

Bainbridge Township, Ohio
Board of Zoning Appeals
April 18, 2002

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:30 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. John Kolesar, Mr. Todd Lewis, Mrs. Ellen Stanton and Mr. Donald Takacs. The following matters were then heard:

Mr. Lamanna swore in all persons who intended to testify.

Application 2002-2 by Mary A. Briggs for property at 16790 Bedford Street

The applicant is requesting area variances for the purpose of constructing an agricultural building incidental to an agricultural use. The property is located in a R-3A District.

Motion BZA 2002-2 - 16790 Bedford Street

Mr. Lamanna made a motion to postpone this application until the next regularly scheduled meeting to be held June 20, 2002 at the request of the applicant.

Mr. Takacs seconded the motion.

Vote: Mr. Kolesar, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-16 by Rob Heiman for property at 7214 Country Lane

The applicant is requesting an area/use variance for the purpose of maintaining a basketball court. The property is located in a R-5A District.

The zoning inspector's letter dated April 11, 2002 was read and photos of the site were submitted.

Mr. Rob Heiman, applicant, referred to the aerial photo and testified that his basketball court is located in a wooded area, 700' off of Country Lane and hidden in the trees. He said the basketball court is 60' x 40', small, and not regulation size.

Mr. Lamanna asked if this was located on a full five acre parcel.

Mr. Heiman replied yes and said he also owns 1-1/2 acres next door and he has very few neighbors and added that the neighbor next door to him has nine acres.

Mr. Lewis asked if the basketball court is already in.

Mr. Heiman said yes, for eight years.

Mr. Lamanna said there are two issues, the court itself and the use of it with respect to the basketball camps. He asked about the number of people using it and the frequency that it is used.

Mr. Heiman said last year it was used four days on two separate weeks for a total of nine days and added there are 15 kids for eight or nine days.

Mr. Lamanna asked if a fee is charged.

Mr. Heiman said yes, to cover his expenses because he buys pizza and tee shirts and said it is non-profit.

Mr. Takacs asked about the adjacent dwelling.

Mr. Heiman showed the board the adjacent dwelling on the aerial photograph.

Mr. Takacs asked how long the court has been there.

Mr. Heiman said the court has been there for seven to eight years, built at the same time he built the house.

Mr. Lewis asked where 7150 Country Lane is located.

Mr. Heiman said it is located to the left, the neighbor he has not heard from for 20 years, and another family recently moved in on the other side.

Mr. Lewis read from a letter received from Mrs. Hannah M. Slodov, dated June 28, 2001.

The board reviewed the written complaints from Mrs. Slodov and Linda Hartz who lives at 7171 Country Lane.

Mr. Kolesar asked Mr. McIntyre if he saw the video tapes that were mentioned in Mrs. Slodov's letter.

Mr. McIntyre testified by saying yes and said they indicated what the written complaints are saying.

Mr. Heiman asked what video tapes, because this is the first he had heard of them.

Mr. Kolesar read from the complaints but said the complainants are not here.

Mr. Lamanna said none of them are here.

Mr. Takacs said the other one lives across the street.

Mr. Lamanna asked what is on the video.

Mr. McIntyre said he heard noise and buzzers about 10:30 P.M. at night, but the homeowner has since moved, she sold her property and left no forwarding address.

Mr. Heiman asked what neighbor, when.

Mr. Lewis said the biggest issue is the hours of operation and the noise. He suggested turning the buzzers off and stop playing at 10:00 P.M. so the neighbors can enjoy their property. He asked Mr. Heiman if he is the basketball commissioner for all grades.

Mr. Heiman replied yes.

Mrs. Stanton said the camp itself is not at 10:00 P.M.

Mr. Heiman said that could have been a sleep-over one night.

Mr. Lewis asked if it was possible to play without the buzzers.

Mr. Heiman said the buzzers have not worked for two years.

Mr. Takacs said one letter was written June 28, 2001.

Mr. Heiman said the neighbor fired a gun at his children and the police department knows about that.

Mr. Lamanna said there is no way of asking the neighbors if they are not here to testify and although technically this is located in the front yard, the house could have been moved up and this would have been in the backyard. He added that the board can permit this because of the unusual shape of the lot, but limit the use and the board is not really looking at a true commercial use by the way the applicant has described it.

Mr. Heiman said he plays as frequently as he can.

Mr. Lamanna said he does not want to address this as a use variance.

