

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

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Michael Corcoran, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Mark Murphy was absent. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all those who intended to testify. He welcomed the students in attendance and asked them to stand up and identify themselves and state what school they were from.

Application 2018-1 by Robert Bendlak for property at 7585 Bainbridge Road -  
Continuance

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

Mr. Robert Bendlak was present to represent this application.

Mr. Bendlak testified that the survey is up on the board and stated that Access Geauga was a little off so he knows the one building is only 12' and he doesn't recall what the other one is but that is where the variance is coming in.

Mr. Lamanna said you located these two accessory structures and one is 34.7' and one is 11.8' from the property line.

Mr. Bendlak said yes.

Mr. Lamanna said generally when we have a request for a variance on accessory structures there has to be some reason that those structures can't be located in an area that is conforming. He said these things started off being conforming on the original lot, they met the requirements and now you want to create two lots and they don't meet the requirements and certainly the 11.8', if you came in today and asked for a variance to build 11.8' from your side lot line it would be very unlikely that it would be approved. He said at 35' there would be a better chance and technically the standard is practical difficulty which means there is not another location on the lot that would be suitable for it. He said if somebody said they have a big ravine on their lot and this is the only place they have to build a structure that is when the board would grant relief but in this case the whole situation is created by the action of the property owner, they want to divide their lot into two lots so there is not a lot of reason to be flexible because the predicament is not something that is existing because of the particular nature of the lot, it is because the owner wants to, in this case, change the lot and create a new lot. He said at this point in time he doesn't see that, unless you (Mr. Bendlak) can demonstrate that there is some

really good reason but in looking at this there seems to be other places that this could be located where it wouldn't be 11.8' from the side lot line. He asked if these structures can be moved.

Mr. Bendlak said they can be, they will be if that is what you want.

Mr. Lamanna said the difficult situation is the standard we are supposed to apply and asked is there some reason that these things cannot be in a location that would meet the zoning requirements, the lot is still quite wide so there is plenty of room.

Mr. Gutoskey said it is hard for him to create a new lot that creates the need for a variance.

Mr. Lamanna said if it was 45' away, the board would probably say that is okay.

Mr. Bendlak said that is why he had the survey completed and if that is your answer, that is your answer.

Mr. Lamanna said if it was a small amount that the board could say it is inconsequential he thinks the board would be willing to do it but he thinks in this case we really have to say these are accessory structures and that is what they are, it is not the house and certainly there is an existing non-conformity there so the board will go ahead and act and put on the record the variance for the 42.5' for the existing house.

Mr. Bendlak said that has been there forever.

Mr. Lamanna said this way it will be on record and technically since the lot is being divided you probably should do that.

Mr. Gutoskey said it is cleaner with the county.

Mr. Lamanna said that way you will never have a problem in the future, the county may look at it and say we think there should be a variance so we don't want you to have to worry about that if in the future you go and sell this property there was clearly a variance granted for this, it is not strictly a non-conforming situation so that will be better for the record of the property. He said he thinks in this particular case because of what we are doing here and there seems to be plenty of other locations where these could be relocated to that we would decline to grant a variance for those two structures.

Mr. Bendlak asked if the small one is out of the question also.

Mr. Lewis said move them both.

Mr. Lamanna said if it was 44.7' the board could probably say you can get by with that but over 15', that is a pretty substantial variance so he thinks the board would like to see those things moved so they comply.

Mr. Bendlak said okay.

Mr. Gutoskey said one other thing, the minimum front is 100', only because scaling it, it looks like it is only about 95'.

Ms. Karen Endres, Zoning Inspector testified that she had a hard time scaling it and it looks like it might be a little less than 100'.

Mr. Lewis said we want to clean that up.

Mr. Lamanna said we will give him a variance for 95'.

Mr. Gutoskey said when he goes to split it and when Mr. Dave Dietrich reviews it he may kick it because of that and because of the size.

Ms. Endres said he is going to look for language on that plat and normally it says it conforms to the current zoning regulations but they don't because of the non-conformities on the lot so when it comes time to approve that lot split it will say it is in compliance with BZA hearing 2018-1.

Mr. Lamanna asked if 90 days is enough to move them or get rid of them.

Mr. Bendlak said he will have to come back again and ask for another variance in a year.

Mr. Lewis asked on what.

Mr. Bendlak said the same buildings.

Mr. Lamanna said no.

Mr. Bendlak said he can't move them in 90 days.

Mr. Lamanna asked what is reasonable.

Mr. Bendlak said six months would be reasonable for him.

Mr. Lewis said in three months the weather breaks.

Ms. Endres said she can't approve the lot split until the property complies with the BZA hearing.

Mr. Lamanna said if we give him a decision that gives him five or six months to move the buildings then he thinks at that point in time he can say it is in compliance because we have given him five or six months to remove the buildings.

Ms. Endres said so she would be approving the lot split prior to the buildings being removed.

Mr. Lamanna said yes because he is going forward based on a decision that says the buildings can stay until the weather changes but they have to go otherwise you are not going to be in compliance.

Mr. Bendlak asked what happens if a snag comes through or something that it is longer than six months.

Mr. Lamanna said talk to the zoning inspector.

Ms. Endres said this is why typically she wouldn't approve the lot split until everything is in compliance with zoning so if the expectation that those sheds are going to be moved she wouldn't approve the lot split until the sheds are moved.

Mr. Gutoskey said there is a possible riparian that they have to cross with a driveway.

Ms. Endres said it is not showing on the riparian map though.

Mr. Gutoskey said but if it is a stream, there are some that don't show up.

Ms. Endres said we might have to do an on-site evaluation.

