

Bainbridge Township, Ohio
Board of Zoning Appeals
March 14, 2013

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:06 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Jason Maglietta, Alternate, Mr. Mark Murphy and Mr. Mark Olivier. Mr. Joseph Gutoskey 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. He then explained the hearing process and swore in all persons who intended to testify.

Application 2013-2 by George Talley for property at 16801 Medina Street

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

The zoning inspector's letter dated March 14, 2013 was read.

Mr. George Talley was present to represent this application.

Mr. Talley testified that he would like to set his garage 5' back from his house because there is an entranceway inside of the garage and he would be able to use it then. He showed the board photos of the end of the house and explained the location of the entranceway, the front of the house and the end of the house. He said that is the only way he would be able to use that entrance and that is setting the garage back.

Mr. Murphy referred to the site plan and asked Mr. Talley if he is going to add the garage on the existing parking area and if the shed will remain.

Mr. Talley said right.

Mr. Murphy asked if it is a one story garage with a man-door and a window and if it will be in the same line as the house.

Mr. Talley replied yes.

Mr. Murphy asked Mr. Talley if he owns all five of the lots and if the lots to the north are contiguous to these.

Mr. Talley said yes and he has two other lots.

Mr. Olivier asked if the lots are to the north.

Mr. Talley said yes and the reason for the variance request is the house is supposed to be 25' from the property line and it is already set back so it would be 12.5' to the rear property line.

Mr. Murphy referred to the GIS aerial and asked if there is a creek back there.

Mr. Talley said it is a wooded area.

Mr. Murphy asked if an attached garage is an accessory building.

The board discussed accessory structures.

Ms. Karen Endres, Zoning Inspector testified that according to the zoning resolution it defines attached garages as accessory structures.

Mr. Lewis asked Mr. Talley if he has seven lots.

Mr. Talley said yes.

Mr. Lewis asked if these are joined as one deed or are they separate parcels.

Mr. Talley said he got two lots from the land bank after he purchased the home.

Mr. Lamanna said he doesn't think the zoning code actually defines attached garages as accessory structures and referenced Chapter 135.02 (c) where the heading is accessory uses so if the garage is attached to the house a zoning certificate is required because it is an accessory use but not an accessory structure. He said they have had multiple occurrences where people have built breezeways to connect the garage to the house and we have considered it part of the principal residence and it doesn't mean that everyone's garage is an accessory structure. He said a garage is an accessory use to a residence.

Ms. Endres said her interpretation is that they are accessory structures.

Mr. Lamanna said in this case the garage will be merged with the house. He asked what lots are being considered for purposes of determining this variance and added that there are seven listed here.

Mr. Lewis said they are pre-existing but he can't tell if they are joined.

The board discussed the separate lots.

Mr. Lamanna said if the sublots are merged he thinks the plat would have to be redone.

Ms. Endres said the lots would have to be vacated from the subdivision and consolidated back into the subdivision.

Mr. Murphy asked about the minimum lot requirements to build a house in this area.

Ms. Endres said each lot is 20' x 100' so it would require four lots.

Mr. Lamanna said it would depend on the house size, we have done four lots, five and six.

Mr. Murphy said he worries that there are seven lots and with the new garage it is not unreasonable but five lots with the new garage and another house squeezed in between is what the board is trying to avoid.

Mr. Lamanna said the issue is, this decision is going to bind all seven lots and asked Mr. Talley what he plans on doing with the other two lots.

Mr. Talley said he will keep them for green space.

Mr. Lamanna asked Mr. Talley if he does not have a problem with these seven lots being treated as a single parcel.

Mr. Talley said no.

Mr. Lamanna said the board will ask Mr. Talley to record a covenant of declaration so it will show on the property record that they are being treated as a single lot, it will cost approximately \$40 in recording fees per lot to do that but to combine these lots would cost thousands. He said the board is trying to make it clear on property records that these lots are being treated as single entities. He asked Mr. Talley if the shed is going to stay.

Mr. Talley said for now it is but it is getting old.

Mr. Lamanna said on seven lots the shed is not an issue and asked what property is behind this.

The board discussed the location of the lots, the variances requested and lot coverage.

Ms. Endres said when she calculated lot coverage she included all seven parcels and the house was built with no variances at the time.

Mr. Lamanna said the board will grant variances for everything so it will no longer be non-conforming, it will be a use with a recorded variance granted.

Ms. Endres said the setbacks for Chagrin Falls Park are less than the standard setbacks for R-3A.

Mr. Murphy asked if the shed has recently been added onto.

Mr. Talley replied no, it is sitting on an old foundation of a house and the foundation still exists.

Mr. Murphy asked if anything is going to be done with that.

Mr. Talley said no, it is just starting to deteriorate so he is thinking about getting rid of the shed.

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

Motion BZA 2013-2 – 16801 Medina Street

Mr. Lamanna made a motion to grant the applicant the following variances for the purpose of maintaining an existing residential structure and adding on a 960 sq. ft. attached garage. This application is based upon the seven parcels listed on the zoning inspector's decision.

1. A variance from the minimum front yard setback of 100' to 48' for a variance of 52'.
2. A variance from the minimum rear yard setback of 90' to 10' for a variance of 80'.
3. A variance from the minimum side yard setback on the east side of 50' to 16.5' for a variance of 33.5'.
4. The west side setback is 60' so there is no need for a variance on that side.
5. A variance from the maximum lot coverage of 10% to 24% for a variance of 14%.

