

Bainbridge Township, Ohio  
Board of Zoning Appeals  
December 20, 2007

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:36 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. The following matters were then heard:

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

Mr. Lamanna noted that there are only four members in attendance at the meeting because since the last meeting, Mr. Donald Takacs has passed away. He said Mr. Takacs served on the board for about 10 years and he was here with Mr. Takacs on the board for that entire time and added that he provided a lot of good counsel for this board, he was a lifelong Bainbridge Township resident and provided a long term perspective on what this township has been like and was a strong contributor to the board in his many years of service. Mr. Lamanna said he thinks all of the board members will agree with him, they are truly thankful for his service and he will be sorely missed as both a member of this board and as a friend, therefore he asked for a moment of silence in his memory so everyone could have a silent prayer for Mr. Takacs and his family.

Application 2007-41 by McMillon Construction Inc. for property at Sublots 96-102 at Rocker Avenue and Bedford Street - Continuance

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.

Secretary's Note: This application is a continuance from the October 18, 2007 meeting.

Mr. Cedric McMillon was present to represent this application.

Mr. McMillon said good evening to everyone and gave his condolences to the Takacs family. Mr. McMillon testified by saying that Mr. Takacs was the one who asked him to redesign what he had and to resubmit it and he has done so. He continued by saying that he would like to construct a single family dwelling on Bedford Street and explained that of the five lots to get access, they had to re-divide the lot so they would be able to accommodate the proper lot coverage and at the same time not landlock the entrance for another property or deny access for another drive for the construction of another house so they redesigned the house and the driveway on the 100' x 100' piece of property which is the minimum for construction in Chagrin Falls Park subdivision. He said he has an illustration of the home which he would like to construct.

Mr. Lewis said Mr. McMillon started with another one.

Mr. McMillon said yes and explained that part of the first parcel was connected to the second parcel which will have its own driveway access now and showed an illustration of the house that will go on the original lots.

Mr. Lewis referred to the two county lots and asked if those were the ones that were going to be transferred.

Mr. McMillon said yes and nothing is landlocked now and explained the setbacks and added that he has constructed homes in the park similar to this.

Mr. Lewis asked if a deck will be added to this house.

Mr. McMillon, said no, no rear deck.

Mr. Lewis said that also takes care of the back corner because it was first positioned to be 6' off the lot line, but this takes care of that problem too.

Mr. McMillon said correct.

The board discussed the new submittal versus the one that was previously submitted.

Mr. McMillon said there was access off of Rocker and explained the parcels that the CDC owns.

Mr. Murphy asked about the lots that Geauga County owns.

Mr. McMillon said those are the lots that are going to the Chagrin Falls CDC.

The board discussed the lots involved and to make sure they will not be landlocked.

Mr. McMillon said they are not landlocked anymore and there will be access to all of the lots.

Mr. Lewis said he sliced off the wedge to cut a driveway in so none of the other lots are locked in.

Mr. McMillon said he did not submit a new application because he was told to do this.

Mr. Lamanna asked what subplot numbers are involved.

Mr. McMillon showed the board the parcel numbers.

Mr. Lamanna said there is a 15' side yard setback and a future deck.

Mr. McMillon said they should have 38' in the front.

Mr. Lamanna said the closest point is probably the corner of the garage.

The board discussed the setbacks and variances required.

Mr. Lewis said the first house did not have a deck on the back.

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

Motion BZA 2007-41 – 02-153800, 02-153900, 02-154000, 02-136200 and 02-420771

Mr. Lamanna noted that this application should be corrected to indicate that it is actually now applicable to the immediately adjacent parcels owned by the applicant being PP# Numbers 02-153800, 02-153900, 02-154000, 02-136100, 02-136200 and 02-420771 and this change was made at the suggestion of the board at an earlier hearing on this continued application.

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

1. A variance from the minimum required front yard setback of 100' to 26' for a variance of 74'.
2. A variance from the minimum required rear yard setback of 90' to 36' for a variance of 54'.
3. A variance from the minimum required side yard setback of 50' to 15' for a variance of 35'.
4. A variance from the maximum total lot coverage of 10% to 25% for a variance of 15%.

Based on the following findings of fact:

1. A practical difficulty exists because these are pre-existing lots of record in Chagrin Falls Park.
2. There would be no way to build on the lots without these variances.
3. The variances are consistent with the rest of the development in the neighborhood and will not adversely affect any of the neighboring properties.

Mr. Lewis seconded the motion.

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

Application 2007-47 by Joan and Mark Tiefel for property at 17124 Northbrook Trail and PP# 02-013900 Washington Street

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

The zoning inspector's letter dated December 6, 2007 was read and photos of the site were submitted.

Ms. Joan Tiefel was present to represent this application.

Ms. Tiefel testified that she did not bring anything with her other than photos. She explained the location of the proposed shed and said it will not be seen because it is wooded and added that they are putting in a pool and a sunroom and part of the reason for the accessory building will be for storage. She continued by saying that she lives in Tanglewood and owns 4.5 acres that abut her property and they have a basketball court that was put in about five years ago and they just want to put the shed near the basketball court.

Mr. Lamanna asked if her lot is subplot 188 or 189.

Ms. Tiefel said she did not know but she thinks it is 189 and she thinks it is directly behind her house.

Mr. Murphy said it is probably subplot 188.

Mr. Olivier asked if her lot is in the Tanglewood Subdivision.

Ms. Tiefel said yes.

Mr. Michael Joyce, Zoning Inspector used the Geauga County GIS system to look up the subplot number associated with her lot.

The board viewed the live GIS map and determined that the subplot number is 188.

Mr. Olivier asked if the larger lot or second lot has access from E. Washington Street.

Ms. Tiefel replied yes.

Mr. Olivier asked if it is a buildable lot.

Ms. Tiefel said it is but everything is built so far back.

Mr. Olivier asked Ms. Tiefel if she understands the issue of the variance.

Ms. Tiefel said yes she does, you can't have an accessory building on a lot without a house but there is already a basketball court or accessory on the lot already, but it is so far back and cannot be seen. She explained they looked into combining the lots but their subplot would have had to be taken out of Tanglewood Subdivision so they don't want to go that route.

Mr. Lewis said that would certainly resolve the accessory building question if the lots were joined.

Mr. Olivier said Tanglewood deed restrictions don't allow accessory buildings.

Mr. Lewis said you are looking for a second accessory structure with no primary residence on the lot we are looking at.

Ms. Tiefel said correct.

Mr. Murphy said the reason this accessory structure is not being built on the primary lot is because Tanglewood does not allow it.

Mr. Lamanna said there would not be enough room.

Ms. Tiefel said not only that, they wanted to put it where it will not be seen and even if Tanglewood would allow it, she would not want it in the middle of their back yard.

Mr. Lamanna said it meets all of the setbacks and it is setback farther than if it was a dwelling.

Ms. Tiefel said even her next door neighbor will not be able to see it.

Mr. Lamanna explained that years ago there was a provision about contiguous lots and the township treated contiguous lots as a single lot but it turned out that the provision was being abused and had unanticipated results so it was removed from the code a number of years ago, because if people are using multiple platted parcels as a single piece of property the township wants it as a single piece of property so if someone wants to carve off a piece of it and do other things, all of a sudden the township would have a problem on their hands, that is why the preferred way is to join them together. He said he is familiar with the Tanglewood issues and it creates a problem that would be there in a lot of other places and it is not like it is an isolated piece of property that someone is putting a structure on. He explained that one of the problems why the township does not allow just an accessory structure is that it could be used potentially as a non-residential structure because it is not ancillary to someone's home, but in this case that is obviously not happening because the residence is right next to it and in this case he is not sure there is a potential for abuse of this situation.