Mr. Lewis said he has no issues on children enjoying themselves, only the late night operation and the scoreboard and sound effects.

Mr. Takacs said the complainants talked about spotlights in both letters.

Mr. Lamanna said lights can be seen a long way.

Mr. Lewis said they are directed at the court.

Mr. Lamanna suggested that the use be cut off after 10:00 P.M. at night to avoid a lot of the problems the people complained about.

Mr. Takacs asked if there are houses up the street.

Mr. Heiman replied yes, the one he owns and the Barnard residence.

Mr. Takacs asked Mr. Heiman if he rents the additional house.

Mr. Heiman replied yes.

Mr. Takacs asked about the location of the power lines.

Mr. Heiman indicated where the power lines are located per the aerial photo.

Mr. Takacs asked where Mrs. Hartz lives.

Mr. Heiman said she lives across the street and showed the board the location of her house per the aerial photo.

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

Motion BZA - 2002-16 - 7214 Country Lane

Mr. Lamanna made a motion to grant a variance for a front yard structure to maintain a basketball court in the size as shown on the applicant's drawings, approximately 43' x 64' subject to the following conditions:

1. In connection with the use of this basketball court, no buzzers, horns or other similar sounding devices may be employed in connection with its use.
2. It may not be used for any groups of people after 10:00 P.M. at night.
3. The basis for applying restrictions to the use of this structure are that because of its location. The excessive noise that could be created by sounding devices or by late night use could adversely affect the neighboring property owners and it is the board's finding that it is necessary to impose these restrictions in order to prevent that adverse effect on the neighboring property owners and without such restrictions this variance would not be granted.

Based on the following findings of fact:

1. A practical difficulty exists because the particular lot in question here is an irregularly shaped, extremely deep lot, approximately 900' deep and the house is located back from the road in excess of 700' so that the great bulk and proportion of the lot is actually in front

of the house and this particular basketball court is on the order of 400' - 500' beyond the road and well behind the front building line.

2. The basketball court is also a substantial distance from any of the adjacent dwellings which are separated by significant woods between the houses and therefore there is minimal visual impact.
3. Some questions have arisen over the use of the particular property and whether certain activities constitute a commercial use. The applicant has represented that the basketball camps in question are run on an informal basis for only no more than a few weeks a year, and are generally associated with age groups including his own children. Any fees charged are intended only to defray expenses and that this is more in the nature of an organized recreational activity for children than it is any type of intended commercial enterprise and so therefore, based on the applicant's testimony, the board is not going to entertain or rule upon a use variance because based on those representations, it would not appear at this time that such a use would constitute a commercial use within the residential area.

Mr. Takacs seconded the motion.

Vote: Mr. Kolesar, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-17 by John Fischley for property at 7047 South Street

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

The zoning inspector's letter dated April 11, 2002 was read and photos of the site were submitted.

Mr. John Fischley, applicant, testified that he wants to build a 20' x 20' two car garage. He said he owns two lots, the back lot faces on Cedar Street, and he has lived there for 42-1/2 years and had a garage, but tore it down. He continued by saying that he wants to replace the garage and the driveway is already there.

Mr. Lamanna asked if the neighbors have garages.

Mr. Fischley said yes, everybody has garages except him.

Mrs. Stanton asked if the evergreens will be kept.

Mr. Fischley said yes, no question.

The board viewed photos of the site and the variances requested.

Mr. Lamanna asked if the garage will be 12' high.

Mr. Fischley said yes, it will be a one-story, double car garage.

Mr. Lamanna asked what is behind the neighbor's house.

Mr. Fischley said they can answer that question because they are here, they have a yard and a nice lawn.

Mr. Bob Arnold of 7053 South Street showed the board, per the site plan, where his garage is on the other side.

The board viewed aerial photos of the neighbor's property and discussed where their garage is located.

Mr. Arnold showed where the two gardens are back to back.

Mrs. Stanton asked Mr. Fischley if the evergreens were to ever come down in a storm, if they would be re-planted.

Mr. Fischley replied yes but said he is the only one that has trees back there.

Mr. Arnold testified that he has bushes.

Mrs. Stanton said she has a concern about the little bungalow in the back.

The board discussed the setbacks requested.

Mr. Lewis said this seems to be consistent with the neighborhood.

Mr. McIntyre stated that the lot coverage for the garage will be 4.1%.

Mr. Takacs asked if that was figured on one lot or two lots.

Mr. McIntyre said it was figured on both lots, front and back.

