

Bainbridge Township, Ohio
Board of Zoning Appeals
March 28, 2006

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:40 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Mr. Donald Takacs. The following matters were then heard:

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals and explained that this is a special meeting to replace the two cancelled meetings of February 16, 2006 and March 16, 2006 because the board did not have a quorum. He then explained the hearing process and swore in all persons who intended to testify.

Application 2006-1 by Carol M. Freebairn for property at 16760 Park Circle Drive – Continuance

The applicant is requesting area variances for the purpose of maintaining a storage facility. The property is located in a LIR District.

Mr. Dale Markowitz, attorney for the applicant and Ms. Carol Freebairn were present to represent this application.

The zoning inspector's letter dated January 6, 2006 was read and photos of the site were submitted.

Mr. Markowitz referred to an aerial map displayed on the overhead projector. He testified that he is representing Ms. Carol Freebairn and said that she and her husband Bob own and operate Phoenix Associates, it is a rubber and plastics business and Ms. Freebairn will give an explanation about what the business is all about. He referred to the aerial photograph and said it shows the shape of the lot and it is very critical and this will also help the board to understand. He showed the Etna Products building and the Roulan property with HR Graphics and Park Circle Drive. He said the board can see by the shape and the survey that was done that there is an enormous amount of frontage that is wasted and there is no rear yard and it is hard to decide what is the side yard and rear yard. He referred to what he calls the north line and west line and said which one is the rear and which one is the side is problematic, because it is not really a pie-shaped lot because a pie-shaped lot would not have that wide of a frontage. He said the line on the west side is 209' and it is 290' on the north line and added that this property is in Knowles Industrial Park and it is subject to a consent agreement that was entered into between the developers of Knowles and the township relating to a lawsuit that was filed a number of years ago where there had always been this question about a variance that this board granted many years ago to the Knowles family when the zoning code was changed and they created this new LIR zoning classification and the board granted a variance to allow Knowles Industrial Park to develop under the old M-1 District. He said that vote was 2-1 in favor of Knowles and over the years people questioned whether that was legal because there were only three people voting and only two people voted for it but the prosecutor said it was legal but we decided to do a judgment

entry to make it clear that that was permissible so this area is under the old M-1 zoning which has a 75' front yard, 20' side yard and a 25' rear yard so it has been his view that this north line has a 20' setback requirement and that the west line has a 25' setback because they consider it to be the rear yard and typically the side yards are the longer ones and the rear yards are the shorter ones. He said one is 20' and one is 25' and he requested a variance for the building addition that has gone on the back of the building that is 18' deep by 100' wide. He said this aerial was taken in 2003 before the addition was put on. He said there is a compressor shed that is 10' from the property line and if you look at the survey that Zaranec did, that shed is about 10' from the line. He said the new addition is about one foot from the north property line, a little less than a foot on one end and a little bit more on the other and it runs 100' from one edge going to the east and it is about 1/3 of the distance of the 290' property line or about 34% of that line. He said the lot where the building is located is a .93 acre lot and this building, now exclusive of the addition, is about 12,200 sq. ft. and the addition is 18' x 100' or about 1,800 sq. ft. so it would be a total of 14,000 sq. ft. of building on a lot that is about 40,000 sq. ft. He said in the M-1 zoning code, there was no maximum lot coverage so you could put hard surface on the entire lot if you wanted to. He said the aerial photo does not really show the green areas. He submitted to the board photos taken from the front.

Mr. Takacs asked if it is the front or the side as he had just described it.

Mr. Markowitz said it is from the side.

Mr. Takacs said it would be the right side as was described before.

Mr. Murphy referred to the photo and said that all of those trees are across the street and referred to the trees that have been cut down because of everything in back, but a couple of the trees still might be there.

Mr. Markowitz said the trees along the creek are all still there and trees just pointed out are all across the street, some are still there, some are gone, but it was mostly brush that they took out when they put the cement pad in. He submitted a photo that was taken looking west from the parking lot and the orange stake that is in the corner is not a property line stake it was just for the snow plow person to know where to stop and you are looking first at the compressor shed that has been there for eons and further to the west is the addition that we are seeking the variance for.

Mr. Takacs asked if he has a picture of the other side.

Mr. Markowitz said he did and that he took another photo to show what the storage building does and at the moment it serves two functions, one – it stores materials in there and two – the employees put a couple of picnic tables there for eating their lunch out there at the time the photo was taken and it shows a little bit more of what is inside and the one Mr. Takacs was asking about, we were standing in the driveway of Etna Products and looking east and that was about as good a photo as we could get because we were pretty close to the building there.

Mr. Takacs asked how close the west end of the shed is to the property line.

Mr. Markowitz said it shows on the survey that it is 33.4' to the west line.

Mr. Murphy asked about another property line.

Mr. Takacs said it is a foot or less.

Mr. Murphy said if you look at the black line on the drawing it looks like the black line gets closer to the east end of the building and asked if that is where it is 6" off the line.

Mr. Markowitz said the west end is closer to the line and the survey shows it is .54' to the building on the west end and 1.37' to the property line on the east side.

Mr. Murphy said the picture shows 6" from the property line looking away from us.

Mr. Markowitz said that is true and he took another photo, trying to get all three buildings, it shows the trees and added that they primarily took out scrub when they put in the addition and another reason for showing the photo is so the board would get the impact of what happens with the HR Graphics building and said that building on that side has a little window for an air conditioner and it has a man-door but there are no steps to go in and out of that door and was told the only time the door is open is in the summer when it is real hot, so they open it for ventilation.

Mr. Takacs asked if the fence or rail on the back of this addition is the property line or not.

Mr. Markowitz said it is inside the property line, not by a lot.

Mr. Takacs said it looks like it is about one foot.

Mr. Markowitz said that fence is part of the addition that was put on, that is the outer boundary and a border for the cement pad. He said the addition (metal structure) is only 16' deep and the cement pad is a total of 18' deep so that railing is where it is .54' to the property line.

Mr. Lewis asked what the white elbow is.

Mr. Markowitz said he thinks that is the drainage.

Mr. Takacs said it looks like a floor drain.

Mr. Lewis asked about the green pipe and where that water goes.

Mr. Takacs said there is a green pipe and an elbow in the picture.

Mr. Markowitz said that was from the west side and it goes into the creek and they don't have any exposed block on the north side of the building, the exposed block is on the west side.

Mr. Takacs said so it is 20' from the property line.

Mr. Markowitz said that was done by some contractor that Ms. Freebairn had and the survey shows 33.4' from the property line and it is all in compliance with the setback line and that pipe must discharge into the creek.

Mr. Takacs said there is a gutter drain off the roof too.

Mr. Markowitz said when he was out there, he did not recall seeing it and asked Mr. Orlowski if they were recent photos.

Mr. Orlowski testified that they were taken about two weeks before the first hearing was scheduled.