Mr. Olivier asked if there can be a condition placed on the variance of demolition of the structure if the property is ever sold or if there is a transfer of ownership?

Mr. Lamanna said he thinks the free standing use should only be there as long as the lots are under common ownership so if the property is sold to someone else, a residence would have to be built on it.

Ms. Tiefel said or it could be torn down.

Mr. Lamanna said or someone would buy the larger lot, build a house on it and keep the shed.

Mr. Murphy said this will be a 16' x 32' building and asked if there will be electric and running water to the building and asked what part of this says this will stay a shed and how will the board know that this will stay a shed for storage.

Mr. Lamanna said nobody can turn their accessory structure into a residence, bathrooms cannot be added etc. so it cannot be another residence. He asked if this will be a one-story building.

Ms. Tiefel said yes.

Mr. Lamanna said this is almost a five acre parcel and it is very wooded back there and he does not see a potential for abuse here and nothing is encroaching into the side yard setbacks.

Mr. Lewis asked if the basketball court required a variance and if it came through the board of zoning appeals.

Mr. Lamanna said he did not know.

Ms. Tiefel said Mr. McIntyre approved it, it never required a variance.

Mr. Lamanna said the requirement will be if they sell either one of those properties and they are no longer under common ownership, then the structures have to go unless someone immediately builds a residence on the larger lot and explained that this variance will run with the land.

Mr. Lewis asked if it changes ownership, if both of the accessory structures will be gone.

Mr. Lamanna said yes, they both should be gone.

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

Motion BZA 2007-47 – 17124 Northbrook Trail

Mr. Lamanna made a motion to grant the applicant a variance to Article 161.05 Accessory Buildings for the purposes of constructing a 32' x 16' accessory building with a 4' x 32' overhang on PP #02-013900 E. Washington Street even though there is not a principal building on this parcel.

Based on the following findings of fact:

1. The applicants are the owner of an adjacent parcel at 17124 Northbrook Trail which the applicants occupy as their principal residence.
2. Under these circumstances the applicants are using this adjacent parcel accessory to their use of their main residential parcel and therefore this situation is not contrary to the intent of the zoning in terms of accessory structures being built on lots without a principal residence.
3. In addition the structure will be located so that on its lot it will satisfy all of the required setbacks in the zoning district so it will not create any adverse impact on the neighboring properties.
4. In order to ensure that there will be no adverse impact from this structure and the principles of the zoning ordinance will be maintained, a condition will be applied to this variance and without such condition this variance would not be granted.

With the following condition:

1. If at any time, these two adjacent lots cease to be under common ownership, any accessory structures built on PP# 02-013900 will be promptly and immediately removed unless this board grants further relief at that time.

Mr. Lewis seconded the motion.

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

Application 2007-48 by Archer Sign Corp. for Dental Works for property at 7455 Market Place Drive

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

Mr. Larry Wade of Archer Sign Corporation, Ms. Sherry Dasher of Dental Works and Mr. Matt McGill of McGill Property Group were present to represent this application.

Mr. Michael Joyce, Zoning Inspector testified that the variance request is for the height of the sign because the maximum height is 15' and submitted a photograph of the proposed sign.

Mr. Lamanna asked if the only issue with this sign is the height.

Mr. Wade submitted a photo and testified that all they want to do is match what is existing and found out there was a height situation.

Mr. Lewis asked Mr. Wade if he is with Archer Sign.

Mr. Wade said that is correct.

Mr. Lewis asked if there is any authorization from the tenant.

Ms. Sherry Dasher testified that she is from Dental Works and is the tenant.

Mr. Matt McGill testified that it is right next to TNT Tanning and Dollar USA.

Mr. Lamanna asked what the top of the sign is at.

Mr. Wade said it is basically 2 ft. above what is allowed.

Mr. Lamanna said it is at 18'.

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

Motion BZA 2007-48 – (Dental Works) – 7455 Market Place Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of installing signage as shown on the application.

1. A variance from the maximum height of 15' to 18' for a variance of 3'.

Based on the following findings of fact:

1. Due to the architectural structure of the building, this sign needs to be at this height to fit into that architectural structure therefore it is not going to be unduly intrusive with being at this height.
2. It is also consistent with the height of all of the signage in this shopping center so it will not adversely affect any of the neighboring properties.

Mr. Lewis seconded the motion.

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



Application 2007-49 by Michael Goldman for Waterway Gas & Wash Company at PP# 02-420978 Giles Road

The applicant is requesting a conditional use permit with variance(s) for the purpose of constructing a full service car wash, gasoline and convenience store. The property is located in a CR District.

The zoning inspector's letter dated December 6, 2007 was read and photos of the site were submitted.

Mr. Michael Goldman, Vice President and General Counsel of Waterway Gas Company, Mr. Matt McGill of McGill Property Group, Mr. Henry Dubinski, founder of Waterway Gas Company and Mr. John Lateulere of Atwell-Hicks were present to represent this application.

Mr. Goldman testified that Waterway has entered into an agreement to develop a new car wash/gas station at the Shops at Market Place on the outlet right next to the Home Depot. He said Waterway has not been in this market yet so he wanted to give a quick overview of who they are and what they do. He said Waterway is a 37 year old company, they are in three markets with 17 locations, the 18<sup>th</sup> is under construction currently and Waterway is different from most car washes in northeast Ohio, they are more of a high-end, higher service facility and the whole facility is a little different than what is seen in this market. He said what distinguishes them is three things, site, they choose sites in high profile areas, they build architecturally significant buildings, they do lots and lots of landscaping and have won landscaping awards in all three of their markets and added that landscaping is the least expensive way to make a site pop. He said one of the services they provide is a full service car wash, every customer that comes to the site gets out of the car, the car goes through the car wash tunnel, the car is hand dried and almost all of them are vacuumed out and then the customers pay inside the store and leave the site, but the real differentiator of Waterway is the people, they really take pride in who they hire, they tend to hire people from the community and they tell people it is really the best first job someone could have. He said it is not unusual for them to have two or three siblings or generations where a father or mother worked there twenty years ago and then they send their son or daughter to Waterway, they learn to really work hard and how to treat a customer well. He said the real thing that is different with Waterway than what is seen in northeast Ohio is really how it works. He said they have three types of customers, the car wash only customers that come to the front curb cut and get serviced by the service consultant to find out what kind of car wash they want, the car goes through the tunnel, nothing happens at the front of the tunnel, there is no vacuuming, the people go inside and pay. The second kind of customer is the gasoline customer, they come in the front curb cut and go right back out and their favorite kind of customer is the one who gets gasoline and a car wash and they have a service consultant under the fuel canopy at all times and the people can order whatever they want, they will drop off the car with the employee and pay so they really only have three kinds of customers. He said they made the decision to come to this part of northeast Ohio for two reasons because there are messy cars around here and there is really no one that does what we do. He continued by saying that they chose this site because of the high profile people that know where they are and they are very excited about it and they think there is a real geographical pole.