Mr. Gutoskey said he is wondering if you give him a variance for crossing the riparian with a driveway, a 20' to 25' wide strip or something so he doesn't have to come back.

Mr. Bendlak said that would be nice.

Mr. Lewis said that follows the new lot and it becomes effective after the lot split once the new lot is created.

Mr. Gutoskey said correct. He asked Ms. Endres to turn on the topo. He asked Mr. Bendlak if he has somebody that is buying the lot now.

Mr. Bendlak said he is going to build back there.

Mr. Gutoskey said in just looking at the topography it may have a riparian because like Ms. Endres said you will have to go out there with Soil and Water and he would rather cover it now.

Ms. Endres said she doesn't think he needs a variance on crossing a riparian, Chapter 165.06 has that as a permitted use, you just have to do what is required in that section for that crossing.

Mr. Gutoskey said and you (Ms. Endres) will go out and look at it with the county etc.

Ms. Endres said yes, she will go out with either Colleen from Soil and Water or one of the ladies from the Watershed Partners. She said they work together.

Mr. Gutoskey said it may be that it is because it is at the headwaters, there may not be anything but usually when he sees topography like that there is usually always something.

Mr. Lamanna asked Ms. Endres if she would rather have it just wait until the buildings are moved.

Ms. Endres said she would not like to approve a split until everything conforms to zoning. She said if the variances are not going to be granted her expectation is that those sheds would be moved into compliance prior to her signing off on a lot split. She said there is some information missing on the site plan too, she is going to need to see driveways, parking and drive areas, the amount of lot coverage.

Mr. Gutoskey said they are going to want to see where the septics are too, the existing septic.

Ms. Endres said yes and there is a little more work still to do but Mr. Bendlak provided what the board required for the hearing tonight. She said for the actual lot split she would need additional information on the site plan and her expectation is that when she signs off on the lot split the property will be in compliance with zoning and that will actually be an issue at the county level too, the county doesn't like to sign off, it would need to be in compliance with zoning prior to the county signing off. She said a lot of times this comes up with driveways and parking lots where greenspace has to be created.

Mr. Lamanna said in that case basically the board will grant variances for the house, not the other ones so basically when you (Mr. Bendlak) decide you are ready to get the lot split done then you can move the buildings when you are ready to do that.

Mr. Bendlak said he will contact Ms. Endres.

Mr. Lamanna said if you want to take eight months or when you are ready to get the lot split done then you can move the buildings, it is up to you because obviously you have the incentive to a point you want to get that lot split done plus it may make some sense not doing that until you are ready to start doing something back there.

Ms. Endres said there would be tax implications too if you create a buildable lot.

Mr. Bendlak said yes, he called the Auditor's Office.

Mr. Lamanna said they will create two lots and adjust the value of the one lot but the value of the new lot is going to be greater probably by a significant amount.

Ms. Endres said you do not need permits to demolish the sheds but you would need permits to move the sheds so if you decide to move the sheds to a different location on the lot you will need a permit for the new location of those sheds.

Mr. Bendlak asked how much that is.

Ms. Endres said accessory structure applications are \$100.00.

Mr. Lewis asked if that is for each.

Ms. Endres said yes.

Mr. Bendlak said one will be demolished and the other one will be moved, he will demolish the small one and move the big one.

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

#### Motion BZA 2018-1 – 7585 Bainbridge Road

Mr. Lamanna moved to approve the lot split as shown on the drawing submitted by the applicant and the following variances.

1. With respect to the lot with the greater frontage, with the existing dwelling on it, a variance is granted to the minimum front yard requirement from 100' to 95' and from the west side yard from 50' to 42.4' for the principal dwelling.

Based on the following findings of fact:

1. The basis for granting both of these variances is a practical difficulty given that these are pre-existing setbacks of the dwelling that are not affected by the other changes to create the new lot.

Motion BZA 2018-1 – 7585 Bainbridge Road - Continued

Existing Accessory Structures

1. With respect to the existing accessory structures one of which will end up being located 34.7' and the other 11.8' from the revised sideline of the lot that they are on, the board does not approve the variance.

Based on the following findings of fact:

1. No practical difficulty has been demonstrated.
2. There are other locations on the lot where they could be located and the closeness of the non-conformity in this case is created by the action of the owner in creating a second building lot from this parcel.

Mr. Gutoskey seconded the motion.

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

Application 2018-2 by ABC Development LLC for property at 7045 Aurora Road

The applicant is requesting area variance(s) for the purpose of constructing a retail facility. The property is located in the MUP District.

Mr. David Sambor of RARE Design Studio; Mr. Bob Acciarri of ABC Development; Ms. Peggy Brown, Landscape Architect and Ms. Lisa Harry, Property Owner were present to represent this application.

Mr. Bob Acciarri testified that there are three zoning issues that we have for this evening, one is the rear yard setback, it is a 50' requirement and we are asking for a variance for that and the other two is a landscaping and a building articulation. He said the last two are more of a discussion or interpretation of the zoning ordinance. He said the first one is the big one, the rear yard setback and without that they can't do the project. He said the configuration of the lot is a bit odd, it is about an acre piece of property and they have a 50' setback so Mr. Sambor can walk through some of the details on this and then we will just answer any questions you have.

Mr. Dave Sambor testified that the first item with the setback, he showed a drawing to the board of where the actual setback dash line is, here of what is current so we can see the dash area is the area buildable with the zoning setbacks, 100' on the front, 3' on the side and the rear setback so that is what we are looking for, we will maintain the 100' right-of-way but are looking for that reduction in the rear setback of the building. He said we will make sure the trash enclosure area will maintain its setback off the back as well.

