

Bainbridge Township, Ohio
Board of Zoning Appeals
December 20, 2012

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:06 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. Ms. Karen Endres, Zoning Inspector was present.

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

Mr. Lamanna noted that the board will generally follow the order on the notice of public hearing but will take one out of order which is application 2012-30.

Application 2012-30 by 300 MPH Acres, LLC for property at 16533 Chillicothe Road

The applicant is requesting a modification to a previously granted variance (BZA 2011-13) for the purpose of modifying the requirement to complete the barn renovation. The property is located in a R-5A District.

The zoning inspector's letter dated December 20, 2012 was read.

Mr. Todd Hicks of Thrasher, Dinsmore and Dolan and Mr. Scott Forster were present to represent this application.

Mr. Hicks testified that last November this board granted a use variance to their client permitting them among other things to convert the use of an existing barn on their property on Chillicothe Road into some offices for up to four people to use. He said the board gave them a one year period to complete the renovations and at the time it seemed more than reasonable and more than adequate to complete the renovations. He said they ran into some problems, they switched builders to do the renovations and that set them back a little so they have not been able to meet that one year time span that expired last month, however as of now all of the interior work is completed, the county did their inspections with a certificate of occupancy on the 17th of this month but they probably won't get it until the first of the year because of the holidays so the only work that remains to be completed is the cupola that will be installed next week and there is a small front porch and some landscaping that will be completed in the spring so that is essentially the request which is to have an extension until April to complete those two items. He showed the board some photographs of the exterior.

Mr. Murphy said it looks great.

Mr. Lamanna asked if the only change is extending the date for completion and if anyone else wished to speak on this application or had any questions.

Mr. Murphy said he would be in favor of extending it until June, 2013.

Mr. Hicks said he welcomes and appreciates that.

Ms. Endres, Zoning Inspector testified that one of the things that was added was the front porch addition.

Mr. Hicks said his understanding is the plans have been submitted and they are fine and he is not sure that the plans need to be approved by the BZA. He said the owners decided they wanted to have a front porch just to cover them coming in and out from the weather so there will be just a small covered front porch but it extends out to the end of these bricks and added that those plans have been submitted.

Mr. Lamanna asked if there is any issue with those plans.

Ms. Endres said she did not see any issue but she held off on processing the permit until after the BZA hearing.

Mr. Lamanna said for simplicity the board will extend all dates for completion until June 1, 2013.

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

Motion BZA 2012-30 – 16533 Chillicothe Road

Mr. Lamanna made a motion to amend the previously granted variance and conditions with respect to completing certain work on the property so that all of the dates for completion of interior and exterior work will be June 1, 2013.

Based on the following findings of fact:

1. The board is making this change because the applicant has been diligently proceeding with the work and as with all construction projects there is a certain amount of uncertainty on how long they will take and therefore it is reasonable to extend the period of time for the completion of the work.

Mr. Lewis seconded the motion.

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

Application 2012-20 by Dr. Bob Lee/Kenston Schools for property at 17419 Snyder Road - Continuance

The applicant is requesting area variance(s) for the purpose of installing a monument sign. The property is located in a R-5A District.

Mr. Lamanna noted that this application is a continuance.

Mr. Lewis recused himself from this application.

Dr. Bob Lee, Kenston Schools; Ms. Sheila Salem, Geauga County Prosecutor's Office and Ms. Marianne Serafino, E.S. Signs were present to represent this application.

Ms. Salem testified that there was a previous hearing on this and a lot has already been spoken about it but briefly Kenston Schools are looking to replace their existing sign with a new sign to do a better job of communicating the different changes within the different schools. She said the sign is actually going to represent four different schools on that campus and the square footage of the new sign will actually be smaller than the previous sign however as of now with both sides of the sign counting as part of the square footage we are exceeding the square footage allowed in the resolution as well as the height is exceeded by about 2.92'. She said she will have Ms. Serafino talk a little bit more about why they came up with the size they have and if they reduce it, it will be illegible.

Ms. Serafino testified that the sign was designed to incorporate all of the different elements and they are representing such as the middle and intermediate schools campus as well as the stadium, KCE and the board of education. She said the letter size that is existing is legible and to go any smaller than that would make it very difficult to read. She said as far as the message center, it needs to be kept off of the ground because of the electrical components and for venting so that would be the minimum height before snow would start to build up on it.

Mr. Olivier asked about the hours of illumination for the sign, when it will be illuminated, what time of day, when it is going to be turned off and if it is going to be turned off.

Ms. Serafino said the sign is programmable, they have looked at the code and will follow the code for how the programming should be done. She said there are some evenings when they will want the sign to be lit or go a little later but again it can be programmed to go off at a reasonable hour.

Dr. Lee testified that they are aware of the sign code on how long it has to stay on such as the actual message.

Mr. Olivier asked about non-game nights when there is no activity at the school.

Dr. Lee said they have activities there even through the winter months at least until 10:30 every night along with KCE activities.

Mr. Lamanna asked if there are some revised calculations on what the size of these elements are.

Ms. Endres said she believes they are in the packet.

Mr. Gutoskey said the previous drawing didn't have enough dimensions.

Ms. Endres showed the board a site plan and diagram and displayed photos of the new sign under construction.

Mr. Lamanna asked what the height of the shorter side of the sign is and added that one side is 66 and 84 as the one side.

Ms. Serafino said it is about 6'-2.5".

The board reviewed the dimensions of the proposed sign with Ms. Serafino.

Mr. Gutoskey said it is 54 sq. ft. per side.

Mr. Olivier said 25 sq. ft. total is allowed in this district.

Mr. Lamanna asked Ms. Endres if she has any idea of the size of the other illuminated signs in the township.

Ms. Endres said no.

Ms. Serafino said this sign is not as high as other signs within the township and referred to Highway Garage as a taller sign and the bank would be in the 4' high range too. She said she believes the township sign was generally in that range also, but we chose to do a little more length on this one because of what has to go on there. She said the size of the text on this display averages about 5" tall but is not large.

Mr. Murphy said the dimensions show 3.1".

Ms. Serafino said depending on how you program those, you can get taller or get two lines of text, there are a lot of different ways to do those graphics.

Mr. Lamanna asked if you can have multiple lines of text, like four or five lines. He said one of the concerns is the bigger you make these signs and the more information you put out there the bigger distraction it becomes to people driving down the road and part of the idea on this is we don't want people getting fixated on a sign and if they look at a sign for a second and the person in front of them stops they are going to cover 70' – 80' before they realize that the person in front of them has stopped and it will be right into their back end and this is a concern about the size of the sign and that is why we don't allow moving signs.

Ms. Salem said they discussed that and to have two or three lines would not be an effective way. She said they want to be consistent with Newbury and West G who have the same size of sign and they usually have two to three lines of text that is small.