Mr. Goldman continued by saying that the variances they need are several and first there is a question about the conditional use permit, there is a belief that it may be a zoned use and maybe not and there is a lot coverage question. He said their lot coverage is at 45% and the requirement according to the code is 40% but according to the variances that have already been granted for the whole site, it appears to be a site number rather than a particular parcel number and they do make up for some of their coverage by the landscaping that they put in. He referred to the front yard setback and said there is a question there whether a variance is required and in order for the fuel trucks to use the site they need to encroach in an area and they are not encroaching with the building and there will be no full time parking, there will just be trucks coming in and it will be done after hours when the shopping center is closed so they can get in and out. He said on the side and rear yard setbacks, he is not sure which one is the side and which one is the rear they tried to make this site work because there are pretty drastic setbacks here so they pushed the building all the way back in the corner and made it a five-sided building and they think that is how they will make the lot work and for the customer types to occur. He said in closing what Waterway brings is a high level to the community, they will have payroll taxes, they have a lot of people on the payroll and they bring a building that is unexpected because it is not anything anyone would expect for a car wash, they bring landscaping that will get a lot of notice and we are a vested industry business and will bring it to this community.

The board reviewed the variances requested.

Mr. Murphy asked if the walkway for the association has been approved by the property owners because the employees will be parking off of the parcel.

Mr. Goldman said because they have not formalized the parking yet for the employees, they will be walking across from the Home Depot.

Mr. Olivier asked if anything will be sold in addition to gasoline and car wash services.

Mr. Goldman said they will have a small convenient store and will sell water and soda etc. and they sell high end water, chocolate etc. and they currently don't sell alcohol at any of their sites and do not have any plans to sell alcohol and of course they sell some car accessories such as oil and windshield washer fluid but mostly soda and chips.

Mr. Murphy asked if the washing system water will be recycled.

Mr. Goldman said they do not plan on having a reclaimed system here but they do have a system that separates out the particulates in the water but there is nothing that comes in car wash chemicals that they use on the cars that is hazardous but they do separate them out so they don't go into the public sanitary sewer.

Mr. Murphy asked if there will be no oil changes.

Mr. Goldman said no, they don't do oil changes or other car service. He said people don't leave their cars here, they stay and this is not a detail center where people leave their cars and go shopping for a couple of hours, the customers are out in 15 minutes from the time they get to the site and start pumping gas and they meet that goal 80% of the time and they are a pretty consistent entity.

Mr. Olivier asked if this is a contiguous buildable parcel and if everything behind them is the Home Depot.

Mr. McGill testified by explaining the contiguous parcels and said he wanted to point out that the zoning inspector had made reference to the open land and they are allowed to legally park at the Home Depot. He said that it was approved as part of the original proposal and also explained the location of the parcel that is in the City of Solon.

The board discussed the allowable distance between service stations.

Mr. Olivier said basically there are the three services that are offered which are the retail, car wash and gas and asked if the percentages could be broken down.

Mr. Goldman said yes, it will be 70% car wash, 20% fuel and 10% other.

Mr. Lamanna asked if there is an issue with the setbacks on the outside of the property and asked if the zero setbacks are interior only.

Mr. McGill explained the two interior setbacks and added that there is an exterior setback on St. Rt. 43 and that is the only one.

Mr. Lamanna said the board is basically treating the internal lot lines as essentially invisible because there is a peculiar arrangement with this center that is divided into a number of separate parcels but actually the whole center is treated as one and none of the zoning is applied on a parcel to parcel basis, it is applied on a site basis even though there are a lot of separate parcels, none of the zoning is defined on a parcel to parcel basis, it is applied on a site basis.

Mr. Michael Joyce, Zoning Inspector testified that he could not find that signed by Bainbridge Township and was unable to find that document. He said there is an agreement that they are treated that way, but was missing that documentation and added that there is a sign on the property already and said no sign requests were asked for so it will have to be removed.

Mr. McGill said he requested a sign for the out parcels and they have recorded sign easements with Geauga County and they are part of the plat and it allows for two signs that are there now.

Mr. John Lateulere of Atwell-Hicks showed the board a site plan and testified that it does show the two signs that exist on Aurora Road, one is for the center and one is a leasing sign.

Mr. Lewis said he did not think the board had to deal with a lot coverage variance because it applies to the whole center and if it goes over, some of it will have to be given back at the end.

Mr. McGill said they are not quite full yet, but as they get to the closing, they will review that with the zoning inspector. He said the main concern is the front setback and the conditional use for the service station.

Mr. Joyce said there is some contention about that, he does not believe it is a conditional use, he believes that it is a use variance that is being asked for based on the zoning resolution and he did not find this as a conditional use.

Mr. Goldman said it appears that a car wash is not considered a use anywhere.

Mr. Lamanna said the difficulty is they provide for service stations, garage or repair garages and neither of which is defined specifically but he would have to look at what has been traditionally done and his best estimation is that a service station garage is a place where they sell gas.

Mr. Joyce said that is correct they are not properly defined anywhere, but the word garage, repair tends to be the theme.

Mr. Lamanna said he thinks what they were looking at is when you say service station, garage and repair garage and referred to two or three repair garages on E. Washington Street, they are nothing but a car repair facility, that is all they do, they don't pump gas, they don't do anything but repairs so his view of a service station garage which has become kind of an anachronism in today's world was traditionally what you saw 25 years ago that pumped all the gas and there was a repair bay or a car wash where you could drive through, put your coins in and wash your car so he thinks by extrapolation he would see that a place like this, whose primary purpose is pumping gas is really a service station and doing car washes is a traditional car service business that has been traditionally done by service stations and he thinks this fits within that. He said the convenient store aspect of this is just a regular retail use and it is a permitted use anyway and at least one-half of the gas stations have converted over to having a convenience store anyway so he thinks that a fair reading of the conditional use would cover what they plan to do here.

Mr. Joyce asked if that is the board's vote.

Mr. Lamanna said yes he believes it is of the rest of the board members here.

Mr. Olivier said the township already has an existing car wash/service station in a commercial district.

Mr. Lamanna said yes.

Mr. Olivier said he does not have an issue with the interpretation.

Mr. Lamanna said the township also has a free-standing car wash and it was treated as a service station as well when it was originally built, the board treated that as a car wash as well as an oil change/car wash on E. Washington Street as a service garage. He said technically the Walmart was treated under this provision and they have a conditional use and they might be within 3,000 feet of Speedway.

Mr. Joyce said they are about 1,800 feet from this location as measured by the GIS.

Mr. Lamanna said he thinks Walmart has a variance because they are closer to Speedway and added that he does not have a problem with the 1,900 feet, the Walmart facility is in back of their facility and with this facility there is no repair work being done and no cars are being left there so he does not think there are any issues with the exterior of this facility so it will not create any issues that might create a problem. He asked if there are signage issues.

Mr. Goldman said they did put it in but it has not been addressed yet.

Mr. Lewis said he did not see any signage requirements submitted with the original application it seems to be more about the structure and the use.

Mr. Lateulere said there was a letter that was submitted that was an attachment to the application and on page five of that it does request variances to the signage code relative to the maximum area, freestanding area, maximum wall sign height and maximum building sign area and with that they submitted the signage plans.

Mr. Lamanna asked if that was submitted at the same time with the application.

Mr. Lateulere said yes and he has a copy of the attachments and said the application should have referred to the attachments.

Mr. Lewis notes that it does say see attached.

Mr. Joyce said that there were no sign variances advertised for this hearing.

Mr. McGill said they will come back with a full sign package.

Mr. Lamanna said it will be awhile before we get to putting up the signs and asked what the sign issues are.

Mr. Lewis said there is a sign on the canopy as well as on the building.

The board reviewed the proposed signage.

Mr. Lamanna said the board has not allowed separate signs on the canopies and that has been pretty consistent and if you want a sign on your canopy then you can't have a sign on the building and the board has been pretty tight on the proliferation of signs but the board has allowed signs on two sides of a building and because the way this building is oriented it may be a possibility here because of the two street issue, but definitely not on the canopies.