Based on the following findings of fact:

1. These are pre-existing lots of record in Chagrin Falls Park.
2. Given that there are seven lots the total size of the existing residence plus the garage that is being attached to it is reasonable and consistent with other properties in the area.
3. The setbacks are consistent with other setbacks in the area.
4. The rear yard setback is granted based on the fact that there is an existing structure and the parcel abutting it to the rear is a very large parcel and where the occupied structure is it is a substantial distance away from the property line so the neighboring property will not be adversely affected by the reduction of the setback given the typical setbacks of houses in this area.
5. The board finds that this is consistent with development in the neighborhood and will not adversely affect the neighborhood or affect public services in this neighborhood.

Motion BZA 2013-2 – 16801 Medina Street - Continued

With the following condition:

1. As part of granting this variance, the applicant as required, has agreed to execute and file a legal document with respect to the parcels such that there will be of record a limitation on the use of those parcels other than as a combined single parcel for the purpose of this variance and the zoning inspector will advise the applicant of the acceptable form for doing that.

Mr. Lewis seconded the motion.

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

Application 2013-3 by Parkside Church for property at 7100 Pettibone Road

The applicant is requesting a renewal and modification to a previously granted conditional use permit for the purpose of modifying the previously approved building plans and to extend the right-turn only access lane crossing the former VFW property owned by the applicant. The property is located in a R-5A District.

The zoning inspector's letter dated March 14, 2013 was read.

Mr. Dale Markowitz, Attorney for the applicant, Mr. Michael Bowerman, of Parkside Church and Mr. Jason Kekic of Hejduk-Cox Associates were present to represent this application.

Mr. Dale Markowitz of Thrasher, Dinsmore and Dolan testified that he is here on behalf of Parkside Church and has been for many years. He stated that he has some photographs and drawings and they are modifying their conditional use permit. He presented a power point presentation to the board. He said the first three pages of the power point was presented to the board back in 2011. He said the project was to add a children's wing and to add a new sanctuary and showed the board per the photo. He said the next slide is a photograph of Tony Paskevich's design and it shows the part that is not going to be in the project as of now because they have not been able to get it funded yet. He said they debated on whether they need to come in because they already have approval for the children's wing and normally you don't need approval when you are not building something but they also decided to seek a new right turn lane onto Pettibone Road that cuts through the railroad tracks and the old VFW property so they had to come in anyhow and then realized their conditional use permit may have expired. He referred to the next slide and said the lot coverage includes a couple of other properties and showed the VFW property and stated that the building is now gone. He referred to the new drive and the turn lanes and the next slide refers to the addendum with Cleveland Commercial Railroad Lines.

Mr. Markowitz explained the lot coverage which was 36.60, they will only be using 36.06 plus another .03 so they have 36.06 and they are adding .03 for a total of 36.09%. He said they calculated the hard surface to get that coverage. He referred to the next slide which shows the final site plan and said the new plan will still have all of the parking except because they are going to be putting in a right turn lane they are giving up a little bit of the parking here and here (he referred to the site plan). He said the next slide shows the total lot coverage of 631,000 sq. ft. and the next slide shows the addition of the children's wing and added where the children's wing is going which is already hard surface and they lost some of their parking spaces but they are over by 1,000 from what is required. He said he asked if they really need all of this parking and Mr. Bowerman said yes they do because when they have special events they need them. He reiterated the right turn lane and where they are going to give up some parking. He said their new lot coverage will be 819,000 sq. ft. He said they went back to the railroad because they had to put this right-turn lane in and they agreed to that.

Mr. Murphy asked if none of this includes any of the VFW property.

Mr. Markowitz said that is correct. He said the lot coverage calculation does not include the VFW property and they are going to be coming to the township in the near future to build something there but it won't be a conditional use, it will be a permitted use in the CR district, assuming CR is still in effect but it will be a commercial use and an adjunct to some of the things the church does.

Mr. Michael Bowerman testified that Mr. Markowitz pretty well outlined their request and desire and the last time they were here, they did submit to the board an agreement or lease with the railroad in order to cross that property and they did negotiate an addendum to that which granted them an additional lane. He said they found that the traffic was backed up, more people wanted to go straight into the shopping center than they anticipated and then they would back up over the tracks and then they wouldn't be able to get by them to turn right and so with the addition of a right turn lane it eases up the burden on the intersection itself because the right, westbound traffic can go pretty freely so it is a lesson learned with experience and added that the railroad has been very cooperative in giving them this agreement. He referred to a slide which shows where they intend to construct the addition and the parking lot will remain and just be reconfigured slightly. He said they will create a drop-off on that north side and it will be their children and family entrance and all of the children's activities will be consolidated in that one building, we now are kind of spread all over the existing facility right now so when people bring a family we have to send them in different directions and now we will be able to send them to one place. He said the next slide shows a little bit more in-depth the addition of the right-turn lane, there are currently three lanes exiting out onto Pettibone at the traffic light and this will just extend that third lane back onto their property and they are cutting back parking right there to ease that transition.

