

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

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

Application 2018-59 by Kyle Lawrence and Anthony Pfenning for properties at 8158 and 8162 Chagrin Road - Continuance

The applicants are requesting area variance(s) for the purpose of a lot split and consolidation. The properties are located in a R-3A District.

Mr. Kyle Lawrence was present to represent this application.

Mr. Lawrence testified that at the last meeting he presented the GIS map and the board approved the concept of it but requested survey work so that you could see the exact setbacks and know what the exact variances would have to be so that is how they left off last time.

Mr. Lamanna said okay.

Ms. Karen Endres, Zoning Inspector testified that the full size copy of the survey is on the table.

Mr. Lewis said other than the road frontage on the back parcel, just the variance for the shed.

Mr. Lawrence said he can explain it real quickly to refresh the board's memory if that would be helpful.

Mr. Lamanna referred to the site plan and said the swapping pieces are here and then here, swapping this chunk for the part of the flag.

Mr. Lawrence said that is correct and the GIS map the board had at the last meeting clearly showed the parcels that were split but you requested the survey work and that is what you have is the survey work.

Mr. Lamanna said he has a question about this access easement and asked if there is an existing easement that is there now.

Mr. Lawrence said yes, the house was built in 1964.

Mr. Lamanna asked if the board can get a copy of that.

Mr. Lawrence said it was submitted to Ms. Endres.

Ms. Endres said she thinks the easement is on the map.

Mr. Lamanna said right but it looks like part of the easement is actually on 8154 Chagrin Road.

Mr. Lawrence said it has been like that since 1964, it is not a perfect situation what they are proposing but it is a whole lot better than what it currently is.

Mr. Lamanna said his goal in all of these things, if the board is going to deal with these things, at the end of the day he doesn't want any loose ends and nor do you want any loose ends because then you end up having to come back at some future date when it may be inconvenient because somebody wants to do something, refinance or sell and try to straighten things out because there were some loose ends so that is why we bore into some of these things.

Mr. Lawrence said that is why he and Mr. Pfenning are getting this resolved now because he is likely going to sell sooner rather than later and he wants this buttoned up and so do I.

Mr. Lamanna asked if the board has a copy of that easement, did that get in the packet.

Ms. Endres said she believes there is everything in the board packets that she has. She said you are talking about an easement not a maintenance agreement and she thinks there is an easement mentioned in the deed.

Mr. Lawrence said all we are talking about here is this is the current property line, he referred to the aerial photo, and as you can see most of his driveway and part of his is on my property, it makes no sense. He said the previous owner built right here which is on Mr. Pfenning's property and he said it is okay to build, no big deal so what we are proposing to do is move his property line down to about here which would get my shed and my driveway on my property which makes sense, it is a win-win and in order to do that, what we have to do is we have to take some of my property here and make this narrower and that is how we get an equal land swap because that is the best way to do it, when he sells, his acreage is the same and when I sell my acreage is the same, we still have the 30' easement that has been there since 1964 so nothing with that changes. He said we are not talking about changing anything, just the simple property line swap to make it better for Mr. Pfenning and to make it better for himself. He said he is not changing his driveway, it is what it is, all of the neighbors have lived with it like that since 1964 and it is not going to change. He said the main concern the board had at the last meeting is that the shed would indeed be on his property and that distance is 23-1/2' so there are no issues there.

Mr. Lewis asked Ms. Endres if she is looking for a permit for the shed.

Ms. Endres said once this is resolved, the shed was constructed with no permits, she hasn't required that to happen because it was a question about who takes out the permit, the person using the shed or the person whose property it is on so she wanted to wait until this is all cleared up first and then get the shed permitted and it would need variances and the board could not give a variance on somebody else's property so it doesn't make sense to get into the shed permitting until this is resolved.

Mr. Lamanna said he has a couple of issues here with the driveways. He said the one gravel driveway comes in and crosses over the property line, he asked if there is a little parcel up there on the end.

Mr. Lawrence said honestly what Mr. Pfenning and he talked about last time is the driveways have nothing to do with the scope of what is being proposed and the variances that would be required. He said no one is going to change their driveway, they are what they are, that is not what the purpose of this is.