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

Motion BZA - 2002-17 - 7047 South Street

Mr. Lamanna made a motion to grant the following variances to allow the applicant to construct a detached, single story, 20' x 20' garage as shown on his submitted plans:

1. A variance from the required side yard setback of 50' to 5' for a variance of 45' on one side and a variance from the required side yard setback of 50' to 35' for a variance of 15' on the other side.

2. A variance from the required rear yard setback of 90' to 52' for a variance of 38'.
3. A variance from the maximum lot coverage, from the current 30% lot coverage to 33% lot coverage for an increase of 3% which is a variance of 23% over the permitted 10%.

Based on the following findings of fact:

1. A practical difficulty exists because this property is located in a R-3A District, but the actual area of the lot is .3 acres.
2. The lot is also very narrow.
3. There is an existing house without any garage and the only feasible location for a garage is behind the house.
4. Once placed behind the house it is a reasonable distance to allow maneuvering into the garage.
5. There is insufficient room to provide the full required setback, the side yard setbacks cannot be provided in the full required 50' setback.
6. With respect to the 5' side yard, because of the location of the existing driveway, which must pass to the one side of the house, which tracks very closely along the property line, the new garage must be maintained close to the property line, otherwise it would be impractical to be able to make the turn into the garage and to be able to exit the garage to return to the street.
7. In addition, considering the impact onto the adjacent neighbor's property, this garage would be well behind the house and deck of the adjacent neighbor and therefore would not adversely impact him.
8. This is also an area of the township of closely spaced houses, many of which also have detached garages that are extremely close to the property line so the requested garage is consistent with the development pattern in this area.

With the following condition:

1. There is an existing buffer of trees on the rear property line which also fronts on Cedar Street and that some kind of shrubbery or tree barrier be maintained to soften the view from the property owners who live on the other side of Cedar Street and look directly into this back yard and will look at the back side of this garage if there is no sort of screening kept in that location.

Mr. Takacs seconded the motion.

Vote: Mr. Kolesar, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-18 by William Longmire for property at 16703 Huron Street

The applicant is requesting area variances for the purpose of maintaining a detached carport. The property is located in a R-3A District.

The zoning inspector's letter dated April 11, 2002 was read and photos of the site were submitted.

Mr. William Longmire, applicant, testified that he built a carport on the side of his garage last year and he did not know he had to have a permit but it caught up to him this year. He said he needed to put

his daughter's car in this winter and used it to cook barbecues because he had a tent but it blew down.

The board viewed photos of the site.

Mr. Longmire said his property is 100' deep and it consists of six lots.

The board viewed the site plan and photos of the existing carport.

Mr. Longmire said he only has a one-car garage.

Mr. Lamanna said it matches up with the house.

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

Motion BZA - 2002-18 - 16703 Huron Street

Mr. Lamanna made a motion to grant the applicant the following variances to maintain a carport that was built along side his garage of approximately 240 sq. ft.:

1. A variance from the required side yard setback of 50' to 25' for a variance of 25'.
2. A variance from the maximum lot coverage of 10% to 19% for a variance of 9%.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant has six pre-existing non-conforming lots of record in the Chagrin Falls Park area.
2. The total width of these lots is 120' and as compared to general properties in this area, this is one of the slightly larger lots.
3. The generally permitted side yard setbacks in this area was 15'. This exceeds that 15' and is also probably in excess of the normally prevalent side yard setbacks in this area and therefore it is consistent with the development pattern in this area and it will not adversely affect any of the neighbors by having such a minimum setback.
4. In addition, due to the small size of this lot, it would be impractical to be able to feasibly use the lot at the 10% lot coverage and this added structure only increases it by a small percentage.
5. The amount of coverage and even at the total coverage resulting, the applicant is below the typical lot coverage that is prevalent in this area so again there would be no adverse impact on the surrounding property owners.
6. The board also notes that this attached garage is no closer to the street and is on the same line as the existing house and attached garage and lines up with those structures and therefore is consistent with the existing structures on the property and with what is prevalent in the neighborhood.

Mr. Takacs seconded the motion.

Vote: Mr. Kolesar, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-19 by Paddle Partners Limited (The Wembley Club) for property at 8345 Woodberry Blvd.

The applicant is requesting a conditional use permit for the purpose of constructing several additions. The property is located in a R-3A District.

The zoning inspector's letter dated April 11, 2002 was read and photos of the site were submitted.