Mr. Bowerman continued by saying that is the extent of the property and they were excited about building a master plan and appreciates the board's help in reviewing it and approving it and like other people in this interesting economic times, they had to scale back their plans and they don't know when they will have the funds to build their larger project but they do have some funds so they think this is the most likely and most helpful addition.

Mr. Lamanna said there are two ways to approach this and one is to just amend the existing plan to include the right-hand turn lane and if in the future you decide to go ahead with the addition it is still part of the approved plan. He said he doesn't see any reason to re-visit all of the issues, the board spent a lot of time going over what the plan was and ultimately in theory we can leave it out there and it will carry us until the next time your CUP is up for review and at that time we can decide if you didn't go ahead with it, if you want to do it, then you will have to come back or they may just say to let it roll.

Mr. Markowitz said they are probably a few years away from adding onto the sanctuary.

Mr. Lamanna said at this point they may leave that as approved and add this as an amendment. He said let's have as part of the application when that conditional use expires so that the board then acts on renewing it and make a decision as to how long it will be for. He asked if there are any outstanding issues with this property.

Ms. Endres said there have been some issues about the drive on Root Road.

Mr. Markowitz said when it was last modified some work was done but it wasn't clear on the extension of the permit for the building.

Mr. Lamanna said the board can amend it for the right-turn lane and extend the conditional use for five years unless changes are made. He reiterated that the sanctuary addition was already approved.

Mr. Bowerman said they are in compliance with the drive off of Root Road because we actually close the gate on Sundays and for major events and concerts.

Mr. Lamanna said the effective changes are the right-turn lane and .03% lot coverage so actually this will be within what is currently allowed.

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

Motion BZA 2013-3 – 7100 Pettibone Road

Mr. Lamanna made a motion to grant the applicant a modification requested in the plans to add a right-hand turn lane extension exiting from the parking lot onto the VFW property and ultimately onto Pettibone Road.

Based on the following findings of fact:

1. It is a minor change, it does not affect the overall development of the site and in fact it will probably improve the traffic flow departing from the site onto Pettibone Road.
2. In addition, the board looked at renewing the conditional use and at this point in time, the board finds no reasons not to renew such conditional use. It appears the applicant is in compliance with all conditions and there have been no significant complaints about the operation of the property in a manner contrary to the zoning and that therefore this conditional use will be extending for a period of five years from the date the board's decision becomes final.

Mr. Lewis seconded the motion.

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

Application 2013-4 by Michael Lowe for property at 9380 E. Washington Street

The applicant is requesting a substitution of a non-conforming use for the purpose of establishing a basement waterproofing business. The property is located in a R-5A District.

The zoning inspector's letter dated March 14, 2013 was read.

Mr. Lamanna stated that both applications will be heard together because they are both subject to a non-conforming use for two new businesses in the property of 9380 E. Washington Street.

Mr. Michael Lowe, Mr. Ed Radick and Mr. Colby Forlani were present to represent this application.

Mr. Lowe testified that he would like to move a foundation and mold removal business to this location. He referred to a diagram and said there are four sections to the building and they would be leasing the top two sections for warehouse and office space and then there is a third fenced in area for tools and storage. He explained to the board per the site plan, which sections he would be utilizing and added that they would like to put in a used-car lot with a showroom and it would be two separate businesses.

Mr. Maglietta asked if they would be taking over the whole building.

Mr. Lowe said yes, ideally and it is perfect for their set-up for both companies.

Mr. Lamanna asked why there are two separate applications.

Ms. Karen Endres, Zoning Inspector testified that they are two separate businesses.

Mr. Lowe said one is a waterproofing business and the other one is a car dealership.

Mr. Murphy asked about the foundation business.

Mr. Lowe said the company he has now is based on waterproofing and indicated on a site plan which spaces he would use for that along with the open area that is fenced in that was used for storage in the past.

Mr. Murphy said that would be for equipment or trucks etc.

Mr. Olivier asked if it is fenced on all three sides.

Mr. Ed Radick testified that the storage area is around 60' x 25' or 30' in that area and it is fenced off and it bumps into the storage yard as you see in the back by the body shop there.

Mr. Lamanna asked if they are taking the back two pieces of it.

Mr. Lowe said yes and explained the location of the businesses.

Mr. Lewis asked of the materials used are any of those petro-chemical or hazardous materials if they are in 55 gallon drums and there is a leak.

Mr. Lowe replied no, most of it is waterproofing membranes, pipe, plastic and things of that nature, all PVC based, there are no hazardous chemicals or anything like that.

Mr. Maglietta asked what they are doing with the mold once it is removed from the basement.

Mr. Lowe said it goes to dumpsites.

Mr. Maglietta asked if they will be having it on-site.

Mr. Lowe replied no and they never have.

Mr. Olivier asked if they do exterior or interior coatings.

Mr. Lowe said they do interior and exterior both and added that it will be stored inside the warehouse

Mr. Maglietta asked what will be sitting out.

Mr. Lowe said the only thing he asked for and he is the end unit, they have concrete dividers and wondered if he could put them up for sand and gravel and they would be at the end of the lot at the very end corner and there is already a retaining wall there.

Mr. Maglietta asked if it would be facing E. Washington Street.

Mr. Lowe said yes that would be the only thing sitting outside and those are barriers.

Mr. Maglietta asked if they are going to pour concrete there or are you just going to let it sit on the ground.

