

Bainbridge Township, Ohio  
Board of Zoning Appeals  
April 15, 2004

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:39 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs. The following matters were then heard:

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

Application 2003-56 by Heritage Development Company for property at PP# 02-420598 Aurora Road - Continuance

The applicant is requesting a conditional use permit with area variances for the purpose of building a commercial retail center. The property is located in a CR District.

Motion BZA 2003-56 – Heritage Development Company – PP#02-420598

Mr. Lamanna made a motion to continue this application at the next regularly scheduled meeting to be held May 20, 2004 at the request of the applicant.

Mr. Lewis seconded the motion.

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

Application 2004-2 by Thomas C. Bauer for property at 17350 Tall Tree Trail - Continuance

The applicant is requesting an area variance for the purpose of maintaining a shed. The property is located in a R-3A District.

Mr. Lamanna stated that this application is a continuance from the February meeting.

Mr. Bauer asked if any of the board members had come out to look at the shed.

Mrs. Stanton said that she did come out but stayed at the roadside.

Mr. Bauer testified that he brought his neighbor with him, Mr. Mark Nasca and stated that the letters from the neighbors were never discussed or cross-examined as told they would be and added that Mrs. Stanton had said at the last meeting that if the variance was granted, other people could use it as a precedent. He said he had a slew of decisions that did not set a precedent and to determine it is a precedent they have to meet the same conditions that he did.

Mr. Lamanna said it is not legally a precedent but if the board grants a variance such as this and another person wants the same thing, it puts the board in a situation.

Mr. Bauer said the 50' open space behind his property is owned by Canyon Lakes.

Mr. Takacs said that is not part of your property.

Mr. Bauer said that Canyon Lakes wrote a letter and did not have a problem with it.

Mr. Takacs said a hardship is not shown and the shed should be placed where it was indicated on the site plan submitted for the zoning certificate that was issued.

Mr. Bauer said he would like to show the board, but no one has come out to look at it and if he wanted to pull the wool over the board's eyes he would have but he made a mistake and he is looking for the right rectification.

Mr. Nasca testified that the shed sits in a dense clearing of trees and most of the neighbors would not want to see the shed. He added that there is a 50' strip of land that will never be developed by Canyon Lakes and he does not have a problem with where the shed sits and when a house is built behind them, they will have 50' between the property line and the shed and there is no encroachment to the neighbor to the west.

Mr. Takacs said the board gave an offer at the last meeting to move the shed 10' off the property line but Mr. Bauer chose not to do that and he said he cannot move the shed because of the trees.

Mr. Nasca said the board should look at Mr. Bauer's estimate to move it.

Mr. Takacs said it could be jacked up and put on a roller.

Mr. Nasca said that is not the issue, and he does not think Mr. Bauer said that he cannot move it.

Mr. Bauer said he is not sure who benefits here to move it.

Mr. Nasca said they are trying to accommodate all parties involved.

Mr. Lewis said that Mr. Bauer's backyard is 100' between the house and the rear property stake and the shed would be 50' from the property line based on the original site plan from the application and it would be in the middle of the backyard. He said Mr. Bauer is talking about the impact it may have on him, but there was a decision that the shed be put in the backyard and the original zoning permit shows the shed in that location.

Mr. Nasca said he would not have been happy with it in that location and Mr. Bauer had measured what he thought was 50' from the rear lot line.

Mr. Lewis said the trees and their location were marked on the site plan and the shed was shown in front of the trees.

Mr. Bauer said he miss-measured from the pin and where he thought it would be, but he made a mistake.

Mr. Lamanna said the board is willing to accept that Mr. Bauer made a mistake.

Mr. Lewis said the board is looking for a remedy.

Mr. Lamanna said the board has to deal with the situation before it.

Mr. Lewis said he sees the shed as a portable structure and that it can be relocated to an amiable place and the township had already approved a location and added that the drop-off is minimal and no de-forestation will have to be done.

Mr. Bauer said it would alter the character of the neighborhood.

Mr. Lewis told Mr. Bauer that he should have taken that into consideration before putting it up.

Mr. Bauer said he wants to try to avoid the tractor route and he still wants someone from the board to come out and take a look at it.

Mr. Olivier said the shed could also be screened and there should be an attempt to get it away from 1' off the line, but Mr. Bauer seems to be stuck on its here or nowhere.

Mr. Bauer said he offered to screen it in the back but the board said no.

Mr. Lewis said there is not enough room to plant trees behind it.

Mr. Bauer said that Laura Cramer of Canyon Lakes told him to go ahead and plant trees.

Mr. Olivier asked if there are any deed restrictions in Canyon Lakes regarding sheds.