Mr. Goldman said they will resubmit a separate package.

Mr. Lamanna said the main issue is the use and whether this falls within that and it is definitely within 3,000 feet.

Mr. Lewis said he thinks clarifying it as a service and not repair helps immensely.

Mr. Lateulere said they all fall within that category.

Mr. Lewis asked if there is adequate parking.

Mr. Lateulere said they did find it was adequate, they have 24 spaces and 21 are required and one of the variances that is requested is the possible loading and unloading area.

Mr. Lewis said he was looking at that.

Mr. Lateulere said the loading and unloading at this facility is fuel, trash collection etc. and Waterway does this after hours so it will not impact their operation.

Mr. Goldman said it is all done after hours.

Mr. Lewis asked about Sundays.

Mr. Goldman said they will get deliveries but as far as waste pick up it would be the same as the rest of the development.

Mr. Lewis asked if there is one company that does the waste pick up.

Mr. McGill said yes they do, Waste Management takes care of all the waste pick up and the landlord will control all of the waste pick up with the other tenants.

Mr. Lewis said so we don't have four different providers coming in every other day.

Mr. McGill said correct.

Mr. Goldman said they force their vendors to come at off hours.

Mr. Lewis asked what the declared hours of operation will be.

Mr. Goldman said according to the developer he does not think they can sell fuel before 6:30 A.M. so they will not open before 6:30 in the morning and can certainly tie themselves into whatever time the development closes.

Mr. McGill said he does not think there are set times.

Mr. Goldman said we don't want to run all night but can't imagine they would fuel past 11:00 P.M.

Mr. Lewis said they won't make a living on the convenience store to stay open all night.

Mr. Goldman said that is a very small part of their business for their customers.

Mr. Murphy asked about the landscape and lighting plans.

Mr. Lateulere said the location of the lights are shown on the site plan, there are lights shown around the perimeter and they will be down-lights or in-pointing lights into the site depending upon the vantage points and he does believe the lights in the back are more down lights.

Mr. Goldman said yes they are and they do like to do perimeter lighting for safety.

Mr. Lewis asked about the lights on the back side of the building.

Mr. Lateulere said they will be free-standing and will be down type lights.

Mr. Goldman said on the canopy lights they will not protrude, they will be flush.

Mr. Lamanna asked about the dumpster area.

Mr. Goldman said they will do a lot of landscaping to hide it, they will have a dumpster corral.

Mr. Lateulere explained the location of the dumpster area.

Mr. Lamanna asked where the delivery trucks will park.

Mr. Lateulere said the delivery trucks are from, 28' – 30' long.

Mr. Goldman said the vendors know not to deliver during their good hours.

Mr. Lamanna asked what the circles are on the site.

Mr. Goldman explained that they do all of the vacuuming at the exit and they are 7' tall and all of the lines are underground.

Mr. Lateulere said all of the mechanicals are within the building so there is no noise associated with those, just the sucking sound.

Mr. Lewis asked if it is all electric and not diesel.

Mr. Lateulere said yes.

Mr. Murphy said those vacuums are making noise someplace in the building.

Mr. Lateulere said there is a mechanical room and people waiting don't want the sound of vacuums.

Mr. Joyce said he would like to make a correction to the board, he misunderstood the purpose of the circles for the vacuum stations and he erroneously counted those as parking spaces, they don't have sufficient parking to cover the requirements of the zoning resolution.

Mr. Goldman said in many municipalities they are counted as parking spaces.

Mr. Joyce said if they are going to be vacuuming cars going in and out of there he would say that would be one of the services of cleaning the vehicle rather than parking the vehicle.

Mr. Lewis asked about the parking spaces.

Mr. Goldman said the requirement is 19 and they counted 21.

Mr. Lewis said those are parking spaces for the customers to go indoors.

Mr. Lateulere said the customers that are using this facility are temporarily being held there.

Mr. Lewis said he counted 11 spaces.

Mr. Murphy said there should be 14.

Mr. Lamanna said that is just the convenience spot and does not include the car wash area.

Mr. Goldman said it is based on the convenience store.



Mr. Joyce said that is correct.

Mr. Lamanna asked how many spaces that requires.

Mr. Joyce said it requires 14.

Mr. Goldman said there are five dispensers.

Mr. Lamanna said as a practical matter, they pull in and get gas and leave their car parked next to the pump and go into the convenience store so as an effective use those end up being parking spots for the people using the convenience store.

Mr. Lewis said you want them to double dip.

Mr. Goldman said historically this is more parking than we generally have at most of their sites so this is a new thing that they are trying.

Mr. Murphy asked if the pumps are one car at a time or are they double that.

Mr. Goldman said just single.

Mr. Lamanna said effectively there are ten more parking spaces and referred to the setback from Rt. 43 with a 27' variance.

Mr. Murphy asked if that is from the structure or the canopy.

Mr. Lamanna said the canopy is okay and asked if there is any reason why the landscaping cannot go all the way around.

Mr. Goldman said he is not sure because a lot of it is currently.

Mr. Lateulere said there is a landscape mound that already exists and you get some visual differentiation when you transition from landscape to grass but he is not a landscape designer.

Mr. Lamanna said he would like to see the landscaping extended all the way around so it continues.

Mr. Lateulere said there is actually two mounds there.

Mr. Lamanna said he would like to see some further mounding in front of the corner.

Mr. Lateulere said one of the things that occurs in the corner is a storm manhole.

Mr. Lamanna said the mounding may have to be moved closer to the edge of the pavement and asked if there are two existing mounds there already with a gap in between and he was thinking to cover that gap, it could be staggered but it would still be screened, and he would not like to see a big expanse of parking lot since they are encroaching into the 100' buffer zone, it is even more important. He said a 3' mound would be high enough to cover up that corner.

Mr. Olivier said that is a good solution.

Mr. Lewis said people would not see the acre of asphalt.

Mr. Lamanna said in looking at the landscaping plan plus the existing mounding, it is pretty well covered and with those two additions by bringing those together and filling in between the two existing mounds would cover it.

Mr. Goldman said he would not have a problem with that.

Ms. Suzanne Gloden of 8061 Chagrin Road testified that during the winter time, when the cars are washed and there is a lot of salt, she wonders what happens to that and asked if it is stored, filtered out and where does it go.

Mr. Goldman said there is a pit under the car wash and the salt is separated out and a company comes and removes it.

Mr. Lateulere said the excess water that has been discharged off site goes into the sanitary sewer system and is treated by the sanitary plant.

Ms. Gloden said so the salty water is not re-used to wash the next vehicle.

Mr. Goldman said no.

Mr. Lamanna said nor does it end up in the ground water.

Mr. Murphy asked if it's the Aurora or Solon system.

Mr. McGill said it is Aurora and it goes into a lift station and ends up somewhere in Barrington and then it goes to the one in Aurora.

Mr. Murphy asked if it is Tinkers Creek or the Aurora branch of the Chagrin.

Mr. McGill said he is not sure where it goes.

Mr. Thomas McGlinn of 8386 Tulip Lane testified that there are a lot of unanswered questions on if this is a usage or a conditional usage but as far as he is concerned it is a car wash, 70% car wash and although we messy Ohioans have dirty cars it is not unusual to see 15 or more cars backed up at the front of a car wash during certain periods of the winter, or spring and summer. He said he wants to know if the 15 or 20 backups will be in the common area or on this property and if there are enough unanswered questions, this should be continued.

Mr. Goldman said because they vacuum the cars at the exit the cars at the entrance will not get the same queue that most other car washes get but if there is a day when there are more cars than they have ever seen, they can take 16 cars of queuing space.

