

Bainbridge Township, Ohio  
Board of Zoning Appeals  
November 20, 2008

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:33 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

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

The following matters were then heard:

Application 2008-31 by Jo Byron and Nicole LaGanke for property at 7395 Chagrin Road (Briar Holdings, LLC)

The applicant is requesting to expand a use variance for the purpose of establishing a Wellness and Rehabilitation Center for Pets. The property is located in a R-3A District.

The zoning inspector's letter dated November 20, 2008 was read and photos of the site were submitted.

Dr. Jo Byron, DVM, Ms. Nicole LaGanke and Mr. Frank Artino, Property Owner, were present to represent this application.

Dr. Byron testified that she currently runs a business that is alternative medicine only through acupuncture, herbal medicine, chiropractic, therapeutic water and she currently runs it as a small home business and has been doing so the last couple of months and was located in Orange Village and she is looking for a new facility and came across the Briar Patch and it is an ideal facility for them and she is interested in doing business there.

Ms. Sass asked where the business is run now.

Dr. Byron said she does it as a house call business all over such as Chesterland, Lake County, Geauga County etc.

Mr. Lamanna asked what this business entails.

Dr. Byron said it is strictly not traditional veterinary medicine so she would not do any vaccines or blood work and it is on a referral basis.

Mr. Lamanna asked if this is an on-the-spot type of service, people come in and leave.

Dr. Byron said for the most part, yes.

Mr. Lamanna asked if animals will be boarded overnight.

Dr. Byron said absolutely not, Ardenberry Kennels is next door to accommodate those people if needed but the bulk of her patients are arthritic or recovering from surgery and a lot of them are geriatric patients so they need to go home with their families and the only thing is she may have an animal there for a couple of hours to accommodate her client's need to run errands etc.

Mr. Lamanna said it is short term treatment and the treatments are to be done within a day and the animals will not reside there for three or four days.

Dr. Byron said generally speaking, most of her treatments are ½ - 1 hour, depending what they are there for so she also won't have the influx like a routine veterinary hospital, they would not be seeing patients every ten to fifteen minutes, they won't have five veterinarians there, it is her and Ms. LaGanke that will be the only two people there and said there will be one to two patients every couple of hours.

Ms. Sass asked if there is a lease agreement.

Mr. Frank Artino testified by saying verbally now, they are waiting on the outcome of this meeting and added that he is the owner of the property.

Mr. Olivier asked how big of a space will be used.

Dr. Byron said it will be a shared space and they will be using about 1,200 sq. ft.

Mr. Lewis asked if the other retail store is still going.

Mr. Artino replied yes.

Mr. Lewis asked if the shared space will be with that store.

Dr. Byron said they will still have space to sell some of their stuff yes.

Mr. Artino said the building is kind of an L-shape building.

Ms. Sass said this is a prior non-conforming use in a residentially zoned district and this is a request for a use variance to add a second non-related commercial business, so this is a straight out use variance.

Mr. Lewis said it is not an area variance and asked if the existing store is in the front.

Mr. Artino said there are about 2,000 sq. ft. He referred to the GIS aerial photo and said there is about 1,000 sq. ft. that is attached to the building that is in front of the parking lot. He showed the board the space that will be primarily the rehabilitation center and the shared space and said there is a counter that they both will share and referred to the building that will still be the Briar Patch. He referred to the barn and said it contains the landscaping business.

Mr. Olivier asked about the business to the west.

Dr. Byron said it is Ardenberry Kennels.

Mr. Artino explained the location of the kennels to the board and noted the location of the new driveway for Judson and said the GIS still shows the home there but it has been leveled.

The board discussed this application and the existing non-conforming use.

Mr. Michael Joyce, Zoning Inspector explained that the tree service business and the gift shop will still be located there, this business will be a third non-conforming use located in that building.

Mr. Lamanna said it takes up space in the building, it reduces one of the other uses, there is no more area being used and the footprint is not being increased.

Ms. Sass said the use is changing.

Mr. Olivier said another use is being added and asked if the Judson drive is a private drive or a dedicated road.

