circumvent the board and do things and then come and ask for forgiveness, that is not the way you do business.

Mr. Lewis said the board has heard that story more than one time sir, with respect, we had your word three years ago that it would never happen again and it is, Mr. Ciciretto, you have been involved without rereading and pulling the minutes back this is a redo, it is a rerun of what we already did, were there permits for this or building permits so how did you get water and power back there for your bar so you have utilities, you built a structure that is a conditional use, no permissions were done and we went through this three years ago, we had your word, never again, if we want to do a project we are going to come and we are going to present it so he is half inclined to say too bad, tear it down, we have been through this before and yes you overstated your position, the police have been called because of a noisy party, he doesn't see a lot of regard for the neighbors, gentlemen, this isn't right so here we are again asking for forgiveness and he thinks you know better, we have had this talk. He said he will let the other board members speak to what they want to say.

Mr. Lamanna said one of the difficulties we have with outdoor spaces especially when you are located in a residential district and this isn't the only place that is located next to a residential district because it is all problematical and it is one thing if you are a normal restaurant and are closing up shop at 9:00 or 10:00 at night, it is another thing if you are a bar and going until 2:00 in the morning so that is the problem when you have an outdoor space like this.

Mr. Oppedisano said that was his son's wedding and it is the only time that happened.

Mr. DeWater asked if people don't drink out there on that patio until 11:00 at night when it is open.

Mr. Lamanna asked how we are on parking.

Mr. Ciciretto said the parking is massive and the calculations are on the drawing. He said there are actually two ways to calculate parking on a restaurant and it is the use of this property based on the 160 seats for the restaurant, that would require 40 spaces and based on the square footage of the building it would require 45 spaces and there are actually 85 spaces so if you take the square footage of the building.

Mr. DeWater said up on that northwest corner of the lot there is some type of building or storage shed there.

Mr. Oppedisano said that is a walk-in freezer, it is just standing there right now.

Mr. DeWater asked if it is not being used for anything.

Mr. Oppedisano said it is not a structure, no, it used to be a walk-in freezer.

Mr. DeWater said so it is just sitting there.

Mr. Oppedisano said correct.

Mr. DeWater said on your roof, you have multiple air conditioning units, heating units, and some are missing panels on them, exposed and for some reason he thinks we talked about it in 2014.

Mr. Ciciretto said he wasn't aware of that.

Mr. Murphy asked Mr. Oppedisano if he actually owns the back cemented parking area.

Mr. Oppedisano replied yes.

Mr. Ciciretto said it is actually part of his property because somehow over time that got bought off of the back of Luciano's property.

Mr. Oppedisano said it is part of his property.

Mr. Murphy asked if this building also has a party center or is Luciano's the party center.

Mr. Lamanna said the party center has been there for a long time and was once DiBlasis.

Mr. Ciciretto said the original building was actually requested as a party center and Masserias ended up putting in the Italian grocery and over time he doesn't know how that all happened, it is all predated but then it ultimately turned into the Eastside Grille and the party center and then the Eastside Grille ultimately became Cucina Rustica when the partnership split. He said the issue started with the misunderstanding by moving the patio from the front to the back but the paperwork was never filed or turned in.

Mr. DeWater said this is the second time.

Mr. Ciciretto said right, this is the second time we dealt with it but the reality is the restaurant is a restaurant and is fighting for its viable life among all of the stores and retail and restaurants in Bainbridge and to suppose that a restaurant in this climate is viable without an outside patio so he would suggest that although the process was done in error again a restaurant to remain viable needs that type of support to stay viable in the summer.

Mr. Lewis asked if there are any plans on enclosing it, plastic sheeting or basically winterizing it.

Mr. Ciciretto said the parking is also a little bit of a myth in the way we calculated it because the restaurant only gets so many tenants not so many people coming in, they don't in the summer come and eat inside and still pack the outside it moves so it is not displacing parking there really needed for that. He said in the heyday when Cucina Rustica was at its best then and the party center was having events on the same night you had to be careful about parking.

Mr. Lewis said you needed a reservation to get in. He asked what the patio hours of operation are going into the summer months and where that is going to fall and the lights and music and about the operation of it so the board has an understanding.

Mr. Oppedisano said it is not the eighties or seventies or nineties, people don't stay out too late drinking especially this is a restaurant it is not a younger bar, they really don't stay out that late.

Mr. DeWater said he knows there are people out there at 11:00 at night whether it is the help after closing.

Mr. Oppedisano said that could be but he can't be there 20 hours a day and if you drive by he took out the bar and party rooms, he took that part out, he is not going to do those things anymore, his youth has gone by.

Mr. DeWater asked what they would do for sound proofing for all of the properties to the east.

Mr. Oppedisano said the neighbors play music louder than he does and they have campfires too but he doesn't mind it.

Mr. Ciciretto said he thinks the point is that there isn't loud music playing, it is not blasting.

Mr. Oppedisano said Sonny Geraci's boy.

Mr. Ciciretto said the wedding was a one-time event.

Mr. Oppedisano said he only has one child.

Mr. Lamanna said no more outside events like that. He said we prefer that there is no music on the outside patio and asked if there is normally music out there.

Mr. Oppedisano said we tried it this year, one night a week, hopefully it picks up business but.

Mr. Lewis asked if it is live music.

Mr. Oppedisano said Sonny Geraci's boy Justin, by himself.

Mr. Lewis said the guy with the guitar and a sound set up and with that type of music, that guy isn't going to play like a regular bar thing when the music runs from 9:00 at night to 1:00 or 2:00 in the morning, in a restaurant environment like the Burntwood etc. they have got the artist there and by 10:00 they are done.

Mr. Oppedisano said just Thursday nights, he starts at 5:00 P.M. and by 9:00 P.M. he was out of there.

Mr. Lamanna said that is less of a problem.

Mr. Ciciretto said the intent is not to have a band out there.

Mr. Lamanna said they don't want a rock band out there.

Mr. Lewis said the structure is up and he thinks the board members spoke their piece as far as that goes.

Mr. Murphy said he is a builder and he can't do anything without a permit, he has no idea how you (Mr. Oppedisano) did your plumbing and electric. He said he is totally against leaving that thing stand up there, he has heard when it is raining real hard there is water running across the concrete and he thinks that you have to go to the building department and get a final occupancy permit for the building.

Mr. Lamanna said you are going to have to go to the building department and get all of the permits, get all of the inspections.

Mr. Ciciretto said it is a public space.

Mr. Lamanna said make sure that that space meets all of the applicable commercial codes for that particular space and that goes without saying, any kind of commercial thing you are going to have to go and apply for all of the permits and get all of the inspections and have anybody that has a say on it, if the fire department and building department say yes, this space is okay, they are not worried about it catching fire and burning down and trapping people underneath it etc.

Mr. DeWater said he goes back to this is the second time and most of us will be sitting here a third time.

Mr. Lamanna said there won't be a third time, don't even think about coming back again.

Mr. Murphy said what we are saying isn't that it is okay to go ahead and enclose it now. He said reading over the motion from 2015 is that the reason we granted the conditional use was that no real changes were made to the use of the property. He said this is almost the size of the restaurant, it is a fairly substantial change to that conditional use, without the conditional use permit, it doesn't matter if that structure is there or not.

Mr. Lamanna said he was worried about making sure there was enough parking, even though the lot coverage isn't changing. He said given the way everything else is having more building there it really isn't going to affect the neighboring properties because of what is already there and it is well screened off.

Mr. Lewis asked if a group can use the pavilion for a dinner party for example someone wants to book a dinner party for 30, 40 or 50 people.

Mr. Oppedisano said they would have to put in a request for it but he doesn't take them because it is not fair to his customers that come in.

Mr. Lewis said it would take over your whole space and there would be no room for your customers. He asked about the lighting out there in the parking lot etc.

Mr. Ciciretto said there is no parking lot lighting, only off the building.

Mr. DeWater said there are lights back there.

Mr. Oppedisano said there are two lights on each corner of the building.

Mr. DeWater asked if they are down-shades or do they cascade out.

Mr. Ciciretto said they broadcast but they don't go beyond the property.

Mr. Gutoskey said they are cut-offs.

Mr. Ciciretto said yes.

Mr. Oppedisano said actually on the wide spot, it doesn't reach there.

Mr. Ciciretto said the point is it is not lit with pole lamps like you see out in the parking lot here, the lights off the building do it and the under lighting is just in the patio.