Mr. Markowitz said they did not take any photos from the west side because it is so thick with trees and scrub. He said when they filed the amended application they wanted to make it clearer what the intended use of the addition would be and they only want to use it for storage and Ms. Freebairn will explain what the critical nature is of the storage for that facility because they are out of room for storing the materials that they fabricate and the location of where it is and the timing of getting it is important because of the way the fabricating business operates and they also said that they would not access the addition of the building other than through the existing part of the building so on that west side there is an entrance there for small vehicles to come in and do the unloading and then they will go through the building where there is a man-door and then they would put the materials in there and they will agree to keep it that way and nobody will be coming in from the parking lot. He referred to the aerial photo and said it shows the door and the driveway and that is where they come in for the deliveries. He said the survey shows an existing storage shed and from where we measured it, it is about 9' – 10' from the property line and that shed has been there since before my client and my client came there in 1972. He said that storage shed houses the compressors they use in the operation of the business. He said they went to Etna Products and HR Graphics and told them they have an addition that they put here that is not in compliance with the setback and they will be seeking a variance and would like to know what their position on it was and he spoke to Ike Tripp who is the owner and President and CEO of Etna Products and he said he had no problem with the addition and the Freebairns are good neighbors and have never had any problems of any nature, so he gave us a letter saying that he consented to the granting of the variance which was submitted to the board in a package.

Mr. Markowitz continued by saying that at the time they did the amendment, they could not reach the Roulans but finally got a hold of them and the Roulans also looked at the plans and also had no problem and did not believe that the addition being that close to their building would have any negative impact and consented to the variance being granted as well so there are letters from them that he would like to make a part of the record. He continued by saying that if you look at the photo that shows the three buildings, looking west at Etna Products and the printing company, you will see that there is still more than a 20' separation between them and you have the trees in between the buildings, there is no loading that goes on, on that side nor any activities where they come in and out of the building so they did not need to keep a clear separation. He said as far as access to those buildings for safety forces, there was not any because of the trees that were there and because of the topography, the land dips down there from both buildings so it is not a place where you would have any access for any safety vehicles. He said the question will come up and that is "How did we build this building where we built it and why they did not get a permit and come for a variance first?" He said Ms. Freebairn will explain that to the board, but what happened was, they originally were going to put a cement pad back there and then they realized that storing materials outside was not necessarily a smart thing to do and they happened to talk to Mr. Frank Lanza one day and he told them about the gentleman that he had used that put a metal structure over a pad and doing that would be an efficient and appropriate way to complete the process so they put the addition on and the county building department came out and asked what they were doing with this building because they had not sought a building permit and the township did not receipt an application for a zoning permit, so his clients made the application to the county, the county inspected the building and approved the building for a county building permit but we still needed to resolve the township issue so we made application for the zoning permit and Mr. McIntyre had to turn it down because it does not comply with the setback requirements from the property line, so we sought the variance. He said his clients were under the understanding that they were grandfathered for the Knowles Industrial Park and they did not have to meet any setback requirements and obviously they were wrong, so they are going about getting a zoning permit. He said there are no excuses, it was a wrong decision and wrong understanding on their part and Ms. Freebairn does not make any bones about it and that is why we are here tonight. He said this is what he would call the classic practical difficulty case because of the shape of the lot because the lot has all of this expanse on the road but it does not have much depth to build and most of the other buildings in this park use a much greater percentage of their property for the buildings and for the parking. He said they have 14,000 sq. ft. out of about 40,000 sq. ft. so the percentage is low compared to the other buildings in the area and with the HR Graphics property the majority of the square footage is devoted to the building.

Mr. Takacs asked what the square footage of the main building is.

Mr. Markowitz said it is 12,200 sq. ft. and the addition is 1,800 sq. ft. but actually under roof, it is 1,600 sq. ft. but with the 2' of cement pad outside the metal structure, it is 1,800 sq. ft.

Mr. Murphy asked about the paving and how much asphalt there is.

Mr. Markowitz said he does not have that number and tried to gather it from the surveyor and couldn't and he did not have a way of determining. He said in looking at the aerial photo, a significant portion is under roof or paving because so much of the land is in the right-of-way. He showed the green area on the aerial map and said it raises a point of why the addition was put where it was because they did not want to add onto the side even though in theory they could have because they weren't at the maximum setback but it was close to the riparian right-of-way so they felt that they shouldn't extend any closer to the right-of-way, even though it is not listed on the map as an area that specifically had to be subject to it he believes it would not have met the theory of the current regulations, so they thought that it was better that the building should be in the back and seek a variance from that setback than to go any closer to the riparian. He said if they went into the front they would need a variance from the front yard because they would be closer than 75' and the area is necessary for their parking and if the same thing to the east, it would take away parking spaces which they need for the site.

Mr. Takacs asked what openings they have off the back of the building and where they are.

Mr. Markowitz said there is just one.

Mr. Takacs asked where it is and said there has got to be something else with all those rolls out there.

Mr. Markowitz said yes, there is a big door on the other side of these rolls and he does not think it can be seen on the photo, but Ms. Freebairn would have a better idea.

Mr. Takacs asked where the door is.

Mr. Markowitz said he saw it, but it is on the other side and forgot about the man-door.

Mr. Takacs asked if they put product on both sides of the man-door and pack that building from the man-door to the other end of the building.

Mr. Markowitz said yes there are products stored there.

Mr. Markowitz said they have these big rolls of rubber that they have to move in and out of there pretty quickly.

Mr. Takacs asked if it all goes through the main structure.

Mr. Markowitz replied correct and said you physically could not get vehicles back there, maybe a tow motor but it would not be an efficient way for them to deliver material, it is clearly much easier for them to go to the front and they unload the vehicles in the building and then they take the product over.

Mr. Takacs asked if they use a tow motor to put it in there or use pallet jacks or what.

Mr. Markowitz asked Ms. Freebairn how they get the material into the storage building.

Ms. Freebairn testified that it is not the door that you see in the picture, there is another door like a loading bay for a truck to back in and unload the materials and the tow motor can take it from there straight through the building.

Mr. Markowitz asked if there are tow motors inside.

Ms. Freebairn replied yes.

Mr. Markowitz said the door he remembers is big enough to get a small commercial vehicle into it.

Mr. Lamanna asked where the drainage comes off the building.

Mr. Markowitz said the drainage primarily goes down to the creek from the building in the back and from his recollection, the drainage goes in two directions, it goes into the low area behind the building.

Mr. Lamanna said it is not their property, it is the neighbor's property.

Mr. Markowitz said it drains right on the line and it drains that way because the low spot has always been on the Roulan's property and there is a little bit that drains out to the street.

Mr. Murphy asked if there are construction drawings for this, what they did with the down-spouts and if they just ran some PVC pipe under the slab and it looks like a 6" gap between the shed and the other building and asked what happens to any of that water from the roof.

Mr. Markowitz said no and the water that came from the existing building went in underground drains and that didn't change.

Mr. Murphy asked when they poured the slab, if they buried the shoot, and if they had any idea what happened.

Mr. Markowitz said there are separate drains for the addition.

Mr. Murphy said there are no drains, the addition curves down and there is no gutter there or no drains.

Mr. Markowitz said it has its own drains and added that he was there once when it was raining and he was watching the water come down but the water generally just flows in a northerly direction into a swale in the back.

Mr. Lewis asked who the contractor was for the addition.

Ms. Freebairn said his name is Chuck Campbell who was the contractor that her husband talked to and it was a casual contact and it was very informal, a lot of it was done on the phone and on the weekends.

Mr. Lewis asked if he was the man they paid, the general contractor.

Ms. Freebairn said she guesses.

Mr. Lewis asked where he is from.

Ms. Freebairn said he is from Bainbridge.

Mr. Lamanna asked if they had no written agreement with him for putting up this building.