Mr. Murphy said they are in a little tiny residential area.

Ms. Salem said they are both in townships.

Mr. Murphy said Rt. 306 and Rt. 87 are not Snyder Road.

Ms. Salem said she agrees they are different.

Mr. Lamanna said they are both on state highways.

Mr. Murphy said he has a problem with the red LED and asked if there is a softer color and asked if there is something a little more non-obtrusive and not as intense for the message. He said the existing sign was there when he was a student at that school and the messages were read just fine. He said he is not sure what the message is they are trying to get out, everyone knows that is the school, and asked what is going to be in these messages.

Dr. Lee said part of the existing sign is keeping it current and it is not kept up to date and they would like to add things that are fresh so they can change the message on a regular basis and not over a two to three day period. He said they chose red because it is what they thought would be more subtle and the one Newbury has is yellow and much brighter and flashy than he thought red would be.

Mr. Lamanna said that red carries the farthest.

Ms. Serafino said red is also a Kenston color.

Mr. Lamanna said there is 40 sq. ft. of changeable sign space and this is a bigger changeable sign than we have in commercial districts and that is a concern.

Ms. Serafino said it is not larger than in commercial districts, it is probably closer to 20 sq. ft. per side and added that she does believe the township sign was larger than 20 sq. ft., Highway Garage is and probably Key Bank and Dunkin Donuts is similar in size.

Mrs. Kelly Smith of 17383 Snyder Road testified that she doesn't want it shining in her living room window.

Mr. Lamanna said one of the difficulties is the township's sign ordinance was revised a little over a year ago and they ratcheted down the size of the sign so anybody new coming in is going to have a much smaller sign than some of the existing ones and he is not sure that some of the existing signs are bigger than this. He asked if there is any way the size can be scaled down.

Dr. Lee asked to what.

Mr. Lamanna said 60% to what it is now because right now this sign is four times what is permitted in this area and a lot of people would like to have a sign this size.

Ms. Salem said she is confused because the letter they got from Bainbridge said they are 22.81 sq. ft. and asked how that is four times the size permitted. She said 22.81 sq. ft. is what they need a variance for.

Mr. Gutoskey said it is 54 sq. ft. per side which is a total of 108 sq. ft. for both sides.

Mr. Olivier said versus 25 sq. ft. total.

Ms. Endres referred to page eleven of Chapter 173.

Ms. Serafino said she doesn't know how it can be made smaller and be legible because with 12 sq. ft. per face you might as not really have it, it will not be legible.

Mr. Lamanna said we are not saying we want it to be 12 sq. ft., the board is willing to recognize that.

Mrs. Smith said there was a picture that showed a perfect shot of how the sign is going to shine directly through their living room window and their upstairs bedroom window. She said she just does not want that illuminated and doesn't know why it can't be facing the road but then you would probably have the Leffler's and Koltas' here complaining about the lighted sign going in their yard and they are just not happy at all with what they want to do and the fact that they started building it before anything was even determined is just beyond her.

Mr. Jim Smith of 17383 Snyder Road testified that it is a safety issue that he brought up last time, he has seen accidents all of the time here and now they want to put an illuminated sign here.

Mrs. Smith said and it will be blocking the in and out driveways. She said they have lived there for 28 years and have seen numerous accidents without a sign there.

Mr. Lamanna asked if there is any way to ameliorate the light trespass into that property and if that aspect has been looked into.

Dr. Lee said yes they started a discussion with them about a fence but they are requesting a brick wall and we did talk that out and we started marking out some places and are looking for something appropriate for that property line and we are open to putting up some type of fence and his recommendation is some fencing with some evergreens that would probably eliminate the view from that angle over time.

Mrs. Smith said over time, it has got to be immediate.

Mr. Smith said he only wanted to put a fence in for 20' to cover the site line which doesn't make sense. He said if you go over to Giant Eagle, they have a beautiful 8' vinyl fence around their compactor that would probably be substantial.

Ms. Salem said they are limited to the height of the fence according to the zoning resolution.

Mr. Smith asked why he should have to look at it.

Dr. Lee asked them if their request would be about 8' tall.

Mr. Smith said whatever it takes so they don't have to look at the sign.

Mr. Lamanna asked what the lumens per sq. ft. will be from this sign and if that kind of information is available. He said he can see the shopping center lights from next door but if he is in a darkened room that is not going to bother him because the light will not be projecting in. He said seeing the light is not the same as light shining in and illuminating the walls. He asked if the lights are directional at all and added that LEDs are directional. He asked if they make any options to angle them in.

Mr. Gutoskey said the sign faces could be angled to project more towards the street.

Ms. Serafino said the actual LEDs are not as bright, they are much more subtle and they are not neons.

Mr. Lamanna said per watt they are very bright.

Dr. Lee said they have a CEI flood light that lights up that whole area, the grassy area so that you can read the sign so part of the change they are doing is they are going to be taking down the floodlight that illuminates that driveway and the lumens in that area are going to drop.

Mr. Lamanna asked if the intensity of the light is controllable on the sign, can be turned up all the way or can it be turned down to a minimum amount or is it fixed at a certain level.

Ms. Serafino said she cannot answer that question.

Mr. Frank Lanza testified that he has one of those signs and the lettering itself puts out absolutely no light because it is an LED, it is not like a bright light that is shining out. He said that light from the pole would put out a lot more light than from the actual sign. He said if the background is black and the letters are red, it won't put out anything because it is just lighting up that little area.

Mr. Murphy said the reason for the sign is you can be at the library and read it.

Mr. Lanza said but it is not putting out any light, you would see the letters but it is not lighting up that area.

Ms. Salem said it is not illuminating the area.

Mr. Lamanna said that is the question, at what point does it illuminate.

Mr. Lanza said it doesn't light up the area.

Mr. Lamanna said LEDs are very efficient at sending the light out directionally and these are narrowed down pretty tight so if you are within the projection area, it is going to stay fairly bright.

Mr. Lanza said it depends on the background.

Mr. Lamanna said there is a reason the lights are red because the red carries a long way.

Mr. Smith asked do you want to sit on your front porch and look at a light. He said it is something he is going to look at everyday.

Mr. Lamanna said it will be something you can read but you won't see light on your walls.

Mrs. Smith said the illuminated part of the sign will (Kenston).

Ms. Serafino said it is like the high school sign. She explained the intensity of the light and said it doesn't project light out but it illuminates the actual letters.

Mrs. Smith asked why it needs to be lit at all and added that the whole parking lot is lit up.

Ms. Salem said if they take that light out, it will be very dark.

Mrs. Smith said there are street lights and parking lot lights.

Ms. Serafino said we have a lot of visitors and they need to see where the drives are.

Mr. Lanza asked what is more distracting, the red letters or the Kenston sign.