Ms. Karen Endres, Zoning Inspector testified that she appreciates their patience with her with the evaluation of this, this is the first one.

Mr. Acciarri asked if the variances will be taken one at a time or do we do it all at once.

Mr. Lewis said the board will take them sequentially.

Mr. Sambor said just focusing on the rear setback, you can see in that dash line it really compromised the buildability of the site to put something on there with how tight those parameters are with that front and rear setback on this odd shaped lot. He said the property behind this is a cell tower.

Mr. Gutoskey said we are very familiar with this parcel, it is one of our problem child's.

Mr. Lamanna said in the past 18 months this parcel has been here six meetings.

Mr. Sambor asked this particular parcel or the cell tower parcel.

Mr. Lamanna said this particular parcel here.

Ms. Lisa Harry testified by saying past tense.

Mr. Gutoskey said not for a paint store though.

Mr. Sambor asked the board if it had any specific questions on the setbacks.

Mr. Lewis said let's talk about your delivery and he just wants to talk about the rear setback and to be sure he understands. He said when the trucks come to replenish your inventory are they semis or straight trucks, how does the delivery work.

Mr. Acciarri said they will get semis and they went through this with ODOT as well as Sherwin Williams to make sure that their templates have been getting out of here and that is how you see the configuration here, they will come in, back and then go back out.

Mr. Lewis said he will come in, loop it around here and then back in.

Mr. Acciarri said correct, otherwise we would have chopped it way off and put more landscaping in but we need that extra pavement to get the trucks in and out. He said we have about 135' of frontage here and it just triangles out so it is a tight window to get traffic in and out but this does work, we actually have ODOT, we don't have the permit yet but we have their approval for this curb cut and when they approve it they also go through the trucks.

Mr. Lewis said the shape of the lot almost lends itself to a semi coming in and being able to pull in and back up.

Mr. Acciarri said when they were trying to minimize this and cut the variance we were moving it back and forth because of this configuration that is how it ended up here.

Mr. Lewis said you have enough room to get a semi-truck back in there, you have enough clearance between the back of the building.

Mr. Acciarri said 17' is the tightest spot so we will put the dumpster there.

Mr. Lamanna asked Ms. Endres about the house access back there.

Ms. Endres said it comes off of Summit Street, it is the last house on Summit Street.

Mr. Lamanna said they have a rather significant driveway.

Mr. Lewis said it looks like you added to this.

Mr. Sambor said it was 148 and 168.

Mr. Acciarri said and that really was to address some of the fire department concerns.

Mr. Gutoskey asked if the deliveries will be during the day.

Mr. Acciarri said yes.

Mr. Lamanna said here is the issue, the trash pickup, we will want to make sure that they are not coming at 5:00 AM or 6:00 AM in the morning picking up the trash because we have had this problem at some other locations where we have got permitted non-residential uses next to residential things and they come and want to pick up the trash at 5:00 or 6:00 in the morning and disturbing all of the people around them so since we are coming all the way to the back line he thinks one of the things the board will require is that the trash be picked up after 7:30 AM or 8:00 AM.

Mr. Acciarri said 8:00 AM to 5:00 PM., that is fine.

Mr. Lamanna said if it is within normal business hours, that is fine but we have had complaints from other locations.

Mr. Acciarri said that would actually help them if you put it as a stipulation if we are lucky to get approval and that way we can put that right into the lease.

Mr. Lewis asked if that is going to be shared by both.

Mr. Acciarri said yes.

Mr. Lewis asked if there will be one dumpster.

Mr. Acciarri said Sherwin Williams actually does not have a lot, they have a lot initially but they don't have a lot, it will be a multi-tenant building so they will do their pick-ups based on that and the tenant will just reimburse us or Sherwin Williams for that service.

Mr. Lewis said what he was leading to was not two containers in that storage bin which doubles the amount of pick-ups and that is just more trucks and more noise and he doesn't know how you feel about heavy trucks on your pavement.

Mr. Acciarri said exactly.

Mr. Sambor said we have to pave those areas because of the bigger deliveries.

Mr. Lamanna said and when they bring in the paint.

Mr. Lewis asked if Sherwin Williams is the only tenant you have so far.

Mr. Acciarri said yes and added that they have got a lot of interest depending on what happens this evening from other tenants because of the Sherwin Williams draw but yes we are looking at strictly retail at this point.

Mr. Lewis said so walking through some of the calculations, there is some pretty good documentation here, and the uses comply. He said the floor area is 6,250 sq. ft. so you are meeting the standard on the building size not exceeding the threshold in the ratio of the total square footage of the property itself. He said it looks like your landscape surface ratio is 26.9% and our minimum is 15% so you have met that and you are less than 50,000 sq. ft. of property at 39,000 sq. ft. so your lot conforms to our maximum lot size and added that he is just doing this to formally get it into the record. He said the setbacks other than the rear seem to be the only one that there is any real discussion on.

Mr. Acciarri said that is what he understands.

Mr. Lewis said he has a question on the site plan, you have a sidewalk here.

Mr. Acciarri replied yes.

Mr. Lewis asked if there is another entrance over here under this canopy.

Mr. Acciarri said there is, it is a contractor's entrance and that is why we have parking there at the door for contractors to pull in.

Mr. Lewis said so there is no intent to put in a sidewalk.

Mr. Acciarri said there is no sidewalk but we are going to put wheel stops there and it was a fire department discussion where we will probably end up putting, there is some discussion that needs to take place on that but we have a proposal to. He said there was a concern about cars pulling in and actually hitting the building so we are going to have wheel stops and we will probably put some landscaping pots out there, we have been talking to Sherwin Williams about just some pots.

Mr. Lewis asked where we are at with bollards so that even with a 6" curb the front of your buildings are pretty much glass walls.