Mr. Bauer said no, only taking out trees.

Mr. Oliver asked if out-buildings are permitted.

Mr. Bauer said out-buildings and gazebos are permitted.

The board discussed, per the photos submitted, another location for the shed.

Mr. Lewis asked which side Mr. Nasca lives on.

Mr. Nasca said he lives on the left side, per the photo.

The board discussed the proposal of relocating the shed per the photos and reviewed the GIS map and previous minutes regarding this application.

Mr. Bauer said he would like someone from the board to come out and mark the location so he won't move it to the wrong place.

Mr. Nasca asked what the concept is.

Mr. Lamanna said the concept is so the board can try to get the shed at least 15' off the rear property line.

Mr. Lewis said the board would like to pull it forward because of the alcove and trees and is looking for a compromise to satisfy the applicant and the township and the board is trying to be understanding about this unfortunate situation and trying to work around it.

Mr. Nasca said he appreciates that.

Mr. Takacs said it looks like the distance is 10' – 12' from the front of the shed to the grass.

Mr. Bauer said it is about 10' and he did get one quote to move it that was absurd.

Mr. Lewis told Mr. Bauer that he might want to stake it out and photograph the location so the board can get a finite idea of where it will be and added that there is nothing to prevent the installation of additional screening.

Mr. Nasca said he had one other theory and that is if Mr. Bauer were to get an easement from Canyon Lakes on that buffer, such as a 99 year lease, if it would end up changing his lot line in the board's perspective and if it would change this at all.

Mr. Lamanna said he thinks Mr. Bauer would have to have ownership and is not sure why that buffer of land is there and how it ties into the original settlement of Canyon Lakes.

Mr. Nasca said, obviously, he could check with the Canyon Lakes attorney.

Mr. Lamanna said it may be more trouble than moving it 10' – 12' and suggested tabling this application until the next meeting.

Mr. Bauer was in agreement to table it until the next meeting.

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

Motion – BZA 2004-2 - 17350 Tall Tree Trail

Mr. Lamanna made a motion to table this application until the next regularly scheduled meeting to be held May 20, 2004.

Mr. Takacs seconded the motion.

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

Application 2004-4 by Heritage Development Company for Circuit City for property at northeast section of development between Aurora Road (S.R. 43) and Lake Street - Continuance

The applicant is requesting area variances for the purpose of installing signage for Circuit City. The property is located in a CR District.

Mr. Lamanna stated that this is a continuance and the applicant has agreed to modify the sign according to the discussions held at the last meeting.

Mr. McIntyre submitted the changes to the board.

The board reviewed the changes submitted by the applicant.

Mr. McIntyre explained that there will be two signs, one on the front and one on the side.

The board discussed the new calculations and the calculations presented at the last meeting.

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

Motion BZA 2004-4 – Signage for Circuit City at northeast section of development between Aurora Road (S.R. 43) and Lake Street

Mr. Lamanna made a motion to grant the following variances to permit the applicant to install the signs for Circuit City as shown on the attachments to the applicant's letter dated April 1, 2004 which will be an exhibit to this application:

1. The applicant may have 72 inch high letters for a variance of 26.9 inches.
2. The applicant may also have two rows of letters.
3. The applicant is also permitted a second sign with an overall additional signage of 87.6 sq. ft. beyond that normally permitted.
4. The board will also permit the sign to be at 34' 11" for a variance of 19' 11".
5. In addition the board will also permit a directional information sign to the rear of the building of 20 sq. ft.

Based on the following findings of fact:

1. It is consistent with the signage in the Heritage Development.
2. The above grade level is consistent with the overall building height and overall building structure.
3. The additional signage area is granted because these signs are in the shape of a circle and if considering just the actual signage area as a circle when calculating the signage area for the signs being requested, it is within the overall square footage of the signage permitted for this building.
4. The second sign is being permitted because of the location of the building and it is a necessity to have visibility from two sides (one side being Route 43).

Mr. Takacs seconded the motion.

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

Application 2004-6 by Tanglewood Associates, an Ohio General Partnership dba Tanglewood Country Club for property at 8745 Tanglewood Trail

The applicant is requesting a renewal of a conditional use permit for the purpose of maintaining a country club. The property is located in a R-3A District.

The zoning inspector's letter dated April 8, 2004 was read and photos of the site were submitted.

Mr. Lamanna stated that this is a periodic renewal of a conditional use permit.

Mr. Mitchell Yelsky, Counsel for the applicant and Mr. Dennis Romanini, applicant were present to represent this application.

Mr. Yelsky testified that they are here to renew the conditional use permit for the golf course and that he has been in touch with Mr. McIntyre a number of times.