Mr. Artino explained that it is for Judson and it is a private construction drive now but will join Rocker.

Mr. Lamanna said it will be public and continued by saying this application is for a substitution but will it qualify as a substitution.

Ms. Sass said it is a two prong test.

Mr. Lamanna said it is easier to satisfy the requirement for a substitution than it is to satisfy the requirement for a use variance.

Mr. Lewis said he wants to talk about the use of the site and referred to the narrative that says the therapy will be done indoors, there is minimal outdoor use when a patient's care dictates, all animals will be in a fenced-in area and supervised out of doors as they will be working one on one with a therapist. He said his initial taking was that the patients would receive all care inside the building but we have a narrative that is saying there is going to be an outdoor fenced-in area and asked if this will be added.

Dr. Byron said she would love to have an outdoor fenced area and whether that would be permitted or not is up to the board but that would strictly be for the patients that will have to go out and do their business.

Mr. Lewis said he wants to talk about that too.

Dr. Byron said a fenced-in area is obviously much safer than just allowing them outside on a leash and added that they will still be leashed but it is better than being out front and having a crazy dog pulling her down.

Mr. Lewis asked what happens when animals of various sizes have to relieve themselves and where does that leave us with the health department because this is not a kennel, it is a business.

Mr. Joyce said his understanding is it is not a kennel, it is a business, but he does not know how the health department handles that, he will have to look into it.

Dr. Byron said it is deemed as a veterinary hospital in the eyes of the Veterinarian Medical Licensing Board.

Mr. Lewis asked if the facility has to be certified and inspected.

Dr. Byron said no, it does not have to be certified and inspected, the Veterinarian Licensing Board does not really do that, but there are certain groups that you can join that will come in and inspect the facility but that is not one of these situations because it is rehabilitation and not a standard veterinary hospital, there are actually no guidelines whatsoever in the United States anywhere for that. She said traditionally veterinarians just throw away anything a dog does at their facility but she would like to obviously try to coordinate something with Ardenberry Kennels since they will have more amounts to deal with than she will so she will try to arrange something with them.

Mr. Lewis said so the only reason for a fenced-in area is the convenience if you have a large patient that he will not drag you across the road to relieve himself.

Dr. Byron said there is that and as part of this business she looks at the gate of the dog so somewhere she needs to be able to just see a dog moving up and down so a confined area is just a lot safer.

Mr. Lewis asked if this is at the rear of the building and the furthest away from the street.

Dr. Byron said yes, you would not even see it from the street.

The board reviewed the orientation of the buildings and the location of the existing kennel.

Mr. Artino said there are two separate entrances to the primary building where the rehab center will be and explained the location of the courtyard and said it would be a perfect place for the outside area and a separate fence would not have to be created somewhere else on the property, a fence could be put between the two buildings because it is all enclosed.

Dr. Byron said it would not be altering much of anything.

Mr. Artino said it would not be seen, it is totally blocked.

Mr. Lewis asked if that would be an attended area with the patient and not a holding pen.

Mr. Artino said there are two entrances to this courtyard.

Dr. Byron said they would only be out there with a therapist, she can't have dogs with arthritis or a fractured leg just running around in the backyard, they would always be with somebody.

Mr. Lewis asked if there is a way to accumulate the leave behind materials and if the removal is in agreement with the kennel.

Dr. Byron said that would be one option of course, but the number of animals they would see in the course of a day is fairly minimal, significantly less than a group of people walking around the block.

Ms. Sass asked Dr. Byron if right now she goes out to people.

Dr. Byron replied yes.

Ms. Sass asked if by establishing this as a central place if all of these people will be coming to her.

Dr. Byron said yes.

Ms. Sass said it sounds based on what Dr. Byron said that she travels to Geauga, Lake and Cuyahoga County that she has a fairly sizable client base.

Dr. Byron said yes.

Ms. Sass said so there will be a steady flow coming into this now central location.

Dr. Byron said there will be but it is very fluctuating, she may treat a dog for six weeks that is recovering from surgery and won't see it again for months, her acupuncture clients once she gets past the initial weekly process, are seen maybe a month at a time. She added that she does have a large base but it is not like they are seeing her every week or everyday.

