

Bainbridge Township, Ohio  
Board of Zoning Appeals  
November 21, 2019

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Michael Corcoran; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. 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 let the record reflect that everyone had been duly sworn in.

Application 2019-29 by Mathew Cohen for property at 7372 Ober Lane - Continuance

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

Mr. Mathew Cohen was present to represent this application.

Mr. Lewis said so we have a submitted formal survey.

Mr. Cohen testified by saying yes.

Mr. Lewis said he was looking at the structure and asked how far the house is back from the street because the house isn't depicted and he wants to be sure that the placement of the shed was not closer to the road than the front of the house.

Ms. Karen Endres, Zoning Inspector testified that the house is about 95' from the concrete.

Mr. Gutoskey asked what it is from the right-of-way.

Ms. Endres said roughly 68'.

Mr. Gutoskey said so what Mr. Lewis is asking is where your shed is positioned, is it ahead of where the house is or is it behind.

Mr. Cohen said it is a couple of feet behind.

Mr. Gutoskey said he had a chance to go out there today and walk the lot and he thinks what is creating the problem is that this is on the Cuyahoga County line and there is a parcel property line that comes in behind here that is 15 to 20 feet from the property corner of this lot and he thinks that was mistakenly to be thought to be the property corner for the lot. He said he went on to the Cuyahoga County GIS and pulled this up so their property line comes in here.

Mr. Lamanna said that does come to the same point.

Mr. Gutoskey said no it doesn't and that is what's creating the issue because the landscaping lines in with this versus where the pin is here and that property line is pretty heavily landscaped with Pine trees and shrubs so there is already a natural buffer there.

Mr. Cohen submitted another map and said that is the neighbor's shed there and then to the right of it is the Cuyahoga County property line.

Mr. Lewis said you've got two pins 15' apart and whichever one you stumbled on first.

Mr. Gutoskey said the pipe is sticking up out of the ground about 6" and the pin is flush. He said on the Cuyahoga County aerial the shed on the adjacent property shows up and he thinks these are 2019 photos for Cuyahoga County and he thinks Geauga is 2017. He said his lot is only 189.5' deep and if you do the front and rear setback it is 190' so his lot is 1/2' less in depth than what our required front and rear setbacks are.

Mr. Cohen said he can't really build on the east side of it either because there is a big hill right there.

Mr. Lewis said it kind of falls off fast. He asked Mr. Gutoskey after visiting the site if he thinks there is enough natural screening and buffer to last year-round.

Mr. Gutoskey said yes and the only thing he would recommend is putting a few shrubs in the front and you can see from the picture.

Mr. Lamanna asked if there are any other photographs or is that the only one.

Ms. Endres said that is the only picture she has.

Mr. Lamanna asked Ms. Endres if she can go back to the GIS. He said he can see the Pine trees but he can't really tell how far down they continue towards the street.

Mr. Gutoskey said they are pretty much down the whole property line. He asked if there are any other pictures.

The board reviewed the screening.

Mr. DeWater said to Mr. Cohen that originally he said the shed was 35' from the sideline.

Mr. Cohen said that was before the survey.

Mr. DeWater said on the survey it is 27-1/2'.

Mr. Cohen said yes.

Mr. DeWater asked if it is possible to slide it over 2-1/2' to at least get it at 30'.

Mr. Cohen said he thinks so.

Mr. Lewis said it looks like from this photo that he had to build a platform.

Mr. DeWater said this is all level so if he can move it 2-1/2' it gets it at least 30' from the sideline.

Mr. Lewis said that makes sense and it is easier to see us before you build things.

Mr. Lamanna said it is made on skids.

Mr. Lewis said it started at 35' and we are down to 27-1/2'.

Mr. Lamanna said it is not a big deal to extend this thing a little bit farther.

Mr. Lewis asked if there is a fence and is it on the neighbor's property or Mr. Cohen's.

Mr. Cohen said it is her fence on his property.

Mr. Lewis said he thinks he gets how that happened, it had to do with where that other pin was from Cuyahoga County that she or her folks drew the line from the street to that pin.

Mr. Cohen said she is really in the same position he is because right now her shed is right on the property line so he assumes she will have to move hers 30' from the property line as well.

Mr. Lewis said that would be a subsequent application.

Mr. Cohen said understood.

Mr. Gutoskey asked if there is anybody in the audience interested in this application.

There was no response.

Mr. Lamanna said the other shed has no permit either.

Ms. Endres said she has a letter from her attorney relevant to the survey that she wants done.

Mr. Gutoskey said if she wants to get one for her to solve her problems, we have a survey prepared by Mr. Kerry Braun and he sealed it.

The board discussed the landscaping.

Mr. Gutoskey said it is actually a pretty nice looking building and he doesn't have much of a choice where to put it in the yard anyway.

Mr. Lamanna said it is as far back as the other house as well as his house and nobody is really looking at it from the street.

Mr. Cohen said he tried to keep it with the character of the neighborhood, he did not want a Home Depot shed.

Mr. Lamanna said he isn't sure what point there is going to be from another survey.

Mr. Lewis said there is some correspondence suggesting but he will make a point so it gets into the minutes that even though we did get a notice that the adjacent neighbor was maybe pursuing a survey but from the time that we had the first meeting on this application it has been the better part of two months so he would say if somebody was going to challenge something with regards to your application specifically, two months was more than adequate time to get a survey done so his suggestion is that the board should just proceed with a ruling.

Mr. Gutoskey said he agrees.

Mr. Lamanna said there is nothing on the survey that would raise any questions and if anything if you look at the shape of the lot, it matches up with the shape of this, not with one where the line is askew and we have independently determined from the public record that there is a reason why somebody could easily make a mistake where that corner is because of the other property line coming in from the rear so he doesn't see that they are going to come up with anything different on their survey.