Mr. Lamanna asked if the parking is not lit at all.

Mr. Ciciretto said this comes off the corner of the building and the patio so there are pole lights.

Mr. Lamanna said traffic flows down the west side of the building and east is one way.

Mr. Ciciretto said it enters from the west side it has to go that way and loop back around and in the summertime they will park back by the patio and in the wintertime they find a spot in the front first but it is like a loop pattern.

Mr. Lamanna said there is some landscaping in front of the parking lot there.

Mr. Ciciretto said the reality is although we got our hands slapped there is a significant improvement. He said you asked for mounding and buffering so you can't even see those parking spaces.

Mr. Lewis said the approach has been greatly improved, you worked hard at it and it looks good and he really cleaned it up.

Mr. Ciciretto said he understood that there was a clear decision by this board to eliminate the patio on the front and so he thinks he just misunderstood that to mean he could build it in the back and again the process is probably circumvented.

Mr. Lewis said even outside the board, the building permits and inspections and normal construction processes seem to have been skipped.

Mr. Ciciretto said there are drawings so we will get it.

Mr. Lamanna said the drive constricts to one way.

The board discussed the parking and driveway.

Mr. Lamanna said what happens is you have people trying to get around those parking spots and they are backing up into the traffic flow all of the time.

Mr. Lewis said those parking spots have been here for three years.

Mr. Ciciretto said that was the same parking layout but we did expand into the front a little bit with gravel and there is no mounding or plants so it is wide open.

Mr. Lamanna said now we still have to address the trash area because it was supposed to be moved behind the building and certainly it shouldn't be back by a residential structure.

Mr. DeWater said there is all that stuff scattered back there.

Mr. Lewis asked what is all of that stuff in the woods.

Mr. Lamanna asked if they know where the property line actually is.

Mr. Ciciretto said it has been there for 30 years. He said he usually doesn't trust the aerials that close but he doesn't know if all of that stuff is construction debris or what that is back there but it is not like that now.

Mr. Lamanna said that is quite a variance, they are not accurate but that is very large not accurate. He asked if the property has ever been surveyed back there.

Mr. Ciciretto said he doesn't believe so, it was all paved and the structures were like that when he bought it.

Mr. Lamanna said that is not a little bit, that is a lot. He asked if there are lot dimensions somewhere.

Mr. Murphy said he would like to see the building department come back with an approval that you can use this structure as is, get the lot surveyed, get the dumpster on your own property. He said we can't talk about a conditional use permit because everything that is in his hands for an extension of non-conforming buildings, structures and uses says you can't do what you just did and he has absolutely no reason tonight to say that is okay, sorry. He said every one of these eight things here.

Mr. Lamanna said they could put the dumpster 10' to 15' over, he doesn't think it should be back there right next to somebody's house.

Mr. Lewis said he thought we already covered it three years ago.

Mr. Lamanna said that is before the patio was put on.

Mr. Lewis said he doesn't know what the rear elevation of the building is, is there a delivery entrance.

Mr. Ciciretto said that is the rear entrance.

Mr. Lamanna asked Mr. Oppedisano what his preferred position is for relocating the dumpster.

Mr. Oppedisano said you tell me.

Mr. Lamanna said we don't want it along this property in this corner and we don't want it over on the other side where there is another residential property so it needs to be behind the building or behind the other commercial property. The board viewed the aerial photo. He said also, you have got to make arrangements with the people that pickup up the trash that they have to come after 7:00 A.M., we have made other people do this and they have had no problem with it and they have been able to arrange to have them come after 7:00 A.M.

Mr. Ciciretto said he doesn't think that is unreasonable.

Mr. Lamanna said they are in the middle of a residential area.

Mr. Oppedisano said he never dreamt that they would come at 4:00 or 5:00 in the morning.

Mr. Lamanna said they have back up beepers that you can hear ½ mile away and they are made to be annoying.

Mr. Ciciretto referred to the aerial photo and said what about this location over here.

Mr. Lewis said the truck comes straight in and hooks it.

Mr. DeWater said he can't, he has got that canopy over the driveway on that side.

Mr. Lewis asked how he comes in.

Mr. Gutoskey said that is why it is in that corner.

Mr. Lewis said that is exactly why it is there.

Mr. Gutoskey said he can't get through on the west side because of the canopy so that is why it is in that corner.

Mr. DeWater said he is turning around to go back out.

Mr. Ciciretto said straight back to the south to the left would be an ideal location, it is away from the patio and there are no neighbors in that area.

Mr. Murphy said it is a long way to those houses.

Mr. Lamanna said he thinks this needs to be surveyed because he doesn't trust these aerals but generally they are off 4' to 5', this would have to be off quite a bit more than 4' to 5'.

Mr. Ciciretto said he doesn't think there would be any detrimental reason to have it surveyed, we should know what is going on with the property.

Mr. Murphy asked if those lots have ever been merged, is that parking area landlocked.

Mr. Gutoskey said they are two separate parcels according to the deeds.

Mr. Lewis said we are borrowing parking on another parcel.

Mr. Gutoskey asked where the zoning line is, is it the west line.

Mr. Ciciretto said in reality it is served by sewer and water, it is in the commercial zone, it has been historically used as a commercial enterprise. He said the proper thing would be to take the lot next door and put a transitional zone on it so that it takes care of this problem forever. He said we keep fooling around with this but it is commercial zoned and he is sure the courts would look at it and say you have got sewer and water, this isn't a residential zone.

Mr. DeWater said he thinks that building was misrepresented when it is built, it was proposed to go on the same property that Luciano's is on and did not give an accurate address when it was constructed so all from the get go that whole lot has been misrepresented for years.

Mr. Ciciretto said it is clear that Bainbridge has accepted it and understands the conditions and it is not fair to this board that you have to deal with it as a conditional use and on top of it all, he referred to the site plan, here is the end of the commercial zone across the street, it is well past this lot. He said it is absurd, it is a random zoning and we approached the zoning commission once when the township hired David Hartt to redo the zoning, that zoning book is sitting collecting dust, nothing has ever changed, it has never been implemented and we were told at that meeting we will hash out the Hartt thing and then we are going to look at all of these individual parcels and irrelevant to the fact that this was built without a permit and gone through the process, the reality is Bainbridge is ignoring this property as a commercial property and it will never be a residential property so it is foolish.

Mr. Gutoskey said he thinks it is better that it is a CUP so you can come in and talk about what we are talking about today.

Mr. Ciciretto said he thinks there is an advantage but he thinks it is an artificial transitional zone because if somebody took this over and was operating it as a restaurant and operates it differently than Mr. Oppedisano it would put this board in a position to say this property has historically been used for 35 years or longer as a restaurant and can no longer be used as a restaurant and what is it going to be, would building a house there, nobody is going to live there. He said it puts the board in a bad light.

Mr. Lamanna said the problem is the minute you come up with a proposal to do that the guy who owns that house next to you, he is going to be in here demanding that his piece of property be in there too.

Mr. Ciciretto said his property should be a transitional zone, he should be Professional Office, that is what Bainbridge implemented, a Professional Office District zone, it is a transitional zone and would provide the buffer and take this board out of this picture.

Mr. Lamanna said there is a property that connects between Rt. 306 and E. Washington Street that swings around.

Mr. Ciciretto referred to the zoning map and said here is the commercial zone now and here is where we are, this should be transitional and protect these people. He said this lady bought that property understanding and it has reached market value, we have always talked about it and the last time we were here we talked about how does that negatively impact that person's ability to buy or at least sell their property and it has hit the market and it sold so they understand what is there. He said that is not your issue it just puts this board in a bad light.

Mr. Gutoskey said if you combine the parcels into one would that have an effect on the transitional zoning, you would have one lot with two zoning districts on it.

Mr. Ciciretto said right.

Ms. Endres, Zoning Inspector testified that it is not unusual that district lines are split.

Mr. Ciciretto said the back parking is in a commercial zone. He said it is an awkward situation and the reality is whether it is zoned commercial or not there was a process that they should have followed but it is making the board make a decision, is it an expansion of a non-conforming use or an expansion of a restaurant that should be in a commercial zone and he has a feeling that that would be an argument that would be tough to beat just because of the history of it and it has been through this board so many times everybody knows it is a commercial use.

Mr. Lamanna said it is what it is, it is a non-conforming use but if at some time somebody sees fit to make it a conforming use but there has got to be some logic to it.