Mrs. Smith said the whole thing is distracting.

Mr. Olivier said versus what you have now which you don't see.

Mrs. Smith said right which we don't see.

Ms. Serafino said she thinks that is what the PTO was thinking, not only do they not see it, a lot of the parents don't see that sign necessarily, it is really difficult for a visitor.

Mrs. Smith said she sent her kids to Kenston without that sign, her parents sent her to Kenston without that sign.

Ms. Salem said it is consistent with the other school signs and we do have teaching information, we have people come on snow days and we have people trying to get into the building. She said the school has been there and if some people choose to buy a home next to a school.

Mr. Lamanna said that is a bad argument to make.

Ms. Salem said all of the schools are in residential districts and she is sure all of the neighbors have had issues with them and it is unfortunate but.

Mr. Smith said they have a website for information.

Mr. Lamanna said he would agree that he thinks it is appropriate to have some kind of sign and that is why everybody is going to ground signs like this now in the commercial world. He said he would like to see the maintenance of the illumination of this sign, if it is adjustable, to be kept at the lower end. He said if you look at the backlighting, go with the lower end and we are not going with the theory that they are illuminating this so it can be seen from the corner of Snyder and Bainbridge Road, that it have enough illumination so when you approach it you can see it and make your turn in but there is no need for it to be seen a mile away or ½ mile away. He said the second part of it is we have to get the size down, it is so large and is double than what is allowed in this residential district.

Ms. Serafino asked what is allowed in a commercial district size wise.

Mr. Lamanna said 50 sq. ft.

Ms. Serafino asked if that is 50 sq. ft. per side.

Mr. Lamanna said no, total.

Ms. Serafino said so you are telling me that all of the signs in the commercial district cannot exceed 50 sq. ft.

Mr. Lamanna said they will now. He said the previous code was 50 sq. ft. per side.

Ms. Serafino said she is a resident too and asked why this community is different from all of the other communities on how the square footage is figured. She said she has been in the sign business for 30 years and she has never seen anybody figure square footage per side.

Mr. Lamanna said unfortunately it is not his job and that needs to be taken up with the zoning commission.

Ms. Salem said it is unusual.

Ms. Serafino said she could name every suburb from here to Westlake and there isn't one who is per square foot per face.

Ms. Salem said it is the only one she knows of in Geauga County.

Ms. Serafino said there needs to be clarification on this not only for this particular sign but in general across the board.

Mr. Lamanna said they made it very clear in the code, there was some question under the prior ordinance if it was per side or both sides but they made it perfectly clear when they redid the sign ordinance.

Ms. Salem said the Geauga County Model Zoning Resolution does not do that and she thinks that it is just regulating a structure and the fact that it has two sides, she does not know.

Ms. Endres said the zoning resolution is going through a re-write and the sign language is one of the things she is going to ask to be considered with Kendig Keast.

Mr. Lanza asked if it is the size of the sign or the light the sign puts out that bothers the neighbors and would they care if it wasn't bright or would they rather see it small and bright.

Mrs. Smith said mostly it is the arrogance of the school district, they put up whatever they want without consulting the residents around the school and this was the last straw.

Mr. Lanza said they haven't put it up yet.

Mrs. Smith said they started to.

Mr. Lanza asked the Smiths what they would be comfortable with. He said the brightness can be controlled and the LED part of it is not real bright, it is the Kenston School part and that could be dimmed down by putting one fluorescent bulb in there, keep that part dim so they won't have any light shining in and it will make them happy and it might be a way to compromise. He said he would not want a bright light shining in his house and asked if it is size or the brightness.

Ms. Salem said it is the size they are seeking a variance for from this board right now.

Mr. Lanza said if you knock down the light, it might make them happy.

Mr. Lamanna said that is not the sole issue.

Ms. Serafino said Mr. Lanza is correct in the respect that we can reduce the lumens on the Kenston portion of the sign and make that not as bright, it can be subtle. She said a ground lit sign with a spotlight, in her opinion, would be brighter. She said they want the sign to conform to the other existing Kenston signs, the size of the sign is not any larger than the existing Kenston High School sign and she does believe that the lighting on the Kenston sign is not very bright at this point in time but they can certainly address that issue by keeping it a little bit more subtle. She said the stadium and the KCE portion is not illuminated so the only part that is illuminated is the Kenston portion.

Ms. Salem said the only issue here is the size and it is very unusual.

Mr. Lamanna said but the law is what the law is now. He said part of the intent when they changed it was to push down the size of signs and that is what they wanted to do.

Ms. Salem said it is a smaller sign than the existing sign.

Mr. Lamanna said it doesn't really matter. He said the legislative body said this is what they want to do and for us (BZA) to come here and say we think they were wrong.

Ms. Salem said they are not asking the board to do that.

Mr. Lamanna asked Mrs. Smith how far back her house is from the road.

Mrs. Smith said not that far.

Ms. Endres measured it from the GIS and said it is approximately 100' from the road and the sign is going to be 36' from the edge of the road or 16' from the right-of-way.

Mr. Lamanna said the house is about 50' farther back from the sign. He asked if there is anything that could be installed to flank the sign.

Mr. Gutoskey said like wings or trees etc.

Mr. Murphy said a four foot fence is not going to help along the driveway there but a landscaping planting that curves around the sign with either two wings or planting of evergreens around the sign.

Mr. Lamanna said a semi-circle flanking fence on that side of the sign would be a lot easier to deal with.

The board discussed screening the sign from the neighbors.

Mr. Murphy said a four foot fence that runs to the road would interfere with the sightline of the drivers.

Mrs. Smith said she would rather have the fence along the property line.

Mr. Murphy said in front of the house you are only allowed a 4' high fence.

Ms. Endres said it would be the school's front yard and be on the school's property and for all practical purposes their front yard goes all the way back several hundred feet so any size to block the sign or for screening would need a height variance.

Mr. Lamanna said a fence would be started half-way up the driveway but there is no way you could have an 8' fence in the right-of-way because people would not be able to see, it would obscure their vision trying to see traffic coming down Snyder Road.

The board discussed screening the sign.

Dr. Lee said they are open to the fence and have an interest in putting in some trees too but it is a long term thing but the fence is what they want and they would need a variance.

Mr. Smith said that is fine.

Dr. Lee said they are on board to do that.

Ms. Endres explained that the fence can't be in the road right-of-way and it has to be far enough for the site distance but that is the decision the board can make.

Dr. Lee said they have a swale and he is not sure where the property line is.

Mrs. Smith said usually the telephone poles are the property lines.

Mr. Murphy said a post could be installed and the school and the neighbors could agree on it, if that fence is there will it block the front lighting of the sign to the far corner of the house.

Mrs. Smith said their house is taller, they have a raised basement, they are looking down.