Mr. Acciarri said correct.

Mr. Lewis said he is real interested in seeing protective bollards to prevent drive-thrus and just a 6" curb on a sidewalk isn't going to be enough to stop a car.

Mr. Acciarri said well since we got the letter from the fire department we have been going around with Sherwin Williams on this and to his surprise they do have cars that you think you put it in reverse and you put it in drive and you go forward, they have never had an issue when there is a curb, they have issues sometimes when there is no curb and with that being said instead of bollards what they would like to do, they can put bollards in, we think we have an attractive building here. He said when you put the bollards in he thinks it takes away strictly aesthetically, we would propose we put some landscape pots in there and we have some options there and when you start grouping these.

Mr. Lewis said his concern is a taller SUV is going to mow right over those and that is his concern and unfortunately in Bainbridge we have experienced a storefront drive in tragedy so we are pretty sensitive to it, we get the aesthetics. He said this wonderful sign that says Sherwin Williams, folks are coming there because they are familiar with that retailer they are familiar with the product, they are not coming there because your building looks nice or doesn't look nice, they are coming there because they want your product. He said you as the building owner, you want a nice looking building.

Mr. Acciarri asked how often do you like the bollards, is it one every spot.

Mr. Lewis asked Mr. Gutoskey if he has experience with bollard placement.

Mr. Gutoskey said yes and no, you know what Giant Eagle looks like, they are about 6' to 7' apart.

Mr. Acciarri asked how about one in between each space so you have a parking spot and if you fit between 10' that is a good maneuvering job.

Mr. Gutoskey said when you look at the width of a car.

Mr. Lewis asked if they would center one in front of each parking spot.

Mr. Acciarri said that is what they would propose.

Mr. Gutoskey said but if they don't pull in front of a parking spot you can still drive between them.

Mr. Lamanna said we are not trying to prevent somebody purposely trying to drive in, it is accidentally driving in.

Mr. Gutoskey said it is not like they have an ATM there they are trying to bust. He said using that logic, one per space and he doesn't know if the fire department had anything in their report as far as any kind of spaces.

Mr. Lamanna said that is fine and he thinks it only needs to be at the glass, there is no need to put them where it is building.

Mr. Sambor said typically when they end up using them is when they have a drive aisle next to it because that is when people would speed versus when they are coming into a parking space the odds aren't really that they are not out of control and come through the curb cut, turn and hit the glass, if there are issues with people driving along side and they end up kind of cutting in, that is where they normally end of up using them.

Mr. Lamanna said assume there is a standard height, they don't have to be four feet high.

Mr. Gutoskey said 30" to 36".

Mr. Lamanna said you can look typically at what they use as a guardrail height along the highway, they are probably less than 3'.

Mr. Acciarri said 30" will probably be good.

Mr. Gutoskey said they have plastic covers now so you won't have to keep painting them.

Mr. Gutoskey said why we are on the fire department and sprinklers and asked how much paint do they have there that is even oil-based anymore, isn't 90% of it latex.

Mr. Acciarri said it is.

Mr. Gutoskey said you probably have some thinners and some stains but most of the paint is water based now, is it not.

Mr. Acciarri said yes it is in fact and that was one of their responses back to the fire department, it is almost all latex now, the building code, in fact they have built Sherwin Williams, because of their contents we were required to sprinker the building size, a 4,500 sq. ft. building, but because of their contents they were required to sprinker but in this particular case they are less than 20% of the allowable 1,600 gallons, they are about 300 gallons on average so they are far below what is required by code.

Mr. Gutoskey said he didn't know if they just required one area but a gallon of oil paint now is \$100.00.

Mr. Lamanna said unless you are talking a specialty product or some kind of metal weather protected purposes. He asked if they are storing any significant paint thinners or anything like that that might be flammable.

Mr. Acciarri said that is within that 300 gallons of that type.

Mr. Gutoskey asked if that is covered under the building code or is that covered under fire.

Mr. Acciarri said both actually, the building code from his understanding is more restrictive and that is class 1B, 1C2, and 3A materials and that would cover the thinners and it also covers some of the hard products like if there is some paper perhaps, whatever hard products that were in that that were combustible, all of that is about 20% of what is actually allowable by the International and State Building Code.

Mr. Lamanna said one other alternative would be to create some kind of mini locker and obviously you have things on the shelves but if you have got 20 cases.

Mr. Acciarri said it would be about 300 gallons so surprisingly in retail, most of it, they just put in the sales area because they want to sell it, Sherwin Williams is different, they have about 75% of it in the back in containers and that caters more to the contractor too.

Mr. Lamanna said typically the way their stores are there is not a lot of shelf space, it is not like Home Depot where everything is stored pretty much right there, the inventory is almost all kept at the point of sale, they are doing it more of a conventional way with a few things out there for people to grab and restock and that has got to be another possible way to think about, if you've got your boxes with 8 gallons of flammable mineral spirits and you have a small locker of some kind and you put those in there and lock them in there so they are in a place so that obviates going to some elaborate sprinklering or special storage rooms or something like that because it is going to be a small quantity of it, it wouldn't be a very big place to put it.

Mr. Lamanna continued by saying the other advantage of that is again, if all of this stuff like that is stored together then when the fire department comes in they know where the flammables all are sitting and they will know where all of that stuff is stored. He said it is just something for consideration, something that maybe can be done on a low cost basis. He said the board is looking for something that makes sense in light of doing sprinklers etc.

Mr. Acciarri said he appreciates that and appreciates the suggestion and what they could do is provide them some kind of storage cabinet and he thinks the practicality is with 300 gallons they are not going to fill it with 300 gallons because they have it dispersed, they have some in the sales area and some in the back.