Mr. Ciciretto said he appreciates that.

Mr. Lamanna said one of these properties actually goes between Rt. 306 and E. Washington Street, the parcel actually arcs between the two of them.

Mr. Ciciretto asked the Lynch property.

Mr. Lamanna said no it may be a little farther down, the Kirby property.

Mr. Ciciretto said that would be a pretty big expansion. He said the point is that we have a building that is a restaurant and it needs to be viable, we have got an owner that has made an effort whether it is done in the right pattern or not, has made an effort to upgrade the property and decide and determine that the patio is considered an expansion of the use is a tough pill to swallow because it makes the restaurant, and you have seen it on all of the applications that come in about restaurants and patios and that issue but he would say that we go through the process and get the proper permits and get it inspected and get it permitted.

Mr. Lewis said he thinks you would want to for general liability issues.

Mr. Ciciretto said you are exactly right.

Mr. Lamanna said you have got property over there and you've got two properties on the opposite side of the street, they are going to want to expand down that way.

Ms. Endres explained the lot that was actually split between zoning districts, this is one lot with CB and POD but it is all one lot.

Mr. Lamanna said so they actually made the Professional Office that shape.

Ms. Endres said it is a judgment entry, it is only a portion of one lot that is zoned Professional Office and again that was a result of a judgment entry a number of years ago.

Mr. Lamanna said but nothing has ever happened there.

Ms. Endres said no.

Mr. Lamanna asked how long ago that was.

Ms. Endres said decades and they were actually supposed to do a lot split but they never did.

Mr. Lamanna said now you have this crazy thing created here so now what do you do with it.

Ms. Endres said since it is a judgment entry she thinks they would have to vacate it.

Mr. Lamanna said they should move to vacate it.

Ms. Endres said the trustees would have to do that though.

Mr. Lamanna said yes the township would have to move to vacate it and it could be vacated on the basis that this is an impediment to properly zoning this area, they never went ahead and did anything about it.

Ms. Endres said she thinks a veterinarian was supposed to have gone there.

Mr. Ciciretto said he thinks 16903 was the veterinarian property.

Mr. Lamanna said he thinks what we need to do is table this, Mr. Oppedisano needs to go get a survey, we need to figure out where we are going to put the trash pickup, he needs to go and apply for his building permits and get that squared away so he can come back here and tell us.

Mr. Ciciretto said they won't issue a building permit without a zoning permit.

Ms. Endres said that is right.

Mr. Lewis said how do we issue a permit on a structure that is already up and we don't even know if it passes inspection.

Mr. Ciciretto said you don't regulate the building section just the zoning.

Ms. Endres said they don't need a zoning permit for electrical work so they can get their electrical permit.

Mr. Lewis said that would probably be a good start.

Mr. Lamanna asked if they can inspect it conditional upon our granting a zoning permit.

Ms. Endres said she would ask.

Mr. Lamanna said explain the situation that we have a building here and before we go ahead and approve this thing from a zoning standpoint we would like somebody to tell us that it at least meets building requirements otherwise we are going to end up putting a condition on it and if they turn it down then it is going to become unapproved.

Mr. Murphy said if it doesn't pass then they tear it down.

Mr. Lamanna said yes if it doesn't pass they will have to remove it.

Mr. Lewis said or bring it up to code.

Mr. Lamanna said what he is suggesting is you (Mr. Oppedisano) make somebody go through this with the building department and with the fire department and say yes what we have done here is okay and they are not going to raise an objection because to ultimately approve this it is going to be conditional on getting everybody to approve it and if somebody says no then you've got no approval so he thinks the process needs to be started and make sure somebody reviews it from the standpoint of saying, have we met all of the applicable codes on it.

Mr. Ciciretto said the reality is, is the structure considered a pergola because pergola elements don't even require a zoning permit so is it a pergola or actually a roof, he doesn't think it is a roof structure he thinks it would be considered an outdoor garden or pergola so that falls under a utility view and puts us into still a situation, we didn't draw it up so he doesn't know exactly how it is built so he would have to do some homework.

Mr. DeWater asked if it has a roof covering, metal, plastic or solid roof covering.

Mr. Ciciretto said it is PVC up there.

Mr. DeWater said it is a roof.

Mr. Lamanna said it is a roof, it doesn't matter what it is made of, it is not a pergola anymore.

Mr. Ciciretto said you would think it is that straight forward but he would tell you that he can find parts in the OBC that says it is not but in any case we want it to be right and should be reviewed.

Mr. Gutoskey said wouldn't they look at the load.

Mr. Ciciretto said it is really about uplift not only gravity so if there is a big heavy wind it is how it is secured down.

Mr. Lewis said he thinks the board has a direction set for you.

Ms. Endres said if a survey is going to be required she doesn't know how this landlocked lot came to be but these lots are a violation of zoning, you are supposed to have frontage on a road and she would recommend combining the two lots when the survey is done, that is not a big expense, there is an expense to compiling the deed however it would fix a number of other non-conformities.

Mr. Lamanna said the internal lot line problem.

Mr. Gutoskey said the question is as part of the survey being that parking lots around the property show and maybe locating the building on the property.

Mr. Lamanna said we really do want to get that lot combined, that was his next point.

Mr. Ciciretto said he thinks they have a direction that they can approach this with now.

Mr. Lamanna asked how much time they will need, a couple of months.

Mr. Ciciretto said yes.

Ms. Endres asked the January docket.

Mr. Lamanna replied yes.

Mr. Ciciretto said they will plan on January.

Mr. Lamanna said it is a good time, it is not at the height of the season and added you see what the concerns are so we have to get those addressed. He said he tells people that they have to get these things straightened out because when the day comes and you decide you want to sell this thing, you won't be able to sell it, people come in here all of the time with a lot less problems than this property has because the lenders are looking at these things, they are looking at zoning, they are looking at compliance and people are coming in all of the time asking for variances so getting all of this straightened up and combined will serve you well for the future and it is one of the things we want to make sure too is that when we start going through to fix these things, at the end of the day we want you to walk out of here with everything you need for your property to be in compliance, if somebody looks at this thing they are not going to say you need this, this and this, they want to cover everything and you may think we are being picky about some things but it is in your interest too as well as ours to make sure that everything is lined up and if somebody comes in and looks at it they can say everything is covered and the paperwork is all in order.

Mr. Oppedisano said it makes sense and added that his son may take it over.

Mr. Lamanna said that is when things come up when people require additional financing.

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

Motion BZA 2018-50 and BZA 2018-51 – 8575 Washington Street

Mr. Lamanna moved to table these applications until the January meeting to be held January 17, 2019 to give the applicant time to address a number of issues that the board has raised.

Mr. Gutoskey seconded the motion.

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

Application 2018-52 by Dennis Guritza for property at 17727 Lost Trail

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

Application 2018-53 by Dennis Guritza for property at 17727 Lost Trail

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

The board was in agreement to hear the above two applications together.

Mr. Dennis Guritza, property owner was present to represent this application.

Mr. Guritza testified that this started some time ago as you may recall and through miscommunications and his understanding, he proceeded with the shed and installed a shed on the property and consequential to that they were through the meetings here looking at alternative locations for the shed and we have gone through a number of different iterations in terms of trying to discover alternate places for the shed including, thanks to Ms. Endres, we had the Chagrin Watershed Partners out and given the history of the property with both water percolation and the storm water drainage. He said over the years a number of times he had to regrade the property and install drainage to the rear of the property to mitigate our continuing problems with the flood water and he thinks he stated that on the application. He said what he would like to do is ask for a variance to leave the shed where it is based on the concerns for other locations on the lot and then additionally they found out that the original patio they replaced had never been permitted, the patio was in place when they bought the property and they were not aware of the deck, it also had not been permitted and then a question came up about lot coverage so they had the property surveyed and evaluated for the lot coverage as well so the request is if they could potentially keep the shed where it is presently located due to the drainage from storm water issues and also obviously a permit for the patio as well.

Mr. Lamanna asked if the shed is in the utility easement, is that what he is gathering from this letter here.

Mr. Guritza said the question is whether or not where it is located whether it was a problem and the utilities said its location was acceptable and that there is a utility pole there and excess of 3' was acceptable so it was not a problem, they came out a couple of times for service on some of the lines and they indicated that it was not a problem to have the shed at that location.

Mr. Lamanna asked where the lines come, do they come right down the lot line.

Mr. Guritza said yes.