Mr. DeWater said we should just confirm the survey that was presented to us.

Mr. Lewis said he is comfortable.

Mr. Lamanna said if the survey is different and they come in before we finally approve this which is a month away we may have to revisit this.

Mr. Lewis said so it gets moved 2-1/2' so that it is 30' off the property line.

Mr. Lamanna said sometimes there are deed discrepancies.

Mr. Gutoskey said but that is part of the art of surveying is figuring out what happened.

Ms. Endres reminded the board to give the applicant a little more lot coverage so he won't have to come back.

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

#### Motion BZA 2019-29 – 7372 Ober Lane

Mr. Lamanna moved to grant the applicant the following variances for the purpose of maintaining an existing shed.

1. A variance to the minimum required front yard setback of 100' to 81.75'.
2. A variance to the minimum required rear yard setback of 90' to 84'.
3. A variance to the minimum required side yard setback (west side) of 50' to 30'.
4. A variance to the maximum lot coverage of 10% to 11%.

Based on the following findings of fact:

1. A practical difficulty exists because this is a wide but not very deep lot.
2. The shed is behind the front line of the existing house.
3. There would actually be no place to put the shed if the zoning is strictly followed.
4. The shed is placed immediately adjacent to the driveway of the house so it is about as far as could be reasonably attained on that side.
5. The application will move it an additional 2-1/2' which is available.
6. The board also notes that on the other side of the house, the terrain is not suitable for building a shed.
7. Between the applicant's property and the adjacent property there is a large stand of mature Pine trees and the shed is not very visible from that property.
8. Additionally the shed is very pleasantly designed so this should not adversely affect the neighboring property owner.

Motion BZA 2019-29 – 7372 Ober Lane - Continued

9. It is also consistent with the neighborhood as other properties have sheds located around.
10. In addition, because this is only less than a two acre lot a slight increase in lot coverage would not adversely affect the character of the neighborhood and the current lot coverage from the structures is not excessive or unreasonable for a residential district.
11. The applicant will be moving this so that he obtains an actual 30' side yard setback because it is now approximately 27-1/2'.

Mr. Lewis seconded the motion.

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

Application 2019-40 by Selective Homes, LLC for Narinder Singh for property at 16703 Huron Street

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

Mr. Mike Chowdhury of Selective Homes and Mr. Narinder Singh, property owner were present to represent this application.

Mr. Chowdhury testified that they are proposing to build a new home, we have six lots that are each 20' wide and 100' long, combine them together giving 12,000 sq. ft. for the lot size.

Mr. Lamanna asked if there is a house on the lots now.

Mr. Singh testified that there is a house there now.

Mr. Lamanna asked if it is going to be torn down.

Mr. Singh replied yes and right now the existing house only covers three parcels.

Ms. Karen Endres, Zoning Inspector testified that she is showing Pictometry on the screen.

Mr. Lewis asked who owns these six lots now.

Mr. Singh said that he owns them.

Mr. Lewis asked if they have been joined.

Mr. Singh said no they are still separate parcels.

Mr. Gutoskey said it looks like the house is on four of the lots and there is a shed in the back. He asked if the shed is coming down.

Mr. Singh said that is where they have tanks for the heating system.

Mr. Gutoskey asked if it is propane.

Mr. Singh said not propane but fuel tanks and there is also a garage.

Mr. Lamanna said they added on a carport at one point. He asked if they are going to continue to use those fuel tanks.

Mr. Singh said no.

Mr. Gutoskey said there is less lot coverage with this proposed house than there is now, looking at what they are proposing and how it covers the six lots.

Mr. Singh said right now they are building a two-story home.

The board discussed the setbacks.

Mr. Lewis said they have an advantage because they have six lots and 120' of frontage.

Mr. Gutoskey asked if there is anybody in the audience interested in this application.

Mr. Lamanna said the lot coverage is good because the board already granted a lot coverage variance on this property.

Ms. Endres said his lot coverage right now is 15% and variances go with the property so the lot coverage has been addressed in the past. She said they talked about the possibility of an affidavit but she didn't know if the board wanted an affidavit or a lot consolidation re-plat.

Mr. Gutoskey said that is what we have been doing in Chagrin Falls Park, the affidavit.

Mr. Lewis said it is much more cost effective for the applicant.

Mr. Lamanna said so we have no issues on the dimensions, and certainly consistent with what we have done in the past and consistent with the neighborhood as it currently exists.

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

Motion BZA 2019-40 – 16703 Huron Street

Mr. Lamanna moved to grant the applicant the following variances with respect to constructing a new single family dwelling on six sublots in the Chagrin Falls Park Subdivision. Those sublots are 20' x 100' so the total lot size is 12,000 sq. ft.

1. A variance to the minimum required lot size of three acres to 12,000 sq. ft.
2. A variance to the minimum required lot width of 200' to 120' for a variance of 80'.
3. A variance to the minimum required front yard setback of 100' to 25' for a variance of 75'.
4. A variance to the minimum required side yard setback of 50' to 40' (north side) for a variance of 10'.
5. A variance to the minimum required side yard setback of 50' to 20' (south side) for a variance of 30'.
6. A variance to the minimum required rear yard setback of 90' to 39' for a variance of 51'.
7. The board is treating this as a single lot so a variance is necessary to build over the internal lot lines.
8. The applicant will agree to file an Affidavit of Fact in a form that is satisfactory to the township stating that these lots are considered to be combined for the purpose of constructing this house and will be treated as a single lot with respect to the construction of the house so that they cannot be further subdivided.
9. The board also notes that there is already a pre-existing variance to the lot coverage with respect to these lots and the board will consider that as continuing on with these lots to the permitted amount of 19%.
10. The board also notes that this is based upon the removal of the existing structure and existing outbuilding.