Mr. Lamanna said the board is not expecting them to pick up the stuff in the sales area at night but to the extent that you've got your reserve quantities and again they don't tend to pile all of the stuff out on the shelves they leave a few out there for people to grab and the rest is kept in the back and if that stuff was kept in some kind of a small cabinet or something like that and that could be marked and the fire department would know the location. He said the fire department likes to know where it is located or stored so if we can get a little extra safety without going crazy.

Mr. Acciarri said point well taken.

Mr. Lamanna said we are looking for something we can do that is not going to cost a big investment in the initial cost or we don't want to create an on-going difficult compliance thing where it is a nuisance for them to do something like making them take all of it and put it away for the night, we recognize that there is going to be stuff out there on the floor for sale and there is not much way around that but generally when you add all of that up together it is not the same kind of problem than somebody has half a dozen cases of it sitting in the store.

Mr. Gutoskey asked where the detention is going to go on the site, underground.

Mr. Acciarri said they are going to have to but we haven't gotten to the full civil only because we wanted to get through this stuff but there is no room really on site to do any on grade so we are going to have to go underground which isn't really that big of a deal or he doesn't even know what the requirements are.

Mr. Gutoskey said just because it is an existing development it is not all grass or woods, he is assuming it will be underground.

Mr. Lamanna said in Boston they are requiring that for residential properties and it costs \$30,000.00.

Mr. Acciarri said a good French drain.

Mr. Lewis said he has another question on the general site landscaping requirements and that is it looks like one of the notes he is looking at here and one of the requirements that says at the front or street side essentially the same with this is that there is a 3' minimum radius around the building so how are you dealing with that with the parking coming up right to the side and sidewalk right up to the doors and the windows, where do you see that taking place.

Mr. Sambor said they have typical retail, obviously you have store front up front and you have the glass up front and what we looked at and Ms. Peggy Brown, our Landscape Architect looked at we basically took the quantities of that from a retail standpoint and service in the back having 3' around the building, it is not practical from the retail side, if you look at the quantities of the landscaping and also kept that on the site just not up against the building so the quantities were still there but the other location directly against the building.

Mr. Acciarri said their intent is to give that amount of landscaping.

Mr. Lewis said you are not putting a trough between your sidewalk and the front.

Mr. Acciarri said that is exactly the concern because 3' is not a whole lot and it is going to catch garbage, he thinks landscaping has a better chance of survival when it is not right against the building but out in its groupings.

Mr. Lewis said so you would be asking for relief on that requirement.

Mr. Acciarri said yes.

Ms. Peggy Brown, Landscape Architect testified that it would be just in the areas around the building and again they would use that plant material around the perimeter of the property.

Mr. Gutoskey said so basically we are dividing up plants.

Mr. Lewis said putting them elsewhere.

Mr. Gutoskey said it is a tough lot too.

Mr. Lewis said when the motions are made we are catching all of the things that need to be taken into it.

Mr. Lamanna said in talking about the landscaping plan let's swing back on the area behind the building, on the rear lot line, there is kind of a gap here and asked if that is purposeful. He said there is landscaping around the corner here and landscaping over here and a bare area.

Mr. Acciarri said only because that is where the cell tower is that is so green back there and we exceed the required landscaping so we kind of wanted to put what we've got up front and on the side where you can see it, the landscaping budget on this is pretty hefty, we don't really want to add behind the building where it is probably not going to be appreciated as much.

Ms. Brown said she thinks as part of the code the requirements are you can mass them or put them in lines and these particular shrubs are going to spread so they are going to become thickets so those shrubs in the back are a spreading thicket kind of shrub so you are going to get more massing eventually.

Mr. Lamanna said straight back is okay, this other house is at a 45° angle.

Mr. Sambor said obviously back there the extent of the woods that really comes into the property and if we had to grade all to the property line, we would be adding stuff in and obviously it would be more desirable if the grading didn't need to be done and we could make the forest thick solid coming all the way into the property but until the final grading is done we don't know if we will be able to preserve any of those trees within the property. He said the residential is on the other side of the cell tower access drive and the one we show is the one that is the closest residence to the building.

Mr. Acciarri said he thinks those other residents are going to be part of the Discount Tire development. He said under contract they have all of those houses.

Mr. DeWater asked except for one you identified.

Mr. Acciarri said yes.

Mr. Gutoskey asked if this is going to be an additional store in Bainbridge or are they going to be closing the one off of E. Washington.

Mr. Acciarri said he did not know.

Mr. Sambor said those first three on top are those in the Discount Tire proposed area and then that parcel right there would be the one that would be outside of that, it is the one mentioned in that drawing.

Mr. Acciarri said he believes there was a submission they made where we had the list of property owners and there was a map with that and they were numbered and number three for what it is worth is the one that is staying.

Mr. Sambor said lot three is the one that is remaining.

Mr. Lamanna said on this one side where the cell tower is there is no formal demarcation line there it is just going to be the shrubbery.

Mr. Acciarri said yes and Ms. Brown can answer that, it is pretty extensive.

Mr. Lamanna said that is the question, that is what basically is going to be the demarcation and the existing thing is just a gravel driveway.

Mr. Sambor said it is a pretty substantial buffer with the cell tower access road and this property.

Mr. Lewis said we have some notes on a couple of the trees and shrubs.