Mr. Philip Artz was present to represent The Wembley Club.

Mr. Artz testified that they want to add onto the facility because they need more space to be competitive and they are adding a cement area to add to the decking area of the pool.

Mr. Lamanna asked if this will be a bump out of the existing structure.

Mr. Artz said yes and the same stone will be used as is on the rest of the building.

Mr. Kolesar asked about the structure in the photo.

Mr. Artz said that is the dome for the swimming pool.

Mr. Takacs asked about the lot coverage.

Mr. McIntyre explained the lot coverage and said they land banked some parking and they do have up to 4% of lot coverage available.

Mr. Lamanna asked about the parking situation.

Mr. Artz said that is not an issue.

Mr. Lamanna asked what the deck will be used for.

Mr. Artz said it will be used for lounge chairs.

Mr. Lamanna asked if the decks will be used in the summer.

Mr. Artz replied yes.

Mr. Lamanna asked how late the pool stays open.

Mr. Artz said the swimming pool is open until 10:00 P.M.

Mr. Lamanna asked if there is music and private parties on the patio.

Mr. Artz said yes, but not that often, there are speakers by the pool with background music.

Mr. Lamanna referred to the conditional use permit and addressed the speakers and said this facility is in the middle of a residential district and it could impact the neighborhood. He said it is not a problem for background music but if it gets cranked up, it could violate the conditional use permit.

Mr. Takacs asked about the construction shown in the photo.

Mr. Artz explained that it is a huge swale and kids play in it, so they are in the process of making it grass.

Mr. Takacs asked if there are two domes or one.

Mr. Artz said there are two domes.

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

Motion BZA 2002-19 - 8345 Woodberry Boulevard

Mr. Lamanna made a motion to grant a conditional use permit for some additions to the existing structures and a variance to the required parking spaces. These requested modifications include an increase in the area of the workout facility as well as some extended deck area around the swimming pool and all of these requested expansions are consistent with the current use of the club and do not materially change that use and therefore the conditional use will be modified to include those uses. The applicant also currently has a variance for nine parking spaces. These modifications will require an existing six parking spaces so the board will also grant a variance to these six parking spaces so the total variance will be for 15 parking spaces.

Based on the following findings of fact:

1. The code creates a large parking requirement for this type of facility and historically it has been shown that the facility requires a substantially smaller number of actual spaces and that there has not been any issue on the availability of spaces therefore this variance should not have any adverse effect on the use of the property.
2. The board also notes that even after adding these additional structures, the property is still well below the permitted lot coverage.
3. The total lot coverage is just shy of 36% when 40% is permitted.
4. The board did call the applicant's attention to restrictions in conditional use permits generally applicable to all such permits with respect to outdoor speakers, and with respect to using same in such a way that the sound or music is likely to adversely impact the neighbors.

Mr. Takacs seconded the motion.

Vote: Mr. Kolesar, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-20 by Bainbridge Associates Ltd. for property at 8550/8564 E. Washington Street

The applicant is requesting a conditional use permit with area variances for the purpose of establishing a shopping center. The property is located in a CB (Convenience Business) District.

The zoning inspector's letter dated April 11, 2002 was read and photos of the site were submitted.

Mr. Cliff Hershman, developer of Market Square Shopping Center and Mr. Tim Olland, Architect were present to represent this application.

Mr. Hershman testified that this will be a continuation of the Market Square Shopping Center and will include the Ethan Allen property and the Cactus Moon property with the same concept.

Mr. Olland explained the site plan and indicated the location of the current Market Square, CVS, Cactus Moon and Ethan Allen building. He said the third parcel to the east that is wooded, wraps around the next parcel to the east that the township owns and will stop the commercial and will not be touched, it will be left wooded for a buffer zone. He continued by saying that they want the tenant space to be seen from the corner with a back drop to the buffer zone.

Mr. Hershman said they will take the side and make it the front.

Mr. Olland explained that they will use the existing curb cuts and the existing coverage and said they would like to keep the architecture the same so people will think it is the same shopping center, just extended.

Mr. Hershman said he will match the same brick color with Market Square and added that CVS was supposed to match also. He stated that this will benefit the township and because of the uniform project it will be more of a town center feel.

Mr. Takacs asked about the proposed tenants.

Mr. Hershman said there will be a day care center but cannot reveal the other tenants because the leases are not signed yet but they will be similar to the wine store, meat store etc. and maybe a coffee shop. He said he wants merchants that will feed off of what he created at Market Square.