Mr. Lamanna said if there is a backup of cars, they will back up on an internal shopping road anyway so it will not affect the public roads.

Mr. Joyce said there is a detailing shop about 230' from this property so this one could also be a service station so it would be within 3,000' as well.

Mr. Lamanna asked what the name of it is.

Mr. Shane Wrench, Assistant Zoning Inspector testified that it is Extreme Car Wash with detailing.

Mr. Olivier asked if there are fuel sales.

Mr. Joyce replied no.

Mr. Lamanna said the board should consider it because technically it may be within the definition.

Mr. Joyce said it is un-automated so it is possibly a totally different market.

Mr. Lamanna said it is detailing which is something entirely different and it tends to be a one-by-one operation.

The board discussed this application and the variances requested.

Mr. Murphy asked about the elevation, height.

Mr. Lateulere said it is 29'.

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

Motion – BZA 2007-49 – Waterway Gas & Wash Company – PP# 02-420978 Giles Road

Mr. Lamanna made a motion to overrule the interpretation of the zoning inspector that this proposed facility falls within the definition of a service station/garage and provides fuel dispensing and an automotive service namely car washing.

Mr. Lewis seconded the motion.

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

Mr. Lamanna made a motion to grant the applicant a conditional use permit for the purposes of constructing and operating a full-service car wash, gasoline and convenience store including the following variances.

1. A variance to the 3,000 ft. distance from any other service station/garage with respect to the existing service facility at Walmart located approximately 1,900 ft. from the proposed site and a detailing shop 200 ft. from the proposed site.
2. A variance with respect to the number of parking spaces shown as 11 spaces.
3. A variance to the loading zone requirements.
4. A variance to the setback requirement to the paving area from 100' to 73' for a variance of 27', although none of the structure, canopy or other above ground facility will be located in the 100' area.

The board also applies the following conditions with respect to this use and with respect to the granting of the variances associated with this conditional use which would not otherwise be granted.

1. The existing area in front of the dumpster to be designated as the loading zone for delivery trucks.
2. The landscaping plan on the west side of the proposed surfaced area be extended to completely cover the east side and the existing berming that is just to the south of the closest point that the paving approaches Aurora Road that berming will be extended in that area to shield that portion of the parking and driving area from view from Aurora Road. The applicant to submit that to the zoning inspector for his review.

Based on the following findings of fact:

1. The board believes this is harmonious with the zoning resolution.
2. It is adequately served by public services.
3. It should not be harmfully disturbing to the adjacent uses.
4. It will not create anymore demand on public services than any other commercial use.
5. It does not appear to involve any noxious or other method of production of noise or smoke.
6. It will not interfere with any public streets.
7. It will not result in destruction or loss or damage to any natural feature of major importance.
8. The board notes that the applicant, as a conditional use must follow all of the requirements of Chapter 117.13 (b) generally applicable to conditional uses.

Motion – BZA 2007-49 – Waterway Gas & Wash Company – PP# 02-420978 Giles Road – Continued

9. The variance is granted with the respect to the 3,000 ft. requirement that this facility is substantially different from the other facilities.
10. Due to the location and nature of the other similar service station/garages and the nature and design and style of this particular facility and its also lack of having any onsite repair, the proximity will not create any adverse impact on the surrounding area or be inconsistent with the intent of the zoning.
11. With respect for granting the parking space variance is that there are existing spaces located next to the pump dispensing which as a practical matter are used as additional parking spaces for people accessing the convenient store.
12. With respect to the loading zone, the applicant is providing an area in front of the dumpster as a loading area which should satisfy the requirements and provide a space for loading and unloading that won't interfere with the general traffic pattern of the property.

Mr. Lewis seconded the motion.

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

Application 2006-33 by Voproco Properties Limited for property at 16941 Savage Road – Continuance

The applicant is requesting a conditional use permit with variances for the purpose of constructing single family cluster homes. The property is located in a R-3A District.

The zoning inspector's letter dated December 10, 2007 was read and photos of the site were submitted.

Mr. Mark Iacona of Preferred Development and Mr. Gary Werner of Berns, Ockner & Greenberger, LLC were present to represent this application.

Mr. Charles T. Riehl of Walter & Haverfield was present on behalf of the Bainbridge Township Board of Trustees.

Mr. Charles Riehl and Mr. Gary Werner explained to the board that they will need more time to prepare for the expert witnesses who intended to testify tonight but were not opposed to public comments. They also requested a special meeting of the board of appeals and also requested to change the regular meeting that was to be held on January 17, 2008 to January 24, 2008.

Mr. Lamanna explained that the board was going to hear some expert testimony tonight but due to the hour and due to the fact that not all of the experts were available tonight, the board will put it off until the next regularly scheduled meeting to be held January 24, 2008 because no other applications have been filed for January so this will be the only item on the agenda that night. The applicant has submitted a revised plan so the board will allow the applicant to briefly describe the revised plan and will give everyone the opportunity to speak on the record and be part of the record. He said everyone is certainly welcome to attend the next meeting and provide additional comments but the board would like to have everyone here if they are unable to attend the next meeting to enter their comments on the record. He asked the applicant to provide an update on what they are proposing.

Mr. Mark Iacona of Preferred Development testified by saying of a point of history, originally there were 49 home sites on the plan and since that time they came back in and scaled the density down to 34 lots and after the last presentation they got a report back from Oxbow Engineering that sited some other concerns on that plan so they addressed those a little bit further in their new submission and referred to the October 30<sup>th</sup> plan. He said they started looking at some of the setbacks that were brought up in the report from Oxbow and as they were trying to comply with the 100' setback from the perimeter of the property they ended up losing a lot in the area of Sublot 34 up in the NE corner, that is where they lost a lot there and that lot became one big lot instead of two lots in that area and in so doing they were able to comply with the 100' setback along that eastern property line where it touches on Tulip Court so both of those houses along that area now have that 100' setback, so it went from 34 to 33 home sites and the density now is one unit for every 1.51 acres so they are asking for a variance of 1.49 acres per lot. He continued by saying the variance is for the two from the perimeter setback and they were originally asking for relief on 11 home sites but they are now down to six and the six lots they are asking for a variance from the 100' setback, they also pared down the amount of variances they were asking for on several. He said on Sublot #5 the setback is for a 50' setback, so they are asking for a 50' variance, on their prior plan they asked for a 65' variance, on Sublot #6 they have a 50' setback and are asking for a 50' variance, they were originally asking for a 70' variance. He said on Sublot #11 they have a 75' setback and are asking for a variance of 25' and were originally asking for 75'. He said on Sublot #12 they have a 75' setback and are asking for a 25' variance and originally they were asking for a 60' variance. He said on Sublot #24 they have a 30' setback and they are asking for a variance of 70' and that is the same as they had in the original plan and Sublot #25 they are asking for a 30' setback and are asking for a variance of 70' and that is what they had in the plan submitted prior to this. He said the area of the lots they are asking for variances, none of these lots are in the area where there are existing homes so in the areas where there are existing homes, they made sure they adhered to a 100' setback and a lot of them are in a pretty remote section of the property. He said they comply with 91% of required area for perimeter setback so they are requesting variances from only 9% of the required area under that regulation. He said variance #3 is a side setback variance that has not changed from their original submission except there is one less lot that will be affected by it and they are asking for a 10' variance from the 30' side setback so they are asking for a 20' side setback with a 10' variance.