Mr. Lowe said there is gravel there right now.

Mr. Lamanna asked how far that wall is to the property line.

Mr. Lowe said it could be moved and put in the fenced-in area.

Mr. Radick explained that there is a big lot and then there is the house and the house is probably 100' away from their property line, the house is on the other side of the driveway so that waterway drains that parking lot from the body shop, their water comes down, Buckeye's water comes down and comes all the way down to Snyder Road and then it runs to the library and down to the farm house.

Mr. Lamanna said he would rather have everything in the fenced-in area, behind the building.

Mr. Murphy said you are talking about concrete bunkers.

Mr. Maglietta said he would rather have that than his equipment, pipe and everything sitting out.

Mr. Murphy said it is a structure, it is a landscape wall and it is like Sagamore Soils.

Mr. Lamanna said technically this is outside storage of materials for sale.

Mr. Lowe said they don't sell to the public.

Mr. Lamanna said it is a prohibited issue in the zoning ordinance about outside storage of materials for sale so the board has to deal with that issue.

Mr. Lowe explained the location of the fence in the back and said it ties into the Bainbridge Auto Body lot.

Mr. Radick showed the board where the fence is on the site plan and said there is a gate. He added that on Snyder Road it is all trees and they are about 20' tall and they are a direct block to E. Washington Street.

Mr. Olivier asked if there are any vehicles associated with this business.

Mr. Lowe said they will be parked inside in the warehouse parking, they won't be parked outside. He added that they have a Skidsteer and they pull it out to load the trucks and they pull it back in.

Mr. Maglietta asked if that is the only thing they plan on having outside are just those two dumpsters.

Mr. Lowe said out in the front yes but in the fenced in area, it will be non-viewable and they might put a garbage bag etc. but nothing unusual, it will all be in the fenced in area.

Mr. Lamanna asked if the sand and gravel can be put in the fenced in area.

Mr. Lowe said the hard part would be backing a truck in there but it could be done. He said they do have some materials delivered to the job site so it is not like they have trucks in there everyday.

Mr. Olivier asked if the materials were to be put in the fenced in area, would there be something else in the lot.

Mr. Lowe said no.

Mr. Lamanna said the board doesn't want anything in the lot, there is an existing fence and storage area that is pretty well hidden so if there are other things in there, the board will allow that to be used to store material on a limited basis.

Mr. Maglietta asked how big the fenced-in area is.

Mr. Radick said the building is 40' and it goes back 10' so he would say it is maybe 50' x 50' maximum.

Mr. Lamanna said he thinks the board would rather have the sand and gravel put back in there and it can be used for incidental storage, we don't want it to become wall to wall 50' x 50' stockpiled. He said pipe, sand and gravel would be okay, that is manageable and pretty well out of site and it has already been used in the past for storage. He said in terms of the prior uses that were there it certainly is not that different in kind and character and it probably has less traffic than a rental business.

Mr. Murphy said the problem is putting a truck back into the area.

Mr. Lamanna asked if they will be bringing in an 18-wheeler.

Mr. Lowe said they would be using a dump truck.

Mr. Radick said the maximum would be 25 tons.

Mr. Lamanna said a dump truck is no bigger than 8' wide and a bin would be 10'.

Mr. Murphy said if the bins take up the front, the gate and getting in and out of everything else in there is blocked, that entire fence area becomes useless.

Mr. Lowe said Buckeye has similar bins but they are a lot bigger than we would have set up.

Mr. Olivier said they are behind the building.

Mr. Lowe said you can see them from the street.

Mr. Radick said one suggestion would be if they have smaller bins in there it kind of limits the amount so they could talk to Buckeye because they have everything to store it there, a loader with a scale etc.

Mr. Murphy said if it could be put in the fenced-in area he is liking that better.

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

Application 2013-5 by Michael Lowe for property at 9380 E. Washington Street

The applicant is requesting a substitution of a non-conforming use for the purpose of establishing a car dealership and service area. The property is located in a R-5A District.

The zoning inspector's letter dated March 14, 2013 was read.

Mr. Michael Lowe, Mr. Ed Radick and Mr. Colby Forlani were present to represent this application.

Mr. Maglietta asked if one area is going to be the showroom and one is going to be a repair shop.

Mr. Lowe said yes, a prep area to rotate tires etc.

Mr. Maglietta asked if there will be lifts in there.

Mr. Lowe said there will be one lift because it is already wired for one from the past.

Mr. Lamanna asked if major repairs will be done.

Mr. Lowe said no, oil changes, tires rotated, detailing etc.

Mr. Lamanna said incidental to the sale of the vehicle.

Mr. Lowe said yes.

Mr. Lamanna said you are not going to be out there advertising, this is just for your own use.

Mr. Lowe replied yes.

Mr. Murphy said people are worried that there may be 30 – 40 cars parked in the parking lot and overnight and people worried about the horse trailers that might show up there and it has been a big issue here so as a car dealership, do you plan to keep the cars inside or will you have 20 – 30 cars on the lot outside.

Mr. Lowe said the primary place will be the showroom and we will have a handful of cars outside. He said there is parking set up and it is about 70' – 80' off the street.