Mr. Lamanna said no but when you come in and ask to have a lot split and readjustment we are not going to ignore if there are existing violations so his question is we have a driveway that apparently at the end when it gets to the street crosses over to the adjacent property owner's property so it is an encroachment on their property before us, without any legal authority to do that. He said we have the same problem with the other driveway, it goes up and across this driveway that goes back here and even when we are done here, part of the driveway on the back lot is not going to be within the access easement, it will be over the front lot's property and there is no legal authority.

Mr. Lawrence said he doesn't know what else to tell the board other than it has been that way since 1964 and no one is going to get a bulldozer in and then move the driveway 10'.

Mr. Lamanna said this may not get approved.

Mr. Lawrence said when he was here last time he would like to remind the board that you said you approved this in concept, you just need the survey to verify the setback distances.

Mr. Lamanna said one of the problems the board has always had, and we don't like and the county does not like shared driveways because they create problems and the other thing is everybody is supposed to have legal access to their property.

Mr. Lawrence said he has a deed that says he can access his property so he does have access to his property.

Mr. Lamanna said right but potentially without building a new driveway.

Mr. Lawrence said if someone comes to shut him down and he needs to build it right on that property line then that is what he will do, he will cross that bridge when that happens which is highly unlikely because he does have access to his property through a deed. He said what Mr. Pfenning and he set out to do is make a bad property line better than it currently is and the solution we have come up with absolutely does that, it is a win for Mr. Pfenning, it is a win for me and it is a win for the township because it is improving a bad situation.

Mr. Lewis referred to the site plan and asked Mr. Lamanna if he is talking about this strip up here.

Mr. Lamanna referred to the site plan and said this driveway is going to come out and it cuts across the corner of the property and then it finally goes to the corner property and it finally goes into the access then goes across over here. He said he has got a driveway with no apparent easement or anything else other than maybe some historical claim to an easement, he doesn't know how long that driveway has been there. He asked Mr. Lawrence if there is any understanding with the neighbor at all, the person in the house where the driveway comes out and runs to the back.

Mr. Lawrence said yes, that is Cathy Weeks and all of the neighbors get along great, he and Mr. Pfenning are just trying to make this situation better. He said there are no access issues, we are just trying to improve the situation, everyone gets along great.

Mr. Lamanna asked if there is any written agreement between you and that property owner.

Mr. Lawrence said there is an access agreement in the deed that was set up in 1964. He said all of these houses were built sometime in the sixties and Mr. Pfenning knows the timeline of each one, he just knows his was built in 1964.

Mr. Lewis said the house that is shown there, if there is no written agreement for that driveway on their property and they sell their property that driveway is not part of this 30' easement and he is not seeing a legal document that is giving access granted by that property owner.

Mr. Lamanna said what could potentially happen is the other person could say they don't want this extra traffic driving by their house anymore and you are going to have litigation over whether or not they have an easement or if it was just a personal easement from the prior owner that could be terminated at any time.

Mr. Lawrence said there is a 30' easement in the deed.

Mr. Lamanna said right, but not for that particular section where the road is.

Mr. Lewis said it is noted on the print but it is not on their property.

Mr. Lamanna asked Ms. Endres if she had any idea at the time these houses were built, the zoning with respect to having driveways accessing the house on the property of the house.

Ms. Endres said she would have to go back and research it but she believes she looked at all of the site plans and she doesn't believe all of the site plans had the driveways shown on them.

Mr. Lamanna asked if they allowed shared driveways at that time, were they permitted and under what circumstances.

Ms. Endres said she would have to go back and reread the zoning resolution that was in effect at that time. She said currently driveways must be 2' off of the side lot lines and rear lot lines so our current zoning does not allow driveways to cross lot lines so they should not be shared, the drive would be on its own property.

Mr. Lamanna said it would require a variance to share.

Ms. Endres said correct.

Mr. Lamanna said one of the issues here is that once we redraw these lots, they technically may not be pre-existing lots anymore which raises the issue as we redraw these lines whether or not the lot should be brought into conformance with the driveway.

Mr. Lawrence said from his understanding Mr. Pfenning's lot is already non-conforming for not being enough acres, Cathy's lot is already non-conforming for not being enough acres, that is not going to change.

Mr. Lamanna said and they all will be non-conforming to that extent.

Mr. Lawrence said what they are trying to do here is really bad non-conformance and make it a whole lot better, something that is going to please Mr. Pfenning and it is going to please himself and that is the goal.

Mr. Lewis said he doesn't think the board has any issues with the land swap it is just that it hasn't gone 100%, there is still part of your driveway that is on Mr. Pfenning's property and we have a slice of the driveway that is on another party's property and they are not here and he doesn't see any legal agreements granting that access.