Ms. Freebairn said no, we did it on a handshake.

Mr. Markowitz said it was only a \$52,000.00 addition.

Ms. Freebairn said if you look at the picture, there is a railing around the enclosure because it was originally only going to be a cement slab and we had a railing there for the safety of the tow motors.

Mr. Takacs said that is not going to keep a tow motor from falling off.

Ms. Freebairn said when they first put the cement slab in, it did not look very nice, it just kind of happened in stages.

Mr. Olivier asked if there is a gap between the two buildings.

Ms. Freebairn said there is a little space between and was told the original downspouts are still there and go down into a pipe.

Mr. Lamanna asked if the slab was put in first.

Mr. Markowitz said yes, for outside storage and then they decided to put a metal storage building on the top. He said that Ms. Freebairn did want to talk to the board about the business.

Ms. Freebairn testified that her husband started Phoenix in 1972 and he originally rented the space in the building from Glen Blackburn who were a group of plumbers that had a business in the building and he ended up buying the building and the property on a land contract and he put that little cement pad very, very early on, maybe in 1972 and he felt they were grandfathered for the cement slab because of that and she said they are very sorry that they did not get a permit and did not know they needed a permit to put in another cement slab out there. She explained the fabricating business and said they don't make something and go out and sell it on the market, they contract with their customers and they have hundreds of customers all over the country and they come to them when they need a part and we make the part for them and then they take that part and insert it into something they make so it is a contract business with them and we have thousands of different parts that we make and some of them are products that you probably recognize but you would never know. She said some parts they make on a regular basis and others are military parts, but when a customer comes to us, we have a very short time to get the material, do whatever we have to do, and ship it out to the customer so because of that we have small margins on hand so we really need to manage our business to get the parts out to our customers on time. She said her husband has done a fantastic job of doing that for 34 years and he still has some of his original customers. She said they have simply grown out of space and the obvious question is maybe it is time to move the business, but her husband will be 76 years old in less than a month and at this stage of the game, for them to do that does not seem very feasible. She said this does not bother anybody and it is next to a cinder block wall. She said they were storing the product in their building and had a major growth spurt at the end of 2004 so they rented some warehouse space down the street and they were trying to drive the material back and forth and it was a disaster because it was too time consuming because they needed to have the materials right there and it was not cost effective to do that.

Mr. Lamanna stated that the value of their business issues is irrelevant to the issue before the board and the fact that they need more space for their business or they want more space for their business, everybody could come in and make the same argument and expand their buildings to the outer limits of their property if that was a valid reason. He said he sympathizes and the board is not here to try to hurt their business, but this is a really highly densely developed area and what keeps any control on it at all are setbacks to prevent the lots from being wholly enclosed with buildings and all of the problems those create and added that he finds it a little unusual for somebody in business for a long time to build buildings without getting any permits and it is just very hard to believe and certainly it is a lot easier to go out and build something then come in here and say you didn't know you had to get a permit and then ask the board to approve something that you have done and especially when there are a lot of issues on whether the board can grant this in the first place and it creates some serious issues for the board. He said the board has a letter from the fire department stating that they are not happy with it and one of the reasons for separations on these buildings is fire issues so if we get a fire going on in one building, we won't have half of Knowles Industrial Park burn down because of the fire leaping from building to building and that is an issue here. He said there are run-off issues and we have an area now where people cannot get in there with hoses if they need to.

Mr. Takacs said there are no doors on the back or side and nothing on the west end.

Mr. Markowitz said there is nothing on the west end of the building at all.

Mr. Takacs said there should be.

Mr. Lewis said there is no man-door out at that building.

Mr. Murphy said there is a big garage door that looks like a loading dock and someone put some tables there for eating lunch but it looks like a loading dock to him.

Mr. Markowitz said it would serve that purpose in a normal circumstance but where the compressor shed is, there is a man-door.

Mr. Murphy said but that is not out of this building and if you happen to be in that shed and it is on fire, you would have to come 100'.

Ms. Freebairn said just inside that garage door is a man-size door.

Mr. Takacs asked what if the main building is burning.

Mr. Lewis said there is no way out of that shed.

Mr. Murphy said with this being an 1,800 sq. ft. building and the only way in and out of this is back in the burning factory or out the overhead door here, there are no sprinklers and no fire suppression system and the fire inspector had some serious problems with it.

Mr. Markowitz said he did not understand to the objection of the door going out.

Mr. Murphy said the fire inspector did not have an objection to that, but there are no man-doors, no exit signs and no emergency lights.

Mr. Markowitz said the code requires a second exit.

Mr. Murphy said the board has a letter from the fire inspector and there are no construction drawings and added that the letter came to the board this week with the notice of the meeting.

Mr. Lamanna said it is the applicant's burden to demonstrate that this is not a problem.

Mr. Takacs said he has a real issue with the west side because there are no doors and if the fire starts there, you would have to go 100' out of the way, so there needs to be something on that west end at minimum.

Mr. Markowitz said they could certainly insert a door on the west end.

Mr. Lewis asked how the materials are packed into the building because near the front of it near the garage door is a man-door into the factory and at the other end of the shed there is a larger over-head door going into the factory. He asked if the materials are brought in and packed.

Ms. Freebairn replied yes.

Mr. Lewis said we are dealing with all combustible materials here and cardboard packaging material and we already know there are major fire and safety issues and we know we may have exit issues for trapped personnel and we know we have a very difficult or zero entrance into that shed building by the fire department without going through the main factory. He said he is not getting any sense that there is any kind of a center isle from the front of the building where the man-door is or something you could walk through to get to the other end. He asked what is being done with the palletized goods that is coming in with the tow motor and what is happening with the product that is being moved in.

Mr. Murphy asked if these are rolled materials with a spike through the end of the roll because they look like giant 3' – 4' rolls on shelves. He referred to the photo and said there is a table there and we are seeing big rolls 4' in diameter and we are trying to figure out how they are getting up on those shelves.

Ms. Freebairn said you can't really get a good idea from that picture.

Mr. Murphy asked Ms. Freebairn to explain it to him.

Ms. Freebairn said they put the picnic table there so their people could sit someplace without being in the sun and they are farther away from where those rolls are from the way it looks in the photo.

Mr. Murphy asked if a tow motor with a spike on the front could go into the center of that roll of material and back if off the shelf and then turn around and go to the end.

Ms. Freebairn said yes because there is an isle.

Mr. Murphy asked if it is loaded with a spike in the center of that roll or loaded with forks from the side.

Ms. Freebairn said with forks.

Mr. Murphy said so it is all coming from that end.

Ms. Freebairn said yes.

Mr. Murphy asked if they stick a spike in the round and if the tow motor has a spike.

Ms. Freebairn said she does not know if she would call it a spike, but there is something on the tow motor that goes up and goes into the middle of the roll.

Mr. Murphy said that is exactly what he means and asked if they are loaded from the face of the round, picked up and backed out.

Ms. Freebairn replied yes.

Mr. Takacs asked if they are driving a forklift down the whole length of this path.

Ms. Freebairn said yes.

Mr. Markowitz said the storage on the outer wall is not as deep as it is on the inner wall.

Mr. Takacs asked how long the rolls are and said it looks like they are 5' – 6' so the forklift needs a minimum of 4' -5' and you have to turn, so you need more than that.