Based on the following findings of fact:

1. A practical difficulty exists because the Chagrin Falls Park Subdivision is an area where there is a large number of small lots.
2. With six sublots put together it will be one of the larger actual building parcels in the park so that it is certainly consistent with the character of the neighborhood.



Motion BZA 2019-40 – 16703 Huron Street – Continued

3. The other variances are granted due to a practical difficulty inherent to the size of the lot but all of the setbacks being provided are again consistent with the neighborhood and they are also such that they would not adversely affect any of the neighboring property owners.

Mr. Gutoskey seconded the motion.

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

Application 2019-41 by Gregory A. Krzys for property at 8480 West Craig Drive

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. Gregory Krzys was present to represent this application.

Mr. Lamanna asked Mr. Krzys to describe what he would like to do. He said you want to place this in your rear yard.

Mr. Krzys testified by saying correct.

Mr. Lamanna asked if there is an existing building.

Mr. Krzys referred to the aerial photo and said there is an 8' x 18' shed but it is a testament to the inefficiency of termites and it is where he stores a canoe and a walk-behind.

Mr. Lamanna asked if that is going to stay or is it going to go.

Mr. Krzys said right now it is staying until he gets something else up.

Mr. Gutoskey said that is the question, are you going to remove that once you build the new one.

Mr. Krzys said, it is not an issue, the floor is rotting out, this is all clay, it is set right on the ground.

Mr. Lewis asked if he is showing a car lift.

Mr. Krzys said that is to demonstrate the fact that it has 12' sidewalls.

Mr. Gutoskey said it looks like a two-car garage.

Mr. Krzys said his primary purpose of this is to get all of his gym equipment out of the garage so his wife can park her car so there are higher ceilings so he can put a rig in and not have anything get in the way when he is putting weights overhead.

Mr. Lamanna asked if he is going to expand the driveway back to that, is that the idea.

Mr. Krzys said correct.

Mr. Lewis asked where his septic leach fields are located.

Mr. Krzys said he is on sewer, it is one of those old neighborhoods that had it originally, he is on well water and gas and sewer and he could tell the board only roughly where the sewer line runs because the county has no as-builds for this neighborhood but it runs out straight to the road.

Mr. Lewis asked Mr. Krzys how he came up with 10' off the side yard versus the zoning requirement of 50'.

Mr. Lamanna said the only issue here is the side yard setback.

Mr. Krzys said he does have space to move it a bit but he has two large trees that probably in the next five to ten years they will need to come down and if he moves this into the center of the property it will be a challenge for any tree service.

Mr. DeWater asked how far he can move it without having to take trees down now.

Mr. Krzys said he wouldn't be able to do 50', he could probably push it 20' to 25' off the property line and actually on this photo you can see it. He said the fence is off-set 15' down the eastern side and about 5' on the western side so it could come in 5' and he could go another 15' or 20' off the fence line and then he runs into this tree which is the one right at the back of his house, he showed the board a photo of the tree. He said they already chopped two large sections of it down and they are rotting, it is a silver Maple, it is beautiful and it will probably still outlive him but you never know considering that two-thirds of it has already been taken down, that is the one that has got quite the lean going on it.

Mr. Lewis said 25' is a whole lot better than 10'.

Mr. Lewis asked what is between the property lines as far as natural screening.

Mr. Krzys asked front or back, you won't see it from the back, right now you could.

Mr. Krzys said there is a 6' high fence and showed the board a photo looking across the fence line and then towards his barn so he figured the view would be similar to what he sees looking in his yard right now.

Mr. Gutoskey referred to the barn next door.

Mr. Krzys said it is a gambrel and it is huge.

Mr. Lewis said it kind of dwarfs what you are putting up and they have a permanent fence in the way.

Mr. Lamanna said his house is quite a ways off the line on that side to the west.

Mr. Krzys said yes.

Mr. Lewis said he is good at 25' and he doesn't see any need for any screening because there is a fence there already.

Mr. Gutoskey said it is pretty far away from the other house.

Mr. Lewis asked Mr. Krzys if he is going to match the color with the siding and shingles on the house to try to make it look like it goes with the house.

Mr. Krzys said yes and the evergreens are staying at the end of the driveway, he is a Biologist by background so he tries to keep things green.

Mr. Lamanna asked if there is anyone interested in this application.

There was no response.

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

Motion BZA 2019-41 – 8480 W. Craig Drive

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing a 14' x 30', 420 sq. ft., 16'4" high accessory building with an 800 sq. ft. driveway extension in accordance with the plans submitted by the applicant.

1. A variance to the maximum lot coverage of 10% to 13% for a variance of 3%.
2. A variance to the minimum required side yard setback (west side) of 50' to 25' for a variance of 25'.
3. A variance with respect to the maximum size of buildings on non-conforming lots of 300 sq. ft. to 420 sq. ft. for a variance of 120 sq. ft.
4. A variance to the maximum height of 15' to 16'4" for a variance of 1'4".

Based on the following findings of fact:

1. The reason for granting the variance is with respect to the lot coverage and the side yard. There is a practical difficulty due to the lot width and the existing construction that 25' is reasonable and 13% given that this is only 1.2 acres.
2. In each case, these are consistent with the neighborhood and will not have an adverse effect on the neighboring property. The neighbor has a larger barn that is already sitting behind his house.
3. With respect to the size of the building, it is a small increase over that permitted.
4. The height is insignificant and it is noted that there are numerous barns in this area that exceed that so it would not adversely affect the neighboring properties or the character of the neighborhood.
5. The applicant, once he completes this building, will remove the other existing accessory structure he has on the property so he can complete this one and move his stuff in get rid of the other one after 60 days.