Mr. Lamanna asked how many patients a day she will have.

Dr. Byron said there will be between six to twelve patients and eight for her is a pretty busy day.

Ms. Sass asked if that is the two of them combined.

Dr. Byron said that is eight for her and goes up to twelve with the addition of Ms. LaGanke.

Mr. Lamanna asked if there will be one to two patients per hour.

Dr. Byron replied yes.

Mr. Joyce asked how long her day is.

Dr. Byron said generally she works from about 9:00 A.M. to 7:00 P.M. and she would keep the same hours as the Briar Patch is currently running which is 9:00 A.M. to 8:00 P.M.

Mr. Artino said they work 9 to 6 but they are allowed 9 to 9.

The board reviewed and discussed Chapter 165.09 (Substitution of Non-Conforming Uses).

Mr. Lamanna said the intent is not to perpetuate.

Mr. Olivier said there would be more traffic flowing into a retail establishment than two cars in and two cars out.

Mr. Lamanna said he did not think there was any increase in noise pollution but the real question is if it is the same kind and character and how does it tie into the overall intent here.

Mr. Lewis said the original motion on this in 2001 for the primary use of the property was a landscaping business and the retail store was primarily for the sale of agricultural based products with some additional crafts being accommodated. He referred to the signage and said the original motion was very clear on no change or increase in signage permitted and that there would be no permitted substitution and no addition with respect to lighting and added that the board has a baseline on the original use variance.

The board reviewed the original variance that was granted.

Mr. Lamanna asked if there is going to be a separate entrance or if the same entrance will be used.

Dr. Byron said they will use the existing entrance and use as much of the same facilities and alter it as little as possible. She said the current entrance is actually perfect because there are no steps for the patients to deal with and there are two entrances.

Mr. Murphy referred to the proposed use in Chapter 165.09 and if it is equally or more appropriate to the district than the existing non-conforming use. He explained that there was always a kennel there and a veterinarian's office across the street and Arrowhead, the little gift shop that was always here.

Mr. Lamanna said this would probably be permitted in a professional office district. He said the important thing is how this fits with the long term intent, does this tend to extend or promote the non-conformity or is it totally neutral with respect to whether the existing non-conformity is going to continue.

Mr. Olivier asked if this will revert to residential.

Ms. Sass said there is a deed restriction that says a residence shall not be built on the property so long as the kennel is operated on the contiguous property to the northeast.

Mr. Olivier asked if it can't go residential if it is an expansion of a worse use.

Mr. Lamanna said it doesn't override the zoning.

Ms. Sass said the deed restriction is dated 1971.

Mr. Lewis asked the board members if they see it as adding a like non-conforming use, it is not landscaping.

Ms. Sass said no, she does not, and that is her big problem.

Mr. Lewis said if the lessee leaves at the end of the their lease, we will have a non-conforming use with a future tenant of some sort.

Ms. Sass said the board has the authority to impose appropriate conditions and limitations.

Mr. Lewis said then the conditions could evaporate when the lease is done.

Ms. Sass said yes, there is a way around all of that but she has a problem with the baseline.

Mr. Lamanna said if it was a less intensive use the board could be a little more flexible because the whole idea of the intent is to push first the less intensive uses and the fact that something may not be exactly the same kind and character but represents a less intensive use, that is a good reason to be flexible in terms of what that means but if somebody comes in with a more intensive use, it has to be enforced more strictly.

Mr. Murphy said there may be two cars all day long.

Dr. Byron said yes plus hers.

Mr. Murphy said we don't want to start a new Hixsons because all of sudden next week there could be other businesses coming in.

Mr. Artino said this pretty much maxes this out.

Mr. Murphy said you could replace what is up front there with something else, but you are now adding an additional business.

Mr. Lamanna said the board has to be clear that if anything in the future, and this business stays here, is added, then the board goes back to the baseline and looks what was already there and to make a further change, it will be a substitution.

Ms. Sass asked why they can't scale back a little bit more.