Mr. Markowitz said it could be 5' – 6' deep.

Mr. Takacs asked how long the roll is.

The board discussed the length of the rolls and the room the forklifts would have to move around.

Mr. Takacs asked if they are fork trucks or pallet trucks.

Ms. Freebairn said she is not sure she knows the difference.

Mr. Takacs asked if someone is actually on it and driving it.

Ms. Freebairn said the person is driving it.

Mr. Takacs asked how the forklift is powered.

Ms. Freebairn said it is powered by battery and they used to have a propane powered tow motor before.

Mr. Lamanna asked Ms. Freebairn if she is willing to put sprinklers in this addition.

Mr. Markowitz said there are no sprinklers in the main building and he would like to say yes, but does not know if it is feasible.

Mr. Takacs said there would have to a water riser there.

Mr. Markowitz said there is a water line on the street.

Mr. Lamanna said you have the water source.

Mr. Markowitz said that is not the problem, the power is about 500' away and he is not sure that structure can be sprinklered but he supposes there are conventional sprinkler systems.

Ms. Freebairn said there is no insulation in it, it is just a shell and she does not know of anything that would keep the sprinklers from freezing.

Mr. Takacs said a dry system would have to be used and asked how high the ceiling is inside the building and said anything above 14' needs sprinklers.

Mr. Markowitz said he is 5'-10" and the door is only maybe one foot over his head.

Mr. Lamanna said the issue here is the building was built closer than it should be and one way to alleviate the fire concerns is to sprinkler the building and we also need to do something about the drainage because the water is dumping over the side onto the adjacent property and it needs to be piped to the discharge point on the property. He said it is all well and good that the neighbor says there is no problem but if we have three or four weeks of rain and suddenly it is a swamp, the neighbors will be calling up and complaining about it.

Ms. Freebairn said she does not understand the concern about the water.

Mr. Markowitz read from the plans and said the drawing done by the engineer shows 6" Schedule 40, solid PVC storm sewer discharge with rip-rap outlet with screen so they have PVC that connects underneath the slag that was going out and going to the west.

Mr. Lamanna said they are probably floor drains in the slab to pick up the water.

Mr. Markowitz said it was for the exterior or do you mean when they built the pad.

Mr. Lamanna said they raised the pad to pick up the water when it was a pad and when it was open to the rain but when they put a building over it, none of the rain is getting to those drains in there.

Mr. Markowitz said they could put in a gutter at the bottom where the structure meets the cement pad to a PVC drain because you could not really put it on the top on the north end of the building because of the slope.

Mr. Lamanna said you would have to pick it up with a ground gutter.

Mr. Lewis said there are other things to consider because right now if there is a fire the inside of the main factory has an illuminated Exit sign and it sends people through a man-door into this building with a no man-door out so this building is a death trap and you are telling people to go in there and there is no way out. He said if you put a man-door in there for somebody to get out, you have a railing all the way around and the fire department needs to be embraced on this too. He said this would even be surmising that a variance is granted, but where a door would be located, where those guard rails are being sawed off, so somebody could actually get through, are you going to send them back into the creek or into the brush or into the neighbor's yard and these are all things we need to think about here.

Mr. Markowitz said they won't go into the creek but there is brush there and we will have to clear it.

Mr. Lewis said you need to be able to offer a safe exit and not send somebody from a burning building into a brush thicket that you can't possibly get through and you have to figure how bad the brush is at the worst time of the year fully leafed out and full of thorns.

Mr. Markowitz said if they add a door on the west side, they would have to have a step down and they would immediately go to the north because they could walk by Roulan's building.

Mr. Lewis said if somebody exits and falls and now you have made their exit path on somebody else's property and his concern is if that person is injured during an exit on somebody else's property you have some liability issues with that because you haven't given safe passage on their own property. He said it may be that the building requires more than one exit especially if materials are stored in the middle section of it because there are two ways into the shed, a man-door and an over-head door to move materials, so if even temporarily you have staged some materials in the center, the center aisle is choked down a bit and if you have ten factory members going through there, what are you going to do. He said he knows the fire department is not real happy with that because most of the materials stored in that structure are combustible and it is adjacent to where you tell your people to go to smoke.

Ms. Freebairn said they are not allowed to smoke in the building.

Mr. Lewis said he thinks the smoke cans are sitting there on the porch but he is not sure.

Ms. Freebairn said they are allowed to smoke outside.

Mr. Lewis said when that door is open and there is a little bit of a breeze, they are smoking next to combustibles and his apprehension there is for the safety of the employees, even more than the structure, but also the potential safety of the employees in the adjacent buildings if this building goes up in flames and he sees real challenges getting the fire department back there, particularly because of the compressor shed that narrows the access on that side yard, it is a very narrow place there where there is a stake for the snow plow, the side of the compressor building and there is another 15' – 30' to go before you get to the garage door of the addition, so this is a nightmare for the fire department plus there are accelerants being stored in that area.

Mr. Markowitz said that is a valid point so we will explore that to see whether or not we will have the ability to access through a second exit to the west and instead of going on Roulan's property, go south across our property back to the front towards the street because we have enough room between the building and the creek to do it, we just don't know if it is feasible or not but we certainly can clear out that brush now and keep it maintained so that we will have other safe exits.

Mr. Takacs said after looking at this more and looking at the building there is a 100' structure with a man-door on one end and the big door on the other and if there is a good fire in the main building and people are trying to get out, you will need a west entrance and in the middle of the 100' out the back, there should be an opening there because if there is a blazing fire and the guys are trapped there, there is no way of getting out the personnel, so you will probably have to put another door in the back right in the center.

Mr. Markowitz asked if that is in the middle of the back.

Mr. Takacs said yes, as an emergency exit only.

Mr. Markowitz asked Mr. Takacs if he is saying three doors.

Mr. Takacs replied yes, one at each end and one in the middle out the back because if there is a fire in the main building and the fire is shooting out of that addition and if you have people in that addition in the center, there is no way they are going to get out. He said it is only an exit and obviously on the neighbor's property but he thinks from a fire perspective it is needed.

Mr. Murphy said before the shed was built, you could come out the overhead door and on the western corner there was an overhead door and asked if that door got added when the shed got put on.

Ms. Freebairn said we put that door there to get into the shed and what the man-door opened up to was worse before.

Mr. Murphy said it was a fire exit.

Ms. Freebairn replied yes.

Mr. Murphy said you will have to go 150' to the east to get out of a burning building. He said he has been building houses and additions for a long time and he had to get permits for every one of them.

Mr. Markowitz said he would like to talk to the fire department.

Mr. Murphy referred to the letter from the fire department.

Mr. Markowitz said he would like to have a copy of that letter.

Mr. Lewis said he would like the materials moved into the main building in the interim.

Mr. Markowitz said he does not think they can because they do not have enough room in there.

Mr. Murphy asked if they could use storage down the street.

Mr. Lewis said he is not comfortable with having personnel in that building right now because there is no way out and if there is a tragedy, there is a potential for loss of lives and based on the materials that are stored in there, they are rapid accelerants with rubber and cardboard and reiterated that he is not real comfortable with people going in and out of there even though you are using electric tow motors, they can also shed spark so it is sort of a self-inflicted pain and he realizes that the applicant is trying to make decisions and remedies based on the business but the contractor has not been here and even with that, nobody has been here and no zoning obtained. He said he does not know who the contractor is, Mr. Chuck Campbell, but if he is a resident of Bainbridge and he is a contractor, unless this is the very first time he had ever built a structure in Bainbridge, he has got to have an awareness that he has got to pull permits.