Mr. Gutoskey seconded the motion.

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

Application 2019-42 by Robert Gingerich for property at 8952 Old Meadow Drive

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

Mr. Robert Gingerich was present to represent this application.

Mr. Lamanna asked if this is the fence that is located right along Haskins Road.

Mr. Gingerich testified by saying yes.

Mr. Lewis asked if he is putting this in or is he using a contractor.

Mr. Gingerich said he is putting it in.

Mr. Lewis said it looks like there are various issues.

Mr. Gingerich said yes.

Mr. Lewis said the height.

Mr. Gingerich said yes.

Mr. Lewis said and the right-of-way and there is also a utility easement he believes.

Mr. Gingerich said yes.

Mr. Lewis asked Mr. Gingerich how far along he is with the fence installation and are the poles in.

Mr. Gingerich said yes the poles are in and that is when he had the notification.

Mr. Lewis asked if those are cemented in.

Mr. Gingerich said yes.

Mr. Lewis said you can't build in the right-of-way so you kind of gather they are going to have to get relocated.

Mr. Gingerich said yes.

Mr. Lewis said so we need to define that and then we need to visit where this easement is and make sure that if you are going to put anything in a utility easement you've got to get permission from the utility company.

Mr. Gingerich said he called 811 and they told him that nothing is there, everything is across the road on Haskins and they gave him the go ahead.

Mr. Lewis asked if he had that in writing.

Mr. Gingerich said he has the email, he believes he still has it.

Mr. Lewis said not just for us but for you.

Mr. Lamanna asked if the recorded easement is noted on there.

The board reviewed the subdivision plat of Old Meadow.

Mr. Gutoskey said it is on the verbiage on that front sheet. He said it is 10'.

Mr. Gingerich asked Ms. Endres if he emailed her the letter from the utility company.

Ms. Karen Endres, Zoning Inspector testified by saying no.

Mr. DeWater said if you contact them again they will give you a confirmation number.

Mr. Gingerich said he has it here.

Ms. Endres asked Mr. Gingerich about his survey.

Mr. Gingerich said they scheduled it for Monday but because of the snowstorm they didn't show up until Friday.

The board discussed the utility easement.

Mr. Gutoskey said it doesn't look like the lots go to the center of Haskins.

Mr. Lamanna said everything would have already been there when they put the subdivision in, the utilities were already along Haskins Road in the right-of-way and they would have no reason to put additional utilities in the side yard of his house.

Mr. Gutoskey said they would put electric, phone, cable and gas in the utility easement. He said the electric, phone, cable and gas go in the utility easement, not the right-of-way.

Mr. Lamanna said none of that service would be on Haskins it would all be on Old Meadow.

Mr. Gutoskey said basically they drop the pole in the easement then run it down the easement but there is nothing on there that says whether or not they dedicated it because normally when you do the verbiage here you put the names of the streets you are dedicating but he doesn't see it on the dedication, the top verbiage and it was probably before Mr. Dave Dietrich was the Planning Director and this is 1977.

Mr. Lamanna said he is allowed to build and put this in the easement, usually there is not a prohibition against them putting anything in there.

Mr. Gutoskey said if it is in the way it is ripped out and not replaced.

Mr. Lamanna said his guess is there is probably not anything in that easement, the service is down the street otherwise they would have come out and said they have some underground here somewhere and they would have come out to mark the underground if there was underground in there.

Mr. Lewis said so when you (Mr. Gingerich) called 811 the email you got back was there was nothing.

Mr. Gingerich said they said all of the utilities for the development go down Old Meadow, his comes in from the front on Old Meadow and they said all of the utilities along Haskins are on the opposite side of the road.

The board reviewed the plat regarding the utility easement.

Mr. Gutoskey said there are actually two easements there, a ten and a twelve.

Mr. Lamanna said if you read this it would mean that every lot has a 12' thing running around it.

Mr. Gutoskey said yes, that's what it says, it is separate from the other one.

Mr. Lamanna said but either way, it is up to the property owner, it is not prohibited.

Ms. Endres said it is at your own risk.

Mr. Lamanna said yes, it is at your own risk and you understand that you have this restriction on your property and for the record if the board says you can build there it doesn't in any way affect these people and we do that otherwise if somebody then comes back and says "the township told me I could do this" then we end up with a big brouhaha.

Mr. Gingerich said there were bushes along there and he is trying to clean it up and by the time he got done cleaning it up it was wide open and his dogs were running out there to see the people.

Mr. Lamanna asked Mr. Gingerich how high he wanted to have this fence.

Mr. Gingerich said 6' and the posts are way too high, they are about 9'.

Mr. Lamanna said so you are going to cut those down and in a straight line.

Mr. Gingerich replied yes.

Mr. Lamanna said this is because it is technically a front yard and limited to 4'.

Ms. Endres said it is a corner lot.

Mr. Lamanna said where this fence is located it is not causing any problems at all.

Mr. Gutoskey said it starts back from the house. He asked Mr. Gingerich if he is going to hook it back into the house.

Mr. Gingerich said no, he left a wide enough spot from the wood line down at the bottom to get his mower through there so he can mow out in front of the fence.

Mr. Lamanna said for our purposes at this point, as long as you don't go beyond the front of the house he doesn't think 6' is any issue at all, there is going to be no visibility issue from a 6' high fence there. He said if he got all the way down to the corner but you are not going to do that, he stopped at the start of the real front yard and added that we have to get a survey.

Mr. Gingerich said the survey was done Friday but they don't have the site map yet.

Mr. Lamanna said but it is staked out.

Mr. Gingerich said it is about 3' outside of the right-of-way.

Mr. Lamanna said as long as you keep it out of the right-of-way.