Mr. Iacona continued by saying that a couple of other changes are they increased the open space slightly, now there are 12.9415 acres or 25.84% of the project and with this plan the lots average just over one acre each and the other part is on the east side of this subdivision on the Tulip Court side, the lots there are a little bit larger, they are trying to fashion it to compliment what Tulip Court has or the Dalebrook Subdivision where the lots there are 1.5 and 1.9 and 1.89 is another one so they have some of the larger lots on that side so it conforms with the neighboring properties. He said one of the regulations that Bainbridge has is the total site coverage number, they are allowed to have improvement on 15% of the entire project which comes to 7.5 acres so whether you put 15 home sites or 50 home sites, you are only allowed to improve 7.5 acres so 42.5 acres of the site no matter how many units you have there will remain unimproved and added that that is the update on what was submitted.

Mr. Charles Riehl testified that he is here to represent the township trustees and what they would like to do is have the opportunity to reserve any questions for Mr. Iacona until this matter is reconvened on January 24<sup>th</sup>. He said additionally they do have a compendium of materials that he thinks are in the record that they pulled together to put before the board to make sure the board has them before this is reconvened on January 24<sup>th</sup>. Mr. Riehl then submitted a booklet containing Township Exhibits to the board members.

Mr. Lamanna asked for the record if these documents were also furnished to the applicant as well.

Mr. Riehl said yes, it was furnished to the applicant and said again, he would like to reserve any questions until the meeting is reconvened on January 24<sup>th</sup>.

Mr. Lamanna asked those in attendance if they have any questions or comments anyone would like to make at this time.

Mr. Robert Carroll of 8196 Tulip Lane testified that he has been enjoying the woods next door to him for the last 20 years and he will be sorry to miss it but his main concern is public safety. He said you are talking culdesacs in Bainbridge where the roads have deteriorated and firefighters and safety cannot get down the street and he does not think we should be looking at this subdivision without a through street and if you don't have a through street, it will cut people off at some point in time, you are talking about high density development down here. He said also if you are planning on developing this, you could have a work crew come in from Savage that would do the development and you would not be deteriorating Tulip Lane and destroying the streets and property while you are doing it over the next two or three years. He said by requiring a through street, you would have a work road to come in on, you would have public safety issues and asked if the fire department and police department have looked at this and if they can't sign off on it, he objects to it. He said he does not think this should go forward until there is a plan for the public safety of the citizens.

Mr. Lamanna said this was referred to the fire department and they really have not raised any objections other than they would like to have hydrants put in, in the new part of the development.

Mr. Carroll referred to the problems on Country Lane with the traffic because the streets are collapsing. If said if you are going to bring in any equipment, you are going to bring the construction vehicles down Tulip Lane that is not exactly a solid street to start with and it would be very easy for that street to be blocked off and every citizen on the street to be barricaded out of their homes. He said you are talking from the top of the street to the bottom, it is about a mile and it only makes sense to put in a through street and have a work crew come in from the other side and do the development to not disrupt the current citizens living there.

Mr. Thomas McGlenn of 8386 Tulip Lane testified that he would like to suggest that the meeting be adjourned and handle these questions and hear testimony from the applicant in one single meeting and not split it like this.

Mr. Lamanna said that is fine but the board will still allow anybody that wants to speak tonight to speak and they will certainly have further opportunity at any additional meeting.

Mr. Marc DuBay of 17841 Northwood Lakes Drive testified that he is a Bainbridge resident also. He said he has a unique opportunity here to bring to Bainbridge because he has worked with Mr. Iacona of Preferred Development with family property and he prepared a letter tonight and not really ready to comment, but Mr. Lamanna had said it had to be read in person and he wanted to represent himself properly and to make sure the community understood. He said his position and interest that he represents is for his family on a very similar type of project and he prepared a letter to the zoning board of appeals but more than anything, from this standpoint, the reason why he is here is as a resident of Bainbridge and also someone who has had contact with Mr. Iacona and Preferred Development and he could read the letter and the fact of the matter of reading the letter submitted is that it is not only his opinion but is the opinion of others involved and if no one minds, he will read the letter, it is short and sweet and it might set people's mind at ease. He said he wrote it very quickly and read the following:

“To Whom It May Concern:

As a Bainbridge Township resident, I am writing on behalf of and in support of Preferred Development's proposed Savage Road development.

In early 2002 my family decided to sell our family owned Hinckley Township 100 Acre parcel for residential development. With Hinckley Township being a rural community, we suspected, as is often the case, that there would be some in the community who would oppose and argue against development of the property.



Therefore, it was important to us, and we were determined to sell to someone we felt would be open to reasonably working with the Township and who we were convinced would have the vision to see this type of project through. A proven track record of successful residential development experience and a firsthand knowledge of how to develop the property in a manner which would be a credit to the community and would also receive the township's approval for conservation development were additional credentials we sought. Consequently in late 2003 we sold our property to Mark Iacona's Preferred Development.

During the course of the several months of meeting and negotiation discussions with Mark we came to know him and found him to be everything we were looking and hoping for: a reasonable, open minded person of integrity, a visionary and experienced developer who had already successfully completed more than a dozen residential developments, with several others which were under construction or in the planning stages.

Mark's successful completion of the development of our former farm property as an attractive conservation development resulted in a set aside, in perpetuity, of over 80 acres of land, purchased by Preferred Development and deeded to the Township, which shall forever remain open green space land. His proposed Savage Road development would likewise provide similar savings of open space green land for our Bainbridge Township.

Please accept this letter as my endorsement of Mark and his proposed development for our community."

He continued by saying Mr. Iacona is a gentlemen that you can deal with very squarely and he does not know if it helps or hurts but Mr. Iacona is a man of his word.

Mr. George Quay of 17075 Savage Road testified that he will reserve most of his comments for the 24<sup>th</sup> and asked Mr. DuBay if Mr. Iacano went for major zoning changes on his property before he developed it.

Mr. DuBay said no, it wasn't major and asked Mr. Iacona if he wanted to speak on it.

Mr. Lamanna said it is an interesting question but it really is not germane to what the board is going to decide here.

Mr. Quay said a comment was made in the first presentation by the builder that the property does not back up to land that has homes on it but if you look at the Savage Road side and see the name Lybarger running all the way back to Ullman and then a major plat for Ullman, those are both occupied sets of land that cover the entire south side of the proposed development. He said if you are looking at changing the setbacks on the south side of the development it is going to impact both of those properties and their future marketability and added that he will hold the rest of his comments for the 24<sup>th</sup>.

Ms. Barbara Phan of 8274 Tulip Lane testified that she has a letter from a resident that is in Florida that was left for her to give to the board. She said she has a question about busting open the end of her street and added that they had asked for sewer and water from the county and were told at that time that they didn't want to give us sewer because it would open it up to other possibilities of other people building, but yet these people are asking for us to open our street and put in all these houses that don't have sewer and water. She submitted the letter for the record.

Ms. Ann Patram of 8337 Tulip Lane testified that she had an opportunity to speak briefly with Mr. Tom Vokas and had a very short conversation with Mr. Mark Iacona and they were going to try to meet as a representative of the Dalebrook Homeowners Association and she was told initially that the potential for putting a bridge over the ravine area would be cost prohibitive so her question is can it be done. She said initially when they saw the plans they were asking for five homes on the east side of the ravine and now it has increased in size, the bridge is cost prohibitive but things can change and if that happens they now have a direct shot from Savage Road to Rt. 306 which will turn Tulip Lane and any extension into a main thoroughfare. She said they have a speeding problem like many streets in Bainbridge at this time but they have full cooperation of the Bainbridge Police Department, it is an issue and was told that stop signs are not permitted to control speed so it comes down to the quality of life and that is what she is talking about for the people who live on Tulip and for the people who are on the other side of Savage who deserve a good quality of life. She continued by saying that they all have a major investment in their homes, they would like to keep it that way, they don't doubt that Mr. Iacona is a good man, he is a sound builder, no one would ever question that ability but she is concerned about the bridge in the long term because sometimes all this cost is no longer an issue and a bridge can go in. She said she knows there are wetlands there and asked again, can a bridge be put in.