Mr. Lewis said previously people with these types of things for sale up there, we have very black and whitely restricted that there would be no cars or trailers or anything else like boats in the parking area for sale. He said what was being sold was being sold inside the showroom which did not mean that you couldn't put a vehicle or trailer outside the door if it was being serviced and if your customer was picking it up that day but there is no provision and the board has never permitted anything to be arrayed in this parking lot for sale. He said the board needs to talk about that and we have had three applications that we have reviewed in the last decade and we have stood very consistent on that so the question comes down to, it would have to be in the showroom and you have 2,240 sq. ft. He asked where the door is out of there if a potential customer wants to take a car for a test drive.

Mr. Lowe said there is a 15' wide door and it goes through the shop.

Mr. Lewis asked who has the car business.

Mr. Lowe said he and his business partner. He said if they did park outside they would be parked uniformly and in order. He said he knows Bainbridge Auto Body and Chagrin Automotive and others leave a lot of their stuff out.

Mr. Lamanna said there are two aspects of this and one is having some outside storage of cars and whether or not there is anything on them that indicates they are for sale as opposed to just saying we have an inventory of five cars and we want to keep five of them parked outside so it will just look like five cars parked there that belong to somebody, there will not be any advertising on them etc.

Mr. Colby Forlani testified that there will be a buyer's guide in the window.

Mr. Maglietta said you won't have balloons and banners, etc.

Mr. Lewis said you are opening the door up pretty wide that has never been permitted in this area.

Mr. Murphy said there have never been car dealerships.

Mr. Lewis said the board holds firm with the same questions with the folks that wanted to sell their horse trailers up there too. He said there was no product permitted outside for sale.

Mr. Lamanna said they could keep a small number of cars on the back lot but not in the front lot in front of the building, only on the side. He said he doesn't want cars sitting there 24/7 sitting in front of the building but if you have some you are inventorying, they could be parked in the side area (he referred to the site plan). He said he doesn't want them prominently displayed in the front, all he wants to see is somebody's car parked out there, no arrows, lights, balloons or for sale signs.

Mr. Lewis referred to the showroom and said one of the previous conditions was the use of potential harmful oil and gas products in the repair shop for the horse trailers. He said they didn't have anything stored outside for sale, the horse trailer and tack people were restricted from the same thing.

The board discussed the previous applications for this property.

Mr. Radick explained that when they brought the show horses they would drop the horses off at the barn and then the people would bring in their trailers for repair on their lights, tires, hitches or bearings so it was a very good business because on the weekends they were busy servicing trailers and they moved that company to Kentucky.

Mr. Murphy said they are asking to allow an indoor dealership with an outdoor lot with additional car parking with 12 – 15 cars outside so that is where we have run into problems in the past with having a used car lot on that corner. He said he knows it looks like a business district but it is really residential per the zoning. He said he doesn't think anybody has a problem with the auto detailing and a little bit of minor repairs but the problem is the indoor showroom and service bay with a little bit of storage outside becomes the issue in terms of how many cars are going to be parked because looking at it probably could get 12 in the front and another 8 – 10 in these three areas (he referred to the site plan) and could conceivably have 30 used cars. He said there could be 30 cars outside and you are not allowed to have a used car lot on that property.

Mr. Lewis said outside sales and whether you allow one or 300 it then puts a daily policing and huge burden on our zoning inspector to make sure that every single day there is absolute compliance on something that is not even permitted, it would be a burden on the township, it changes the character of what is there and it definitely moves it to a more intense use than what has ever been there.

Mr. Olivier asked how many employees are in the waterproofing business and how many cars will be there.

Mr. Lowe said a maximum of 8 – 10 but most of them ride together.

Mr. Murphy asked if there are any neighbors here to talk about this one.

Mr. Radick said they really don't have too many neighbors, the body shop, the Chagrin Racquet Club and on the other corner is the Bainbridge Library.

Mr. Murphy said it is a very busy corner for a lot of people everyday. He said the applicant is asking to have a non-conforming use and the code states that it should not allow it to increase noise, pollution, traffic, sign area or number of persons using the property and that it is equally or more appropriate for the district and it is a residential district even though we all know it is not really but it is a residential district.

Mr. Murphy continued by saying the idea of having an indoor car dealership is not bad and even the trailer business that was up there, occasionally they would have trailers there but it was never a parking lot full of trailers but if it is okay to have a car dealership with a couple of cars outside and then all of a sudden there are about 40 cars sitting out there.

Mr. Lowe said there are only two areas they are planning on parking the cars.

Mr. Lamanna said no outside storage and all vehicles have to be inside.

Mr. Olivier said he would like to see it that way, it could open up a Pandora's box allowing outside sales in a residential district but if they can get by increasing the showroom area and decreasing the service area, he does not see this becoming a car lot type of situation.

Mr. Maglietta asked if the repair shop could be made a little bit smaller, you hopefully plan to have a lot of cars going in and out of there but if the showroom could be made a little bit bigger and put a few more cars in there and if people are coming to buy the cars or to look at them you could have them sitting outside but at the end of the day, they have to be inside.

Mr. Lewis questioned how many cars would be allowed outside during the day.

Mr. Maglietta said he is not saying that if they have 30 cars, they can put them all outside, what he is saying is if somebody is coming to look at one they could leave it out, otherwise they all need to be inside.