Ms. Endres asked if there is any fencing at all towards Old Meadow.

Mr. Gingerich said no, right in front of the woods along Old Meadow, there is a split rail fence that looked like it might have been put in by the development because there was one across the road too but it is rotting and starting to fall apart.

Ms. Endres said so the fence was stopped before the front of the house.

Mr. Gingerich said yes.

Mr. Lamanna said it doesn't even get that far now.

Mr. Lewis asked if she is concerned about the 75' from Old Meadow.



Ms. Endres said yes. She said we are talking about two front yards here.

Mr. Lamanna said what we are saying is we are going to keep it in the side yard front yard.

Mr. Gutoskey asked where you have it now, is that the limit on where you are going to put it.

Mr. Gingerich said yes.

Mr. Lamanna said it doesn't even go that far but if he wants to extend it down farther in the future that would be fine but you have to stop at the front of the house.

Mr. Gingerich said yes.

Mr. Lamanna said since you are not anywhere near there, if you want to move it down in the future, you are good until you get to the front of the house and if you want to go beyond that then you have to come back and see us again. He said the only thing we have to deal with would be a variance from the height from 4' to 6' and it won't be going in the right-of-way.

Ms. Endres said this is the site plan she has.

Mr. Gingerich said that actually shows it going up further than it actually does.

Mr. Lamanna said we will give you the variance up to the front of the garage.

Mr. Gutoskey said he has one question, in your Item D. of your comments there is a question, "How will the spirit of the Zoning Resolution be observed if the variance is granted?" and you wrote "Let me know there is some common sense in our board members." He asked if we are okay on that.

Mr. Gingerich said yes.

Mr. Gutoskey said we do read this stuff.

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

Motion BZA 2019-42 – 8952 Old Meadow Drive

Mr. Lamanna moved to grant the applicant a variance for the purposes of constructing a fence along the Haskins Road side of his property.

1. A variance for the fence height from the maximum permitted height of 4', since it is technically a front yard to 6' for a variance of 2'.
2. That variance will be granted from the rear lot line up to a point perpendicular to the front of the garage so that it won't encroach into the front yard of the house.

Based on the following findings of fact:

1. The applicant has had a survey conducted so he is going to relocate and make sure the fence is not within the road right-of-way and he will move it at least 1' from that road right-of-way.
2. The board also notes that there does exist along that property line easements. The board passes no judgment on those easements, they remain in full force and effect and they are solely and completely the liability and responsibility of the property owner and nothing in this decision affects those easements.

Mr. Gutoskey seconded the motion.

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

Application 2019-43 by Mark Chapic for property at 7097 Cedar Street

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

Mr. Mark Chapic was present to represent this application.

Mr. Chapic testified that the existing porch that was up there was terrible so he tore it down and the existing one was 8' off the front plane of the house, it was about 8' deep and he wanted to make it 10' deep and then he wanted to make it wider because the existing one, the return headers were right into the window casing so he wanted to widen the porch up a little bit too. He said he thinks where the problem comes in here is that original one was 8' deep and he wants to go 10', the width isn't an issue because it is staying within the confines of the house, the corners.

Mr. Lamanna asked if it is the same style, basically a shed porch, just a couple of posts on the outside.

Mr. Chapic said yes and what you see there, there is no actual porch floor or anything.

Mr. Lewis said so we are staying within the width of the house.

Mr. Chapic said yes.

Mr. Lewis said rather than being 8' deep it is 10' so your front yard setback changes by 2' and we've got a little bit of lot coverage.

Ms. Karen Endres, Zoning Inspector testified that this is one of those quirks in zoning, the lot coverage really doesn't factor into it because there was no lot coverage in 1977 so she would suggest giving him a little bit more so that if he decides to put patios or sidewalks or something else in.

Mr. Chapic said he ripped the rear porch off too, he just hasn't done anything in the back, he is doing all of this himself so when he gets the front under control he is going to come back to put a little mud room on the back to walk right into the kitchen and little dining area. He said the whole house is 23' x 27' so it is pretty tight and he was hoping to get a laundry room and a mud room with a little side porch off the back. He said they just put new windows in the house and he redid all of the wood siding and painted it up so this is the next phase.

Mr. Lamanna said so right now it would be at 25.21 and does that include the old back porch that was there or not.

Ms. Endres said she thinks that includes the porch that is there.

Mr. Chapic said when he calculated the square footage and lot coverage he did not include the back porch because he tore it off and there was a huge deck too and he tore that off too.

The board discussed the proposed lot coverage.

Mr. Lamanna said we will jump the lot coverage up to 30%.

Mr. Chapic asked what that means.

Mr. Lamanna said the board will give you more lot coverage.

Mr. Chapic said so he can get the back porch on there and a deck.

Mr. Lamanna said that will give you another 4% or so.

Mr. Chapic said the house next to him right there, their house is twice as large as his with the same width.

Mr. Lamanna said their lot coverage is way up there, probably 60%.

Mr. Lewis said we are trying to give you a cushion to take care of the mud room in the back now so you won't have to come back here.

Mr. Lamanna said it gives you 20% more than what you have now.

Mr. Chapic asked if a deck is considered lot coverage even if it is posts not footers.

Mr. Lamanna said yes.

Mr. Lewis said once you design it before you build it update your site plan and get with Ms. Endres and double check your calculations to make sure and we don't get into a jam.

Mr. Gutoskey asked if there is anybody in the audience interested in this application.

There was no response.

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

#### Motion BZA 2019-43 – 7097 Cedar Street

Mr. Lamanna moved to grant the applicant the following variances for the purpose of constructing a front porch.