The board reviewed the proposed rendering of what the center will look like.

Mr. Olland said the Market Square parcel is 60% green and no variances were asked for.

Mr. Lamanna asked if there was a total of three lots.

Mr. Hershman said yes, five acres.

Mr. Lamanna asked about the parking spaces and how they are calculated.

Mr. Hershman explained that the day care center will have six classrooms (two spaces needed per classroom) with 200 kids so 20 additional spaces will be needed but there might be a problem if one of these areas is a restaurant because it will change the parking requirements.

Mr. Olland said the size of the restaurant determines the number of parking spaces required.

Mr. Kolesar asked if there is a consideration of the peak hours for traffic.

Mr. Hershman said yes and the morning hours will not be a problem because the stores will not be open and we can direct the people on dropping off or picking up their children. He referred to the Bistro restaurant and said the only time the center parking lot has been filled is Thanksgiving weekend and there is less parking spaces there than we propose here.

Mr. Takacs asked who will use the spaces behind the building.

Mr. Olland said the employees will use those spaces.

Mr. Lamanna asked Mr. Hershman if he talked to CVS about sharing a driveway.

Mr. Hershman said they would want his arm and his leg and said they are a very big corporation.

Mr. Olland explained the existing curb cuts and said they are 300' from the corner and they don't have to use the drive at the Cactus Moon.

Mr. Takacs said he would not think the drive at the Cactus Moon would be needed and some shrubs could be planted there.

Mr. Lamanna asked if there is any consideration to tie the access road in the back to come around to the front.

Mr. Olland said, if desirable, they could do that but it is all proposed green space now.

Mr. Lamanna said he does not like the building extended so close to E. Washington Street and the building (Ethan Allen) is too close now and he does not want to see an encroachment in the front yard setback and does not like to see the parking so close to the front and he would rather have the building shift left closer to the rear property line.

Mr. Olland said it is now 25' away.

Mr. Lamanna said if he had Market Square to approve all over again, he would push it back about 70' and he does not want to encourage any encroachment in the front yard setback. He said a rear yard setback variance is far preferable to a front yard setback variance.

Mr. Olland explained that they could push the building to the rear.

Mr. Hershman said the Ethan Allen building is deep.

Mr. Olland asked Mr. Hershman about the southern most tenant.

Mr. Hershman said the tenants want to be there and he hates to give that up and the day care helps the center happen.

Mr. Olland said he would like to face the small stores toward E. Washington Street and he does not want an interior hallway.

The board discussed with the applicant shifting the building to the north.

Mr. Hershman said it is easy to say but that will be taking away his best spot.

Mr. Lamanna said the best spot is encroaching into the right-of-way.

Mr. Lewis asked about the dual entrance to E. Washington Street.

Mr. Olland said they are showing a plan straight across, but it could work staggered and they have room for more parking spaces but do not want to push it.

The board discussed eliminating the curb cut for the Cactus Moon, moving some parking spaces and shifting the building to the north. The board suggested installing a driveway from the rear around the building to Drug Mart.

Mr. Takacs said he is thinking about the fire trucks so they can drive around the buildings in case of an emergency.

Mr. Olland said they could move the retail back from E. Washington Street, carry the drive through to Drug Mart, move the retail to the north property line, eliminate the Cactus Moon curb cut, there would be two lanes out and one lane in the western most Ethan Allen drive, they would gain 10 parking spaces at the Cactus Moon entrance and three spaces in the front.

Mr. Lamanna said it would cut the paving and lot coverage down.

The board suggested tabling this application until next month so the applicant can resubmit a new site plan.

Mr. Lamanna asked if there will be small cafe.

Mr. Hershman said it will be a coffee shop and continued by explaining the parking lot problems at Market Square.

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

Motion BZA 2002-20 - 8550/8564 E. Washington Street

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held May 16, 2002 at the request of the applicant so the applicant can make changes to the proposed plans.

Mr. Takacs seconded the motion.

Vote: Mr. Kolesar, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-21 by Laughing Coyote, Inc. (Scorchers) for property at 8370 E. Washington Street

The applicant is requesting an area variance for the purpose of constructing a courtyard in the front yard. The property is located in a CB District.

The zoning inspector's letter dated April 11, 2002 was read and photos of the site were submitted.

Mr. and Mrs. Bob Gruszka, owners of Scorchers and tenants of the building and Mr. Steve Ciciretto were present to represent this application.