Mr. Lamanna said what the board does not want is the outside to be an extension of the showroom and for the exterior to become effectively another showroom. He said there has to be some flexibility to move them around but what is the easiest way to control this.

Mr. Lewis asked about the hours of operation and if they will be open Thursday nights until 9:00 AM to 10:00 PM. and Sundays.

Mr. Lowe said they will probably be open from 9:00 AM to 7:00 PM Monday through Friday, Saturdays 9:00 AM to 5:00 or 6:00 PM and Sundays maybe 10:00 AM to 3:00 PM or 11:00 AM to 4:00 PM but they might not do Sundays.

Mr. Lewis asked about the lighting in the parking lot now.

Mr. Radick said the lights are up on utility poles, one is facing the front of the building he had shut off and there is a large light in the back that lights the back of the building on Snyder Road which technically lights the whole side on Snyder Road and it would be sufficient for lighting the lot.

Mr. Lewis read a point from the resolution regarding the horse trailers that the board has already worked. “There will be no outside storage of trailers offered for sale with the exception that any sold trailers that are delivered for the purposes of making final delivery to the customer, (they sold it or they ordered from the plant) may be kept for five days on the premises provided they are parked at the north end of the parking lot.” He said so as far as outside sales of product it was very clear, there was a timeline and there was a location of the product to be parked because the intent was to service a customer not to precipitate outdoor sales of product.

Mr. Murphy said he would be comfortable with a maximum, not to exceed number.

Mr. Lamanna said you try to get it as simple and straightforward as possible with a maximum number. He said for example you can have six cars out there and that is all and they can have their legally mandated sticker on them but no other advertising or indications that they are for sale and the intent is we are not using the outside as an ancillary sales lot.

Mr. Lewis said if they are in storage they go to the north end of the lot.

Mr. Lamanna said they have to be someplace other than in that front parking lot, south side, somewhere in the back parking lot, nothing parked in front on E. Washington.

The board viewed the GIS aerial photo and discussed the Snyder Road driveway.

Mr. Lewis said if there are cars in the front yard that is sales and he is also trying not to burden our zoning inspector by not having to drive by here three times a day to make sure there is compliance.

Ms. Endres said she can drive by there twice a day to and from work.

Mr. Lewis said it looks like the board is favoring giving some outdoor storage of surplus inventory but not outdoor sales in the front half of the property of the product. He said there is a difference between storage and sales.

Mr. Murphy said we are not denying that ability that cars can move in and out of the showroom during the day with a maximum of six cars and added that there are people who watch.

Ms. Endres said there are three parking lots already designated on the site plan. She referred to the new sign regulations and they don't address non-conforming uses.

Mr. Lowe said there is already a sign there.

Mr. Radick said that sign was approved by the board and it was also moved back another 8 – 10' so it doesn't block the view of the traffic.

Mr. Lamanna said whatever signage is there, they can use, the same square footage.

Mr. Maglietta asked if they will continue to use the signage on the building too.

Mr. Lamanna said they can use the square footage that is there already.

Mr. Radick said one said Chagrin Saddlery and one says Bainbridge Auto Body.

Mr. Lewis asked the board members how they feel about Sunday business.

The board discussed it and felt it is no different than any other Sunday sales in the area.

Mr. Olivier asked about the light on the utility pole and is it the intent to turn that light back on.

Mr. Radick said he shut it off because it lights the whole area up but you can turn it on, the other auto body shop has their light lit on that side of the pole so if we put it on it will definitely be another 2000 watts of power going on the corner.

Mr. Murphy said you don't need it, leave it off.

Mr. Lamanna asked if it was provided by the utility company.

Mr. Radick said they provide the light and you pay for the power pole and it is probably 30' tall.

Mr. Lamanna said the board could put a condition on the applicant that they will not seek from CEI to have them put a light on their property.

Mr. Murphy said the idea is it is a residential property and after hours it would be nice as a neighbor to turn the lights off or down or dim them.

The board discussed lighting issues and regulations.

Mr. Radick said the library is lit too.

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

Motion BZA 2013-4 - 9380 E. Washington Street (Basement Waterproofing Business)

Mr. Lamanna made a motion to allow a change of a non-conforming use for part of the property located at 9380 E. Washington Street filling the northern most two areas of the building which will be substituted from a rental repair shop and rental showroom to a waterproofing company, offices and warehouse.

Based on the following findings of fact:

1. The board finds that this is of similar kind and character and probably will reduce the amount of traffic and noise in the area.
2. In connection with this use of the building the board will also allow the use of approximately a 50' x 50' fenced in area to the north for the purposes of storing sand and gravel that is used in the business of the waterproofing company and other incidental piping and other items in that area.
3. All of those items are for use by the company in its business and not for on-site sales to retail customers.
4. With respect to signage the applicant is allowed to use the existing square footage of signage that is present on the property.
5. As far as exterior lighting goes there will be no additional exterior lighting unless there are further approvals sought from this board.

Mr. Olivier seconded the motion.

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

Motion BZA 2013-5 - 9380 E. Washington Street (Car Dealership and Service)

Mr. Lamanna made a motion to grant a substitution of a non-conforming use from the repair shop and showroom for horse trailers and horse trailer repair to automobiles and service of automobiles for the purposes of preparation for sale and delivery to customers.