Mr. Lamanna said it can be structured so the next time if any further uses are substituted, it will be looked at in an accumulative basis so there will not be an increase in noise, traffic and everything else. He said you can't nibble away with little bites and say that each little bite is not significant, the board would consider all of the bites together to decide on an accumulative basis.

Mr. Lewis said there is no provision on this property from the previous use for any additional signage.

Dr. Byron said she understands that.

Mr. Lewis said the board hopes businesses coming into the township will thrive.

Dr. Byron said she would use the current signage.

Mr. Lamanna said you just can't make it bigger.

Mr. Artino said he will forfeit his use and they would be utilizing the total of what the condition of their signage is and there will not be two signs, there will be one sign up front to promote the rehab center.



Mr. Lewis referred to no more structures on the property but if they fence in the area are we expanding the original structure.

The board discussed the installation of a fence as an additional structure.

Ms. Sass said she has a problem on the baseline test.

Mr. Lewis said substitution versus expansion.

Ms. Sass replied yes.

The board discussed expansion versus substitution of non-conforming uses and the difficulty with this application.

Mr. Lamanna said in this case all factors have to apply.

Ms. Sass said she does not think it is there and she wishes she did. She said her hang-up is “the same kind and character of a prior non-conforming use” from Chapter 165.09 of the zoning resolution.

Mr. Lamanna polled the board members.

Mr. Olivier said he is in favor of granting the use.

Mr. Murphy said he is in favor.

Mr. Lewis said he is still riding the fence but when looking at the original motion that granted the first non-conforming use, it had a low impact and the use could be corralled so in that sense, this application is very similar, it is a low impact and the board can heavily manage when it operates and how it operates so he can probably get past the kind and character part of it.

Mr. Lamanna said he is inclined to allow it with the understanding that this is for this particular use only and any future changes are going to be looked at on an accumulative basis. He said this is a less intensive use and this use would be permitted probably in a professional office district.

Mr. Lewis said this cannot turn into a flea market building and he does not want to say that in a negative sense to the landlord to have multiple occupants.

Mr. Lamanna said this will be a low traffic business.

Mr. Lewis said he is not so inclined to give a fenced-in area because he is not looking to have anything that could be viewed even remotely that there is a temporary holding pen or kenneling or corralled anything, you take your patients outside, you manage them on a leash in any designated area that you work out with your landlord, the accommodation is for the primary target that you want to do with your business with what you need to run indoors and if you need to check their gate, run them with a handler. He added that he is not interested in expanding any physical deemed structures at all on that property at this time but he would like to see the tenant get in.

Dr. Byron said she does not want to argue the point over the fence too much but she has been in veterinary medicine for 19 years and things happen when you don't have fences and she does think it is relatively important to have a small area.

Mr. Lewis said a run line can be put up with a leash on it or if there is a patient that is unmanageable, it was not stated that making house calls would not be abandoned.

Ms. Sass said there might be some kind of agreement with the kennel next door.

Mr. Artino said there are no neighbors here.

Ms. Sass said she really wants them to succeed, she just can't get past that first baseline and it is very clearly stated and she does not see it.

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

Motion BZA 2008-31 – 7395 Chagrin Road (Briar Holdings, LLC) – Rehabilitation Center for Pets

Mr. Lamanna made a motion to grant the applicant a substitution of non-conforming use under Chapter 165.09 to replace part of the existing retail business with a pet rehabilitation and wellness services center typically as described in the business concept submitted by the applicant in terms of core services.

With the following conditions:

1. The hours of operation will be the same as or no greater than the existing hours of operation.
2. There is no additional signage permitted. All signage will be within that currently existing on the property.
3. There will be no overnight boarding of animals on the property.

Motion BZA 2008-31 – 7395 Chagrin Road (Briar Holdings, LLC) – Rehabilitation Center for Pets - Continued

4. The board also notes as part of the conditions that this substitution is granted based upon the impact that this substitution and any future requests for other substitutions will be evaluated on an accumulative basis considering the total effective change of this substitution with anything that is requested in the future, the board can add it on a total basis as compared to how the property exists today.
5. The substitution permits only two people working at the business (on the premises) at one time.