Mr. Lamanna said the issue is normally if somebody came in and said they want to have a shared driveway you would have to get a variance to have a shared driveway and then we would look at it and say you would have to have an agreement, we would want more than an easement, we would want an actual maintenance agreement between the parties so that the driveway, if you are going to share the driveway, is going to be maintained so if an EMT vehicle has to go back there they have a driveway to get back there that is satisfactory and not all full of holes because the two property owners are having a disagreement about fixing it so he hates to say it but these things kind of snowball because we are trying to bring things into conformance with what the current standards would be. He said unfortunately in this case you would be talking about a three-party shared driveway agreement which complicates our life even more than we expected and he is in a quandary as to what to do about this. He said he understands it is an existing situation but what we are trying to do over time is fix these situations some of which occurred because people did things and they weren't shown on drawings, nobody realized what they were doing, they establish driveways because it was convenient and cheap for them to do that, nobody thought about the legal ramifications of what they were doing and now we are trying to figure out what to do with the situation. He said he thinks everybody looking at this thinks this improves the situation and we get people pretty much back to where they should be, the back lot does have an easement for access that would allow it to move its driveway to a point onto a location.

Mr. Lewis said if it falls into the 30' easement a ton of problems evaporate instantly, you do your land split and the driveway sits in that easement, the people to the west but then the fourth party that is involved with the people to the south.

Mr. Lamanna asked Ms. Endres if the county will approve this if they look at this thing and they see it is a shared driveway.

Ms. Endres said we are having problems with the county and we are still trying to get the other one straightened out that we dealt with two months ago because the county is refusing to record an affidavit of fact that looks to them like an easement.

Mr. Lawrence asked Ms. Endres if she is talking about Mr. Dave Dietrich with the county.

Ms. Endres said he is not there anymore.

Mr. Lawrence said he and Mr. Pfenning met with Mr. Dietrich and showed him the GIS markup they had done and Mr. Dietrich said yes this makes a ton of sense, you guys should get this resolved.

Mr. Lamanna said normally they take a dim view.

Ms. Endres said right, we are still trying to get this other case resolved because they don't record shared driveway easements anymore. She said there is the Planning Commission part and there is the other one we dealt with, we were going to do an affidavit of fact to record a maintenance agreement but the recorder's office is refusing to record something that looks like it might be an easement.

Mr. Lamanna asked without the Planning Commission approving it as an easement.

Ms. Endres said without going through a Planning Commission variance.

Mr. Lamanna said it is a little more complicated. He said it is not that the board really has an issue with this thing, this is what he is afraid of, he doesn't want to end up hung up with this thing in limbo for months and months and months because they don't want to approve it, he is just trying to make sure that when we get done here you have got a decision when you go up to the county they are going to say they can do this. He said we are not trying to give you (Mr. Lawrence) a hard time.

Mr. Lawrence said he understands and he appreciates the board thinking of that and everyone we've talked to realizes it is a bad situation and we are trying to do the right thing to improve it and we are optimistic that people will realize we are trying to improve it, yes it may not be 100% perfect as if we were to buy a lot and build a house on it.

Mr. Lamanna said that doesn't mean that somebody is not going to look at it and say yes we agree that readjusting these things is okay, they may say it is fine but they may say they want everybody with their own driveways so everybody should get their own driveway, that is a possibility.

Mr. Lawrence said that would be highly unlikely, that would not make any landowner happy if he went in there with a bulldozer and cut down a bunch of trees.

Mr. Lamanna said that is not always their concern.

Mr. Lewis said you might have opened up Pandora's box.

Mr. Lawrence said he will cross that bridge when he gets to it.

Mr. Lamanna said they may have other concerns.

Mr. Lewis said there is going to be a concern with the driveway on the property to the east of you when it is hitting the street because part of that is crossing onto the fourth person's property.

Mr. Lamanna said you may be back here.

Mr. Lawrence said that is not his driveway, it is Mr. Pfenning's.

Mr. Lewis said he will be involved with this lot swap because there are two affected parties.

Mr. Barr said that Mr. Pfenning doesn't even use the driveway that you (Mr. Lawrence) use, correct.

Mr. Lawrence referred to the site plan and said this is his driveway that is shared with Cathy up to this point and then his driveway goes here back to his house, this is a gravel driveway that Mr. Pfenning uses and there is a little spot for a turn-around.