Based on the following findings of fact:

1. Service is limited to that type of service for internal use and not for direct sales to outside customers and which obviates the question of it being a service garage so the board doesn't have to look at the restrictions on the locations of service garages.
2. The sales will take place inside the showroom.
3. The board will allow, however, the outside presence of up to six vehicles without regard to the reason why they are outside and will allow them to be there overnight provided that this is done for inventory management and the vehicles will be kept in an area designated on the applicant's site plan (the parking area which is located north of the driveway exiting onto Snyder Road).
4. With respect to the vehicles outside they will have no indications on them that they are for sale or any marketing signs, for sale sign prices, balloons, banners or other insignia calling attention to them other than the legally mandated disclosure statement.
5. The board also notes that the purpose of this storage is inventory management and it is not an additional showplace area and it is not to be used in that way for the purpose of displaying showing cars for sale. No cars for that purpose will be parked in the area to the south of the building close to E. Washington Street especially anything from a sales nature or advertising cars for sale, having cars with indication on them that they are for sale in that area.
6. The primary purpose of this and the basis for allowing this substitution is that this is sales of automobiles from an enclosed showroom and not on an outside lot and it is only on that basis that the board will find that this is a proper substitution as it is of a similar kind and character and not resulting in an increase of noise, pollution and traffic and that all of these limitations are necessary to assure that those conditions are met and this substitution is permissible under the zoning code.
7. Likewise with this change the applicant can use the existing square footage of signage that is present on that part of the building and any ground sign.
8. No additional outdoor lighting will be installed without returning for review by the board to make sure that it will not adversely affect the adjacent properties.

Mr. Lewis seconded the motion.

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

Application 2013-6 by Circle Park LLC for property at 16925 Park Circle Drive

The applicant is requesting area variances for the purpose of constructing an accessory building. The property is located in a LIR District.

The zoning inspector's letter dated March 14, 2013 was read.

Mr. David Jilbert was present to represent this application.

Mr. Jilbert testified that this is the old Lubrizol building and they are in the M-1 District. He said they have removed all of the chemicals from this property and they are an organic mattress manufacturer and in fact chemicals are not allowed on the site, only cleaning materials for the structure and they are very organically oriented. He said they have been doing so well that they have loaded up this building with textile type of materials and Mr. Menary the Fire Inspector has been giving them a little bit of a hard time so they are trying to alleviate that and they would like to remain here in Bainbridge Township. He said they would like put in an accessory building right here, he referred to the GIS aerial map, and it will be basically cold storage for textiles. He said they have woven cotton fabrics and bales of cotton and things of that nature and they want to comply with the Fire Code and he is working with Mr. Menary on that as well as his insurance company. He said according to the M-1 District as he understands it, because the property is against a residential district line, he referred to the GIS aerial map, everything beyond here is a residential district, he has to maintain a 50' setback off of this line here however the code does allow the board to modify that condition in cases where there is no residential development immediately adjoining the M-1 District making it unreasonable to comply with this condition so there will likely not ever be any residential development behind them because there are riparian setbacks. He explained his property per the GIS aerial photo and said this is a river down here, there is the riparian and there is no way it can be accessed from the residential district and the nearest residence is 900'. He noted that there is another building in the area that is 25' off the line and another one is 39' off the line.

Mr. Lamanna asked whose property is back there and if that is the property that is owned by Chagrin Falls.

Mr. Jilbert replied yes. He said he contemplated purchasing some land from them to alleviate their problem but it is the wrong district so they are kind of stuck and they really can't purchase property this way, he referred to the GIS aerial photo, and this is a slope here on this property, this guy is higher than we are and this drops off significantly here so we are basically stuck.

Mr. Lamanna referred to the new development (Voproco).

Mr. Murphy said everything on the left side of that is Savage Road.

Mr. Lewis said when the leaves are off the trees, the Tulip Lane residents complain that the wall packs on the buildings in Knowles light up their bedrooms.

Mr. Jilbert said there won't be any lights because it is just going to be a cold storage building.

Mr. Lewis said there is no reason for wall packs (lighting fixtures) on the back side of it.

Mr. Lewis asked if there is a lot coverage issue.

Mr. Jilbert replied no.

Mr. Lewis asked if it is just a rear setback.

Mr. Jilbert said correct and the normal setback is 25' but because we abut residential it is 50'.

Mr. Maglietta asked if the land behind is deemed unbuildable.

Mr. Lamanna said he doesn't think anything can be deemed unbuildable. He said the board also has to look for potential future development because you can't say just because somebody hasn't built something there yet.

Ms. Endres, Zoning Inspector testified that it would be a challenge with the riparians going through there.

The board discussed the location of this building and the condominiums.

Mr. Lamanna said there is actually a lot off Tulip Lane that goes all the way back to the industrial park. He explained the location of the Voproco lot and the property that belongs to Chagrin Falls Village.

Mr. Maglietta asked Mr. Jilbert if he owns the whole concrete pad there.

Mr. Jilbert said yes and there are two parcels.

Mr. Murphy asked if any of the neighbors are here.

Mr. Maglietta asked Mr. Jilbert if he is asking to put the building 25' away instead of the 50'.

Mr. Jilbert said correct.

Mr. Maglietta asked if it is going to be tucked tight into that corner.