Mr. Ciciretto testified by saying that last summer Bob and Belinda noticed a drop off in their cliental because a lot of people go to restaurants with outdoor seating so we approached Mr. McIntyre about seating in the front with a fence because of the liquor. He said there are no parking issues and we agreed to fill in some parking spaces in the back to keep the green area the same. He said they wanted an additional 28 - 35 seats so Mr. McIntyre issued a permit based on the green space so they could use it from May to October, but we did not construct it. He continued by saying that the photos indicate mounding, the old Marathon gas station across the street and said the first consideration was the placement of the courtyard in the backyard but the owners were concerned about late night noise and how it would affect the nearby residents. He showed the board a floor plan of the building when it was Suzy's restaurant, but the Gruskas fixed up the building, added a party room in the back and made the main entrance off the back part of the lot. He said over the winter a lot of their customers asked if there was going to be a patio,

but instead of the fence they originally requested, they would like to have a board on board fence with landscaping around it so the music and TV would be hidden. He said Mr. McIntyre thought this would be more than an incidental use of the building, but we feel it would be harder to control if the patio were in the back. He said this will be consistent with Dairy Island, the Timberfire and the East Side Grille and would provide more privacy here so maybe someone would entertain with an acoustic guitar. He added by saying that the hardware store has trailer storage in the front, etc. which is not an attractive area and said the board on board fence would sit 6' from the bottom.

Mr. Lamanna asked if the other driveway is ever used.

Mrs. Gruszka testified by saying yes, it is a service driveway for beer and food deliveries.

Mr. Lamanna said he wondered if that could be eliminated.

Mrs. Gruszka said the trucks come in there.

Mr. Lamanna said the trucks could be backed in and by eliminating the eastern drive, there would be more green space, etc.

Mr. Ciciretto said that is a point well taken but he explained the service area, even though he understands the concern regarding the patio's proximity to the street.

Mr. Lamanna said that 19' to the street is pretty darn close from a safety standpoint.

Mrs. Gruszka said the cars would have to plow through some pretty big boulders.

Mr. Kolesar said if the drive is eliminated, they would lose some parking spaces and the dumpster would have to be moved.

Mr. Ciciretto explained that the Gruskas don't actually own the building.

Mrs. Gruszka said they would have to have permission from the landlord and it would be very costly.

Mr. Kolesar asked what changed from when Mr. McIntyre issued the permit.

Mr. Ciciretto explained that originally, the Gruskas requested a 4' wrought iron fence for the front, but a lot of the clients wanted more privacy, but either way, none are a retaining wall from a poor driver swerving off the road.

Mr. Kolesar asked if the traffic on the road won't make it impossible to hear the TV, etc.

Mr. Ciciretto said he has a concern about the neighbors in the back with the noise.

Mr. Lewis said once you have leaves on the trees, it would create more of a buffer.

Mr. Kolesar said if the original plan was acceptable, then Mr. and Mrs. Gruszka might do better to go back to the original plan and there would be no zoning issue.

Mr. Ciciretto said they wanted to know if they can have live music and a television out there.

Mr. Lewis said if the patio is put in the back with a 6' board on board fence and a type of high evergreens around the perimeter, it would greatly shut down the noise from E. Washington Street and the alcohol issue would be controlled.

Mrs. Gruszka explained that the cash register is behind the bar.

Mr. Ciciretto said if there is a party in the party room, it could interfere and there are legitimate concerns about control.

Mr. Lewis referred to the Cactus Moon's outdoor seating area with a 6' - 7' fence.

Mr. Takacs said that Cahill's restaurant, at this location, had an outdoor patio with a high wall and waterfall.

Mrs. Gruszka said they had a fire pit too.

Mr. Takacs replied yes.

Mr. Ciciretto said the permitted use that could be here is beyond that what the board feels would be acceptable.

Mr. Takacs said it could be unsightly with a fence out front.

Mr. Ciciretto said a board on board fence could be a pretty intense use, but there would be landscaping around it.

Mrs. Gruszka said she thought a picket fence would be nice also, with plantings around it.

Mr. McIntyre said from a previous conversation, they would bring out a few tables with umbrellas and take them in again and then in further conversations they indicated a sound stage, board on board fence, etc.

Mr. Ciciretto referred to Dairy Island said it is not the exact same thing but it is not dissimilar from cocktails versus ice cream.

Mr. Takacs referred to Arabica but it is further back from the road.