Mr. Barr asked if it has a gate.

Mr. Lawrence said there are no gates on any of the driveways.

Mr. Barr said you know the house he is talking about.

Mr. Lawrence said yes, that is east of us, we are right before the back entrance to Lake Lucerne on the steep part of the hill.

Mr. Lamanna said at this point he doesn't know if he wants to get into this whole driveway mess. He said the board can go ahead and render a decision and part of the decision is going to be that we are saying absolutely nothing about this driveway situation, we are not granting any variances with respect to the driveway situation.

Mr. Lawrence said all we are asking for is the lot split and consolidation.

Mr. Lamanna said this is no variance with respect to the existing driveway situation.

Mr. Lawrence said that is exactly what we are asking for, it is all we need.

Mr. Lamanna said whether that would be good enough to get you approval from the county, they may say no and they may say without some kind of variance from here with respect to those items they won't process this, so understand that risk and you may be back here addressing that issue.

Mr. Lawrence said understood.

Mr. Lamanna said fair warning.

Mr. Lawrence said he is willing to take that risk, if he has to come back so be it but he is optimistic that they will realize we are trying to do the right thing and correcting a bad situation.

Mr. Lamanna said he thinks both parties should understand that at some point in the future that that factor is going to have to be disclosed to any purchaser. He said going forward because of that the fact that this decision is not going to address that, that is one of the material facts you are going to have to disclose.

Mr. Barr said to get with Cathy Weeks and get something legal put down on paper just to protect yourself in case something happens to her and her kids take over and they decide to sell the property, it is just a protection is where the concern is, we all agree with you, you are making something bad better but you also need to protect yourself.

Mr. Lamanna said the difficulty is, yes we want to make something bad better but once you take the step, like when you start remodeling an old house and you reach a point that once you start doing this then you've got to fix all of these other violations as well, that is kind of the situation we have here and yes it is making it better but once you want to make it better then you have to fix all of the items that need to be fixed and there are certainly a lot of loose ends with this and if you have an issue and you don't have any written agreement with that party there that they sell it, the person dies, it passes on to the heirs, the heirs decide to sell the property and they don't want to explain to buyers that there are all of these complicated agreements about driveways and everything else, let's just move our driveway over and make it on our property and be done with it so we won't have to do any negotiating and arguing over that issue with potential buyers. He said at least at this point it appears that the two properties can easily obtain a conforming driveway so the board is not going to grant any variances or anything else with respect to the driveways, they are what they are and you are going to have to deal with it with the county. He asked how big the shed is and if it requires a permit.

Ms. Endres said yes it would require a permit.

Mr. Lamanna asked when that shed was built.

Mr. Lawrence said Mr. Pfenning said about seven years ago the pre-existing owner asked him if he could build it and he said yes, so six, seven or eight years, somewhere in there. He said it is a little bigger than 10' x 12'.

Mr. Barr said there was 10' x 12' and then 12' x 16'.

Mr. Lawrence said he thinks the shed is 12' x 16'.



Ms. Endres referred to the aerial and asked what the little thing is there.

Mr. Lawrence that was a firewood cover that he tore down, it is not there anymore. He said it was basically some wood poles and a tarp, but it is long gone.

Mr. Lamanna said so if it has only been there seven years he thinks we are going to have to get a permit for it.

Mr. Lawrence said that is fine, that is easy enough.

Ms. Endres said that is why she asked the board to address the variances on the shed so she would have the ability to grant a permit for it.

Mr. Lamanna said he believes it is a 12' x 16' shed so the board will grant a variance for the shed with a minimum side yard of 20'.

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

#### Motion BZA 2018-59 - 8158 and 8162 Chagrin Road

Mr. Lamanna moved to approve the following for the purposes of permitting a lot split and consolidations of two non-conforming lots to correct existing encroachments on those lots. These two lots are 8158 Chagrin Road and 8162 Chagrin Road. The proposed adjustment is a swap of an equal amount of land of .1984 acres from each parcel to the other. As a result the total amount of acreage with respect to each lot will remain the same with 8158 Chagrin Road remaining at 4.9227 acres and 8162 Chagrin Road remaining at 1.628 acres calculated with the right-of-way or 1.518 acres without the right-of-way.