Based on the following findings of fact:

1. The use will not result in an increase in noise, pollution or traffic for a number of persons using the property.
2. The proposed use is equally or more appropriate to the district because this use would actually be a permitted use in a professional office district and also should be a non-retail business.
3. Due to the length of time of treatment of each individual patient limits the actual number of patients that could be seen in a day.
4. Because it is a less intensive use it is found to be in this case of a similar enough kind and character to permit the substitution.

*The board notes that this does not grant permission to create a fenced-in area. That would be an additional structure being used for a non-conforming use and that is not part of the board's approval at this time.*

Mr. Olivier seconded the motion.

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

Application 2008-32 by Jon Bruce for property at 8573 Beacon Hill Drive

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

The zoning inspector's letter dated November 20, 2008 was read and photos of the site were submitted.

Mr. Jon Bruce was present to represent this application.

Mr. Bruce testified that it would be easier to have another garage on the side so he can put all of the vehicles in the garage and it would look a little better for the neighborhood. He said his pick-up truck won't fit in the existing garage and everything he has will be put in the garage and it will be a lot more practical. He said he has a double row of pine trees on the side of his property and he would have to take some of the trees down to put anything in the back plus the septic system is also in the back and if he puts it up in the front, he can pull right into the driveway and into the garage. He said he asked all of the neighbors and none of them seem to have any trouble with it.

Mr. Lewis asked if any of the neighbors are renters.

Mr. Bruce said no, they are all owners.

Mr. Lewis said in looking at the view of the street, they did a really nice job when they built Beacon Hill because there are very uniform setbacks of the houses from the street and there are no structures in the front yards of any of them and most of the lots are pretty deep and Beacon Hill is a high elevation and he does not think there are any riparians, marshes or wetlands on any of these properties either.

Ms. Sass asked where the location of the septic system is and asked Mr. Bruce to show the board on the GIS aerial map.

Mr. Bruce said the septic system is in the back of his yard and added that some of them are in the front and some are in the back.

Mr. Murphy said from the looks of the picture, this barn is going where the trees are to the left of the driveway.

Mr. Bruce said there are only four trees and they would have to come down.

Mr. Murphy asked if it could be put in the back up against the neighbor's building.

Mr. Bruce referred to the GIS aerial and said there is a hill there.

Mr. Olivier asked if the garage can be attached to the existing garage.

Mr. Bruce said it can't go out to the side and explained that the trees have cut off access to his backyard and to do anything in the back, he would have to take down those trees and they protect his house from the wind out of the west in the wintertime.

Mr. Lamanna said there is a big fundamental problem here because it is totally inconsistent with the whole neighborhood and added that the board has not let anybody build a building in their front yard, it may have let someone build on one of those odd-shaped lots where the house was in a peculiar orientation because of the way the lot was shaped and technically the front yard was somewhere else. He said the board has not let anybody in the township build in their front yard and building in front of the lot line besides and the way all of the houses are here, it would be totally inconsistent with the zoning as well as the neighborhood the way the neighborhood is developed and even if that is the only place it could be built on the property, the adverse impact would be so great under a balancing test, a variance would still not be granted. He told Mr. Bruce that he will have to find some other place to put it and because of the lot width he could get some relief on the 50' side yard setback because it is a 150' lot width.

The board discussed the variance request and the location of the proposed building.

Mr. Bruce said he would hate to cut the trees.

Mr. Lewis said there is ample room with 44'.

Mr. Murphy asked about the structures on the neighbor's property.

Mr. Bruce said it is a storage building and a three car garage.

Ms. Sass asked Mr. Bruce if he can reconfigure the location to put it in the back that would have minimal impact on those trees and have the access he needs and the board can consider this again at a future date.

Mr. Bruce said he would have to take down the row of trees and it is nice shade in the summertime.

Ms. Sass said it seems to be deep enough.

Mr. Lewis told Mr. Bruce that may be his compromise if he wants the structure and added that there is 44' on that side from the property line to the existing structure so there is ample room for a 10' driveway and if the board gives some relief from the 50' side yard setback, there should be a direct drive in or pretty close to it. He asked Mr. Bruce what he is going to use the building for.