1. A variance to the front yard setback to 18'6". This represents an increase to the encroachment of the front porch of just 2' from that which previously existed.
2. In addition, the board will increase the lot coverage percentage to 32% because the applicant wants to reconstruct the back porch and deck that were previously there.
3. In addition there was an existing variance granted in hearing 82-24 with respect to the construction of a garage. The garage was supposed to be 5' from the west side of the property line and it has now been discovered that the as-built is approximately 3'6". Since this is a small change from that variance and after looking at this again it is not inconsistent with the neighborhood nor will it obviously at this point affect the neighbors since it has been this way for 30 some odd years. The board amended that variance to make the side yard setback on that side 3'6" from the west side property line.

Motion BZA 2019-43 – 7097 Cedar Street - Continued

Based on the following findings of fact:

1. It is a very small lot.
2. The setbacks of the houses along Cedar Street are all very close so the 2' difference will hardly be noticeable and will be consistent with the setbacks of the other houses on the street so it will not either adversely affect the adjacent properties or change the character of the neighborhood.
3. Because of the small lots in this neighborhood, the lot coverage is consistent with the lot coverages of the other properties and again it will not adversely affect the character of the neighborhood or either of the adjacent properties.

Mr. DeWater seconded the motion.

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

Application 2019-27 by Maria Savransky for Kids Club Property, Inc. for property at 16700 Hilltop Park Place - Continuance

The applicant is requesting a substitution of a non-conforming use with area variance(s) for the purpose of constructing an addition to the daycare facility. The property is located in a LIRA District.

Ms. Maria Savransky, applicant; Mr. Dale Markowitz, attorney and Mr. Steve Ciciretto, architect were present to represent this application.

Mr. Lamanna swore in Ms. Savransky, Mr. Markowitz and Mr. Ciciretto.

Mr. Lewis stated that there is some really interesting history here, this should be in the Bainbridge Historical Society.

Mr. Markowitz testified that it took a lot of digging to find it and the genesis of this goes back to 1968 and the hard part is trying to figure out how the original approvals came about and once we figured that out it made it all a lot easier but part of the consent entry we did from when we did the Chagrin Knolls project and the entry includes all of the M-1 areas from the Knowles Industrial Park. He said Hilltop Park Place he thinks was actually the last phase of the Knowles Industrial Park. It said it is a pie-shape piece (he referred to the aerial photo) and the three cars that you see at the end there, those for the most part are on the Summit Steel property next door and he thinks that blue line is a little more generous than it actually is.

Mr. Lamanna said these things aren't bad but they are off a few feet.

Mr. Markowitz said the sandbox in the back as you can see is encroaching somewhat on the Chagrin Falls property. He said he thinks Ms. Endres gave you the license agreement that we did recently and Mr. Mark Consolo from Chagrin Knolls is here if you have any questions. He said what happened was there was pending before you a variance for some additions that they wanted to do and that is when he starting working on this with Ms. Endres, Ms. Savransky and Mr. Ciciretto and concluded that the variances were not needed, they were all approvable under the old M-1 zoning and essentially it was under the commercial part of the code rather than the M-1 because M-1 allows anything that is allowed in the commercial district so it was approved as a school.

Mr. Ciciretto testified that there was one variance that still would have been required which is the fence or the deck that was here on the backside was still in the 25' setback.

Mr. Lewis said that would be an area variance versus the permitted use in the district, he separates them into two buckets.

Mr. Ciciretto said in doing the addition the deck gets torn off and the new building in fact complies with the setback.

Mr. Markowitz said so we have our permits for the addition to the school.

Mr. Lewis asked how that works out with the use, schooling and then traditional daycare, non-educational activities, is it primarily schooling based or how do you get this classification.

Ms. Savransky testified that they have always been daycare with preschool included, always from the beginning when her mom and Joan Williams started it, we have always been known for that so we are preschool, very heavily preschool based.

Mr. Lewis said so you've got that education component standing way in front of an after school corral till mom and dad pick up the youth.

Ms. Savransky said right.

Mr. Markowitz said we even have a certification from the Ohio Division of Wildlife that we are a school.

Ms. Karen Endres, Zoning Inspector testified that she wants to share this with the board and it wasn't practical to copy all of the documents. She said this is what Ms. Savransky dropped off and she copied and included some of the documents in the packets and she is going to keep it as part of the file but if the board wants to look through this, this has got other documentation in here.

Ms. Savransky said there are things in here from principals from surrounding schools.

Mr. Lamanna asked why when these people got rid of these planned industrial and planned unit developments, why didn't they put transition provisions in to deal with the fact that you take it away, you have something that existed and now it is not going to exist anymore and leave everybody hanging.

Mr. Markowitz said that he and Mr. Larry Dolan spent, he doesn't know how many years, going to the board of zoning appeals meetings for everything.

Mr. Lamanna said that is what he means, they could have solved the whole problem by saying we are getting rid of this zoning but for the existing people here is what rules govern them going forward.

Mr. Markowitz said what actually happened, Mr. Dolan went to a board of zoning appeals meeting and there were three people at the meeting, three board members, two of the three voted to grandfather the whole development because it was during the Carson and Matousek era and then the appointees were all by the then current trustees and they didn't like what their own board did so they ignored it and they told the zoning inspector that it wasn't a legal meeting.

Mr. Lamanna said it might not have been a legal action, the board of zoning appeals just can't say hey we are going to grant something they don't have the ability to grant.

Mr. Markowitz said we had to keep going back to more meetings and then finally we met with the trustees and the prosecutor and we all said this is crazy and we've got to do something to fix it for everybody so that is when we did the consent entry.

Mr. Lamanna said that is what they should have done, they should have passed it when you abolished the district they should have put transitions in that said anything that was developed under this previous provision, here is what happens in the future, you can't make any more of them but the existing ones are there. He said the same thing with Tanglewood.