Mr. Gutoskey asked Ms. Endres if she had gotten dimensions to the back of the shed from the surveyor.

Mr. Lamanna said one problem is you have got a letter that says it is okay to put it there provided certain conditions are met. He said there are three conditions and who can certify that those conditions are in fact satisfied. He asked where the existing poles are, are they shown on the survey.

Mr. Gutoskey asked Ms. Endres to display the aerial and said the poles will show up on the aerial photo.

Ms. Karen Endres, Zoning Inspector testified she thought there was a temporary easement along the property line.

Mr. Gutoskey said all of the property lines in the subdivision.

Mr. Murphy said there is a pole at the corner of the shed.

Mr. Lamanna asked where the wires go.

Ms. Endres said they are in the easement along the property lines.

Mr. Lamanna asked if it is more than three feet away.

Mr. Guritza replied yes.

Mr. Lamanna said when it says there are overhead conductors.

Mr. Guritza said the discussion he had with the engineer who sent the letter, we discussed it and the line goes and the line and shed are parallel and at the front end of the shed towards Lost Trail it is closer to four feet, the shed is not exactly true to the lot line and to that end it is about 3.2' to the survey but the pole is in excess of and well over 3' from the actual wooden pole.

Mr. Lamanna said one of the problems is somebody says if the following conditions are met and one of it says "clearances to all electrical equipment will comply with a 2017 edition of the NEC if the shed is installed near overhead conductors".

Mr. Gutoskey said what they are talking about is the shed itself, the roof, relative to where the wires are.

Mr. Lewis said he doesn't have that code in front of him.

Mr. Gutoskey asked where the wires go from the pole, to the neighbor's house or to the street.

Mr. Guritza said to the street.

Mr. Gutoskey asked where his service comes from, the street.

Mr. Guritza said in front of the house, Lost Trail.

Mr. Gutoskey said so this is just a connection to run across the back.

Mr. Guritza said right.

Mr. Lewis said it really tells him nothing.

Mr. Lamanna said the letter says it is okay if it meets these requirements but it doesn't say we the Illuminating Company have looked at this particular situation and it meets these requirements. He said the only way he knows it meets these requirements basically is if somebody who knows what these things are can come in and say yes we have looked at these conditions, the 3', you can testify it is 3' away, the access is basically your problem, if they want to come in and if they can't get access then they are going to tell you to move your shed or get it out of the way. He said the access is basically your problem, if they want to come in and do something and they can't get access then they are going to tell you to move your shed but the third one, you can't say you meet it, we can't say you meet it he doesn't know why they didn't say you are okay but if somebody comes in and says they know what that National Electric Safety Code is we looked at this structure and we looked at where these overhead lines are and it meets it or doesn't meet it, he can't answer that question, you can't answer that question and unfortunately he would have thought the Illuminating Company would have answered that question because certainly they are expert in it but maybe they didn't want to come out and make the measurements and actually make that determination.

Mr. Guritza asked if he can get an engineer or somebody with that skill.

Mr. Lamanna said yes, certainly and he is sorry it comes down to this.

Mr. Lewis said the lines are owned by the Illuminating Company.

Mr. Lamanna said but they didn't actually want to come out and take the measurements and make sure it complied so basically that was what they were saying, they were basically saying, yes this is okay with us as long as you meet this requirement but we are not going to actually do the work to say you do or do not meet that requirement.

Mr. Guritza asked how about if he contacts Mr. Denzler to see if either the utility company can do that or can recommend somebody familiar with that code.

Mr. Lamanna said yes, somebody who can come in and say they are familiar with this code and they work with this all of the time and they have looked at this. He asked if there is a transformer on that pole or is it just hanging.

Mr. Guritza said yes and they have been out to service and check because we get a lot of outages so they are constantly coming through and he has had two discussions with the CEI folks and they have come in the third time just trimming trees and brush and he grabs anybody who is out there to verify this was put appropriately.

Mr. Lamanna said he assumes that they have got some kind of distance requirement that says these things have to be located so far from any structures, he is sure they would want you 3' away from the pole so they can climb it or replace it or they can come up alongside of it.

Mr. DeWater said when the Chagrin River Watershed Partners came out did they absolutely say the shed could not be in any other location of the lot.

Mr. Guritza said no but we talked in two levels. He said number one level was the drainage and percolation because shortly after we moved in there were a couple of neighbors who were running out of water during the drought period so we have been very cognizant to make sure we get good percolation but the other problem is the storm water drainage, our front ditch fills to capacity and the limited drainage from the front we have facilitated through the drainage to try to maximize percolation from regular rainfall and during a flood event we had opened up a swale because there was a tree line along the back of the property so in conjunction with the neighbors we opened up the back end so we can have drainage because we all have flooding in the three or four houses in a row and we have evaluated this with the road department on a number of occasions and we just would have to do some serious calculations, we had to put in two sump pumps with battery back-up because of the flooding concern and the Watershed Partners approved that as potentially a problem but it would require some extensive wider than just our property survey and that was something that could be done in the future but we continue to have a real concern about the flooding.

Mr. Lamanna asked where the water comes from with a flood event.

Mr. Guritza said the flood event comes from the front of the property and comes to the house and we have graded a number of times and opened up the back of the property and we have put in a swale.

Mr. Lamanna said you can show us on the aerial.

Mr. Guritza referred to the aerial photo and said when they moved into the property, along the back of the lot line there were very mature Poplar trees so that we had flooding in the whole back of the property and the neighbors here and the neighbors on this side, we removed all of these trees and we put in a swale because the original drainage for this property on the topos before Pilgrim Village was put in the natural flow was this way but it was all blocked and the collection in the front of the property takes this down Lost Trail to cut over to feed the lake because it was their source and we don't know whether it is filled in or not around this other corner property but we have very serious concerns about flooding and managing the balance of the water from flood control as well as getting some decent percolation, we have graded this yard three times after putting in this scenario here.

Mr. Lamanna said so the swale prevents the water from draining, you are trying to direct the water that way.

Mr. Guritza said there are two draining, one is to the back and one is from the front.

Mr. Lamanna said the trouble with Poplar trees is they will raise the level of the ground by about 2' to 3' over time.

Mr. Gutoskey asked Ms. Endres to turn on the topo lines and said he doesn't know if there are any topo lines even on this lot.

Mr. DeWater said in this letter from the Watershed they have a line that says "given uniform nature of the poor soils on the lot and surface drainage there being no significant environmental difference that would affect you relocating the shed" so in essence they say you can move that shed and it is going to be very little environmental difference or impact on you.

Mr. Lewis said the footprint is the same wherever you stick it so you are not going to percolate underneath it wherever you are and it is a sled based shed anyway.

Mr. Guritza said no.

Mr. Lewis asked if he put it on concrete.

Mr. Guritza said yes.

Mr. Lewis said he thinks part of what you told us we already have from the previous testimony on that and your efforts and the regrading and the sloping of it all the way to the back which really opened up the majority of your backyard to place this structure without having any impact on your newly created swales which is in your testimony and your sworn statements to us. He asked when we started this, a while ago.

Mr. Lamanna said a long time ago.

Mr. Lewis said this letter merely once again substantiates that you can pretty much put it wherever you want to put it so he doesn't see that there has been anything changed, he does see that there was some correspondence with the Geauga County Prosecutor's Office and he thinks there was some deadline set in January of this year that were not met so regardless of what the Illuminating Company may or may not say our zoning code is calling for 50', there is no practical difficulty, substantiated again by Chagrin Watershed that said that this structure could not be located elsewhere so getting back to just that fundamental question he doesn't see that anything has changed since the testimony received when we opened this application up originally.

Mr. Lamanna asked if the neighbor has a shed back there too, more or less behind his house in the middle of his property so he is meeting the setback requirements.

Mr. Lewis said yes.

Mr. Gutoskey said if you look at this topo, he referred to the aerial photo, right through here there looks like a high point that breaks both ways and then here is the swale so this is all falling this way and added there are 2' contours.

Mr. Lamanna said so it is pretty flat.

Mr. Gutoskey said 10 is the high point and it breaks both ways, it rolls both ways.

Mr. Lewis referred to the Watershed document and said it is precise.