Mr. Olivier said the board doesn't want to grant a height variance for something that won't work.

Mr. Lamanna said a site plan needs to be drawn to figure out what the distance is. He said we still have to deal with the size problem and asked if it can be reduced to 75% of what is proposed here.

Ms. Serafino said she wants to give a perspective to what size the sign would be. She referred to the zoning map located in the corner of the room and said the left side of the sign is 26" high. She said the width of this map is bigger than 26" tall and the height is 40" in height on the right side and that probably is the size of the board. She said it may seem like a lot of square footage over but she thinks what we are comparing to is the amount of square footage allowed is totally ineffective for any signage. She said the amount of square footage allowed is about the size of this board 3' x 4' and when you get this on a very large property it is very ineffective so to reduce the size of the sign in any way will make it an ineffective sign and if you look at other signs in other communities, they are not large and the existing signs in Bainbridge, anywhere in commercial, are no larger than this sign. She showed the board what a 3" letter looks like and said this sign was not designed when this new code was put into place, this sign was designed prior to that and the square footage was 40 sq. ft on each side, so the sign was designed with that in mind and it conformed to the code at that time which was a fairly reasonable code by practical standards.

The board reviewed and discussed the dimensions of the proposed sign.

Ms. Serafino said they have some difficult criteria as far as the amount of information on the sign and it would be very hard to reduce that and it does not make sense to make little letters that nobody can read, so why make it.

Mr. Lamanna said for example you have KCE and The Board of Education, it would not have to be nearly as wide if you said Board of Ed. He said what he is saying that it shrinks down the changeable portion too and you would only be reducing it to 75% of what it is, so the height is only going to go down by a maximum of 75% and you could do it probably by trimming off some of the side edges.

Ms. Serafino said she thinks the board is trying to not set a precedent.

Mr. Lamanna said that is an issue because it is very difficult when we say you can have this size and then the next person comes in and they say they would like the same size sign, in a commercial district and some have four and five businesses that they want on the sign. He said the board looks at how big the variance is and the bigger it is, the harder it is to justify granting it.

Mr. Serafino asked why the schools are being treated differently than commercial.

Mr. Lamanna said everybody in a residential district is treated that way, it is a district limitation such as churches or adult group homes, etc.

Ms. Serafino said the existing sign has been here for 25 years.

Mr. Lamanna said we can't do anything about the signs that are already here.

Ms. Serafino said she doesn't understand why they were reduced by such a great amount and what the rationale was.

Mr. Lamanna said he can't answer that question.

Ms. Serafino asked what a commercial district sign is.

Mr. Lamanna said it is 50 sq. ft. and typically the board is giving a little bit of relief if they have multiple tenants etc. but a single tenant, probably not.

Ms. Salem asked if since they have all of the board's concerns if they can go back and look at it again.

Mr. Lamanna said that is a good idea, the size, line of sight and brightness of the sign can be looked at.

Mr. Olivier asked if they know what the fence is going to look like.

Ms. Salem said that is a separate issue and it may be a completely separate hearing actually.

Mr. Lamanna said he wouldn't have a problem if the fence is part of this application.

Dr. Lee said the neighbors are interested in the fence and they are open to do that so if the board could approve that now that would be fine.

Mr. Lamanna said he wants it right the first time so he would rather wait to get it done correctly.

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

Motion BZA 2012 - 20 – 17419 Snyder Road (Signage)

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held January 17, 2013.

Mr. Murphy seconded the motion.

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

Application 2012-29 by Dovetail Construction Inc. dba Dovetail Solar & Wind for Kenston Board of Education for property at 17419 Snyder Road - Continuance

The applicant is requesting a use variance for the purpose of installing solar panels. The property is located in a R-5A District.

Ms. Salem said an interesting situation came up and from Bainbridge, in looking through this, we have a zoning certificate for the solar panels which was never revoked, they have nothing in writing stating that it was revoked and they were also provided with a memorandum by Ms. Endres where she stated “Although the zoning certificate has been issued, this hearing was publicized and adjoining property owners notified to give affected owners the opportunity to speak their opinion and for the BZA to review the issue.” She said it is not right in front of this board at this time until it is actually revoked which it hasn’t been and that is where they are right now, right now we have a zoning permit for the solar panels with an expiration date of July 19, 2014.

Ms. Endres said she never found any paperwork on it where it was revoked. She said it appears that Mr. Wrench issued a zoning permit on July 19, 2012 and as we know there has been a turn-over of zoning staff. She said she was told at one point that the permit was revoked but she never found any paperwork on it.

Ms. Salem said it is not an issue for this board tonight. She said they went ahead and built them in accordance with the zoning permit so at this point she doesn’t think it is a right issue for this board.

Mr. Lamanna said it is not this board’s issue, Ms. Endres will have to decide what to do with it. He is said it is an administrative issue. He said in the interest of this application, he is proposing that it be tabled until whatever decision is made.

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

Motion BZA 2012-29 – 17419 Snyder Road (Solar Panels)

Mr. Lamanna made a motion to continue this to the next regularly scheduled meeting to be held January 17, 2013 pending the decision by the zoning department as to how to proceed with dealing with the issue.

Mr. Lewis seconded the motion.

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

Application 2012-34 by Emeil Soryal (ASZ LLZ) for property at 8450 E. Washington Street

The applicant is requesting a conditional use permit for the purpose of establishing a strip shopping center. The property is located in a CB District.

The Zoning Inspector's letter dated December 20, 2012 was read.

Mr. Emeil Soryal and Mr. Jeff Bennett were present to represent this application.

Mr. Soryal testified that he did some calculations on the parking because that was an issue last time and it requires 21 parking spaces and he will have 26 spaces so he will have five additional parking spaces than he is required to have. He said he will have 15 in the front and the rest in the back.

Mr. Lamanna asked Ms. Endres if she agrees with the number of parking spaces.

Ms. Endres testified that she agrees with the parking spaces and it appears he will have enough. She explained the usable floor space for the tenants.

Mr. Lamanna asked if the footprint of the building matches what was previously granted.

Ms. Endres replied yes.

Mr. Lamanna asked if the additional parking spaces will increase the coverage.

Ms. Endres said she believes the additional parking spaces were already approved.

Mr. Soryal said from the variance before.

Mr. Lamanna asked if the lot coverage is not increasing from the previously granted variance.

Ms. Endres said her understanding is yes.

Mr. Frank Lanza asked what the lot coverage is there or how much green space is there.

Mr. Lamanna said not a whole lot.

Mr. Lanza asked how many sq. ft. is the building with two stories on it.

Mr. Soryal said the first story is 5,000 sq. ft. and the second story is 3,000 sq. ft.

Mr. Lanza said there is 8,000 sq. ft. of building and asked how many parking spaces there are.

Mr. Soryal said 26 spaces.