Mr. Markowitz said he has no idea whether he has built in Bainbridge before, he knows he has built other structures before.

Mr. Murphy said he lives in Bainbridge and builds in other places.

Mr. Markowitz said the county building department did approve the structure.

Mr. Murphy asked if they approved the structure after it was built.

Mr. Markowitz said the building permit was not issued yet because they are waiting for the zoning permit, but they approved and inspected the building. He submitted a document from the building department.

Mr. Murphy said this does not mean anything because he cannot get a building permit without a zoning permit.

Mr. Lewis asked if the building department issued an occupancy permit on it.

Mr. Markowitz said they don't issue occupancy permits.

Mr. Takacs said that the document that Mr. Markowitz gave them shows that the building department just checked off footer and foundation and asked if they inspected the building or just the footer or pad.

Mr. Markowitz said they also inspected the structure.

Mr. Takacs said there is nothing checked on it, it just says footer and foundation.

Mr. Markowitz said the final is checked, but on the copy he submitted to the board it does not come across very good.

Mr. Takacs asked if that is just for the pad.

Mr. Markowitz said the structure too.

Mr. Olivier said there is electrical and typically it hangs at the construction site.

Mr. Lamanna said if somebody would have applied for a building permit here, this thing would have been caught and we wouldn't be sitting here and that is why it is really hard to have a person who is running a substantial business come in and say they put an addition on and they did not get a permit or make sure their contractor got a building permit. He said it is not like a homeowner who is an ingénue at these things, this is a sophisticated business man who is running this operation and it is hard to say he did not realize he had to get a permit.

Ms. Freebairn said her husband is not a sophisticated business man, he is a fabricator.

Mr. Takacs said he, himself, deals with commercial contractors daily and all of their quotes say "does not include permits or appraisal" on them.

Mr. Markowitz said he does not know who Chuck Campbell is but his client has to take responsibility to make sure they get the permits or their contractor does.

Mr. Lamanna said if they came in and showed an agreed contract that shows the contractor is supposed to get the permits, he could be a little more sympathetic that the applicant did the right thing and the contractor did wrong.

Mr. Markowitz said he has to assume he thought that the client was getting the permits.

Mr. Lamanna said he really ought to be here tonight because people are saying he thought this and he thought that but he needs to testify to that here.

Mr. Markowitz said they are not putting any blame on him (Chuck Campbell).

Mr. Lamanna said he is talking about Mr. Freebairn.

Ms. Freebairn said he should be here and this business is her husband's baby but he is very emotional and that is why he is not here tonight.

Mr. Markowitz said he will talk to Mr. Freebairn.

Mr. Lamanna said that Mr. Freebairn should be the one telling the board and one of the major factors on this thing is how this happened and whether it happened inadvertently or if it happened intentionally or gross negligence and if somebody did this intentionally or we are not convinced otherwise, it is pretty hard to get a lot of consideration to allow this thing to stay here. He said if the board feels it was done complete inadvertently and innocently then the board can maybe entertain it, but the other issues have to be addressed.

Ms. Freebairn asked the board how she can convince them.

Mr. Lamanna said Ms. Freebairn needs to go talk to her neighbor and see if she could get permission from him to go and clean out the rats nest of underbrush that is in there so that there will not be a fire factor there and if people are escaping or the fire department was trying to go in there on foot that they would be able to get through there. He said all the scrubby little trees and underbrush and everything else that would prevent somebody from getting in there should be cleaned out and the drainage issues addressed to pick up the water and run it out so we don't end up with a drainage problem.

Mr. Markowitz said he did not think there was a drainage problem and there is not a drainage problem between the buildings.

Mr. Lamanna said the building has not been there long enough to know, there was just a slab with drainage in it and now you are dumping the water.

Mr. Murphy asked when the slab went in and when the shed was built over it.

Mr. Markowitz said the slab was built last fall and the metal structure was added on a month or two after that.

Ms. Freebairn said she cannot remember the date.

Mr. Murphy asked if it was within the last six months.

Ms. Freebairn said yes.

Mr. Joe Orlowski, Assistant Zoning Inspector testified that the zoning department issued a violation letter at the end of October and in 1997 Mr. Freebairn was in front of the board of zoning appeals for a variance for a front yard setback for this building for a different addition.

Mr. Murphy asked what the board did on that.

Mr. Orlowski said it was granted.

Mr. Murphy asked if it is relevant.

Mr. Orlowski said if they were before the board before, yes.

Mr. Lamanna said it is relevant if they knew what the process was.

Ms. Freebairn said they did have a construction manager for that and he did everything.

The board discussed the previous addition.

Mr. Olivier said he thinks that Mr. Freebairn attended that meeting and that is the point that Mr. Orlowski was making.

Mr. Lamanna said the other thing is if they already had a variance, there is a limit to how much relief can be granted on a piece of property. He said they have already been given one variance and allowing it to expand from what was permitted and coming back for further additional ones, it becomes harder to justify continuing to allow an expansion outside the permitted setbacks.

Mr. Markowitz said he did not think there was anywhere else to put it.

Mr. Lamanna said there is a point in which the building is too small for what you want to do with it.

Mr. Markowitz said the one thing about the building is that the storage shed does not add to their parking needs and if we were trying to put an addition on that was going to bring in more labor, then we would be out of space for the parking.

Mr. Lewis said this is a hazard to the neighborhood and the personnel.

Mr. Markowitz said he thinks they can address that.

Mr. Takacs said it looks like from the photo that was submitted, that parking may be a problem there because there are cars parking along the islands and everything else and he does not see any lined spaces.

Mr. Markowitz said there is a space for everyone.

Mr. Takacs said that is hard to determine right there.

Mr. Lewis asked if there is a parking layout.

The board discussed the parking layout.

Mr. Markowitz asked to continue this application to next month so they can come back with some answers.

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

Motion BZA 2006-1 – 16760 Park Circle Drive

Mr. Lamanna made a motion to postpone further consideration of application 2006-1 to the next regularly scheduled meeting to be held April 20, 2006 so the applicant can provide the board with additional information.

Mr. Takacs seconded the motion.

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

Application 2006-3 by Anne Rex Schwed for property at 18821 Geauga Lake Road - Continuance

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

The zoning inspector's letter dated February 9, 2006 was read and photos of the site were submitted.

Ms. Anne Schwed was present to represent this application.

Ms. Schwed testified that she owns 10.25 acres and would like to split her lot.

The board reviewed the variance request.

Mr. Lamanna said the board is looking into how they are going to do this.

Ms. Schwed said that she is having second thoughts because she was going to split it that way because she had a buyer for her home, but he disappeared and she was wondering if maybe that is not the best way to split because of the access to get back to that building lot, it is beautiful back there, but will require a really long driveway. She said she was wondering if the board decided to grant this if she could switch the lines somewhere down the road because she is still in the process of selling her house.

Mr. Lamanna told Ms. Schwed that she would have to come to the board if the property line is moved.

Ms. Schwed said it would be just like a mirror image.

Mr. Murphy said the board would not know that without the drawing and without the stakes and until the board sees that, the new property line may be 12' off of your bedroom windows.