Mr. Lamanna said the big problem here is we would never have approved this shed in this place, never, it just wouldn't have happened, there would have been no reason for it, we might have let you put it 30' off the property line given the size of the lot, these are only 150' wide lots and certainly if you put it on the other side of your house more than 26' over and put it behind the shoulder of the house we would have let you do that. He said it is one thing if somebody comes in and this is the risk they take, if you come in after the fact and you say here is where I want to put it and we would have said if you came in for approval beforehand, we would have probably approved it, it is a pretty easy call to approve it, it is a big problem if somebody comes in and says they built this, we would have never approved this in the first place and we really have no basis for approving it now, you don't meet the legal standards.

Mr. Gutoskey said even the code reads 20' minimum on a non-conforming lot.

Mr. Lamanna said that is the problem we have here, we have no legal basis to grant this.

Mr. Guritza asked what would be an acceptable location, if he moves it 20' from the lot line in towards the center.

Mr. Lamanna said now you are talking about something maybe we can consider given the size of your lot. He said we have so little room here, typically if somebody wants to put something close to the property line we require screening to the neighbor's property, there is not even enough room to put any screening in here.

Mr. Guritza said it is all trees.

Mr. Lamanna said this is the trouble with looking at aerials but they look mostly like deciduous trees, he doesn't see a whole lot of evergreens there.

Mr. Guritza said the question becomes, where are acceptable locations.

Mr. Lewis said he thinks that answer is right here in what Geauga Soil said just about anywhere you want in your backyard so we are really talking about the side yard setbacks, anywhere in that span as long as it is not closer to the property line, you put it wherever you want back there.

Ms. Endres said we have a rear setback too to consider.

Mr. Lewis said yes 90'.

Mr. Gutoskey said it is 85' from the property line, the shed is 91.1' and the overhang is 85.2'.

Mr. Lewis said so he is 4.5' or so too close.

Mr. Gutoskey said realistically if you put it on the right side and you line it up with the edge of the house you could have it at 25' and he thinks everybody will agree on that.

Mr. Lamanna said certainly if you want to put it in the shoulder of the house on the other side that would be fine, on this side we would probably want it 30' back, he thinks the board could live with.

Mr. Gutoskey said just from typically what we have done before because a lot of times when we are running into lots like this and we run into a lot of problems with topography that is a problem if the lot has a lot of slope on it so because your lot is so flat, topography isn't an issue.

Mr. Lamanna asked where the lot behind him fronts.

Mr. Gutoskey said the one lot comes in off of Gardiner but the other he thinks comes off of Chillicothe, you see that big lot off of Rt. 306.

Mr. Lamanna said the lot behind them is the lot coming off of Gardiner there so in looking at this if you are on the right side of your lot as you face your house, there he thinks the board would want you to maintain the 90' setback if you are on the side you are on now, if you wanted to go to 75' it would probably be okay on that side and then 30' off the side and he thinks that is something if you came in here, that would have been about the best you would have gotten out of us if we were feeling generous that day.

Mr. Lewis said taking into consideration also the lot coverage issue with the shed and the patio in combination is putting him over 10%.

Mr. Lamanna said the lot coverage is not a problem with 1-1/2 acre lots, it is pretty consistent, pretty routine, it is not going to affect the character of the neighborhood in this area with 1% or 2% and there are probably more people at that level anyway.

Mr. Guritza said from a visual effect would it be possible to move the shed interior to the lot just 20' because of the open view from Alden and the other roads.

Mr. Gutoskey said we are going to ask you to put some landscaping around it.

Mr. Lewis said he thinks we already settled out on 20' on the right side of the lot.

Mr. Gutoskey said 26' on the right.

Mr. Lewis said and 30' on the driveway side, which that is your garage there right, on the left.

Mr. Guritza said yes.

Mr. Lewis said if you come in 30' and you are looking out, it will be in line with your garage so you are not really having any line of sites broken because you are not sitting in your garage looking out your backyard so he doesn't see that it spoils the living room view. He said and even then from where it should be, 50' we go shoulders of the house, so give him 20' or 30' in the variance.

Mr. Gutoskey said the worst thing is most of these houses are centered on the lot, this one isn't for some reason. He said there are about only two houses in there that aren't side entry (garage).

Mr. Lewis said in lieu of the fact that we have set our guidelines he doesn't know if the Illuminating Company thing is relevant at this point so his recommendation is to just go ahead and make our motion with our guidelines and we can take care of the shed and also take care of the application adjacent with it with the patio and we will dress up the lot coverage.

Mr. Lamanna asked if the 11.57% includes the shed.

Ms. Endres said she thought Mr. Schwartz calculated the lot coverage, and added his numbers were very close to her numbers and she thinks what the board has done in the past too was to maybe add a little.

Mr. Gutoskey said Mr. Schwartz's calculation was 11.51% so just make it 12%.

Ms. Endres said if there is ever a pool etc. he wouldn't have to come back for another variance. She said another suggestion too, this is on the court docket right now so she has asked the Prosecutor to hold off on a the pretrial pending the outcome of this meeting so the Prosecutor asked if this is approved and there was an agreement to move the shed that there would be some kind of a deadline put in place so that there is a clear understanding of what their expectation is.

Mr. Lewis said yes.

Mr. Lamanna said at this point in time what is going to be realistic since it is the end of November.

Mr. Guritza said he is headed in for surgery again tomorrow so the next several weeks are going to be problematic but he would like to consult with his wife because we may just remove the shed, we need to look at the cost of moving it and the other concern that we talked about before is it is on a slab so if this would include putting in a new slab and sliding it over and removing the old slab and the cost associated with that so we have got to sort that out.

Mr. Lamanna said he is thinking the board would give you until May 1, 2019 so by May 1st you would have it moved or removed depending on what you decide.

Mr. Lewis said whatever you decide, just advise Ms. Endres.

Ms. Endres said she has to give the Prosecutor clear direction because she is delaying the pretrial pending the outcome of this meeting.

Mr. Lamanna said they can probably defer that further, it is not that long, you need to talk to her. He asked whose court it is in.

Ms. Endres said Judge Paschke.

Mr. Lamanna said this case hasn't been pending that long.

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

Motion BZA 2018-52 – 17727 Lost Trail (Patio)

Mr. Lamanna moved to grant the applicant a variance for the purposes of maintaining a 20' x 24' uncovered rear patio.

1. With respect to lot coverage the board will grant a variance to the maximum lot coverage with respect to this increase to the patio to 11%.
2. The patio otherwise complies with zoning with respect to setbacks.

Based on the following findings of fact:

1. This is a 1.03 acre lot.
2. A 1% increase in lot coverage for a patio will not adversely affect the neighboring properties.
3. It is consistent with the uses in this area.
4. It is a small amount given the practical difficulty of having a substandard size lot.

Mr. Gutoskey seconded the motion.

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

Motion BZA 2018-53 – 17727 Lost Trail (Shed)

Mr. Lamanna moved to grant the applicant the following variances with respect to the relocation of an existing shed. The current shed does not meet the zoning requirements.

1. A variance to relocate this shed either (as you are facing the property) to the right side of the property. If it is placed on that side the applicant can have a variance to 26.6' which represents the existing setback of his house on that side but on that side of the property he will maintain a 90' rear yard setback.
2. Alternatively if the applicant wants to place it on the left side of the property the board will grant a variance to 30' from the side line and 75' from the rear line and those cases are based upon the positioning of the adjacent properties.
3. A variance for the shed height to 16.5' versus 15'.
4. A variance for an increase in lot coverage from the 11% previously granted to 12%.
5. In order to minimize the effect on neighboring properties, if it is on the left side of the property the applicant will plant some evergreen trees or shrubbery at least 5' high to provide screening along the side and front edge of the shed.

Motion BZA 2018-53 – 17727 Lost Trail (Shed) - Continued

6. In addition, since we are now in November and it is not going to be feasible to make a new foundation and move the shed with the onset of winter, the applicant will have until May 1, 2019 to move the shed to a location that conforms with the variances granted hereby or in the case that the applicant decides that he does not want to move the shed to a location permitted by these variances, that the applicant will remove the shed by such date.

Based on the following findings of fact:

1. The reason for granting this variance is it is again, minimal, it is not going to adversely affect the neighbors or even be reasonably noticeable.
2. These locations should not adversely affect the neighboring properties or adversely affect the character of the neighborhood.
3. With respect to the increase in lot coverage previously granted from 11% to 12%, this is a small increase in lot coverage given the existing size of the lot, again consistent with the character of the neighborhood and will not adversely affect the neighboring properties.

Mr. Lewis seconded the motion.