Ms. Brown said the ones are the Serbian Spruces and the Cornelian Cherries and the reason for the spruce selection was they are hardy and disease resistant which a lot of the Blue Spruces have a disease these days, they are slow growers and stay fairly narrow and with it being a tight site she wanted narrow things. She said the Cornelian Cherries are an early bloomer but the suggesting of the Redbuds, the Cornelian Cherries take the acid soils of Northeast Ohio better than the Redbuds do, the Redbuds are more of an alkaline soil that is why you see a heck of a lot of them down in the Columbus area but not too many up here so they kind of fail to thrive up here so instead of putting in something that is not going to do well she opted for the Cornelian Cherries so that is why those choices were made.

Ms. Endres said the Watershed Partners were not against the plan either they were just throwing out some ideas and suggested plants resistant to the salt.

Ms. Brown said that has been taken into consideration across the front of it too and we also have some powerlines across the front again so she chose a narrower Maple that will be away from those and where they couldn't put in a taller tree she used lower Hawthornes to stay underneath the lines so it has all been thought out in that regard too.

Mr. Lamanna asked who the owner is for the access road for the cell phone tower.

Mr. Acciarri said that whole parcel is one owner.

Mr. Lamanna said when it gets down to the front there it is a little vague as to where the entrance actually is.

Ms. Endres said there has been a survey done and she believes the driveway access is on its own property.

Mr. Gutoskey said so the cell company owns the parcel.

Mr. Acciarri said exactly, yes, he thinks it is the officers of the cell company.

Mr. Lamanna said sometimes people think that they have their driveways on their own property and the driveway is really not on their own property.

Ms. Endres said gravel driveways tend to grow.

Mr. Lewis asked if the board can walk through the exterior and parking lot lighting regarding cut-offs and fixtures and what you have in mind and in particular how you are going to handle the back of the building as well because that light can travel.

Mr. Sambor said what makes most sense is the photometric drawing that we have here and as we looked at maintaining the light spillage and to make sure we have adequate lighting for parking but to make sure we are not spilling off the property. He said he knows the original drawing they had a little bit of a spillage issue at the back corner over here, the southwest corner and be modified and reduced to a single fixture on this corner so you can see on here we are well below 3' candles at the perimeter and zero or less than 1' candle in most cases on the back side so we have one pole over in this area which is below the height requirement to make sure we didn't get too tall with that light pole but all these fixtures we had in our specs, this is the accurate, the photo metrics of how many foot candles so it is showing that we are not spilling light off the site.

Mr. Gutoskey asked if that is the same that is in the board's packets.

Mr. Acciarri said it should be, it is the same one.

Ms. Endres said these are requirements under the zoning too.

Mr. Sambor said as far as the building articulation and he understands why obviously assuming intent when this was put together, he is involved at the other end in the township he lives in and he knows what the board has to go through and he is making sure you don't have flat white walls that are very unattractive. He said what we have in our building is we added pilasters and we have a metal roof structure that projects up 4' so we are getting that play in the building by the use of the stone pilasters and the canopy pieces versus making it a specific larger offset in the front face of the building.

Mr. Acciarri said the site is so tight to begin with that we are only building a little over 6,000 sq. ft. on almost an acre so we are not over building at all and it is so tight with this that we wanted to pick up that articulation requirement through the awnings and through the canopy as well as we have some stone pilasters going around and those stone pilasters only come out probably about 4", maybe 8" or so if they don't come out 2' but you get that back and forth going on right now with the different materials. He said they think they have addressed the intent of what that specific requirement is.

Mr. Gutoskey said he doesn't know what else they could do, it is not a good lot.

Mr. Lamanna said they don't have a lot of room.

Mr. Lewis said it is not particularly wide.

Mr. Gutoskey said it does a good job of breaking it up and we ran into this when we did the tire store up the street, this district was set up more because of the Geauga Lake property but it is also being used on some of these infill parcels and there are some, as we know, some tough parcels in there and we have been through this one a few different times.

Ms. Endres said this one being 7045 Aurora Road and it may be relevant to point out too that if we were applying the conventional zoning standards there would only be 40% lot coverage permitted. She said the MUP zoning allows for quite a bit more lot coverage than would normally be permitted even with a variance, the board granted a variance at one point on this particular lot up to 50% and there is more than 50% lot coverage so it is in the applicant's favor actually that we are applying the MUP standards to the redevelopment of this lot rather than the old standards.

Mr. Gutoskey asked if there is anyone from the public who would like to speak on this item.

Mr. Lamanna asked Ms. Endres which side faces the street.

Ms. Endres said Aurora Road, there is only one street involved on this one. She said Discount Tire was more complicated because we have that street in Solon.

Mr. Lamanna said he was looking at the section that talks about the architectural features and articulation so we continue on all sides that are visible from a public street and it applies to north and east sides.

Ms. Endres said she thinks because of the angle of the building those are the sides that are visible from the street.

Mr. Sambor said what we did even though the east is pretty tough we still do have that projection and there is also a 4' canopy piece articulating break and that will be pilasters as well.

Ms. Endres said she is fairly certain the south and west side is not visible from the street, the north side is clearly visible from the street and she thinks that east side is probably visible from the street also.

Mr. Lamanna said because of the way the lot cuts away there, the angle of the road although it is pretty much perpendicular to the road, the front is parallel to the road and added that he does not see an issue there.

Mr. Lewis said you have quite a bit of landscaping on that east side anyway, your eye is going to be drawn to that as opposed to the side of the building even though he thinks there is a canopy on that side also for the contractor entrance so you are breaking that up a bit as well.

Ms. Endres said she tried to make this as clear to the board as she could.

Mr. Lamanna said it is a very nice summary.

The board discussed the list of variances.

Ms. Endres said she has questions about the parking lot trees. She said she is okay with the board approving the plans presented but it was a challenge identifying every single little feature that was detailed in the parking lot landscaping, site landscaping and the buffering and what she did is she tried to call it out by color coding it.