Mr. Jilbert replied yes as tight as he can. He added that he has to be able to get the semi-trucks in and out and if he moves it up to a 50' setback he won't be able to.

Mr. Maglietta asked about the footprint of where the building is regarding where the street is.

Mr. Jilbert showed the board on a site plan.

Mr. Lamanna asked how tall the building will be.

Mr. Jilbert said it will be 35'.

Mr. Lamanna asked how tall the existing building is.

Mr. Jilbert said it is about 18' – 20'. He said this is going to be basically a steel structure with a gable roof but the gable will be about 35' and it is a pre-fab building.

Mr. Lamanna asked what color it is going to be.

Mr. Jilbert asked what color do you want it to be, but it will probably be white. He said they just need to be able to store their materials.

Mr. Lamanna said less intrusive is better. He asked if the perimeter is a paved area.

Mr. Jilbert said no it kind of slopes off. He explained the location of the fence and how it slopes down to the riparian and it is all gravel there. He showed the paved area on the site plan.

The board discussed that a fire truck will not be able to get back there if there is a fire.

Mr. Jilbert said that is why they want to get the materials separated from the occupied areas.

Mr. Lewis said the setback is 25' and a suggestion that there will be no lighted wall packs on the back of the building.

Mr. Lamanna said no lighting whatsoever and asked if there can be any plantings installed in that area behind the building.

Mr. Jilbert said they are going to keep it natural and they will just let it go and trim the ones that are brushing on the building. He said they will just let it go like everything else back there because it is heavily wooded.

The board discussed the setback requested and noted that the neighbor is 25' from the lot line.

Mr. Lamanna said the building is crossing over the lot line and the problem was until about 10 or 15 years ago the code actually provided that contiguous lots of record were treated as a single lot and they deleted that section. He said that M-1 changed to LIR before they deleted that section from the code generally. He said the two lots should be merged and he only says that because the board is making residential people do this.

Mr. Jilbert said the building is on the other lot.

Mr. Lamanna said he doesn't want to be in the position if somebody comes in and says you are making residential people do it so he just wants to be consistent.

Mr. Jilbert said he will do whatever the board feels is comfortable.

Mr. Lamanna said the only variance is the setback from 50' to 25'.

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

Motion BZA 2013-6 – 16925 Park Circle Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of building a second structure on the property.

1. A variance from the minimum side yard setback requirement of 50' from a residential district to 25' for a variance of 25'.

Based on the following findings of fact:

1. Part of the lot in the residential district is a very large lot and the dwelling on that lot is nearly 1,000' away so it will not be affected by an additional 25' and part of the other is undeveloped and probably cannot be developed in a way where this reduced setback would adversely affect the property.
2. In addition to granting this variance the applicant is going to leave the area behind the building (the 25' strip) in a natural state and generally let it grow naturally like the adjacent property.
3. The applicant will also not put any lighting on the backside of that building which would spill over into the adjacent residential district.

Motion BZA 2013-6 – 16925 Park Circle Drive - Continued

4. In addition the applicant has two parcels here and this building straddles those parcels and the existing building sits on those parcels so the applicant will be required to file appropriate legal documents putting any future party on notice that these two parcels must be considered bound to each other for the purposes of zoning and cannot be separately developed. The applicant will have reasonable time after it is provided a form of documentation by the zoning inspector for that purpose, to file such documents, provided the zoning certificate may be issued prior to such filing.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:50 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Jason Maglietta, Alternate
Mark Murphy
Mark Olivier

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

Date: April 18, 2013

AUDIO RECORDING ON FILE

BZA PH 3/14/2013

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Bainbridge Township, Ohio
Board of Zoning Appeals
March 14, 2013

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:50 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Jason Maglietta, Alternate, Mr. Mark Murphy and Mr. Mark Olivier. Mr. Joseph Gutoskey was absent. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the February 21, 2013 meeting as written.

Mr. Lewis seconded the motion.

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

Applications for April 18, 2013

Application 2012-6 by Motorola c/o City of Cleveland, Ohio for property at 16780 Savage Road – Geauga Park District (Gauga County Sheriff Communications Facility (Radio Tower)) – Previously Postponed from 4/19/2012

The applicant is requesting a conditional use permit and variance for the purpose of adding an equipment shelter and antenna/line co-location for the City of Cleveland, Ohio. The property is located in a PPP (Passive Public Park) District.

Application 2013-7 by Dr. Caleb Chou, The Church in Solon for property at 7765 Country Lane

The applicant is requesting a conditional use permit and area variance for the purpose of establishing a Place of Worship. The property is located in a R-5A District.

Application 2013-8 by TDI Terraplan Development Inc. for property at 8327 E. Washington Street

The applicant is requesting a renewal of an existing conditional use permit for the continuation of a car wash. The property is located in a CB District.

Application 2013-9 by Robin and Nick Gautam for property at 17257 Catsden Road

The applicant is requesting an area variance for the purpose of a lot split. The property is located in a R-5A District.

Application 2013-10 by J.J. Anderson Construction Co. (John Anderson) for Martha Boland for property at 17095 Catsden Road

The applicant is requesting an area variance for the purpose of constructing an addition. The property is located in a R-5A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above application for April 18, 2013 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:25 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Jason Maglietta, Alternate
Mark Murphy
Mark Olivier

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

Date: April 18, 2013