With respect to these modified lots as shown on the drawing submitted by the applicants the board grants the following variances with respect to 8158 Chagrin Road:

1. The minimum side yard with respect to an existing shed will be granted a variance for the shed that is 12' x 16' to 23.9' for a variance of 26.1'.
2. A variance with respect to the required minimum road frontage of 60' (existing actual of approximately 39.31') will be reduced to 12.84' for a variance of 47.16'.
3. The board does note that the applicant will still have a 30' easement along the flag from the road back to his property.

With the following condition:

1. The existing shed was unpermitted so the applicant must, as part of the condition to obtaining this variance, obtain the proper permit for such shed and submit it to the zoning inspector within 30 days after this is approved by the county.

Motion BZA 2018-59 - 8158 and 8162 Chagrin Road - Continued

With respect to these modified lots as shown on the drawing submitted by the applicants the board grants the following variances with respect to 8162 Chagrin Road.

1. A variance to the actual lot size of 1.518 acres for a variance of 1.482 acres.
2. A variance with respect to the minimum side yards on the south to the existing 23.7' which will not represent a change.
3. With respect to the maximum lot coverage it would be the existing, approximately 18.23% so the board will grant a variance of 8.23% to that amount so the permitted lot coverage will be 18.23% with respect to 8162 Chagrin Road.
4. A variance to the minimum lot width of 200' to 155' for a variance of 45'.

Based on the following findings of fact:

1. The reason for granting these variances is that the property owners have attempted to deal with a difficult situation with existing encroachments of the dwellings on these two properties.
2. The options open to them were very limited although there is a reduction in the street frontage there still remains a 30' existing access easement recorded with the property so this should not adversely affect the character of the neighborhood or the neighboring properties.
3. The existing lot coverage for the 8162 is not unreasonable given the fact that the lot is approximately only half of the normal size and again that lot coverage, especially given the distance back from the street is not inconsistent with the character of the neighborhood or should not adversely affect the character of the neighborhood.
4. The board also notes that with respect to these properties the board is making no ruling with respect to the granting of any variances with respect to the location of any driveway or the crossing of any driveway over property lines or with respect to any easements or rights of access among the various property owners. The property owners must deal with such situation and understand that nothing in this decision will be deemed to sanction any existing arrangement that may exist and that any such matters remain fully the responsibility of the property owners.

Mr. Lewis seconded the motion.

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

Application 2019-3 by Mark Panzica for property at 9545 Nighthawk Drive

The applicant is requesting area variance(s) for the purpose of maintaining an in-ground swimming pool, hardscape and storage shed. The property is located in a R-5A District.

Mr. Mark Panzica was present to represent this application.

Mr. Panzica testified that they just purchased this property on New Year's Eve and it has been vacant for 14 months, they bought it through a bank and didn't realize that there was a lot coverage issue, it was very late in the process and later found out that the pool, patio and deck and other stuff wasn't permitted so they requested that the bank make this correction before closing and they refused, they didn't put a fence around the pool, the previous owner didn't put a fence around the pool so he put a temporary one up. He said the house was in distress, he had to replace ceilings etc. and the pool fits into the nature and character of the surrounding neighbors and to have to remove that now for 1.3% over the coverage would create a financial hardship on a house that is already a financial hardship to begin with.

Mr. Lamanna said the house sits well back anyway.

Mr. Panzica said more than 200'.

Mr. Lamanna said so you temporarily have taken care of the pool fencing issue.

Mr. Panzica said he has, he put a temporary barrier around the outside to keep stuff out, he has a pool guy coming out hopefully to see if it works and if it doesn't work then he will fill it in or get it to work and if that is the case he will be back to file for a fence permit for sure.

Mr. Lamanna asked if there is anybody else here for this application.

Mr. Lewis said he had a couple of questions. He said the pool was in when you (Mr. Panzica) bought the house.

Mr. Panzica said the pool was in, yes.

Mr. Lewis said and it was over lot coverage and it didn't have a fence.

Mr. Panzica said correct.

Mr. Lewis asked who the realtor is.

Mr. Panzica said because they bought this from the bank the realtor was Marjorie Rule.

Mr. Lewis said he is amazed that it got represented not in compliance, he is amazed it got past the title bureau for retitling with violations and most importantly why none of it was disclosed to you before you signed on the dotted line.

Mr. Panzica said it came up in the final weeks of the closing process and the bank refused to put fencing around the pool and at the time it was not walk away from a property that could be improved versus let it go.