Mr. Lanza asked if he has 26 parking spots there now.

Mr. Soryal said he will have and explained that he has a variance that was granted in 2000.

The board asked Ms. Endres to pull the file with the 2000 variance.

The board discussed the required parking spaces.

Mr. Lewis said the parking spaces are 9 x 20 and the distance between them is only 14' so he doesn't have any idea how a car can back out with just 14'.

Mr. Soryal said the drive is only one-way traffic, there is no two-way traffic going through there and if he has to shift some sideways he can.

The board discussed the maneuverability of the proposed spaces.

Mr. Lewis said some of the spaces could be shaved down as long as he has 21 spaces.

The board discussed the location of the dumpster.

Mr. Soryal said it has always been back there.

Mr. Gutoskey said one loading space is required but it can be behind the building.

The board reviewed the previously granted variance in 2000.

Mr. Lanza stated that the parking spots that are for that shopping center now are not enough and they are all parking at his office buildings and his property behind there and he is wondering what is going to happen when they rent out the rest of that shopping center because it is not all rented. He said they all park on his land and he is okay with that, he is not complaining about it but.

Mr. Gutoskey said one word, meters.

Mr. Lanza said he has an impound lot.

Mr. Lamanna said the side yard is 2' and the rear yard is 2' and the board allowed the building to be squared up on the one side (east side).

Mr. Lanza asked if there is no width requirement between the side-line and the building.

Mr. Lamanna said the width doesn't change because the narrowest point already exists, the extension makes it no narrower. He said the question is the total lot coverage was set at 65.8% and he can't tell without looking at the drawings and the application. He said he doesn't know how that part to the right was treated but what was permitted is 65.8%.

Mr. Soryal asked if what he is doing is any different than what was granted in 2000.

Mr. Lamanna said the variance in 2000 was for 65.8% which is all covered surfaces (the driveway, the parking and building) but he doesn't have the drawing that was done then.

Mr. Lewis asked how many parking spaces are up front.

Mr. Soryal said 15.

Mr. Lewis said and what we need to satisfy that with the square footage is six more.

The board reviewed the lot coverage calculations and available green space.

Mr. Soryal said the variance was to add an additional 850 sq. ft and additional parking and added that the site plan was approved. He asked where the parking would have been because the drawing shows where the parking is now.

Mr. Lamanna said he doesn't know what the exact plan was but that was the decision and that is the number that is going to have to be met.

Mr. Soryal said the variance mentions additional parking but there is no other place for the additional parking. He said he has a plan from 2000 and it is the same plan he is using today.

Mr. Lamanna said the decision was made and there isn't any basis to increase it beyond that. He said the lot coverage is at 65.8% and what does that mean with respect to the parking. He said the board could approve 65.8% contingent upon receiving a revised site plan with a lower number of parking spaces.

Mr. Soryal said that was already approved.

Mr. Lanza said it looks to him that there is not much green space there at all and it looks like more than 65%.

Mr. Lamanna said it is really dangerous to look at a drawing and speculate what the lot coverage is because sometimes it is an optical illusion.

Mr. Jeff Bennett asked what is considered green space.

Mr. Lamanna said anything that is not a building, paved, sidewalk or gravel and explained that the right-of-way is not considered green space.

The board reviewed the site plan.

Mr. Lewis said that Mr. Murphy came up with an idea. He said with that traffic problem he had suggested putting six spots right there, he referred to the site plan, and you could actually have a little more green space because you would only need to go in 20' and that is a great remedy.

Mr. Lamanna said the board gave a really tight setback so we would like to see those areas landscaped.

Mr. Soryal said currently this whole line is shrubs and planted all the way around there and we have the buffering.

Mr. Lamanna asked about the lighting and will it be changed.

Mr. Soryal said there are two poles that light up the parking lot in the front.

Mr. Lewis asked who will be parking in the rear six parking spaces.

Mr. Soryal said employees, the front will be used for clients.

Mr. Bennett said they don't have a lot of traffic for the Kitchen and Bath and at the most will be two or three cars at one time and in the back the most he has ever seen is four to five cars.

Mr. Lanza asked if there is a veterinary office there.

Mr. Bennett said yes, it is just the vet and us.

Mr. Lanza asked if they take up the whole bottom.

Mr. Bennett replied yes.

Mr. Soryal asked what 65% lot coverage comes to.

Mr. Gutoskey said the lot is 28,334 sq. ft. and it is 65.8% of that.

Mr. Bennett asked about the right-of-way.

Mr. Gutoskey said it is 30' off the centerline of the road.

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

Motion BZA 2012-34 – 8450 E. Washington Street

Mr. Lamanna made a motion to grant a conditional use permit to the applicant for the purposes of constructing a strip center which is being made by adding a second floor to an existing building. This conditional use is based upon a previous variance granted to this parcel with respect to setbacks, building footprint and total lot coverage. The variances granted there will remain the same and the final completed project must conform to those variances.

With the following specific conditions:

1. The applicant will actually construct the building as shown in the renderings, especially the renderings as to external finishes of the building so that it will be presentable on all sides and will be harmonious with the neighborhood as required by the criteria for conditional uses set forth in Chapter 117.13.
2. The board notes that all of the requirements of Chapter 117.13 (b) will apply to this conditional use except for Item #1 for which a variance will be granted with respect to the setback from the property lines which will be governed by the previously granted variances.
3. Prior to the issuance of the zoning certificate the applicant will submit a revised site plan showing there is 21 parking spaces and demonstrating that the setback and lot coverage variances previously granted will not be exceeded.
4. Any new lighting will comply with the current lighting standards.
5. The dumpster area being created in the back will be a closed in and screened area so that dumpster will not be visible from the adjacent properties.
6. In addition the applicant will also provide landscaping on the boundaries of the property, especially in those areas where there is a minimal setback and will also submit with a final site plan a landscape plan showing landscaping in all areas around the property including landscaping on the street side of the front parking lot to help screen that from East Washington Street.

Motion BZA 2012-34 – 8450 E. Washington Street - Continued

7. All of these conditions are deemed necessary in order for the board make the findings allowing the conditional use and in reviewing standards set forth in Chapter 117.13 (a).

Based on the following findings of fact:

1. The board finds that this proposed project does not involve any of the circumstances set forth in items 1 through 9 in that section to such extent that it would preclude the granting of this conditional use.

Mr. Lewis seconded the motion.

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

The following discussion was held regarding application 2012-34 for 8450 E. Washington Street.

Mr. Murphy stated that this is a 4,000 sq. ft. building and an additional 840 sq. ft. is being enclosed and you are proposing a 2,900 sq. ft. second floor addition but seeing the site plan the second floor walls have already been installed all the way around the perimeter of the entire building and asked Mr. Soryal if that is correct.