Mr. Markowitz said your code had that for the oldest subdivisions and for the streets over here, like Mr. Mark Chapic's street, Cedar and then the Chagrin Falls Park, they grandfathered all of those but they didn't grandfather the industrial park.

Mr. Lamanna said it is crazy, they abolish something and then they are going to administer it under what, the provisions on non-conforming uses for the next 100 years, it doesn't work for anybody.

Mr. Markowitz said that is what they tried.

Mr. Lamanna said not a lot of forethought he doesn't think.

Mr. Markowitz said we fixed that in South Russell and he took it to Bainbridge and they didn't want to have anything to do with it.

Mr. Lamanna said when you do that it should be going forward this is what it is going to be so everybody knows what the rules are and everybody is scratching their heads every time something is done as to how to handle it.

Mr. Ciciretto said just to be sure we are on the same page with that because the way it is verbalized in the minutes is the way the original application went in so there are no variances needed for the construction of the building for the setbacks or lot coverage, the issues and the comments the board has had is the parking lot, the parking spaces that are off-lot basically and the sand beach so those he thinks are the two issues they are trying to get addressed and straightened out.

Mr. Lamanna asked where exactly is the sand beach.

Mr. Ciciretto referred to the aerial photo and explained that this is the sand beach and what happened is there is about 16' of rise or something like that from the Knolls Condos down here and when they did the Knolls Condos and screening came in there is a backdrop to it, it is hard to see here but there is a fence that runs along the line and Ms. Savransky assumed that the people put the fence on the property line and most of this was done before Ms. Savransky actually owned the building because she just recently took ownership and of course everyone at Chagrin Knolls doesn't have any idea of what is going on up there previously because the screening obscured their view and the 14' to 16' hill that they don't go up there so Ms. Savransky has always cut the lawn up there and the kids play on it.

Mr. Lamanna asked if that is a buffer zone.



Mr. Gutoskey said it is buffer for the condos.

Mr. Lewis said so you interpreted the lot line being defined by the fence rather than where your property really was regardless of what somebody did on theirs and you figured you had room.

Ms. Savransky said right.

Mr. Lewis said so you stepped outside of your property line and you can't build on another guy's property.

Mr. Markowitz said they did give us a license which is recorded to keep it there.

Mr. Gutoskey said but the question is, going back to, because you were involved with Chagrin Knolls, what is allowed to be in the buffer based on what was approved.

Mr. Markowitz said just natural screening.

Mr. Lamanna said it is a non-residential use encroaching into a residential property.

Mr. Lewis said it is a business use.

Mr. Gutoskey said the other problem is you are allowed 100% lot coverage so you are going for 105%.

Mr. Ciciretto said it is sand and just the nature of sand, it is the same thing as grass, it is just ground cover.

Mr. Lamanna said if you look at the definition of what a structure is, it is probably a structure.

Mr. Markowitz said he did look at it today and it doesn't cover this, who would have thought to cover this. He said he was actually looking at it for another client today but it covers buildings; parking lots; driveways; sidewalks; fences; seating facilities; platforms; backstops; pergolas; ponds; pools; poles; tanks; tents; towers; transformer substations; signs; walls; canopies; air supported structures; street gutters; detention basins; extended retention basins; retention basins; constructed wetland infiltration basins; catch basins; oil-water separators; sediment basins; modular porous and solid pavements and aggregate stone driveways.

Mr. Lewis asked if the sandbox is fenced.

Mr. Markowitz said it has a guardrail.

Mr. Lewis said that is a fence.

Mr. Markowitz said on the west end it has a guardrail.

Mr. Ciciretto said which Ms. Savransky said that she could take off.

Ms. Savransky said it would look better.

Mr. Lamanna asked if that is the current definition.

Mr. Markowitz said that is current and he doesn't know if they had a definition back then. He read from the 1968 zoning resolution and said a structure is "any combination of materials forming any construction the use of which requires location on the ground or attachment to something having a location on the ground" and that is a typical older definition.

Mr. Lamanna said he thinks that definition would cover that because you enclosed it in a way, it is certainly fixed to a specific location on the ground so he thinks that definition is so broad.

Mr. Ciciretto said if you take the railing off.

Mr. Corcoran asked if it is level or boxed in sand.

Mr. Gutoskey said there are railroad ties around it.

Mr. Lamanna said it is boxed in.

Mr. DeWater said shrink the box, shrink it back to the property line.

Mr. Lewis said it is a sand patio, it is a defined area.

Mr. Lamanna said we are just a little picky about people keeping on trying to do this, we have got several people around trying to push their activities into adjacent residential areas and we really don't like to have that happen, it really shouldn't be there, you can't have it both ways, you got that redone as a residential area so now it is not a commercial area anymore so that is what it ought to be.

Mr. Markowitz said at the time we did it he doesn't know if that sandbox was there, probably not.

Mr. Gutoskey said in looking at the drawing it looks like they put in a culvert and then filled it and put ties around it to build it. He said if you look at the drawing here there is a culvert here and is there any way to expand it out this way.

Mr. Markowitz said you could, you could cut out some grass area.

Mr. Lewis said you won't be going over your allotted 100% that way, you can just redeploy your materials.

Mr. Lamanna said it is not zoned for this use, it is a buffer area and we have been really strict on them, buffer areas are buffer areas and once somebody starts encroaching into buffer areas then we will have all kinds of people in here asking, we want to encroach into this buffer area, it happens all of the time. We get people coming in and saying behind us is the buffer area for whatever development so shouldn't we be able to push our pool back in there or our deck or something else.

Mr. Markowitz said if there is a good exception, this would be it.

Mr. Ciciretto said you've got topography issues, landscaping issues.