Mr. Lamanna asked Ms. Endres if she is satisfied that we have a plan.

Ms. Endres she is satisfied that the plan would meet the intent of what the zoning commission was trying to accomplish when they adopted the resolution. She said if it was letter of the law there would be trees at the end of each parking row, a tree aisle.

Mr. Gutoskey said really there is except in the interior but the problem is that is hard to try to break up when you have just long lines of parking and then you could put a tree in that one little triangular island there but it is not going to live.

Mr. Lamanna said every landscape plan has got to be tailored somewhat to the lots you are dealing with, you can have all the guidance you want but it is not going to survive the first drawing.

Ms. Endres said as the Zoning Inspector she has to deal with black and white.

Mr. Lamanna said the next step back from black and white is this is a by the book plan and then it is what plan fits this site and accomplishes what the intent of the zoning was because there is no set of rules that is going to fit every site or be appropriate for every arrangement of buildings.

Mr. Gutoskey said if you look at this the only spot it doesn't apply is on the side and it is out of view anyway.

Mr. Lamanna said in just looking in general at the plan it is pretty detailed and it is pretty comprehensive and it hits all of the areas where we are trying to get coverage and get things accomplished through landscaping and it certainly shows that a lot of thought went into this.

Ms. Endres said it is almost harder when there is so much detail.

Mr. Lamanna said he thinks the only practical way this is going to work is that we are going to have to look at these things and say when we start to get 90% compliance at that point in time unless there is some glaring omission we have to let this thing be flexible, professional people are being paid to put these things together and they are going to have to apply their expertise to the particular site to accomplish what we are trying to do here and if it looks like that was their goal and they did that as well practical within the constraints of the site he thinks that is what we are trying to accomplish here, it is not trying to get every last little thing checked off here, we know what is there and we approved the plan and the only thing to do is approve plans and grant a variance from the requirements to the plan because we are not going to sit here and recite every plant does or doesn't have to be there and every species that is different or thing that is a different size because the particular size didn't make sense in a particular location so we are going to have to basically rely on your (Ms. Endres) review and say here is where this technically doesn't comply but he doesn't see where there is anything missing or if we need something here, here and here and if we do that then we are meeting the intent of this thing but we are going to have to rely your judgement to look at these things and say are we close enough that we really met the intent of what we are trying to accomplish.

Ms. Endres said in her opinion she thinks we have the intent of what the commission was trying to accomplish but her question is she doesn't think she has the authority as a zoning inspector though to set aside requirements.

Mr. Lamanna said you can't set them aside no but what we are asking you to do as the Zoning Inspector is tell the board in your expert opinion that you think it meets the intent of what the zoning ordinance was trying to accomplish because of A, B, and C or no I don't think it does, we need to make changes D, E, and F and then we can look at that and say yes we agree we think your assessment is correct.

Ms. Endres asked for future staff letters if the board would like her to take it one step further and make a recommendation.

Mr. Lamanna replied yes.

Ms. Endres said that is not something she has done before but she will start doing that.

Mr. Lamanna said he thinks it would be helpful and it is good to give the board an overview of the general areas where there is not straight compliance and then an assessment in the end that says you think that this meets what we are trying to do here and conforms. He said this is an isolated spot but eventually we will get to the point where you've got existing development or other development going on where harmony will become a little bit more important. He said this is pretty much freestanding so there is really not too much else to deal with but obviously in other areas we could have four or five or six of these things, one after another and then you start looking at some other considerations as to what is already there or what pattern has been developing in making sure we are consistent with that but again it looks like they have done a very nice job here and it will really improve this area. He said for the landscaping the board will grant a variance in accordance with the plans submitted.

Mr. Gutoskey said there is a rear setback variance, then a variance to the requirement of the stepping on the building face, the landscape was acceptable as presented.

Ms. Endres stated that her comments are highlighted in blue and the balance of that is directly copied from the zoning resolution.

The board discussed the variances requested.

Mr. Gutoskey said the bollards are actually required under Section 5.2 and the fire suppression meets the building code.

Mr. Lamanna said they are going to look into a storage locker for flammables.

Mr. Acciarri asked the board to define the cabinet.

Mr. DeWater said Granger sells them, it is just a flammable liquid cabinet, they are bright yellow/red and come in all different sizes 4 x 3, 4 x 6 high.

Mr. Acciarri asked the board to define the exact size.

Mr. Sambor said it is made for 300 gallons of storage and well below code requirements so a cabinet for 300 gallons.

Mr. Gutoskey said we are just looking at what you probably have stored in the back.

Mr. Lamanna said what is stored in the back now is on the shelves.

Mr. Acciarri said 75% roughly is in the back and 25% is in the front so if you have 75% of three hundred just roughly, that is still quite a bit and we are still well within code.

Mr. Lewis asked if they are only one gallon containers or are they in quarts.

Mr. Acciarri said one and five gallons.

Mr. DeWater said 2' depth, 4' wide by 6' high so it would be like a gray utility storage locker.

Mr. Acciarri said that is fine.

Mr. DeWater said you leave the fire plugs in there all of the time, they can actually leave the doors open if they have to pull inventory in and out all day, they have a heat magnet on if there is a fire it melts the door closed.

Mr. Acciarri said the more we define it the easier it will be.

Mr. Lamanna asked about the volume.

Mr. DeWater said if they bought two 2' x 4' x 6' high cabinets.

Mr. Lamanna said that is about 100 cubic feet.

Mr. DeWater said it would get their quantity.

Mr. Lamanna said if the cabinet size is 96 ft., just to make it easy, about 100 cubic feet.