Mr. Soryal replied yes.

Mr. Murphy said you are going to enclose the entire second floor but you are only going to use 2,900 sq. ft. of that.

Mr. Soryal said they are only going to finish 2,900 sq. ft.

Mr. Murphy said but in that second floor there will be 5,000 sq. ft. of space under roof.

Mr. Soryal said under roof but finished no because the one part that is not finished has the air conditioning equipment, etc.

Mr. Lamanna said the only way that matters is if it would have created requirements for additional parking spaces. He asked Mr. Soryal if he understands that he can't take any of those other areas and move an occupancy in there.

Mr. Soryal said it is not built in such a way.

Mr. Bennett said the extra square footage cannot be occupied.

Mr. Soryal said it will never be finished but it was just done for aesthetics.

Application 2012-27 by Emeil Soryal (ASZ LLZ) for property at 8450 E. Washington Street - Continuance

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

Mr. Lamanna noted that this application is a continuance from the last hearing.

Mr. Emeil Soryal and Mr. Jeff Bennett were present to represent this application.

Mr. Lamanna asked if the existing ground sign will be kept.

Mr. Soryal replied yes and testified that it is 40 sq. ft. on each side.

The board reviewed the minutes from the last hearing.

Mr. Lewis explained the allotted square footage.

Mr. Murphy asked about the length of the building.

Mr. Soryal said it is 93'

Mr. Gutoskey said it is 94' in length.

The board discussed the proposed signage.

Mr. Lewis said the ground sign is not mandatory so the applicant can forgo the ground sign for more substantial building face signs and one of the things, particularly in the retail business, once somebody has been there one time they know forever where you are so you will never lose a repeat customer. He said he thinks that some of the real big shopping centers where you may be able to see the Walmart or the Home Depot sign you have familiarity and he doesn't think ground signs play much of a role at all unless it is obscured by trees or around the corner and you just can't see it.

Mr. Soryal said he definitely will reconsider the ground sign even though it is there now and if he was going to use it but if it is going to mess up everything else he will probably consider removing it.

Mr. Lewis said there is an allocated amount and asked Mr. Soryal if he wants to burn 80 sq. ft. on the ground sign. He referred to the previous application and added that this board doesn't legislate.

The board discussed the proposed signs and square footage allowed.

Mr. Lewis said to offer a total amount and let the applicant decide if he wants to forgo the ground sign for more substantial building signs.

Mr. Soryal asked if the board can consider the size of the sign in relationship to the building.

Mr. Lamanna said if there was only one sign to deal with the board could do that. He said the board is considering 150 sq. ft. of signage and Mr. Soryal can decide how he wants to use it.

Mr. Soryal said businesses are to be noticed, he is not saying he is, but we have all driven on the road and we have seen kids wearing monkey suits jumping around with signs, but we don't want that but if a business wants to be noticed they are going to do what it takes.

Mr. Lamanna said that people should appear before the zoning commission if they don't feel the sign code is reasonable. He said he totally understands and the board tries to be flexible we are pushing the envelope a little bit and giving the extra 30% based on the fact it is a corner lot even though technically it is not.

Mr. Soryal said he will forgo the ground sign and just get what is designed for the building so it looks proportionately right. He said it is built and designed around the specific percentages of signs and he has already built the gables specifically for the signs on all four sides and design-wise it wouldn't look right.

Mr. Olivier asked Mr. Soryal if he is getting rid of the ground sign.

Mr. Soryal said he is, although he just spent money on it, \$800.00 later.

Mr. Bennett testified that if they get rid of the ground sign they will have more green space.

Mr. Lamanna said the signs have not been made yet so they can be reduced a little. He said the board will give 50% more so it will be 171 sq. ft. so a couple of signs will have to be tweaked by a few inches.

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

Motion BZA 2012-27 – 8450 E. Washington Street (Signage)

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

1. A variance permitting 171 sq. ft. of signage that the applicant will use for wall signs only. This represents a variance of 50% from the 114 sq. ft. permitted based on the building size.
2. The applicant is going to forgo a ground sign.

Based on the following findings of fact:

1. This is a pre-existing development around the property where there is another shopping center with a circulating road.
2. The applicant's property is just about effectively surrounded on all sides by a road so the board increased this based on the 30% that would be allowed if there were roads on two sides, plus some additional since the traffic is really going on all sides of the building.
3. It will help enhance the look of the building and fit into the architectural style of the building without substantially affecting the character of the neighborhood.

Mr. Lewis seconded the motion.

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

Application 2012-31 by Mike Bramhall for Mark Tiefel (Tanglewood Golf Club for property at 8745 Tanglewood Trail

The applicant is requesting a renewal of a conditional use permit for Tanglewood Golf Club and for the purpose of replacing the existing cart storage building. The property is located in a R-3A District.

The zoning inspector's letter dated December 20, 2012 was read.

Mr. Mark Tiefel, Mr. Mike Bramhill, Engineer, Mr. John Faile, Architect and Mr. Dan Lindner, Attorney were present to represent this application.

Mr. Mike Bramhill of Bramhall Engineering testified that Mr. Mark Tiefel has asked him do a couple of things for this project and one is to identify a drainage plan and the other is to identify a buffer plan to satisfy the adjacent neighbor. He said the other is to come up with some ideas on how to replace the existing cart barn which is an eyesore to the neighborhood so they hired Mr. John Faile who is the architect. He said one of the first things they did was meet with Mr. Scott Rico next door (17349 Sugar Hill Trail) and it is a time to identify a buffer and create one. He said one of things that has occurred is that they have identified eight points that Mr. Tiefel and Mr. Rico have agreed to and would accept these eight points to be added as a condition of consideration of the approval of this conditional use permit renewal. The agreed to conditions dated December 20, 2012 regarding the buffering are as follows:

1. 3:1 side slopes on mounding.
2. 4' high mound.
3. Installation of diversion berm to direct storm water from shedding onto Rico parcel.
4. Tree planting to include mix of 2" minimum cal. Pine trees, pin oaks, and arborvitaes.
5. Work with Mr. Rico on final placement of tree planting locations.
6. Tree origin will be from a nursery and not from the "wild".
7. Mound and land area adjacent to same up to the Rico property line to be properly maintained/weeded/mowed and trees mulched consistent with lease requirements.
8. Dead or dying trees shall be replaced at the next best planting cycle (fall or spring).

Mr. Bramhill said he thinks that these address the buffering concerns and commitment and added that one of the concerns Mr. Rico has is to make sure that down the road, should there be another owner involved, so that is why they are requesting that these eight requirements be attached to the conditional use permit and that these requirements be met.

Mr. Lamanna asked that these eight points be entered into the record.