Mr. Bruce said it will be for his pick-up truck and storage.

Ms. Sass told Mr. Bruce to see if he can re-work it so it won't be in the front yard.

Mr. Lewis explained that the zoning regulations require 50' on the side yard but the board could give relief if the structure sits within the shoulders of the existing house and if the driveway is 10' to 12' wide, it would be 30' off the side yard and there would be a minimal amount of clearing.

Mr. Bruce said that would not be in the way of the septic system then.

Mr. Lewis said that nobody has raised any objections about the size of the proposed structure but he does not know what the height and roof pitch of the proposed building will be.

Mr. Lamanna asked if it will be a one-story building.

Mr. Bruce replied yes.

The board discussed the proposed roof pitch and the height.

The board discussed continuing this application to give Mr. Bruce a chance to modify it.

Mr. Bruce agreed to continue his application to the January 2009 meeting.

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

#### Motion BZA 2008-32 – 8573 Beacon Hill Drive

Mr. Lamanna made a motion to continue this application to the January 2009 meeting.

Mr. Lewis seconded the motion.

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

#### Application 2008-33 by Waterway Gas & Wash for property at 7010 N. Aurora Road

The applicant is requesting area variances for the purpose of installing signage. The property is located in a CR District.

The zoning inspector's letter dated November 20, 2008 was read and photos of the site were submitted.

Mr. Michael Goldman of Waterway Gas & Wash was present to represent this application.

Mr. Goldman testified that they are pretty close to opening and have a firm date of December 12<sup>th</sup> and they are really pleased and it has come together nicely. He said he has a series of signs and will start with the fuel canopy. He said they have the Waterway brand and the BP Helios at both ends of the canopy and the reason it took so long to get in, they had a lot of negotiations with BP and finally agreed to work with them in September so that is when they filed the plan. He said he would love to ask for this but BP has told them that they will not allow us to have Waterway on the canopies so this may make the board's job a little easier.

Mr. Lewis said the board does not allow any logos, any naming on the canopy valances on any gas station in Bainbridge so that solves that rather quickly.

Mr. Goldman asked about the BP Helios.

Mr. Lewis said nothing, the board is consistent, the Speedway, the Get Go, the Shell station, every single one of them. He said the only business there is with a canopy is a gas station and it is obvious what the nature of the business is.

Mr. Lamanna said there is a Speedway just down the road from this that was just remodeled about two years ago so it sets a baseline for other businesses.

Mr. Goldman said we are also in a development.

Mr. Lamanna said the board has to look at it on a basis of being fair with what other people have as well.

Mr. Goldman said he never asked for a non-logo free canopy.

Mr. Lewis said the company colors can be used, the board is not limiting colors on a canopy trim package.

Mr. Lamanna said yes, but not another sign.

Mr. Goldman said when Waterway was first approved, the board asked for a monotone color, no LED, no bull nose, none of those things and that is what we provided, just a monotone with a cap so he understands the precedent but he would like the board to consider a single BP Helios but he understands. He said he never has had to ask for a sign permit for the menu board and it is a simple two color sign that lists the different carwash packages and their costs and they are showing a 2' x 6' menu board and the customer needs to see what we are selling. He said on the building proper they have just the Waterway name and logo.

Mr. Murphy asked if there is just one side of the menu board.

Mr. Goldman said it is a single sign on each brick column, just one side and there will be five not ten. He said they are sideways to Aurora Road and incredibly different from other gas stations. He said one of the reasons he is asking for a significant amount of signage is that this is their first site in Ohio so they have to tell people they are different and they have to do a great job.

Mr. Lewis said the workers establish great customer relations and word of mouth usually does a lot more for a business than the architecture.

Mr. Goldman said he could not agree more.

Ms. Sass said it is a nice looking place, they did a good job.

Mr. Goldman said that is their number one thing, the employees. He added that he has been told by the local carwash (chemical distributors) people that they can't wait for us to get here because there is nothing like us in Northeast Ohio and he has been to every carwash in Northeast Ohio and we are so different.