Mr. Lamanna said at some point you need to draw the line, the boundary is the boundary and there is no need to go over the boundary.

Mr. Ciciretto said but what do you think would happen if you cut that sand off, do you think with that fence there and kids playing in the back of that development would there be a significant difference, do you think those kids would stay at that property line or would they go and play on the grass that is back there.

Mr. Lewis said kids go and play all over the place.

Mr. Lamanna said we could require that you control it.

Mr. Ciciretto said he doesn't think you have that power.

Mr. Lamanna said he thinks we do have that power.

Mr. Markowitz said if you are not willing to accept it we have no choice we will have to get it out.

Mr. Lewis said keep your stuff on your own property.

Mr. Lamanna said we can live with the parking spots on the adjacent commercial property but this we would like brought back.

Mr. Lewis said you need to keep that separated.

Mr. Lamanna said there are just too many other situations like this around.

Mr. Gutoskey said he is scaling off the drawing and it isn't quite to scale, it is 20' to 25' over the line.

Mr. Markowitz said no.

Mr. Ciciretto said he doesn't think it is that much.

The board discussed the encroachment.

Mr. Gutoskey asked if there is any way to move it.

Mr. Ciciretto said it is possible, it is not out of the question. He referred to the site plan and said all of this is kind of swampy and this was actually not put in by Knowles it was put in by the Kids Club to drain it because there are mosquitoes and bugs back there.

Mr. Lewis said they put in a culvert and covered it up and got rid of the mini swamp.

Ms. Savransky said yes.

Mr. Lamanna said we should document the encroachment. He asked if they had an existing easement on parking.

Mr. Markowitz said they have a letter from Summit Steel on August 14, 2019. He then read the letter into the record. "Dear Karen, I have recently spoken with Maria Savransky of Kids Club, reviewed her encroachment on our property and I have advised her that this is fine with me as it is. It does not affect me or my business in any way. Signed, Ross Bushman." He said we asked him to come but he is out of the country.

Ms. Savransky said he is on vacation.

Mr. Lamanna asked if they have a formal licensed agreement.

Mr. Markowitz said they don't have an easement agreement.

Mr. Lewis said you probably need to do that just so that each lot stands clean on its own so if it gets sold you have a formal agreement.

Mr. Lamanna said if we are going to allow this there ought to be a formal written, signed, enforceable agreement.

Mr. Markowitz said the parking spaces are not required because we already have enough on the site but the employees park there so that when people are dropping their kids off they are closer to the door.

Mr. Lewis said they can use the loop and the employees are off to the side.

Mr. Ciciretto said they are parking on the street but we try to keep everybody off the street.

Ms. Savransky asked if she could have artificial grass there.

Mr. Lamanna said on your property but not beyond it.

Ms. Savransky asked grass, grass.

Mr. Lewis said it is their property, you can't do anything on someone else's property.

Mr. Lamanna said you can't be using it for your operations either.

Mr. Markowitz said no, he is not saying that, because when you get rid of the sandbox you've got that culvert there, you have got to do something.

Mr. Lamanna said you can landscape it however you want to landscape it.

Ms. Savransky said but she could move it around.

Mr. Lamanna said you just want to keep it on your property.

Mr. Gutoskey said just eyeballing it he thinks if you cut the property line with the building it is going to be about the same aerial wise.

Mr. Ciciretto said it goes to her property line.

Mr. Lewis said he thinks there was something on fencing that the posts supporting, if you are doing a board over board, the post has to be on the inside, not facing the other guys.

Ms. Savransky said so she can put landscaping over there, back there, she can do that.

Mr. Lewis said as long as it is on your property.

Mr. Lamanna said they probably won't care if you put some landscaping on their property.

Ms. Savransky said Mr. Mark Consolo didn't care that she did this.

Mr. Lamanna said but landscaping is not a use of the property, if you plant along your side of it so it looks good from your side of it.

Mr. Mark Consolo testified that if they return it to its original grass that is fine, if they add to our trees which are a buffer. He said we want to be good neighbors and it hadn't bothered us and we actually already filed with the county that we allowed them to do this with a letter of indemnity regarding the insurance about any incident that might happen on our property so that is already filed with the county. He said he understands about the zoning but they have no problem with it.

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

#### Motion BZA 2019-27 – 16700 Hilltop Park Place (Kids Club)

Mr. Lamanna moved that through diligent research by the parties and the zoning inspector the issues that still remain on this application are:

1. There is a beach area sand structure that is not fully located on this property, it is on an adjacent residential property and the applicant is going to remove the part that is off the property line and have it fully contained on this parcel.
2. There is certain parking that encroaches on adjacent industrial district property as shown in the plot plan that was submitted and it will be marked as Exhibit A for this purpose that shows the encroachment. The applicant has permission by letter but the applicant will also obtain a license or easement in recordable form from the adjacent property owner that will allow these parking areas to be on that adjacent property.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:05 P.M.

Respectfully submitted,

Michael Corcoran  
Ted DeWater  
Joseph Gutoskey  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman

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

Date: December 19, 2019

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio  
Board of Zoning Appeals  
November 21, 2019

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Michael Corcoran; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the October 17, 2019 meeting as written.

Mr. DeWater seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2019-44 by Kelly's Working Well Farm dba Chagrin Valley School for property at 16519 South Franklin Street

The applicant is alleging error by the zoning inspector. The property is located in a R-3A District.

Application 2019-45 by Joseph and Mrunali Walter for property at PP#02-262226 Pettibone Road

The applicants are requesting area variances for the purpose of constructing a new single family dwelling. The property is located in a R-3A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for December 19, 2019 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 9:55 P.M.

Respectfully submitted,

Michael Corcoran  
Ted DeWater  
Joseph Gutoskey  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman

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

Date: December 19, 2019