Mr. Lewis said he is with Mr. Lamanna, he doesn't have any issues with this, he was just really curious how the business transaction even went through.

Mr. Lamanna said that is what banks do, they just dig in their heels.

Mr. Corcoran said he deals with bank owned properties and he is not surprised at all.

Mr. Lewis said so the lot coverage is 1.32% over.

Mr. Lamanna said it is all in the back of the house.

Mr. Lewis said it is set back and wooded.

Ms. Karen Endres, Zoning Inspector testified that what is happening more and more often she is getting calls from banks and title companies asking on the zoning status, if there are zoning violations or any fees owed to the township and she always looks at the properties to make sure they comply with zoning and if it has been an abandoned property for a while it is not unusual to see junk on the property and she will ask that it be removed and in this case she had a surprise swimming pool.

Mr. Lamanna said that is what happens and that is what he keeps telling people like the applicant before, we try to straighten out everything because ten years ago it never would have happened, five years ago it might not have happened, now it is a regular thing. He said you see more and more people coming in because things are picked up because of title companies and everybody else is looking at these because there have been too many situations. He said from your (Mr. Panzica) standpoint you will have your variance and in the future you are safe going forward. He said just as a matter of housekeeping here he thinks the variance should be increased to 12% so if you want to add some little thing you won't have to come back here and taking it up to 12% is not changing fundamentally what the issue is.

Ms. Endres said she is okay with that.

Mr. Panzica said he appreciates that.

Mr. Lewis asked about the existing shed, was that pre-existing or do we need to address that.

Ms. Endres said she thinks she included the shed in the lot coverage. She said that complies with zoning but letter of the law that needs a permit too.

Mr. Lamanna said and check with the building department after your zoning certificate is issued.

Ms. Endres said chances are the building department won't do anything with it as an already constructed shed.

Mr. Lamanna asked if they issue permits retroactively.

Ms. Endres said she does not want to speak for the building department but if it is not used for human habitation, they don't have an opportunity to do a footer inspection during construction but once the zoning certificate is issued they may go out and look at it.

Mr. Lamanna said we would like to get the record clear for the future.

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

Motion BZA 2019-3 – 9545 Nighthawk Drive

Mr. Lamanna moved to grant the applicant the following variance to a total maximum lot coverage from 10% to 12%.

Based on the following findings of fact:

1. The reason this is needed is that the applicant purchased the house where a swimming pool and hardscaping had been added to the backyard and it takes it over the lot coverage amount.
2. Given the size of the lot, five acres, the extra 2% is insignificant and in addition the applicant is set back a substantial distance from the road so a significant portion of his lot coverage has been consumed by the driveway.
3. Additionally since the house is located substantially behind the other adjacent dwellings this additional coverage is in the back all of which is between the side of the houses so it will not have any adverse effect.
4. The pool and landscaping and patio area is consistent with the character of the neighborhood and will not adversely affect that character.
5. With respect to the shed, the applicant will deal with the building permit issue for it within 30 days after the issuance of the zoning certificate.

Mr. DeWater seconded the motion.

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

Application 2019-4 by St. Luke the Evangelist Antiochian Orthodox Church for property at 18060 Chillicothe Road

The applicant is requesting a conditional use permit for the purpose of establishing a place of worship. The property is located in a R-3A District.

Ms. Anne Thomas and Fr. Matthew Thurman of the St. Luke the Evangelist Antiochian Orthodox Church were present to represent this application.

Mr. Lamanna asked Ms. Endres if she has any issues with the prior holder of this conditional use.

Ms. Karen Endres, Zoning Inspector testified that she has not had any complaints of any kind with the church. She said the church that is there right now, New Life Fellowship, is going to be moving from this church they are in right now to the house they own next door. She said her understanding is that their congregation has been shrinking in size and your church has been growing.

Mr. Lamanna asked if it is the first house in the subdivision.

Ms. Endres said it is the house to the north and they will be on the docket next month.

Mr. Lamanna said they will be seeking a new conditional use permit for that property.

Ms. Endres said she is calling it a renewal but they are moving to their own property.

Mr. Lamanna said that is a separate lot and he doesn't think the conditional use permit for the church ever extended to that property. He explained the history of the first Holy Angels Church.