Mr. Bramhill referred to the cart barn and said they are going to match the shingles with the existing clubhouse, they want that to match. He said the other thing is the height of the structure is going to be significantly lower than the existing A-frame is so it is going to open up the view quite a bit. He said the color-scheme is going to pick up directly the earth-tone colors that are currently being used on the existing clubhouse and they are going with a rustic barn type look but with the natural earth-tone colors.

Mr. Lamanna asked why it is moving closer to the residential lot.

Mr. Bramhill said they thought that by moving it further away from the street and making it a less obtrusive view and that is one of the other reasons that they are making sure they do a good job buffering against the Rico parcel because they do realize they are coming a bit closer there.

Mr. Lamanna said it primarily affects just that one parcel so if Mr. Rico is happy with it.

Mr. Scott Rico testified that he will say something about it later.

Mr. Mark Tiefel testified that regarding work on the cart barn, Mr. Bramhill and Mr. Faile met with the TLA board and the architectural review board of the TLA and they provided this letter. Mr. Tiefel submitted the letter to the board of zoning appeals.

The board reviewed the letter.

Mr. Olivier asked if there is a requirement that the structure be maintained a certain distance from residential properties.

Mr. Rico stated that it is 100' but it is being moved to 70' – 80'

Mr. Gutoskey said the old one was about 98' off the line and the new one will be 54'.

Mr. Rico said the original conditional use in 1968 was carried forward from the original renewal and when Tanglewood Country Club went bankrupt they changed the conditional use to allow public play, the conditions of the CUP of 1968 were carried forward and they thought that the 100' setback on residential from 1968 was carried into the current CUP. He said he came here to offer his positive reinforcement and the current country club is asking based on what is shown and based on the plans they allowed and asked he and his wife to help with the buffering and it guarantees that they receive from Birmingham, Mr. Tiefel and the other partner on maintenance and the structures that they are developing now. He said the last time he was here, Mr. Olivier, Mr. Murphy, Mr. Lewis and Mr. Lamanna were on the board and he believes there were people lined up outside the door because there were so many very unhappy people from Tanglewood that were in here both from the public play and that Mr. Strauss had decided to cut down 200 trees. He said many of residents here didn't understand that some of those trees that came down were dead and about 100 of those trees were on his property line between the A-frame and his house that provided the screening and it was in the minutes back from that meeting about five years ago that he said he learned a very valuable property lesson from Mr. Strauss and that is he who owns the property controls the property. He said Mr. Tiefel and Mr. Olson have given his wife and him some of that control even though they don't own that property and what they have allowed them to work through on the landscape plan he thinks will benefit him and his wife and their property and any future owners of their property much more than they will get out of those trees and that mound so again, he is very happy working with them and very happy to offer his approval with the change on the variance on that 100'.

Ms. Endres, Zoning Inspector, referred to the revised landscape concept.

Mr. Bramhill referred to the basin that will capture the water that runs off this area now, he referred to the site plan, to slow it down before it goes into the storm sewer system. He said they got a soil erosion permit from the county and added that there is a narrow window to be able to build this cart barn and not disrupt the whole flow with a golf cart so if we are going to do this, he promised Mr. Tiefel that if they can get approval tonight, they will have a golf cart barn by March so with that he respectfully asks for a positive recommendation.

Mr. Lamanna said as far as the current conditional use permit is the applicant just asking the board to renew it as is.

Mr. Dan Lindner testified by saying yes and to put it at five years.

Mr. Lamanna said there was a shorter run on it.

Mr. Tiefel submitted a letter to the board from the Tanglewood Lake Association that supports public play.

Mr. Lamanna asked if anyone else has any comments on this.

Mr. Dave Kraninger of 8805 Kings Orchard Trail testified that he is a past president of the Tanglewood Lake Association board and of course before this board in the past, he would like to see the public play continued and the TLA board approved it for an extended period of time. He said he thinks that Birmingham, the owners of the golf operation have proven that they are very sincere about their efforts and have the best job of keeping the golf operation very classy and do the best they can to put the golf course back as possible and it is in the best condition it has been for many, many years. He said the community responded very well and he thinks other people in their community will back it up that it has improved dramatically and continues to improve year by year and so to impede that progress, going back a step or two would be the wrong thing to do so he would certainly like to see that conditional use permit extended for public play into the future as far as reasonable.

Mr. Lamanna asked Ms. Endres if her office has any pending issues.

Ms. Endres said she has had no complaints on the golf course.

Mr. Lamanna said there is no issue for extending it for five years. He said the cart storage building is a huge improvement over what is there now and even though it is closer to the adjacent property line the fact that the overall elevation is being dropped with the landscaping and everything else, he thinks it will actually be improved.

Mr. Olivier said the catch basin and all of the storm sewers feed the lake so any sediment we can keep out of the lake will prevent another dredging project.

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

Motion BZA 2012-31 – 8745 Tanglewood Trail (Tanglewood Golf Club)

Mr. Lamanna made a motion to extend the conditional use permit for the country club from 2001 – 2013 to 2001 – 2018 and secondly that part of the conditional use allows the replacement of the existing cart storage building with a new building with a lower profile as shown on the site plan that has been submitted by the applicant and in connection with that the positioning of that building to permit a setback of 54' from the existing property line reducing that amount from 98'.

As a condition to allowing that reduced setback from the neighboring property line the board adopts as conditions the eight points that were submitted by the applicant and to become part of the application and they will be incorporated into the minutes as conditions.

1. 3:1 side slopes on mounding.
2. 4' high mound.
3. Installation of diversion berm to direct storm water from shedding onto Rico parcel.
4. Tree planting to include mix of 2" minimum cal. Pine trees, pin oaks, and arborvitaes.
5. Work with Mr. Rico on final placement of tree planting locations.
6. Tree origin will be from a nursery and not from the "wild".
7. Mound and land area adjacent to same up to the Rico property line to be properly maintained/weeded/mowed and trees mulched consistent with lease requirements.
8. Dead or dying trees shall be replaced at the next best planting cycle (fall or spring).

Based on the following findings of fact:

1. The reason for the conditions is to ameliorate the impact upon the adjacent property owner from drainage and view by reducing the distance to the building.
2. The additional reasons for granting this variance for this modification is it will improve the overall look of the property and it will substantially reduce the impact on the adjacent property owner.
3. Additional steps have been taken to ameliorate it and which the steps the adjacent property owner who is affected by this has participated in and agreed to and which he indicates will ameliorate any adverse affect on his property.
4. With respect to the extension of the conditional use permits the board finds that there has been no significant change or complaint and the operation of the course in the interim three year period has been such that the board is satisfied that it can be extended for a regular five year term.
5. The board notes of course that all of the conditions in that prior permit will continue to apply as well as any other generally applicable conditions for conditional uses that are set forth in the zoning ordinance.

Mr. Lewis seconded the motion.