Mr. Lamanna asked Ms. Patram if she is interested in having a bridge or not having a bridge.

Ms. Patram said she does not want the bridge but that doesn't mean it can't change.

Mr. Lamanna said the plan as submitted does not have a bridge.

Ms. Patram asked if it can be put in at a later time.

Mr. Lamanna said it would be very difficult since there would be houses built around culdesacs.

Ms. Patram said she understands but she does not know if the wetlands there were given with the plans.

Mr. Lamanna said the answer is that anything can happen in the future, there is no way it could be stopped, if the township decided it needed a road through there, the property could be taken by eminent domain to put a road through, is it unlikely for that to happen, it is as likely as a meteor hitting this building in the next five minutes, it might happen but we deal in reasonable probabilities. He said what is approved here, is approved here and if someone would want to put something different in, they would have to come back to the board to get subsequent approval so everybody would get a say again if they were going to make a change like that.

Ms. Patram asked to avoid a chance of that happening, would the township consider if the property owner would donate something like 100 ft. of land on each side of that ravine as green space and gave it to the township, would the township want the land and would it be considered to protect for the bridge coming in at a later time.

Mr. Lamanna said the board could look at that but once this is developed and platted this way the chance of it ever changing and having a through street are pretty remote and he thinks it would be so remote as to not be a possibility anymore.

Mr. Richard Distad of 17171 Hidden Point Drive testified that he is a trustee of the Bainbridge Homeowners Association and wanted to echo what Mr. George Quay said, their association borders almost half of the southern boundary of the proposed development and if it appears that nobody lives there, then maybe it is because our area was built according to the R-3A zoning and we have buffers and other things that prevent us from encroaching on the neighborhoods surrounding our subdivision. He added that he will reserve the rest of his remarks for the meeting on the 24<sup>th</sup>.

Mr. Murphy asked Mr. Distad if it is Bainbridge Homeowners Association.

Mr. Distad said no it is the Bridgeway Homeowners Association.

Mr. Lamanna referred to the two large parcels and asked if they are R-3A.

Mr. Distad replied yes and referred to the site plan and said it was built down here and then down in this area and over to Chagrin Road. He said there are 60 acres and in the 60 acres there are 19 houses.

Mr. Lamanna asked about the area in the upper right-hand corner there and if there are any houses up there.

Mr. Distad said yes he has a house up there.

Mr. Lamanna asked if there is an existing house.

Mr. Distad showed where the Ullman property is and the Ullman house.

Mr. Lamanna asked if that is part of Bridgeway.

Mr. Distad replied yes.

Mr. Ronald Vranich of 17200 Hidden Point testified that it strikes him that the reason the developer wants this density variance has got everything to do with making more money and he would hope that the zoning board would weigh that heavily when it gets around to making its decision because he does not see that as a sufficient reason or any reason at all to make a variance.

Mr. Michael Joyce, Zoning Inspector testified that the zoning is on the board now, and noted that R-3A is the yellow area and there was a question if that is R-3A and this entire area is R-3A per the zoning resolution.

Ms. Jeanette Oberle of 8197 Tulip Lane testified that she owns the last house next to this proposed development and asked what the square footage will be of each home approximately.

Mr. Iacona said being that there will be custom homes, they don't have a set square footage and in the deed restrictions that are proposed there is a minimum square footage of 3,000 sq. ft. but they will be anything from that and he suspects larger.

Ms. Oberle said her house is about 2,200 sq. ft. and is wondering how a 4,000 sq. ft. home on some of those .7 or .8 acres will blend with her home.

Mr. Iacona asked Ms. Oberle if she has seen the latest plan.

Ms. Oberle said she was catching a little glimpse of it.

Mr. Iacona said the lot next to hers is 1.5 or 1.8 acres.

Ms. Oberle said yes, that is pretty good, a 4,000 sq. ft. home on there.

Mr. Iacona said they tend to get a little smaller as they go a little further in and the first several are acreage type lots.

Ms. Oberle said they were just trying to figure when they walk outside what they will see, 4,000 sq. ft or 6,000 sq. ft.

Mr. Iacona said there will be a buffer along the property line and last time they did not have that.

Ms. Oberle asked if there is going to be landscaping.

Mr. Iacona said they are going to leave the trees and the entrance will have landscaping but they are going to leave the trees if that helps.

Mr. Joyce said on the screen, it will list the current houses and the square footage of all the houses in the area.

Ms. Suzanne Gloden of 8061 Chagrin Road testified that she lives next to the entrance to Canyon Lakes in the old stone house and what she would like somebody to address in here is the water runoff that is going to be caused into McFarland's Creek which is major at her house with all of the development going north right straight up McFarland Creek up to E. Washington Street. She said Wembley has impacted them and everything right down the road and she has photographs that she will be prepared to show the board on the 24<sup>th</sup> that may open the board's eyes, but somebody needs to know. She said she went to the extension office in Burton a couple of years ago and 5,700 acres drains right into her front yard and that is major impact on a house that should not be impacted at all so she needs somebody to understand what happens, she does not care what the square footage of what the houses are or what they look like, what she is interested in is the runoff with the concrete roads and everything else that goes into this and added that she will show the board some pictures that will open their eyes on the 24<sup>th</sup>. She said her creek now floods to nine feet when there is a week of rain in the spring. She said she has had engineers and the Army Corps of Engineers out maybe five years ago to look at it and they said she really has a major problem here, but they said they are broke basically. She said the Army Corps of Engineers have spent all of their money restoring downtown Bosnia and Jim Haibach who was the head of it or was at the time said if your house washes downstream all of Washington will be here to help you but they can't do any preventive stuff at all. She said what we have to do is limit some of this concrete and blacktop because it is really impacting these homes.

Mr. Quay said he has a quick question for the board and asked are these variances being applied under cluster housing or just under a normal housing development that wants to break the three acre zoning and was this approached cluster house or not.

Mr. Lamanna said yes, they are seeking a variance.

Mr. Quay asked if they are seeking a variance based on cluster housing.

Mr. Lamanna said it is not going to be based on cluster housing, but they are seeking this as a cluster development with a variance on the acreage.

Mr. Quay asked if that fills the test of cluster housing spread out over the entire acreage of the land.

Mr. Lamanna said the purpose of cluster housing is to reduce the impact of the development by making the lot size smaller and reducing the amount of infrastructure especially roadway that you have to put in to serve those houses, so if you put in a 25 house development, you can put it on maybe 40 percent or 30 percent of the roads that you would require if you were doing everything on the full three or five acre lots. He said the second thing is to try to preserve natural areas and reduce the amount of building in watersheds, riparians, wetlands or near wetland areas, significant features that you want to preserve and that sort of thing.

Mr. Quay asked if doesn't the term cluster imply that they are in large group areas and if you look at Bridgeway, that is a cluster development and all of the homes are put into one area and there is a huge common area.

Mr. Lamanna said right, there is a minimum standard on common areas and some of the clusters have big common areas that may be 50 or 60 percent of the total acreage, others don't and he thinks the minimum is 25 percent so it is flexible within those ranges.