Mr. Lamanna told Ms. Schwed if there were two options and she came to us and said she would like an approval on Option A or Option B, the board could probably do that but then if she came back later and wanted Option C, she would be back before us anyway so the question is if she is not really sure what it is going to be, it would be better for the board to dismiss this application and when she actually has a firm plan, then come back to the board.

Ms. Schwed asked the board if the board is allowed to tell her if they would have approved this or not.

Mr. Lamanna said he cannot tell her that, but she should be able to garner from the discussions that the board seems to be favorably inclined. He said it is not an issue on the size of the lots because the board has already had precedent with ten acre lots and explained the right-of-way issue that decreases the size of the lot. He said the only issue is that it bears some semblance to a reasonably shaped lot and added that Ms. Schwed would be better off to wait and bring in a plan.

Mr. Murphy said that the lot is really steep back there.

Ms. Schwed said it is really pretty back there and it is not too far from the Chagrin River.

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

Motion BZA 2006-3 – 18821 Geauga Lake Road

Mr. Lamanna made a motion to dismiss this application without any precedential value at the request of the applicant.

Mr. Takacs seconded the motion.

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

Application 2006-4 by Robert and Ann Chaney for property at 17131 Cats Den Road - Continuance

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

The zoning inspector's letter dated February 9, 2006 was read and photos of the site were submitted.

Mr. Mark Murphy, member of the board of zoning appeals, recused himself from this hearing because he is an adjacent property owner.

Mr. Joe Calderwood and Mr. Robert Chaney were present to represent this application.

Mr. Calderwood testified that they are requesting this variance due to the contour and limitations to the property with creeks on either side of the house and also the rock formations behind the house. He said the existing house is already in front of the existing front yard setback and what they are planning to do is put an addition on the front of the house because it is really the only way to add onto the house so they are very limited on what they can do.

Mr. Olivier asked if the applicant is living in the house.

Mr. Calderwood said not yet, they just purchased it.

Mr. Takacs asked about the square footage of the existing structure.

Mr. Calderwood said the current structure is about 1,300 sq. ft. He said they will be creating a side entry garage and the current garage is a front entry and exit and also the way the property is laid out, the driveway is a U-shape driveway right now and we will be utilizing the right driveway, eliminate the left driveway and replace the landscaping.

Mr. Olivier asked if the addition/new garage will be 30' closer to the street than the existing house.

Mr. Calderwood said correct and if you walk the property there is no room behind it, to the right or to the left because of existing streams and the property goes up behind the house.

Mr. Olivier said it seems much further from the creek on the south side, the side with no addition proposed on it and asked if there was some reason why that was not explored as an option for this garage.

Mr. Calderwood said the way the existing house is set up, most of the utilities, plumbing, furnace and kitchen area are mostly on the left side where the existing garage is now and in order to do the renovation in a more economical way, we plan on putting the garage on the left side so it is close to where all of the existing utilities are.

Mr. Takacs asked what the garage has to do with the utilities.

Mr. Calderwood said for access to get to them because usually you want to put the garage closer to the kitchen and where the utilities are. He said right now, on the right side of the house, it is the existing bedrooms and that is where they intend to keep the bedrooms and to put the garage on the right side, you would have to go through the bedrooms and because of the narrowness of the house, you would have to go through the bedrooms to get to the rest of the house from the garage.

Mr. Lewis asked if it has a garage now on the left side.

Mr. Calderwood replied yes but right now the existing garage is not large enough for what they need to store.

Mr. Lewis said there is a proposed area off to the left.

Mr. Calderwood said yes it is for storage and a workshop and added that the house is on a slab too.

Mr. Lewis asked if they thought of going up where the current garage is.

Mr. Calderwood said they are planning on going up also above the garage.

Mr. Lewis said it would leave them with a two-car garage.

Mr. Calderwood said on the left side of the existing house and the proposed addition, they are planning on putting on a second floor.

Mr. Olivier asked if the garage will not only come 30' out, but will it be two stories as well.

Mr. Calderwood said it will be a bonus room above the garage itself.

Mr. Lewis asked if there was an elevation on that for the proposed height.

Mr. Calderwood showed the board the elevation of what the proposed addition will look like and said it will be approximately, from the peak, 22' – 23' and right now the existing structure is a straight ranch. He explained the location of the bedrooms and existing garage and said they are proposing to expand into the garage with a master suite and another bedroom and a bonus room and added that one creek is real close.

Mr. Lewis asked what the scale is on the drawings.

Mr. Calderwood said it is 3/16ths and added that they did look at other options with the bedrooms.

Mr. Takacs asked about the existing floor plan before the proposed renovations.

Mr. Calderwood said the layout is like a long rectangle.

Mr. Takacs asked if they are re-doing the end where the bedrooms are and asked what is new and what is existing.

Mr. Calderwood said it is existing but it is being re-done.

Mr. Takacs asked if there was existing plumbing there now.

Mr. Calderwood replied yes.

Mr. Olivier said it falls to the street.

Mr. Lewis said he is looking from a certain grade point to the road because he wants to see from the road level how high it is to the top of the house.

Mr. Mark Murphy of 17117 Catsden Road, and adjacent neighbor, testified that it is at least 4' – 5', it is 25'.

Mr. Takacs asked where the kitchen is today.

Mr. Calderwood explained the location of the existing kitchen and said it is really skinny. He said there are three bedrooms and they will make one into a master suite and put the other bedrooms upstairs. He said the problem is the back because when you walk out the patio door, the grade goes up and there is a huge rock formation out the back so we are limited because of the topography.

Mr. Takacs said there is a lot of space on the right side.

Mr. Calderwood said the only thing is when they walked it they did entertain an option of adding on out that way, but the creek seemed a lot closer.

Mr. Takacs said it looks like 40', 50' or 60'.

Mr. Murphy said he lives next door and the creek on the south side curls around. He said they have an artesian well for their drinking water and if you go to the right, they will have to deal with that spring and the springs appear right there out of the ground, 50' further away, there is no creek there, but the springs come right out of the ground. He said it is the Catsden ridge and it is not a giant river, it is a creek and there are 130 springs on Catsden Road and they don't have a well, they have a spring for their drinking water.

Mrs. Rolene Murphy testified that she thinks the house is too close to the road now and then to come out 30' is going to put it right on the road, take all the trees down, the other houses on both sides are ranches and to go up two stories, right down by the road, will ruin the view of the people on the right.

Mr. Calderwood said the addition is going to go over the existing driveway.

Mrs. Murphy said she knows but it will be two stories high.

Mr. Calderwood showed Mrs. Murphy what it will look like.

Mrs. Murphy said she thinks it is beautiful but she thinks it should be 100' back.

Mr. Calderwood said it is because of the lay of the land.

Mrs. Murphy said she knows, they used a case of dynamite to build her house. She said she and her husband bought the property with Hal Shade and put up the houses along that street and they are all California contemporaries and cannot see adding two stories to it. She said she thinks it is a beautiful house but at 100' back.

Mr. Calderwood said he agrees but they are limited because of the contours of the land.

Mr. Murphy asked if the addition cannot be built on the right. He said he knows the bedrooms are there and it may cost a little bit more but there is a driveway coming in from the right and asked if there is not some way to do that and stay back at least as far as the existing house.