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

Application 2012-32 by Joe Jenkins for True North Energy LLC for property at 8501 E. Washington Street

The applicant is requesting a renewal of a conditional use permit for the purpose of a car wash, food mart and gasoline sales. The property is located in a CB District.

The zoning inspector's letter dated December 20, 2012 was read.

Mr. Joe Jenkins and Mr. Jim Delbrocco were present to represent this application.

Mr. Lamanna asked if there are any issues with this property or problems with the existing conditions on it.

Ms. Endres said not that she is aware of and there have been no complaints on this property. She explained that they are requesting signage and their conditional use permit had expired so it is an appropriate time to get all of that in order.

Mr. Lamanna explained the purpose for conditional use permits.

Mr. Lewis referred to this application and stated that it appears that the conditions are going to roll over as is, the property conditions are satisfied, there are no outstanding violations or compliance issues or complaints and the applicant is not going to change the overall behavior or activity of the business.

Mr. Lamanna said the property certainly looks nice.

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

Motion BZA 2012-32 – 8501 E. Washington Street (Conditional Use Permit Renewal)

Mr. Lamanna made a motion to renew the conditional use permit as it is with all conditions applicable in that permit for a period of five years.

Mr. Lewis seconded the motion.

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

Application 2012-33 by Joe Jenkins for True North Energy LLC for property at 8501 E. Washington Street

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

The zoning inspector's letter dated December 20, 2012 was read.

Mr. Joe Jenkins and Mr. Jim Delbrocco were present to represent this application.

Mr. Jenkins testified that the request is, the company that he represents, True North, this is a prototype, they want to put identification on the inside which they have already done and exterior graphics that would help provide an identity branding to the store. He said the variance application letter states the fact that the major building there was built in 1994 and Shell had their own food mart branding at the time called ETD and that was on the outside of the building and they used that for marketing purposes, billboards, TV advertising etc. as part of the Shell corporate branding and Mr. Delbrocco and others paid a fee for that and for providing food and the different articles that they sold inside. He said True North took them over in 2000 and in 2002 the station's current branding was done and at this point the station still consists of the three major products that were provided there and that is gasoline, there are four pumps there, there is a carwash and the food mart and the only real identity that the station had was as far as the food mart was a major part of Mr. Delbrocco's business and a very important part of it is just about a 10" by 5' 6" letters in red over the entranceway saying food mart and that is it. He said he is supposed to compete against Giant Eagle Getgo or Dunkin Donuts and they have national or very strong regional marketing programs and his station is supposed to serve as a prototype, this is the first one that they have done so True North who has a chain of over 300 stations can help to market his product also so that his coffee and his food stuffs are identified through True North from the exterior through identification what is going on inside and that things have been done to provide updated products, quality products and Mr. Delbrocco's point right now is to provide identification. He said within the last year they put in new counters and we provided within the last month as part of this program interior graphics over the cash counter or where the pop, the coffee and the sandwiches are and also around the coolers. He provided the board with some photos of what has been done inside. He said they did different things to the interior of the store and that is what exterior graphics are supposed to represent.

Mr. Lewis asked if the Poppin Place graphic is a banner you want to wrap the buildings with.

Mr. Jenkins said it is two things, it is two signs that say Poppin Place that would go over the entrance way to the building and to the carwash but it is also as mentioned graphics but it is not illuminated, there is no internal illumination to any of that.

Mr. Lamanna said the issue here is to determine whether the logos on the green banner are signage or not.

Ms. Endres said she put in a lot of time on this to determine if the Poppin Place were signs and if the snowflakes and starbursts were kind of a branding so she decided to err on the side of being conservative in her decision on how to handle this application so she decided that all of the graphics were to be signage so if the board decides she is wrong that is okay.

Mr. Lamanna said he doesn't think it is wrong to say that someone's trademark logo is not technically a sign and his view of it would be whether the board exempts it or ignores it ought to be based upon whether it is unusual or distinctive. He said from a true legal standpoint it is probably a type of branding/marketing thing but branding/marketing is kind of a common object, it is not like putting DDs (Dunkin Donuts) all over the building. He said the nature of this is it looks more like an architectural feature rather than a branding and that is why he would treat it differently. He said if Shell came and wanted to put Shell around the whole building, he thinks he would say no.

Mr. Lewis said that BP across from the Getgo is going to be back to see us because they just changed hands so what we do here, may be asked for there and then we would get Getgo coming back for a change and would probably have Speedway coming back for a change. He said there is a difference between a graphic and a branding logo.

Mr. Lamanna said technically they would say that is part of their trademark. He said in this case because of the nature of the object itself it is such that it doesn't really appear as signage and it doesn't look like signage.

Mr. Olivier asked if there is various shading to it.

Mr. Jenkins said there are only two shades to it, a light and a dark. He said of being white, white and too bright they actually took it back 10%. He said he could provide samples.

Mr. Olivier said he would like to see how subtle it will be.

Mr. Jenkins said it is not very bright. He added that the other snowflake is dark for contrast and it will be a satin finish.

Mr. Murphy asked if there will be a new sign on the post.

Mr. Jenkins said they put in a new ground sign a month or so ago that is the same size. He said the only thing different about it is it is the LED but the size didn't change on it.

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

Motion BZA 2012-33 – 8501 E. Washington Street (Signage)

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

1. With respect to signage at the property the applicant is requesting a change in the signage and with the new signs being requested it will be approximately 141 sq. ft.
2. In reviewing this application the board has looked at a banding that is proposed to be put around the buildings and although that banding does incorporate a part of the logo of the applicant, the nature of the printing or the nature of the objects being a snowflake are not distinctively associated with a particular product and are a kind and type that resemble an architectural feature more than they resemble signage and therefore for the purpose of calculating the amount of signage on this property, it will not be included in the amount of signage.

Based on the following findings of fact:

1. It is less than the prior amount of signage permitted at this property even though it is over the current amount permitted by the zoning.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 10:36 P.M.

Respectfully submitted,

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

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

Date: January 17, 2013

AUDIO RECORDING ON FILE

BZA PH 12/20/2012

-33-

Bainbridge Township, Ohio
Board of Zoning Appeals
December 20, 2012

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:36 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the November 15, 2012 meeting as written.

Mr. Lewis seconded the motion.

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

Application for January 17, 2013

Application 2012-20 by Dr. Bob Lee/Kenston Schools for property at 17419 Snyder Road - Continuance

The applicant is requesting area variance(s) for the purpose of installing a monument sign. The property is located in a R-5A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above application for January 17, 2013 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.

Other Business

Ms. Endres met with the board to discuss the 7-Eleven application, solar panels and an affidavit procedure for multiple non-conforming lots.

Since there was no further business, the meeting was adjourned at 10:55 P.M.

Respectfully submitted,

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

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

Date: January 17, 2013