Ms. Thomas introduced their pastor Reverend Father Matthew Thurman and testified that they are so excited to own property here in Bainbridge Township. She said they have been an established church, a mission parish, since 2001 and they have kind of been carpetbaggers because they are so small they didn't have enough money to build and they established the church here in the eastern suburbs because there is no Orthodox church here and if you don't know what the Orthodox church is you may have heard of the Greek Orthodox church, the Greek festival, we are the same religion but a different ethnic group but their church is all English, Piano Orthodox, lots of converts and they are growing. She said their goal was to build but then by divine providence this property went on the market and they bought it that day so they are very excited to be here and they have about 18 families right now and they are sure that they will grow now that they are here.

Mr. Lamanna said again understanding that this is a conditional use in a residential area that has to be used for church and related church purposes and you can look and see historically what that is included. He said there is a set of a number of conditions and asked if there are any specific existing conditions on this.

Ms. Endres said if there are they should be in the packet.

Mr. Lamanna said there are no special conditions and this was back in 2000 so we have no special conditions associated with this and no alterations. He told the applicants to understand, as far as making alterations to the property, if you are going to extend the building or build a new building or add something like that you have to come back and modify the existing approval because these are all approved based upon a plan that was submitted at one point in time so it is going back quite a ways obviously but at least the physical structure of it hasn't changed. He said just so people are aware because a lot of times people don't understand what this means and in this case there are no special conditions, sometimes there are special conditions that are applied because of where the property is or how it is going to be used and with access or driveways etc. that sometimes come into play and none were established here and at this point in time the board wouldn't establish any new ones and given the size of your congregation now he doesn't think activities and things like that are going to be something that is of a concern but there is a point in time which that could be looked at such as we have had issues with another church and they were using their athletic fields and the board put some conditions on with respect to the use of the athletic fields when they developed them because of concerns of how it might impact the neighbors because of where they happen to be situated but right now there is nothing on that property, no restrictions and in the past there really haven't been any issues and then the other thing to be aware of is in the zoning ordinance itself, in Chapter 135, there are a set of general requirements for conditional uses that do set forth things of what you can't do, distances you have to maintain from the perimeter for buildings etc. and there is a list of criteria such as you can't use loud speakers outside and there are a few other things like that that generally apply to every conditional use so you should make yourself aware of and familiar with those and they probably are not going to be a big impact but we want to make everybody aware of them so we don't want people coming back and saying they didn't know about that.

Mr. Lamanna continued by saying they are in there and the zoning ordinance is available on line or you can get a copy from the zoning inspector. He said just be aware of them and sort of put them in the back of your mind and if in the future you are going to start to do something start with those and then also if you are going to make physical modifications or bring in different activities than normal church activities such as a daycare etc., that is one of those types of things that require modifying your plan.

Mr. Lewis said before you do anything, check with Ms. Endres.

Mr. Lamanna said you won't get in trouble then.

Mr. Lewis said everybody is here to help.

Ms. Thomas thanked the board.

Mr. Lewis said we welcome you to the community.

Ms. Thomas said that they recently had a flood in their new building.

Mr. Lewis asked if they are well from that because he heard it was really tough.

Ms. Thomas said it was upsetting, they closed on January 29<sup>th</sup>, and on the 30<sup>th</sup> a pipe burst because the gas company turned off the gas through a clerical error so they have quite a bit of damage but it is going to be manageable. She said they have insurance who will try to subrogate. She said Dominion has verbally said that they are at fault and they are working through that now. She said she does have a question and that is once it is approved everyone is chomping at the bit to replace the sign so when can they ask for a permit to do that.

Mr. Lamanna asked how they plan to replace the sign, do you just want to change the lettering.

Ms. Thomas said right now they are just going to change the name.

Mr. Lamanna said they don't have to do anything if they are just keeping the same sign.

Ms. Endres said if it is a changeable copy sign they don't have to get a new permit but if it is not a changeable copy sign and they are changing it they are supposed to get a new permit.

Ms. Thomas said if they are just changing the name on the sign they don't need a permit but we will get a permit, they are not arguing.

Ms. Endres said the practice has been changeable copy signs are a lot of digital signs you see like the township has or the ones where you pull the letters in and out. She said another thing she considers a changeable copy sign would be like a directory sign that you see in a shopping center where the panels pop in and out. She said if it is not that type of a sign then she considers it to be a new sign but if all they are doing is painting over what is there.

Ms. Thomas said she doesn't think they are painting but they are probably putting plastic, she thinks it is just a plastic replaceable piece.

Mr. Lamanna said that sign might be more of that nature but added they should talk to Ms. Endres about it.