Mrs. Murphy said they could put their workshops on the right and leave the garage where it is as a garage.

Mr. Mark Murphy said they could make living space in that garage, but not come any closer to the road. He said he has to speak, not just for himself, and he is a neighbor, and he may or may not be seeing it, but it is close to the road and he has other neighbors that have approached him that could not make the meeting tonight and they said there is a lot more room to the right, they are narrow and deep lots and everyone on the street had to deal with the rocks and it is a special kind of street and they bought their houses because it is a special kind of lot and there are beautiful rocks and he does not think they would ruin anything by going a little bit to the right and going back and there are other people that could not make it tonight but said they just feel that the addition coming that close to the street is not good.

Mr. Calderwood asked even with landscaping.

Mr. Murphy said that might make a difference because it looks like the way someone staked out the driveway, they were going to keep the horseshoe driveway coming right down in front of it so no one has seen the landscape plans, it is huge and it is really right at the street.

Mr. Calderwood said they realize that but they could possibly screen it with landscaping.

Mr. Lamanna said the real issue here is you are starting off with a house that already has a pretty substantial front yard variance and that is the problem because the house is already 18' closer than it should be which now puts it as the house that is already the closest to the street in the area and if you move it another 30' closer to the street, it is totally inconsistent with everything else in the area.

Mr. Robert Chaney testified that there is one more house that is as close on the same side of the street.

Mr. Lewis said it is encroaching even further into the setback along with a substantial height presence, very close to the road so there are a lot of factors to consider, particularly on the right hand side of the property, even though it may not fit all of the conveniences that a builder would like to use, there is available space to expand this premises.

Mr. Calderwood said if they do expand to the right, they will probably lose the one spring they were talking about.

Mr. Murphy said that spring will come whether you concrete it or build a basement there, that spring is not going to stop, that spring will come right through your basement.

Mr. Lamanna said these are locally originating creeks, given a choice of where to grant relief, he would rather grant a riparian relief on this piece of property than a front setback relief because these are on a lower order of significance of riparian situations, whereas changing dramatically the front setback because it is going to be inconsistent and we are talking about a 2/3 variance on a front yard setback. He said the board has struggled to give people 5' and 10' variances on front yard setbacks with cases where they are already sitting back 100'.

Mr. Calderwood asked what if the garage is pushed back 5' – 8'.

Mr. Lamanna said if you came and said you needed an extra 5' it maybe would work but you are already down to 57' to start with and if you wanted to go to 50' we might be able to see clear but the inclination is to not to make this addition any closer to what it is already there so there needs to be some other way to attack this. He said it is going into riparian setbacks besides a front setback and everybody is kind of uncomfortable with the size of this variance and how it compares to what is already in the neighborhood so the choice is to go back and re-tool this into something else.

Mr. Chaney said he will have to go up if they can't go out but it will be a financial burden.

Mr. Lamanna said he understands that but we have had lots of instances where the property is limited to what people want to do and we make people build houses that aren't as wide as they want to build them because they didn't have the lot width to do it. He said the building has to follow the land. He asked Mr. Calderwood and Mr. Chaney if they want the board to table this.

Mr. Calderwood and Mr. Chaney said yes.

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

Motion BZA 2006-4 – 17131 Cats Den Road

Mr. Lamanna made a motion to table application 2006-4 until the applicant requests to be placed on the agenda.

Mr. Takacs seconded the motion.

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

Application 2006-5 by Howard Hanna/Smythe Cramer for property at 8537 Washington Street - Continuance

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

The zoning inspector's letter dated February 9, 2006 was read and photos of the site were submitted.

Ms. Cynthia A. Lammert, Vice President and General Counsel for Howard Hanna Smythe Cramer and Barbara Bruhn, Manager were present to represent this application.

Ms. Lammert testified that they are requesting replacement signage and they occupy the space at the corner of Rt. 306 and E. Washington Street and their corner is perpendicular to that intersection. She said originally they were granted a signage permit in May of 2000 and the awning became in very bad shape and Bill Shaw finally agreed to replace it and Mr. Shaw told us that he had talked with the zoning department and there wasn't any need to get any additional permitting if we use the same as what we had and then we found out that the requirements had changed in terms of the letters, and the square footage maximum, since we were granted the additional permit in May of 2000. She said they are requesting what they had previously in terms of their name and it changed because they were acquired by another company but all they are asking for is the same letters that they had previously where the awning was replaced. She submitted some drawings and apologized for only making three copies. She showed the board what it was previously and what they are replacing and said the awning has been replaced.

Mr. Takacs asked if the sign is the same length as it was before.

Ms. Lammert said yes.

Mr. Lamanna asked if the signage was put up on the old awning.

Ms. Lammert said yes when they were granted the permit in May of 2000.

Mr. Lamanna said that was when it was Smythe Cramer.

Ms. Lammert said yes, when the awning was in disrepair.

Mr. Lamanna said the former sign was 16-5/8" tall and 53.5' long.

The board discussed the old size versus the new size requested.

Mr. Lamanna said the logo is basically the same size and the variance is 21 sq. ft.

Mr. Lewis said it really shouts at you.

Ms. Lammert said there are more words, that is why.

Mr. Olivier asked how long they are going to keep the Smythe Cramer name along with Howard Hanna.

Ms. Lammert said it is a long term plan to keep the name.

Mr. Olivier asked if it is not going to convert to Howard Hanna.

Ms. Lammert said not in the near future.

The board discussed the variances requested.

Mr. Olivier said it is not materially different.

Mr. Takacs said it just stands out more.

Mr. Lewis said they did not have a choice because of all the letters and asked if they have two signs.

Ms. Lammert said yes, they have two signs.

Mr. Murphy asked how different the Howard Hanna green is from the Bainbridge green.

The board discussed the green color of the sign versus the awning.

Ms. Bruhn said they toned down the green on the awning and there was a difference between us and their landlord.

Mr. Murphy asked if there would be any kind of hardship to comply with the size allowed by zoning and why you don't have the sign up already and you are asking for an extra 21 sq. ft. and why.

Ms. Lammert said they were anticipating the same as was what had been granted previously and we chose that corner and wanted to stay in that location for the exposure.

Mr. Murphy said the zoning says the maximum signage is 50 sq. ft.

Ms. Lammert said they are only asking for what they had before.

Mr. Orlowski testified that for whatever reason the permit was issued for the previous sign for basically what they are looking for now. He said the application came in, in April of last year and there had been no variance granted for what was issued previously so that is the reason they are back in front of the board for these signs.

Mr. Lamanna said so they were allowed to put the other sign up without a variance, so it slipped through the cracks. He said it was erroneously issued by the zoning inspector.

Mr. Lewis said the square footage of the sign is measured by the perimeter of the box and explained that there is a minor increase.

Ms. Lammert showed the board a copy of the zoning permit that was issued in 2001.

The board discussed the variance request.

Mr. Takacs said he did not have a problem with their request because it was the same they had before.

Ms. Lammert said they are pressuring the landlord to get the rest of the awning up.

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

Motion BZA 2006-5 – 8537 E. Washington Street

Mr. Lamanna made a motion to grant the applicant a variance for the purpose of replacing existing signage:

Washington Street Frontage

1. A variance from the maximum square footage permitted ($84 \times 1.15 = 96.6$ sq. ft.) to 118 sq. ft. for a variance of 21.4 sq. ft.
2. A variance from the maximum square footage permitted of 50 sq. ft. (no one sign shall exceed 50 sq. ft.) to 118 sq. ft. for a variance of 68 sq. ft.