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

Application 2016-40 by Ivan Nassif for property at 7170 Chagrin Road

The applicant was granted a substitution of a non-conforming use for the purpose of a chiropractic and acupuncture wellness clinic with conditions. The property is located in a R-3A District.

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

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

Dr. Ivan Nassif was present to represent these applications.

Mr. Lewis stated that this application was brought in because of the violations and the board addressing withdrawing his permits tonight. He said he really doesn't want to postpone that until another month.

The board was in agreement to hear the above applications before BZA 2018-54 and 2018-55 due to an urgent request by Dr. Nassif.

Mr. Lewis said there are two applications here but she is not here.

Ms. Karen Endres, Zoning Inspector testified that she thought Ms. Lutz was planning to come.

Dr. Nassif testified that he sent her an email today and told her she didn't have to come and he told her he was getting the door put in because her part was the door.

Mr. Lewis said he thought this door was handled a month ago.

Ms. Endres said the door was cut but not installed.

Dr. Nassif said the hole is cut and boarded up, the door is ordered and he is just waiting on the door.

Mr. Lewis said let's go one thing at a time, let's handle the general building, the parking, the driveway and let's maybe do part two, the rear building and where that stands.

Dr. Nassif said the driveway is cut, that was the big deal, the two feet of driveway, that is cut now.

Mr. Lewis asked if that has been removed.

Dr. Nassif said that it has been removed. He said the expansion of the driveway, adding the 9', he has submitted an application for that too, for his permit to have that done.

Mr. Lewis asked when that application came in, this week.

Dr. Nassif said last week.

Mr. Lewis asked wasn't all of this supposed to be completed a month ago and said he doesn't understand the delay, we have been playing around with this for a year.

Dr. Nassif said yes and you guys permitted him to do it but the sale of the property took until May and he didn't want to do anything at that point and after some unexpected costs he needed some time to have the money to move forward and do things, his mother passed away a couple of months ago, she was sick in the hospital, they moved, their house burned down, he just had a lot going on this past year and he knows business is business. He said he'll bring his business in there, he didn't expand the parking lot but it is fine, his customers come and go, there are no issues, he will expand the parking lot because it would be nicer to have that. He said there is access for the rear building through his building, he has rear doors and his tenants have a key to walk through his building so there is legal access to that rear building without a door and without a sidewalk and also in his application he is going to have a sidewalk put in as you guys requested.

Mr. Lamanna asked if there is anything we can do about the walk, installing it or doing something.

Dr. Nassif said he can have it put in, he submitted the application so he is waiting for Ms. Endres and asked if it is a lot coverage issue or has she not had a chance to approve it.

Ms. Endres said she hasn't had a chance to review it but she thinks the board granted any necessary lot coverage the way it was worded so she doesn't think he has to come back for lot coverage.

Dr. Nassif said he is going to do a recycled concrete base and recycled asphalt top so that can be done when his permit is issued.

Mr. Lamanna said the two feet of pavement has been removed.

Mr. Murphy said that was the one major thing that the neighbors were waiting to see because they want to put a fence there so with that now removed they can go ahead and proceed, that was the one thing that was the big issue.

Mr. Lamanna said the door is in motion.

Dr. Nassif said correct.

Mr. Lamanna said it looks like that is going to be handled and asked if the walk is going to be installed by the end of the year.

Dr. Nassif said yes, when he hears from Ms. Endres, everything is ready to go.

Mr. Lamanna asked about the parking.

Dr. Nassif said that is going to be done with the walk and you guys granted him three spots on the side, he is not going to do that yet but they don't need those spots yet.

Mr. Gutoskey said he thinks the board banked those.

Mr. Lamanna said if you need them, you just have to do the application. He said it looks like things are being taken care of.

Dr. Nassif said things are being taken care of.

Mr. Lamanna said let's follow through with getting the door done and the walk installed by the end of the year.

Dr. Nassif said yes and added that he will be back next month because he has a sign application.

Mr. Lamanna said then you (Dr. Nassif) can give the board an update on where things are but right now it looks like things are in motion so that is what we want to hear and that is why we asked you to come in because we want to get assurances that this stuff is happening, we have given you a lot of time but there comes a point where we just really need to sit down and we want to make sure things are happening, it looks like things are happening, it looks like you are on top of it so let's make sure it gets carried through and we will see you again next month and get a little update on the side but at this moment we will let things proceed and as long as they get done you won't have to do anything else. He thanked Dr. Nassif for coming in.

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

Motion BZA 2016-40 and BZA 2017-31 – 7170 Chagrin Road

Mr. Lamanna moved with respect to the potential non-compliance with conditions on applications 2016-40 and 2017-31 and noted that the board has reviewed these with the interested property owner and it appears that things are in motion to complete the items that were identified as non-compliances and some of them have already been completed and at this point in time it appears that the other items should be completed by the end of the year so at this point in time the board will defer any further actions pending completion and will not at this point in time take any action regarding potential revocation of these zoning certificates, reserving of course the right if these matters are not completed as represented to take further action.

Mr. Murphy seconded the motion.

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

Application 2018-54 by David L. Stoika for property at 18801 Chillicothe Road

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

Application 2018-55 by David L. Stoika for property at 18801 Chillicothe Road

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

Mr. David Stoika was present to represent these applications.

Mr. Stoika testified that he is the property owner and he built his shed a number of years ago and it was brought to his attention that he needs to get some permits that he was unaware of.

Mr. Lamanna said so the carport is not yet built.

Mr. Stoika said it is not. He said his wife has a Suburban and he has Dodge Ram and they don't fit in the garage so the idea was to put this parking area in next to the garage to support those vehicles to get them out of the driveway and there was a suggestion to make it a carport and he said that sounded kind of interesting so he decided to do that.

Mr. Lewis asked if the accessory building is built.

Mr. Stoika said yes, it was actually a replacement.

Mr. Gutoskey asked how it was a replacement.

Mr. Stoika said there was an existing building there and over the years, he has been in that property since 1998.

Mr. Gutoskey said he looked at the aerials all the way back to 1990 and he can't see a building there and he looked at the 1962 USGS map and it doesn't show a building back there on that property.

Mr. Stoika said he built it in 2013.

Mr. Gutoskey said but there wasn't a building there previously.

Mr. Stoika said there was a small building there, yes.

Mr. Gutoskey said because all of the documentation he looked back at he couldn't find anything and he doesn't see any evidence of a building being there.

Mr. Murphy said this 1990 aerial has something on there in the back.

Mr. Stoika said that is what he went by.

Mr. Gutoskey said he doesn't see anything there, he really doesn't.

Mr. Lewis asked if that is the white thing in the rear or is that a camper.

Mr. Stoika said that is a camper.

Mr. Gutoskey said that is the current overlay now and if you look at the 1990 aerials on this, the resolution isn't that big and he looks at aerials a lot and he didn't see anything and he looked at the Google Earth they have now and you can go back and he just didn't see anything and you can see the trees and the shadows from the trees.

Mr. Stoika said in 2013 is when he constructed this barn and it is 16' x 24' and then in 2016 he put an addition on the side of it, he bought equipment, a tractor, ground loader and plow and things for the yard and he also has acreage down in West Virginia where he transports the tractor so he added on and has ATVs and other equipment that is in the barn.

Mr. Gutoskey said the resolution on the 1990 is not that good but it basically shows what the other aerials show as you go up the progression on what the county has on here. He said the resolution isn't that well but you can see the buildings because the other buildings are up on there.

Mr. Murphy said okay so it is not there in 1990, you didn't replace what was there until 2013 so what happened between 1990 and 2013, there are other dates on those maps, there is April 2010 so it is there now.

Mr. Gutoskey said that is a trailer, there is a trailer in the front and there is a trailer in the back.

Mr. Stoika said there are two of them, they were down at River Pines park and one got sold and the one in the back is being moved.

Mr. Lewis asked what we are looking for, we are looking for the structure that you replaced.

Mr. Stoika said there was a structure there, it was a small structure and he tore it down and replaced it.

Mr. Gutoskey asked what size it was.

Mr. Stoika said it was 8' x 10'.

Mr. Gutoskey said so it wasn't as big as this one.

Mr. Stoika said no.

Mr. Gutoskey said what he was reading was that you replaced it in kind with what was there.

Mr. Stoika said no.

Mr. Lamanna asked where the structure is now.

Mr. Gutoskey said there is a barn to the right of the trailer.