Ms. Sass asked why.

Mr. Goldman said the number one reason is the people because they hire people from the neighborhoods who are very impressive kids and it has become a great job for high school kids who want to work for us, we train them like crazy and the person we moved from St. Louis has been running five carwashes, had worked for Waterway through college, started in high school and came back after college and it is just a different culture that we have than most other companies like ours. He added that they do a really good job cleaning people's cars and being nice to them.

The board discussed the location of the gas pumps.

Mr. Lewis said he remembers the unusual shape of the building along the back.

Mr. Goldman said it has turned out very well for them, it gives them more wall space to hang the equipment they have.

Mr. Olivier asked if the menu boards are illuminated.

Mr. Goldman said they are on the outside.

Mr. Olivier asked about the colors.

Mr. Goldman said they will have a blue background.

Mr. Lamanna asked about the choices.



Mr. Goldman said they have seasonal packages but there are four or five choices and then people can order off of the a la carte menu.

Mr. Sass said most carwashes are like that.

Mr. Lamanna said it is not like you have to have huge print because people will be sitting there looking at it, the point is not for people to see them from far away, it is for people pumping gas to see them.

Mr. Goldman said right.

Mr. Lamanna said the size is rather large.

Mr. Goldman said 2' x 6' is the smallest they have done and he did scale back every element of the signage including that.

Mr. Murphy said there will be a single pump in front of all five of those signs.

Mr. Goldman said yes but you can look at it from the side.

Mr. Murphy said they will be a single pump, not a double pump.

Mr. Goldman said they will have five columns and five pumps.

Mr. Lewis referred to the signage requested and said the canopy signs have been deleted, the next one is a request for the five menu boards (2' x 6'), the east and west elevation BP are deleted, and the north is no signage at all so for the items they are considering are the five menu boards and with the menu boards, there is no height to deal with.

The board discussed the signage and logo.

Mr. Lewis said the logo sign (Waterway) is 64.86 sq. ft. however, it is 20' – 24' above grade so there is a height issue also on that one and added that that is the only sign on the front of the building.

Mr. Goldman replied yes.

Mr. Joyce said there is a west elevation and east elevation and the enter signs and exit signs are considered to be directional signs, it is strictly the logo signs.

The board discussed the number of signs requested.

Mr. Lamanna said they could do away with the logo sign on the exit side.

Mr. Goldman said if the choice was his, he would take the one on the entrance side.

The board discussed the location of the proposed signs.

Mr. Olivier asked where the monument sign is on the site plan.

Mr. Goldman showed the board the location of the monument sign.

Mr. Michael Joyce, Zoning Inspector testified it did not violate anything and it was approved earlier on.

Mr. Murphy asked if the signage will be on both sides of the monument.

Mr. Goldman replied yes.

The board discussed the menu boards.

Mr. Goldman said they are a vital part of their business just like the menu board's Steak N Shake have at their drive-thrus. He said they have experimented with a 2' x 4' menu board but it makes him a little nervous to do that.

Mr. Joyce said having driven by while the building is being built, those areas are already carved out. He explained that menu boards are not addressed in the zoning resolution therefore they are not a permitted sign. He said the zoning commission can work on it but there will be no relief for this application.

Mr. Lamanna said it is a peculiar situation because it is an outdoor business.

Mr. Olivier asked how big the lettering is and you would have to be at the pump to read it.

Mr. Joyce said they are detailed instructions on what to do and how to do it.

Mr. Olivier asked if there is someone standing at the entrance to take the order.

Mr. Goldman said there is always someone standing at the canopy and explained how the service works.

The board discussed the lighting and lettering of the proposed menu boards.

Mr. Murphy said they could just as easily be right on the face of the column at eye level right next to the pump.

Mr. Goldman said they can't be unfortunately because the car is in the way and the reason they are so high is that the fuel dispensers that BP make has the thing on the top.

Mr. Murphy asked why the sign could not be at eye level on the side of the column.

Mr. Goldman said they tried it and the customers didn't like it so they had to move it and it cost a lot of money to do that. He said he has had other municipalities say this is actually under a structure because a canopy is a structure so that does put it into a separate class of signs.