Chillicothe Road Frontage

1. A variance from the maximum square footage permitted ($38.5 \times 1.15 + 20\% = 53.13$ sq. ft.) to 59.9 sq. ft. for a variance of 6.7 sq. ft.
2. A variance from the maximum square footage permitted of 50 sq. ft. (no one sign shall exceed 50 sq. ft.) to 59.9 sq. ft. for a variance of 9.9 sq. ft.

Based on the following findings of fact:

1. The applicant is replacing existing signage.
2. This signage is occupying the same footprint as the previous signage therefore it will not substantially change what is already there.
3. This signage will also be consistent with the existing space on the building designed for the signage.

Mr. Takacs seconded the motion.

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

Application 2006-6 by Jack Gasowski for Antonio and Equanna Westbrooks for property at 16707 Geneva Street

The applicant is requesting area variances for the purpose of constructing a three car attached garage. The property is located in a R-3A District.

The zoning inspector's letter dated February 9, 2006 was read and photos of the site were submitted.

Mr. Howard Gralnick, a representative for Mr. Jack Gasowski and Mr. and Mrs. Westbrooks were present to represent this application.

Mr. Gralnick testified that they are requesting a variance because they want to build a three-car garage with bedroom space and a bathroom.

Mr. Lamanna said this is a 100' x 100' lot on Geneva Street with an existing house built in 2000 or 2001.

Mrs. Westbrooks testified that it was built in 2001.

The board reviewed photos of the property and the variances requested.

Mr. Lewis asked about the structure to the right.

Mr. Lamanna said there is no structure to the right.

Mrs. Westbrooks said the lot is empty and people are dumping trash there and there is a sofa and loveseat there.

Mr. Orlowski testified that there are three lots next to them owned by a separate owner and approximately one or two more lots after that owned by a different owner.

Mr. Lewis said there are five lots with two owners.

Mr. Orlowski said correct.

Mr. Lewis said it doesn't seem too likely that the lots will ever be built on unless all five lots become one.

Mr. Lamanna said you have to assume that those five combined could be built on in some point in time and the trouble is that this addition will be within 5' of the property line.

The board reviewed the variances requested.

Mr. Olivier asked if the addition will have a pitched roof.

Mr. Gralnick said yes, a reverse gable. He showed the board the elevations and floor plans for the proposed addition.

Mr. Lamanna said we have to assume that eventually someone may want to build on the adjacent lots and historically the board has not had a side yard as small as 5', it has been more like 15' and this particular structure has another problem in that it is two stories high and very close to the property which means it is an even greater impingement on the adjacent property. He said the lot coverage is up into regions that the board has not gone because we are taking the total lot coverage up to 27% and he does not think it has been over 20% and said he is trying to give the applicant a history of how the board has dealt with the park area and try to maintain some kind of consistency with replacement of structures and setbacks, coverage and those kinds of things so we have got some kind of reasonable order and added that the zoning does not fit the development but the board over time has developed a pattern of setbacks and coverage to develop a consistency in the neighborhood and the board will recognize everybody's property rights.

Mrs. Westbrooks said that when the house was built it was just her and her children and it was a Habitat house so at the time she was not aware that she was going to get married and in the process of at least five years, they have added three more people to a three bedroom house, so there are six people living in a three bedroom house with one bathroom which is one of the reasons they are asking to build up over the garage to add another bathroom and another bedroom to make more room in the house because they have four kids plus her husband and herself living there with one bathroom and they are overloaded with very little storage space so that is why they want to add some more space. She said her family has pretty much doubled since the house was built.

Mr. Murphy asked if the black outline of the property, the one highlighted, is the end of the property.

Mr. Orlowski testified that it is just one parcel.

Mr. Lamanna asked what if they cut the addition back to a two car garage with some extra storage space with a setback of 15'.

Mr. Lewis asked if they could make the addition deeper.

Mr. Takacs said they could tuck some of it behind the house to keep the side greater than 5'.

The board discussed turning the addition side-ways to accommodate the three-car garage.

Mr. Murphy asked how long the extension is that they are adding.

Mr. Gralnick said it is 34' x 22'.

Mr. Lewis said if it was just re-oriented and rotated.

The board discussed options for the addition.

Mr. Orlowski said the driveway has to be 2' off of the property line.

Mr. Lamanna said the board would like to see at least a 15' side yard.

The board suggested to the applicants that they measure the area to determine the placement of the addition and still keep a 15' side yard.

Mr. Takacs said he thinks that some of the addition could be put behind the house.

Mr. Lamanna said if it is pushed back another 10' to have 40' on the back side it probably would not be a problem but would like to keep 15' on the side.

Mr. Gralnick asked if he should have a new site plan when he comes back to the board next month.

Mr. Lamanna replied yes.

Mr. Eric Frasz asked if they could buy a lot next to them.

Mr. Lamanna said that would be another option but it can be a real challenge finding the owners of some of those lots. He asked if there are any in the land bank.

Mr. Orlowski said no, he checked.

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

Motion BZA 2006-6 – 16707 Geneva Street

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held April 20, 2006.

Mr. Takacs seconded the motion that passed unanimously.

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

Application 2006-7 by McMillon Construction for property at 7045 Lewis Drive

The applicant is requesting area variances for the purpose of constructing a new single family dwelling. The property is located in a R-3A District.

Secretary's note: The application was temporarily removed from the agenda at the request of the zoning inspector.

Since there was no further testimony, the public hearing was closed at 10:14 P.M.

Respectfully submitted,

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

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

Date: April 20, 2006

AUDIO RECORDING ON FILE

BZA PH 3/28/2006

-34-

Bainbridge Township, Ohio
Board of Zoning Appeals
March 28, 2006

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:14 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Mr. Donald Takacs.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the January 19, 2006 meeting as written.

Mr. Takacs seconded the motion.

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

Proposed Alternate Board of Zoning Appeals Member

The board discussed the option of having an alternate member for the board.

Applications for April 20, 2006

Application 2006-1 by Carol M. Freebairn for property at 16760 Park Circle Drive – Continuation

The applicant is requesting area variances for the purpose of maintaining a storage facility. The property is located in a LIR District.

Application 2006-4 by Robert and Ann Chaney for property at 17131 Cats Den Road - Continuation

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

Application 2006-6 by Jack Gasowski for Antonio and Equanna Westbrooks for property at 16707 Geneva Street - Continuation

The applicant is requesting area variances for the purpose of constructing a three car attached garage. The property is located in a R-3A District.

Application 2006-8 by David Vincik for property at 8784 S. Spring Valley Park Drive

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

Application 2006-9 by Richard and Delores Ricciuti for property at 8300 Bainbridge Road

The applicants are requesting an area variance for the purpose of constructing a storage barn. The property is located in a R-3A District.

Application 2006-10 by Kris Babetski of Archer Signs for Sky Bank for property at 8420 East Washington Street

The applicant is requesting an area variance for the purpose of installing a wall sign. The property is located in a CB District.

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

Respectfully submitted,

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

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

Date: April 20, 2006

AUDIO RECORDING ON FILE

BZA R 3/28/2006

-2-