Ms. Endres said the fire department comments had to do with the fire alarm and asked if there has been any discussion about putting a fire alarm in.

Mr. Acciarri said it is not required.

Ms. Endres said that is not something she enforces by zoning it is just something Assistant Chief Lovell had mentioned.

Mr. Gutoskey said if you sprinkle a building then it usually, typically has a fire alarm with it, you could probably put a Knox Box on the front.

Mr. Acciarri said it is going to have a smoke detector in there and they are going to build it by code.

Ms. Endres said she understands everything the fire department is asking for is kind of above and beyond but they look at it as this is their chance to get everything as good as they can get it to make it as safe for everybody as they have made it at the building stage.

Mr. Acciarri said there are code experts all over the world that write the code and we want to conform to that.

Mr. Lewis said this parcel has been tricky for some time, it is not a perfect rectangle site.

Mr. Lamanna said there is one other thing and asked where the applicant is on sewer and water right now.

Mr. Acciarri said they have sanitary, regarding water they are working with the developer of Discount Tire, that waterline is down by Bob Evans and we have hired the consultant to acquire the waterline, it needs ODOT approval, county approval and the City of Aurora approval so it is in the approval stage right now.

Mr. Lamanna said so that is underway.

Mr. Acciarri said it is well underway.

Mr. Gutoskey said is nothing to say you can't just drill a well.

Mr. Acciarri said they have a well and we have looked at it.

Ms. Harry stated the well there is phenomenal.

Mr. Acciarri said the well is good, they have had it tested and it is a good well.

Mr. Lamanna said it is not exactly a high water use business.

Ms. Harry said it is on Aurora Road by Steak n Shake.

Mr. Gutoskey said they will have to get Soil & Water approval as part their zoning approval.

Mr. Lamanna said this is a whole new thing that we are implementing and he is just trying to make sure that we got everything because we don't want to find that we have to go back and revisit something because we accidentally neglected to cover it and at the end of the day we want to make sure that hopefully everybody walks out of here and they got everything that they need and nothing is going to come down the road later on and say they forgot to address that or we didn't give a variance on this and five years from now somebody discovers that when you go to do something else, some tenant is changing and somebody looks at something more closely we don't want people to have to come back in and correct things because we inadvertently missed it.

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

Motion BZA 2018-2 – 7045 Aurora Road

Mr. Lamanna noted that this property is being developed under the MUP chapter.

Mr. Lamanna moved to grant the following variances with respect to this application.

1. A variance to the rear yard setback from 60' to 27'.
2. A variance with respect to the requirements in Section 5.1.102 with respect to building design. The board grants such variances as are required for a building built in accordance with the plans submitted by the applicant that such a building will meet the requirements of Section 5.1.102.
3. With respect to the landscaping plan the plan as submitted by the applicant with this application is approved by the Board of Zoning Appeals under provisions related to approval of plans that do not meet the full requirements of Section 5.4. In connection with this application and in order to obviate some concerns that have been raised and part of the basis for granting these variances, the applicant is going to agree to place bollards in front of each parking spot that is in front of the glass area of the two tenant areas and has also agreed to provide in the area that is going to be used for the paint store two flammable liquid storage cabinets, approximate size of 2' x 4' x 6' for a total of approximately 96 cubic feet or something similar to that based upon what is commercially available.

Based on the following findings of fact:

1. With respect to the rear yard, given the shape and orientation of this lot if all of the required setbacks were met the development area would be abnormally shaped and would be very difficult to use commercially and productively and therefore it is reasonable to allow the buildings to be rectangular shaped and extend to the back rear lot.
2. The rear lot also abuts upon a lot that is currently used for a cell phone tower and is approximately 150' from the nearest residential property and therefore should not have an adverse effect.
3. In addition there will be significant landscaping in that area.
4. The applicant has agreed since this rear area is a service area where the deliveries will be made and where trash will be picked up that deliveries and trash pick-up will occur during generally normal business hours of 8:00 AM to 6:00 PM so as not to create a disturbance in off hours.
5. The landscaping plan is being approved because it substantially complies and the modifications that have been made were made to accommodate the particular requirements of this lot but it otherwise meets the intent of the code.

Motion BZA 2018-2 – 7045 Aurora Road - Continued

6. With respect to the architectural features, again due to the limited area on the property where a building could be placed having certain offsets was not feasible but the applicant has added other architectural features which the board believes will accommodate a similar effect and thereby meet the intent of the zoning code with respect to that provision.

Mr. Gutoskey seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:55 P.M.

Respectfully submitted,

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

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

Date: March 15, 2018

AUDIO RECORDING ON FILE

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

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:55 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Michael Corcoran, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Mark Murphy was absent. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Lamanna moved to adopt the minutes of the January 18, 2018 meeting as written.

Mr. DeWater seconded the motion.

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

OLD BUSINESS

Application 2015-33 by Bruce Vernyi for property at 16811 Savage Road

The applicant is requesting a use variance for the purpose of maintaining two dwellings. The property is located in a R-3A District.

Motion BZA 2015-33 – 16811 Savage Road

Mr. Lamanna moved to dismiss this application with prejudice for lack of prosecution by the application.

Mr. Lewis seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2018-3 by Kyle Wefing for property at 8414 Summit Drive

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.

Application 2018-4 by Daniel R. & Karen S. Groth, Jr. for property at 18745 Brewster Road

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

Application 2018-5 by Aaron Cardinal for property at 7268 Chagrin Road

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

Application 2018-6 by David Ducas of Woodbridge Homes, Inc. for Ann Sords for property at 17189 Overlook Drive

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

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for March 15, 2018 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 9:20 P.M.

Respectfully submitted,

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

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

Date: March 15, 2018