Ms. Endres said she will have to go look at it.

Mr. Lamanna said but it is not going to require a variance right.

Ms. Thomas said it shouldn't no, they are just replacing the name.

Mr. Lamanna said and they are not changing the size of the sign.

Ms. Endres said probably not if everything complies with what is there, if they did what they were supposed to do in the first place they should be okay.

Ms. Thomas said so after this we can ask Ms. Endres.

Ms. Endres said they should sign the waiver because they want to start their services.

Ms. Thomas said once it is cleaned up and we can't throw away the contents that were in there that have been damaged because Dominion won't pay for them until they see them so we are waiting for that. She said they are anxious to get in and do a clean-up and have meetings there which they are hoping to do after this meeting.

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

Motion BZA 2019-4 – 18060 Chillicothe Road (St. Luke the Evangelist Antiochian Orthodox Church)

Mr. Lamanna moved to approve the transfer of the conditional use zoning certificate with respect to operating a church from the New Life Fellowship Church to the St. Luke the Evangelist Antiochian Orthodox Church.

Based on the following findings of fact:

1. There are no special conditions applicable to this property that were applied at the time of the original application but as with all conditional uses the board notes that the general provisions with respect to conditional uses apply and will continue to apply to this property.
2. This property is a continuation of an existing use that goes back over 20 years and there have not been any complaints with respect to the property and there are no current complaints.
3. This conditional use will be granted for a period of five years from the date the board's decision becomes final.

Mr. Lewis seconded the motion.

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



Application 2018-50 by Luigi (Gino) Oppedisano for property at 8575 Washington Street  
- Continuance

The applicants are requesting a review, renewal and expansion of an existing conditional use permit to include an existing patio. The property is located in a R-3A District.

Application 2018-51 by Luigi (Gino) Oppedisano for property at 8575 Washington Street  
- Continuance

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

Motion BZA 2018-50 and BZA 2018-51 – 8575 Washington Street

Mr. Lamanna moved to continue these applications to the next regularly scheduled meeting to be held March 21, 2019 at the request of the applicant.

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

Since there was no further testimony, the public hearing was closed at 8:31 P.M.

Respectfully submitted,

Brent Barr, Alternate  
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 21, 2019

AUDIO RECORDING ON FILE

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

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:31 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Brent Barr, Alternate; Mr. Michael Corcoran, Alternate; Mr. Ted DeWater; and Mr. Todd Lewis. Mr. Joseph Gutoskey and Mr. Mark Murphy were absent. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Lamanna moved to adopt the minutes of the January 17, 2019 meeting as written.

Mr. DeWater seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2018-50 by Luigi (Gino) Oppedisano for property at 8575 Washington Street  
- Continuance

The applicants are requesting a review, renewal and expansion of an existing conditional use permit to include an existing patio. The property is located in a R-3A District.

Application 2018-51 by Luigi (Gino) Oppedisano for property at 8575 Washington Street  
- Continuance

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

Application 2019-5 by Soupbase, Inc. for property at 7207 Chagrin Road

The applicant is requesting a substitution of a non-conforming use. The property is located in a PO District.

Application 2019-6 by The Set Fitness, LLC for property at 7207 Chagrin Road

The applicant is requesting a substitution of a non-conforming use. The property is located in a PO District.

Application 2019-7 by New Life Fellowship for property at 18000 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use. The property is located in a R-3A District.

Application 2019-8 by Erin M. Feldman for property at 18890 Brewster Road

The applicant is requesting area variance(s) for the purpose of permitting a shed to be used for a home occupation and to maintain an existing barn for non-agricultural uses. The property is located in a R-5A District.

Application 2019-9 by Northeastern Inc. for Lisa Meyer for property at 17122 Sunset 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 2019-10 by Northeastern Inc. for Lisa Meyer for property at 17122 Sunset Drive

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

Application 2019-11 by Dan Guardo Construction, Inc. for Thomas E. Skerl for property at 8791 Kings Orchard Trail

The applicant is requesting area variance(s) for the purpose of installing an in-ground swimming pool. The property is located in a R-3A District.

Application 2019-12 by Dan Guardo Construction, Inc. for Thomas E. Skerl for property at 8791 Kings Orchard Trail

The applicant is requesting area variance(s) for the purpose of constructing a pavilion. 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 21, 2019 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

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

Respectfully submitted,

Brent Barr, Alternate  
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 21, 2019