The board referred to Arabica and the East Side Grille.

Mr. Lamanna said there is a limited amount of setback along E. Washington Street and we don't want to make it worse and added there is already activity behind the building with the parking lot.

Mr. Takacs suggested moving the driveway over to the western line and putting the patio in the back.

Mrs. Gruszka said she has a concern about two cars passing in the driveway.

Mr. Ciciretto said there are cost issues involved.

Mr. Takacs said from his perspective, a patio out front is too close.

Mr. Ciciretto said Dairy Island is grand-fathered.

Mr. Takacs said Dairy Island has been there since the sixties.

Mr. Ciciretto said it seems that from what Mr. McIntyre originally saw it is now different.

Mr. Lamanna said yes, they would be using the front yard setback area and it is much too close to the road which creates safety issues and if it is not fenced in it could become a distraction, and if fenced in it makes the problem even worse with the setback issue and even though a pre-existing use is permitted, it cannot be allowed to be made worse and encroach into the permitted setback.

Mr. Gruszka asked if they install a deck in the back if that would be permitted.

Mr. Takacs said the board would not have a problem with decking in the back.

Mr. Ciciretto said if the deck is off to the side it would not be an issue, but out front it is an issue.

Mr. Gruszka said it should not be a problem for the residents behind because they would not put bands back there.

Mr. Lamanna said the parking lot creates as much noise as people eating on a patio.

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

Motion BZA 2002-21 - 8370 E. Washington Street

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be

held May 16, 2002 at the request of the applicant.

Mr. Takacs seconded the motion.

Vote: Mr. Kolesar, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2002-22 by Bainbridge Land Development, LLC for property at 7185 Aurora Road

The applicant is requesting an area variance for the purpose of installing a wall sign. The property is located in a CR (Commercial Recreation) District.

The zoning inspector's letter dated April 11, 2002 was read and photos of the site were submitted.

Mr. Alan Bellis of Heritage Development Company was present to represent this application.

Mr. Bellis testified that the shopping center is finally underway and this is one of the tenant's space that was unknown called Retail J. He explained that the space was on another block of buildings where Dick's Sporting Goods was and one of the tenants, Michaels, let their lease commitment expire but we had secured Famous Footwear for Retail J and the square footage is the same. He submitted an approval letter from the Bainbridge Township Trustees, dated April 2, 2002 and said the use of materials will be the same, the scale and color etc. all fit within what was shown to the township trustees and said Famous Footwear eliminated their interior letters. He said they will have white letters on a black background which was presented to the township trustees and Famous Footwear has more letters than Family Toy.

Mr. Lamanna said you get no credit for having long names.

Mr. Bellis said that Family Toy has 5' high letters and Famous Footwear will have 4' high letters but they have a longer name so it is in concert with the other variances granted by the board.

Mr. Lamanna said 4' high letters can be read from 2,000' away and said he knows they want a big sign, but with a long name, if reduced 70% in each direction, it would be down to what is permitted and will be able to be read from 1,500' away.

Mr. Bellis said the sign was reduced from a proto-typical elevation.

Mr. Kolesar asked what EIFS stands for.

Mr. Bellis explained that it is an exterior plaster type system, the same as what is behind Kohl's etc.

Mr. Lamanna said he cannot see why they (Famous Footwear) cannot have a sign with 3' letters and illuminated and he does not see any basis for granting a variance because there is no real difficulty here, there is ample visibility.

Mr. Takacs said that Linens N Things and Marshalls have space at the end of the letters and with Famous Footwear, the letters go right to the end.

Mr. Dale Markowitz, Attorney for applicant, testified that you have less space with more letters with Famous Footwear in comparison to Petsmart or Kohl's which are bigger stores.

Mr. Lewis said the margins on the left and right of the letters for the other tenants are consistent with the overall proportion.

Mr. Takacs said the overall size of the letters could be decreased to give some space at the beginning and end of the name.

Mr. Lamanna said it could be decreased 70% in each direction which would cut the size area down to 49% of what it used to be so the sign would be about 100 sq. ft.

Mr. Takacs said the variance request is substantial.

Mr. Bellis said they are better than 1,500' from the road.

Mr. Takacs asked about the size of the other signs.

Mr. Bellis referred to Kohl's and Marshalls as having 6' high letters.

Mr. Lamanna said that they have shorter names and Kohl's is on a huge building.

Mr. Lewis said the store frontage is only 80' and the sign request is for 50'.