Mr. Quay said he is asking, as you are looking at it then between now and 24<sup>th</sup> maybe that is a question the board should look at, does this meet that test.

Mr. Lamanna said right and one of the things they are doing if you look at the development is there is a big section along the riparian that is not developed.

Mr. Quay asked if it meets the 25% test.

Mr. Lamanna said he believes it does, they are providing 26% in that type of area so it appears that they meet the test by just looking at this quickly.

Mr. Michael Cooper of 8428 Eaton Drive testified that since he is on a side street of Tulip Lane he is not going to be directly affected by this but he has a lot of neighbors down there that he cares about and he just wants the board to consider something and that is the people who live at the culdesac end of Tulip Lane and it is Tulip Lane and not Tulip Court, the point of building on a culdesac is peace and quiet of a culdesac and if this is allowed to go forward they will not have a culdesac anymore, they will have an interestingly shaped road that then continues on to other houses and he thinks that should be considered.

Mr. Lamanna said unfortunately that culdesac by its nature was never permanent and never designed as a permanent feature and just to be frank, right now there is a proposal for 14 additional houses on the end of it, not 100, 14 houses so it is a little hard-pressed to find that it is a huge extension to the end of the culdesac.

Mr. Cooper said he means no disrespect but if you lived there, you might think differently.

Mr. Distad said under the R-3A zoning, the 50 acres really would handle 16 homes.

Mr. Lamanna said yes, 16.

Mr. Vranich asked if the current request is for 34 homes or 27.

Mr. Lamanna said right now it looks like 33 homes from what he sees unless he is missing one.

Mr. Norm Schultz of 7444 Chagrin Road asked about the traffic and testified that there is enough traffic on Chagrin Road now. He said when Judson opens up, they won't be able to move and if you put double the amount of houses they are probably supposed to have you are going to have double the amount of cars too.

Ms. Gloden said they are all going up Chagrin Road to get on 422 to go home.

Mr. Lamanna said as a practical matter there are 18 houses proposed on the Savage Road side which would impact on Chagrin Road and the other ones all access out of Tulip Lane.

Mr. Distad asked what the area is of the property along Savage Road that is part of the development.

Mr. Murphy said it is almost like it is split in half.

Mr. Lamanna said it is almost half and half.

Mr. Lewis opened the color-coded site plan and said this is what it looks like.

Mr. Murphy said there are 50 acres and the middle area, the green and the blue is the riparian area setback, the riparian areas and the proposed retention basins as was the last proposal with houses clustered on either end and the one being Eaton or Tulip Lane.

Mr. Lamanna said this is a practical thing on the traffic because with 33 houses, the amount of traffic you generate, if you brought a traffic engineer in here it wouldn't even be a blip on this chart, you couldn't even find the effect in most circumstances.

Mr. Carroll said he agrees but that is why he sits 15 minutes to get out of his street onto Rt. 306.

Mr. Lamanna said if you look at Rt. 306 you will see that the service level on Rt. 306 is pretty high.

Mr. Carroll said so we need more houses to empty on it.

Ms. Gloden said exactly and every house has two cars, not one.

Mr. John Patrick of 17111 Hidden Point Drive testified that he does not know if he can make it back for the 24<sup>th</sup> so he wanted to make a few comments. He said the first one is since these are custom houses and the house themselves aren't being proposed at this point in time its impossible to see what an elevation looks like for each of these houses or to see how they will come into effect with the other houses on Savage Road. He said he would like to point out that since on the Savage Road side there is an area where the bedrock is less than five feet down according to the map that you have over here, there is going to have to be some kind of excavation and since you have got 4,000 sq. ft. houses, he doubts that they are going to be on slabs for the basements and of course he would like to make sure the zoning commission puts every severe constraints upon what kind of method can be used to excavate that land and he certainly does not want to see any blasting being done to achieve that excavation. He said the second point he would like to make is that he has a creek that actually does run from the McFarland area right beside his house and in the period of time he has been there for three years, he has had on two occasions, a large amount of rain flow coming through there and that creek that is coming by his house has overflowed his driveway on two occasions already. He said if it went up probably not more than another foot, it would have come into his basement so he is quite concerned about the increased runoff but he is equally concerned about the sedimentation that will occur during the construction process. He said over that period of time he has noticed substantial sedimentation coming down most probably from the Wembley project and that sedimentation has also been blocking the waterway and so when you have a flash amount of water coming in it is all that much worse because the sedimentation is blocking and its going to push up that much more over the embankment so he knows that they will have experts to look at this matter in terms of retention basins and other things and am sure the analysis will be that if you put enough money and enough retention basins in that you can control these issues but regardless of what variances are being asked for he would be very concerned about the continued dumping of more water and more sedimentation during the construction process and one does hope that the zoning board would take very careful action to ensure that the downstream properties aren't further impacted.

Mr. Lamanna said in terms of construction issues, it is really not the board's jurisdiction, it is the soil and water conservation district that has the authority over sedimentation issues and disturbance issues during the course of construction and they have some fairly strict standards and if you think people aren't living up to those standards, then you ought to be talking to them about what is happening on your property if you think upstream people are not controlling sedimentation during building, they will address that through enforcement.

Mr. Murphy said the zoning inspector too goes to each house.



Mr. Lamanna said the properties will be considered, the board will look at runoff impact on downstream properties and that will be part of the consideration in looking at this and the board members are mindful of those issues. He said any development here is going to require some kind of retention basins to meter the flow of water out.

Mr. Patrick said he had hoped that they are not going to have the retention basin currently planned on the side of a 20 foot embankment.

Mr. Lamanna said no, we will explore those engineering issues along the way.

Mr. Patrick thanked the board.

Ms. Oberle said that she would like the board to just give a thought to how if the three acre zoning is bypassed, how it will change this neighborhood and asked if it is fair to change a neighborhood quite to the extent that it would be with 16 homes because of one person's wishes.

Ms. Phan said that the board said 14 homes is not a lot of traffic but our whole development only has 40 homes so 14 homes would be almost half as much.

Mr. Murphy asked if the Tulip Lane total is 40 houses.

Ms. Patram said there are 42.

Ms. Phan said Tulip Lane and Eaton Drive.

Mr. Murphy asked if that is combined.

Ms. Patram said that is Dalebrook.

Ms. Phan replied yes.

Mr. Carroll asked if the maps of the new plans are available.

Mr. Lamanna said he believes so and he can check with the office and it is part of the record now so a copy can be obtained under the normal rules.

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

BZA 2006-33 – 16941 Savage Road (Continuance)

The board was in agreement to continue this application to January 24, 2008.

Since there was no further testimony, the public hearing was closed at 10:39 P.M.

Respectfully submitted,

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

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

Date: January 24, 2008

AUDIO RECORDING ON FILE

BZA PH 12/20/2007

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Bainbridge Township, Ohio  
Board of Zoning Appeals  
December 20, 2007

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:39 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the November 15, 2007 meeting as written.

Mr. Lewis seconded the motion.

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

Meeting Schedule

Mr. Murphy made a motion to change the regularly scheduled meeting date for January 2008 from January 17, 2008 to January 24, 2008.

Mr. Lewis seconded the motion.

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

Applications for January 24, 2008

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for January 24, 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 and the services of a court reporter.

Application 2006-33 by Voproco Properties Limited for property at 16941 Savage Road  
– Continuance

The applicant is requesting a conditional use permit with variances for the purpose of constructing single family cluster homes. The property is located in a R-3A District.

Since there was no further business, the meeting was adjourned at 10:46 P.M.

Respectfully submitted,

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

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

Date: January 24, 2008