Mr. Stoika said from the location where it was at, the only place it can be seen from is actually his neighbor and his pool looking back towards that area there.

Mr. Lamanna said this is on the other lot.

Mr. Lewis said that straddles two lots.

Mr. Stoika said that is where we come into an issue because when he bought the property they indicated it was three acres of property but he didn't really pay attention to the fact that it was actually two separate pieces of property so consequently he is looking at area coverage on 130,000 sq. ft. of property and not exceeding the 10% based on that number but it was brought to his attention that it was not one piece of property but there are ways to alleviate the issue.

Mr. Lewis asked if that rear parcel is landlocked.

Mr. Stoika said it is.

Mr. Murphy asked if that property is his as well.

Mr. Stoika yes it is.

Mr. Gutoskey asked if that is Peppermill over to the left.

Mr. Stoika said it is, the back piece, the back end of the property but that has been recently surveyed because he found the stakes there so he knows where every single corner of the property is but he was under the understanding that it was one piece but it turns out to be two so because of the issue of it being landlocked he looked up in the Geauga County requirements for landlocked property and what he would have to do is do an affidavit to attach to the deed saying that the two pieces of property cannot be sold separately.

Mr. Lamanna said right.

Mr. Stoika said that is what he intends to do rather than have it resurveyed.

Mr. Lamanna said do that and having a new legal done is more expensive and added that the board has let people do affidavits of fact.

Mr. Stoika said that way it is considered one piece and the issue with the amount of coverage goes away.

Mr. Gutoskey said he was looking at one on Taylor May, they had three parcels with multiple buildings on three parcels so they consolidated it.

Mr. Lewis said when you put all of the parcels together, do you exceed the two accessory structures, that is a problem.

Ms. Karen Endres, Zoning Inspector testified that she thinks there was a timeliness issue, she told them they could do that but they would have to come to the Board of Zoning Appeals for variances along the lot line setbacks so that was the issue, it wasn't that they couldn't do the affidavit of fact, they would have to come to the board.

Mr. Lamanna said what the board is saying is we will grant these variances provided you execute an affidavit of fact so you will still have the variances.

Mr. Gutoskey said but you can also add to that that no renting out for somebody to live, no businesses, no occupancy, it is not a second residence.

Mr. Stoika said there is no electric or water in the building.

Mr. Lamanna said no occupying it as a residence and you can't use it for a business except as permitted, in the code which is a home occupation.

Mr. Gutoskey said he thinks it is pretty much hidden back there, the only thing is building permits.

Mr. Lewis said it was like looking for Waldo, he couldn't find it.

Mr. Lamanna asked what the total lot coverage will end up being.

Mr. Gutoskey said he thinks he is under.

Mr. Lamanna said the house lot is over but the other lot is not and the accessory structure would be fine if he had the full three acres.

Mr. Stoika said yes and that is his intention and like he said he just found out three weeks ago that they were two lots.

Mr. Lewis said let's see what the carport does to the lot coverage.

Mr. Gutoskey said of the two buildings that were built without permits, are you going to go to the building department.

Mr. Stoika said the original barn and then the side section that was built onto it.

Mr. Lamanna asked how long they have been there.

Mr. Stoika said since 2015, actually 2013 is when the original barn was built.

Mr. Lamanna said he thinks you (Mr. Stoika) are going to have to go to the building department.

Mr. Lewis asked Mr. Stoika if he has years of experience.

Mr. Stoika said on building yes.

Mr. Lamanna said you will have to get a permit.

Mr. Lewis said that and that the Auditor knows they are there.

Mr. Lamanna said usually they pick them up off the aerials.

Ms. Endres said they have change correction programs, Mr. Scott Yamamoto, when he was in office he would run that and identify the changes in building footprints and pick up the accessory structures and home additions that were built with no permits.

Mr. Lamanna asked about the carport.

Mr. Stoika said the carport was a suggestion to do that so he went ahead and did a set of prints for it and it is up to the board if he can do it.

Ms. Endres said Mr. Blakey, the building inspector went out and chatted with you.

Mr. Stoika said no he has not seen him. He said the only locations he has within the 20' limit is the side of the carport and in order to fit both vehicles side by side and with ample room to open the doors and such he had to make it a certain width and that is where they are at. He said it is 16' so they are 4' within that 20' range. He said the house next to him that $\frac{3}{4}$ acres is wide open.

Mr. Lamanna asked if there is a garage next to it.

Mr. Stoika said the garage is actually built into the house, it is a two-car garage but it doesn't fit the vehicles because it is a Suburban and it is 22' long and his truck is 24' long so they don't fit into the garage so the idea is to put that on the side, a parking area to get them out of the driveway due to the fact that people are driving onto the grass and tearing it up to get through the yard so his intention is to concrete the entire driveway with an extension in this area here, he referred to the aerial photo, so from here to here would be 12'.

Mr. Gutoskey said so you are probably going to go over your 10%.

Mr. Stoika said exactly but once again, combining the two lots that actually goes away.

Mr. Lamanna asked if those trees are going to stay.

Mr. Stoika referred to the aerial photo and said this tree just died and that one is a Weeping Willow that is going to go, alongside where the carport would be he already put in landscaping with Arborvitae evergreen plants to grow up so when the neighbor is sitting in his backyard and is looking over it is nicely landscaped, he put in low voltage lighting.

Mr. Gutoskey asked Ms. Endres if she added in lot coverage by making the driveway bigger.

Ms. Endres said no, the way she calculates lot coverage, she uses the tools on ReaLink but she didn't put the driveway on there.

Mr. Stoika showed the board the site plan and said this is what it will eventually look like when it is finished and he calculated it out to 8,700 sq. ft. of coverage not including the barn.

Mr. Lamanna said 8,700 sq. ft. on this lot.

Mr. Stoika said yes and one other thing that was a surprise to him and he just learned about it was, is limestone considered hard surface.

Mr. Lamanna said yes.

Mr. Stoika said it drains because around the pool he took out all of the vegetation that was there because it was getting in the pool and causing problems so he put up a nice white vinyl fence around it for safety and the area between the cement and fence, he graveled it with white limestone to make it look nice and then he finds out that turns out to be area coverage also, he didn't know that.

Mr. Lamanna asked what is under it, is it just gravel on the surface.

Mr. Stoika said he took the bucket and took out six inches of dirt and plants, everything, and put landscape fabric down, Wolmanized timber, put a white vinyl fence up and filled it in with limestone so it is just like sitting on clay.

Mr. Lamanna said there is a difference between landscaping gravel and driveway gravel that gets pounded down and rolled and becomes basically like cement, if you take a gravel area like that it is going to drain. He said people put landscaping fabric all over.

Mr. Lewis said that is ornamental, it is not a roadway.

Mr. Lamanna said it is not being compacted, that is the difference, compacted gravel versus un-compacted gravel.

Mr. Stoika said the screen porch and the cement behind it exists and the cement around the pool is existing.

Mr. Lamanna asked what all of that comes up to.

Mr. Gutoskey asked Ms. Endres what she came up with.

Ms. Endres said it was fast and dirty, she tried to use a combination of his diagram and she didn't get a real accurate measurement here because she has some of the information on the screen that interfered with her measurements. She said she has a sheet in the packets with the calculations she came up with and that was 11,657 sq. ft. and that includes the accessory buildings in the back.

Mr. Stoika showed the board photos on his cell phone and said this is what he did with the gravel.

Mr. Lamanna said he didn't think the board needed to count that, it is like crushed rocks around their house versus mulch.

Mr. Gutoskey said it is a hair under three acres or so.

Mr. Stoika said his next question is taking that into consideration, there are a couple of areas on the house that he would like to expand in the future.

Mr. Gutoskey said make sure you get a permit.

Mr. Stoika said yes, like the sun porch, the screen porch in the back, it can only be used in the spring and the summer and this time of year it is the same temperature outside that is in the porch so he wants to extend it to the end of the house which is 8' and then 16' out so that is like 170 sq. ft. of area and then on the south side of the house.

Mr. Gutoskey said you will probably need a side yard variance to do that.

Mr. Stoika said no actually it would be right even with the house and the house is the right distance, it is actually 34'.

Mr. Gutoskey said it has to be 50'.

Ms. Endres asked when the house was built because there is a provision that they can add onto the house in the same manner that was permitted in the 1978 zoning resolution.

Mr. Stoika said which was 20'.

Mr. Lewis said he hates to give structural future variances when he doesn't have a building plan.