Mr. Lamanna said the sign for Famous Footwear could be modified to 3' x 35' or the board could vote on the original request.

Mr. Takacs asked about Radio Shack.

Mr. Bellis said they are a miscellaneous tenant and the letters have to follow the zoning code.

Mr. Lamanna said these signs are for people who are in the parking lot, not to attract people from the street.

Mr. Takacs asked if Home Depot and Michaels are out.

Mr. Bellis said that Michaels is back in and Home Depot is out at this point.

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

Motion BZA 2002-22 - 7185 Aurora Road

Mr. Lamanna made a motion to grant the following variances:

1. With respect to the requested sign variance, the applicant has modified their request for a variance to a signage area of 105 sq. ft. so the board moves to grant that variance of 12.5' to the permitted amount of 92' 6".
2. A variance for the height to conform to the existing height that is permitted in this shopping center and to be consistent with the center.

Based on the following findings of fact:

1. It is a small variance to permit the applicant to have a sign of reasonable proportions that will be visible to users of the shopping center.

Mr. Takacs seconded the motion.

Vote: Mr. Kolesar, aye; Mr. Lamanna, aye; Mr. Lewis, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Since there was no further testimony the public hearing was closed at 10:37 P.M.

Respectfully submitted,

John Kolesar
Michael Lamanna, Chairman
Todd Lewis
Ellen Stanton
Donald Takacs, Vice Chairman

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

Bainbridge Township, Ohio
Board of Zoning Appeals
April 18, 2002

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:37 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. John Kolesar, Mr. Todd Lewis, Mrs. Ellen Stanton and Mr. Donald Takacs.

Minutes

Mr. Lamanna made a motion to approve the minutes of the March 21, 2002 meeting as written.

Mr. Takacs seconded the motion that passed unanimously.

Applications for next meeting

Application 2001-37 by Six Flags Worlds of Adventure for property at 1060 North Aurora Road
(Continuance) - Zebra Exhibit

The applicant is requesting a conditional use permit for the purpose of developing an area to create a uniquely themed section of the park that features exotic land and water animals and attractions that compliment the other "worlds" of rides, water park and marine life. The property is located in a CR (Commercial Recreation) District.

Application 2002-8 by Tanglewood Partners for property at 8505 Tanglewood Square
(Continuance)

The applicant is requesting a conditional use permit for the purpose of establishing a coffee shop and/or ice cream parlor at the Tanglewood Professional Building. The property is located in a CB (Convenience Business District).

Application 2002-15 by Chagrin Falls Park Community Center Corp. for property at 16755 Bedford Street

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.

Application 2002-20 by Bainbridge Associates Ltd. for property at 8550/8564 E. Washington Street (Continuance)

The applicant is requesting a conditional use permit with area variances for the purpose of establishing a shopping center. The property is located in a CB (Convenience Business) District.

Application 2002-21 by Laughing Coyote, Inc. (Scorchers) for property at 8370 E. Washington Street (Continuance)

The applicant is requesting an area variance for the purpose of constructing a courtyard in the front yard. The property is located in a CB District.

Application 2002-23 by Lelia Huckabee for property at 16716 Geneva Street

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

Application 2002-24 by James Zella for Jamestowne Builders, Inc. for property at 18801 Brewster Road

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

Application 2002-25 by McMillon Construction for Darryl and Demateress Richards for property at 16714 Lorain Street

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

Application 2002-26 by Ivan Jozef Inc. for property at 16381 Chillicothe Road

The applicant is requesting a use variance for the purpose of establishing a health and beauty spa. The property is located in a R-5A District.

Application 2002-27 by Colonial Auto Sales & Service, Inc. for property at 8228 E. Washington Street

The applicant is requesting a conditional use permit for the purpose of the reconfiguration of a used car lot. The property is located in a CB (Convenience Business) District.

Application 2002-28 by Frank Remington Robinson for property at 7170 Chagrin Road

The applicant is requesting a substitution of a non-conforming, pre-existing use for the purpose of substituting a non-conforming printing company for a non-conforming professional office building. The property is located in a R-3A District.

The Bainbridge Township Board of Zoning Appeals set the public hearing on the above applications for May 16, 2002, 2002 at 7:30 P.M. at the Bainbridge Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 11:00 P.M.

Respectfully submitted,

John Kolesar
Michael Lamanna, Chairman
Todd Lewis
Ellen Stanton
Donald Takacs, Vice Chairman

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