Mr. Lamanna said this is an odd situation because if it was inside a building, a sign could be located there stating the different things that are sold.

Mr. Lewis said this is not a main sign, it is a product advertisement sheet and asked how it is handled at other retail stores.

Mr. Lamanna said that is a different case because this is not an inside business.

Mr. Lewis said the only place they can see the offering is from outside.

Mr. Olivier asked if the customers always get out of the car.

Mr. Goldman said they get out of the car but they allow people who just want exterior carwashes to ride through.

Mr. Lamanna said the menu signs are not really business advertising signs and the nature of the business is it is an exterior business and the transactions are done on the outside of the building and so they should be treated as a separate category and without those, the applicant is under on the total signage and the board is happy with the other signs.

Mr. Lewis said the menu signs are needed to drive the business.

Mr. Murphy asked if the lights are turned off on the signs when the business is closed.

Mr. Goldman said absolutely, they are on the same timer as their canopy lights so when the business is closed those turn off, all except a safety light.

Mr. Murphy asked about the logo over the front door and if that will stay on or be dimmed.

Mr. Goldman said that is done differently at different places but typically they like to turn everything off except the light for safety.

Mr. Murphy said excellent.

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

Motion BZA 2008 – 33 - 7010 N. Aurora Road (Waterway Gas & Wash)

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

1. A monument sign as shown on the application.
2. A sign on the front of the building (Waterway and logo).
3. A sign on the east elevation.
4. A logo over the exit sign.

(The total signage of these is less than the total permitted, therefore no variances are required.)

5. A variance for the front elevation sign and the east elevation sign on the building to 20' to 24' above grade for the main sign and between 14' and 18' for the logo on the east side of the building. These will be the only signs and there will not be any signs on the canopy of the building.
6. A variance for the purposes of erecting five menu board signs (2' wide by 6' high) to be located approximately 6' to 12' high on the pillars which support the canopy.
7. A variance from the 50 sq. ft. minimum on the wall sign on the front of the building to 64 sq. ft. for a variance of 14 sq. ft.

Based on the following findings of fact:

1. The purpose of the menu boards is to list the carwash offerings.
2. The board is considering these as a separate class of signage that doesn't fit into the normal concept of signage under the ordinance. This is typically an outside business and these signs list the products available and the board does not think it contributes to the overall advertising signage and is reasonable under the specific circumstances of this business.
3. The height variance is granted as being consistent with the overall structure of the building since these are building mounted signs and not free standing signs and are located in a point that make architectural sense on the building and are not extensions off of or greater than the height of the building.
4. The additional second sign on the one side permitted as being necessary to identify the building from the side access roadway through the shopping center.
5. All of these signs including the size of the main building sign are consistent with those in the shopping center and are not unreasonable given the location and scale of the building.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:25 P.M.

Respectfully submitted,

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

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

Date: December 18, 2008

AUDIO RECORDING ON FILE

BZA PH 11/20/2008

-21-

Bainbridge Township, Ohio  
Board of Zoning Appeals  
November 20, 2008

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:25 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

MINUTES

Mr. Lamanna made a motion to adopt the minutes dated October 16, 2008 as written.

Ms. Sass seconded the motion.

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

MEETING SCHEDULE

Mr. Lamanna made a motion to start the regularly scheduled meeting in January, 2009 at 7:00 P.M.

Mr. Lewis seconded the motion.

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

Applications for December 18, 2008

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for December 18, 2008 at 7:30 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.

Application 2008-34 by Susan Shipitalo for property at 8885 E. Washington Street (Milestones)

The applicant is requesting a renewal of a conditional use permit for the purpose of continuing an adult group home. The property is located in a R-3A District.

Application 2008-35 by Melissa and Michael Obradovic for property at 18833 Riverview Drive

The applicants are requesting area variances for the purpose of maintaining a light post, light design and fence. The property is located in a R-3A District.

Since there was no further business, the meeting was adjourned at 9:42 P.M.

Respectfully submitted,

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

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

Date: December 18, 2008