Mr. Stoika said he is just thinking down the road and what he would have to do.

Mr. Lamanna said if the board gives you a little extra lot coverage you will have something to play with as long as you meet the other requirements.

Mr. Gutoskey said we can give him an extra 1%.

Mr. Lamanna said if we give you a total of 11% on the two lots but we are still going to have to assign some to each lot so that each lot stands on its own.

Mr. Gutoskey said the lot in the back is landlocked though so if you look at it you would have 18% on the front lot and 0% on the back basically.

Mr. Lamanna said we will treat it as a single lot.

Mr. Gutoskey said because what happens is if we give a variance up to 18%.

Mr. Lewis said that doesn't look good on paper.

Mr. Gutoskey said whatever affidavit he files, the lot has to be considered as a single parcel.

Mr. Lamanna said he can put in the motion that since he is executing it we are treating this as one parcel and with respect to internal lot lines and internal lot coverage all appropriate variances are granted with that affidavit being filed but with respect to the overall lot coverage you have got 11% and then we have a side yard variance of 16' for the carport.

Mr. Gutoskey said the house is not centered on the lot, it is pushed to one side.

Mr. Lamanna said it certainly is going to look a lot better to have those vehicles parked inside of a structure rather than sitting outside.

Mr. Gutoskey told Mr. Stoika that even if he can get some of the things parked in the front in the shed or behind the shed.

Mr. Stoika said he has a commercial dump truck that he got from his nephew's landscape business when it went under and two trailers, his parents passed away in 2013 and the remains of what was left in their house is in the trailers and he is selling it all off and once that is done they are gone. He said the truck is actually in the shop right now getting worked on and it is up for sale, it has a 10' plow etc. with it so he actually has people interested in purchasing it so as soon as it is ready hopefully they will purchase it and it will be gone.

Mr. Gutoskey said if you clean up the front a little bit he thinks the neighbors will like it.

Mr. Stoika said the only thing he has left is a 16' flatbed trailer and the boat and the boat will actually go underneath the carport also so he took all of those things into consideration when he got the suggestion to do it.

Mr. Lamanna said we will give you this carport addition and the idea of doing that is so that we don't want a whole bunch of vehicles parked in front of the house anymore, the ones actually used are going to be put in the carport.

Mr. Stoika said that is the intent.

Mr. Lamanna said to park the vehicles and boats in the carport, not on the pavement, the carport is not there to become an extended patio.

Mr. Stoika said once the driveway gets put in and finished off then all of the landscaping comes after that so it will be very nice once it is done.

Mr. Lamanna said the other house is hugging the other property line and he has already put in the Arborvitaes so we will just say to maintain that buffer.

Mr. Stoika said there is access for the fire department to get to the backyard, there is access off to the south side.

Mr. Gutoskey said he has one other comment on his low voltage lights, you show 200 watts each.

Mr. Stoika said they are 12 volt, 200 watt lights.

Mr. Murphy asked if they are as bright as a 200 watt incandescent bulb.

Mr. Stoika said no, actually believe it or not, because they are designed as a landscape light they have the little caps on them so it is all down lighting so he has them roughly 5-1/2' apart.

Mr. Gutoskey said he thought that was a typo.

Mr. Stoika said he got them at Walmart, they were manufactured by Westinghouse, they are all metal and they have basically a transformer that puts out 70 watts and he put them every 5-1/2' along the walkway.

Mr. Gutoskey said they are 200 watt equivalent.

Mr. Stoika said it lights about 5-1/2' out from the walkway.

Mr. Lamanna said it is maybe 200 watts total.

Mr. Gutoskey said no, 200 watts per light.

Mr. Murphy said that doesn't sound right to him.

Mr. Stoika said when he found them he was very surprised because the ones they sell today are like 100 watts but he bought a bunch of them.

Mr. Murphy said but the fixtures are shielded.

Mr. Stoika said it is shielded light.

Mr. Murphy said so the neighbors don't see the bulbs.

Mr. Stoika said no.

The board discussed the lighting.

Mr. Stoika said it draws about 1.8 amps, that is it, it is 120 volt, 70 watt, secondary low voltage, 110 volts on the front side, 70 watt output, 12 volt so you could run 24 lights off of one transformer.

Mr. Lamanna said each bulb is drawing a couple of watts but a couple of watts of LED is fine.

Mr. Stoika said he took a lot of things into consideration.

Mr. Murphy asked if the board was okay with the side yard setback.

Mr. Lamanna said he thinks it is going to improve it and the other property is a long way away.

Mr. Stoika said his neighbor moved to North Carolina and she responded to him and asked if she should be here. He said he put a new roof on seven years ago and the roof is weathered wood, it has Moss Green, Winter Wheat and a number two stone color so he matched the color of the house to the shingles, so the house is Moss Green, around the windows is Winter Wheat and the inside is the number two stone and the soffit is that. He said the block will get painted the Winter Wheat.

Mr. Lewis said it will look nice.

Since there was no further testimony, these applications were concluded.

BZA Motion 2018-54 and 2018-55 - 18801 Chillicothe Road

Mr. Lamanna moved to grant the applicant the following area variances for the purpose of constructing a carport and to maintain an existing accessory building.

1. A variance with respect to the side yard setback on the north side to 16' from the property line (carport).
2. A variance with respect to the barn from the maximum size of 300 sq. ft. to 768 sq. ft.
3. A variance from the maximum permitted height of an accessory structure from 15' to 17' for a variance of 2'.
4. A variance from the maximum permitted lot coverage of 10% to a combined total lot coverage to 11%.

Based on the following findings of fact:

1. These variances are granted based upon the fact that the applicant owns two lots with a total of three acres inclusive of the right-of-way, one of which lot is landlocked.
2. The applicant has agreed to file an affidavit of fact indicating that these two lots are being considered together for zoning purposes and cannot be transferred except jointly.
3. The applicant is required to submit for approval to the zoning inspector and such affidavit will be filed prior to issuing the zoning certificate. The zoning inspector will provide the template for the appropriate affidavit of fact and that will be filed before the permit is issued.

BZA Motion 2018-54 and 2018-55 - 18801 Chillicothe Road - Continued

4. With respect to the fact that this affidavit of fact is being filed, the board is considering these two lots as a single lot for the purposes of the application of setbacks from internal lot lines and total lot coverage and therefore includes any necessary variances with respect to those individual lots that would be required if you were considering them as two separate lots although for the purposes of this decision we are considering it as a single lot.
5. The applicant has provided a buffer of Arborvitae on the carport side and the applicant will continue to maintain an evergreen buffer of the Arborvitae or other evergreens in order to ameliorate the impact upon the neighboring property owners.
6. With respect to the barn the applicant will obtain appropriate permits from the building department with respect to the construction of that barn within 60 days of the board's decision becoming final. This condition to the variances is with respect to the barn in order to ensure that they do not pose any adverse impact on the neighboring properties.
7. With respect to the barn, the barn will not be used as a residence or for residential purposes nor will any business be conducted in the barn except as otherwise permitted under the home occupation part of the zoning code.
8. When treating these two lots as a single lot it diminishes the need for these variances.
9. It is reasonable once the affidavit of fact is filed as a single lot especially since the one rear lot is landlocked and does not have any access to a street.
10. The 1% lot coverage variance is not significant and will not adversely affect the character of the neighborhood or the neighboring properties.
11. Likewise, the neighboring property, with respect to the carport side, is located at the far opposite end of his property so that there will still be a substantial distance between the actual physical development on these two properties so that adjacent property owner, once the screening is kept and maintained, will not be adversely affected.

Mr. DeWater seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 10:20 P.M.

Respectfully submitted,

Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: December 20, 2018

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
November 15, 2018

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:20 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the October 18, 2018 meeting as written.

Mr. Lewis seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2018-57 by Ivan Nassif for property at 7170 Chagrin Road

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

Application 2018-58 by Discount Drug Mart for property at 8459 E. Washington Street

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

Application 2018-59 by Kyle Lawrence and Anthony Pfenning for properties at 8158 and 8162 Chagrin Road

The applicants are requesting area variance(s) for the purpose of a lot split and consolidation. The properties are located in a R-3A District.

Application 2018-60 by Constance Hecker for properties at 8300 – 8326 E. Washington Street

The applicant is requesting a renewal of an existing conditional use permit. The properties are located in a CB District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for December 20, 2018 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 11:05 P.M.

Respectfully submitted,

Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: December 20, 2018