The board reviewed the application.

Mr. Lamanna asked if there were any changes.

Mr. Yelsky said at this time there are no changes from the last time the conditional use permit was issued and they are here to get it renewed for another five years.

Mr. Lewis asked if the permit was originally issued based on a private country club.

Mr. Yelsky said the permit merely states that it was issued for a private golf club and the uses have not changed here since 1966.

Mr. Lewis said he has looked at a recent advertisement for the country club.

Mr. Romanini testified that it is a year old.

Mr. Lewis asked if the country club will be opened to the general public.

Mr. Romanini replied no, the memberships are annual or monthly.

Mr. Lewis asked if someone can become a member for a day.

Mr. Yelsky said there are only annual memberships, but they can pay on a monthly basis.

Mr. Lamanna asked if there are any other issues.

Mr. McIntyre said there have been no complaints and the issue the last time was regarding the parking on the lawn by the clubhouse and added that yesterday he took a trip around the back of the maintenance area and trees were planted but they did not survive. He suggested an earthen mound with pine trees as screening. He said the other issue is next to the driveway, the fence needs to be repaired and there are broken down cars and a truck in the maintenance area that should be removed. He added that there have been complaints about the dust.

Mr. Yelsky said the maintenance shed was there before the condos, we were there first, and added that the homeowners can screen as well.

Mr. Romanini said the condos are 75' from the maintenance shed.

Mr. Lamanna said that with a conditional use permit, the area should be maintained in a way to not adversely affect the area.

Mr. McIntyre said again that the trees did not survive.

Mr. Romanini said if the guy wants to split the cost of the trees with me he can, but this is the last time and if they die, he won't do it again.

Mr. Lamanna asked if there was a complaint.

Mr. McIntyre replied no.

Mr. Yelsky said there was no complaint.

Mr. Scott Brockman, of Tanglewood Subdivision, testified that there have been complaints about the maintenance area.

Mr. Romanini said it is a maintenance yard which is kept impeccably clean and they will get rid of the dump trucks and added that the homeowners throw their brush on his property and he has to clean it up. He said he will call the salvage company to come and get the other two trucks and it is pretty well screened.

Mr. Olivier asked if the logs will get hauled away.

Mr. Romanini said yes.

Mr. Lamanna said the board does not want abandoned vehicles left there and they should be removed.

Mr. Yelsky said they will be removed in 60 – 90 days.

Mr. Brockman asked the board that if this becomes a public course, are there any remedies if it occurs.

Mr. Lamanna said if they violate the conditional use permit, it will be revoked.

Mr. Brockman asked when the ads were run a year ago, what the remedy was.

Mr. Romanini asked Mr. Brockman why he would care.

Mr. Brockman said because he lives in the development.

Mr. Lamanna said if that becomes an issue some day, the board will deal with it and issue a revocation of the conditional use permit.

Mr. Brockman said since Mr. Romanini said it will not become a public course, can the residents take his word for it.

Mr. Romanini said he does not have plans but if he ever does, he will come back to the board.

Mr. Yelsky said they would like to keep it a viable golf course and the community is planned around the golf course and he wished the community would support the golf course.

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

Motion BZA 2004-6 – 8745 Tanglewood Trail (Tanglewood Country Club)

Mr. Lamanna made a motion to renew the existing conditional use permit for the Tanglewood Country Club operating as a private club.

With the following additional condition:

1. Any equipment that is kept in the maintenance area outside of the building, if it becomes unserviceable or is no longer being put into regular use and is ready for salvage, will be removed within 90 days after it reaches such a state.

Mr. Takacs seconded the motion.

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

Application 2004-7 by Arnold Leeb for property at 17787 Chillicothe Road

The applicant is requesting a use variance and area variances for the purpose of constructing an animal hospital. The property is located in a R-3A District.

Mr. Lamanna made a motion to postpone this application until the next regularly scheduled meeting to be held May 20, 2004 at the request of the applicant.

Mr. Takacs seconded the motion.

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

Application 2004-8 by Cicogna Electric & Sign Co. (George Dragon) for Cingular Wireless for property at 7197 N. Aurora Road

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

The zoning inspector's letter dated April 8, 2004 was read and photos of the site were submitted.

Mr. George Dragon of Cicogna Electric and Sign Company and Mr. Dave Fine of Cingular Wireless were present to represent this application.

Mr. Dragon testified that there are two sides to the building and they did get the permit for the shorter elevation on Aurora Road. He said they want the set of letters without "Wireless" on the sign.

Mr. McIntyre said that they are dropping the “Wireless” off the sign.

Mr. Dragon said they removed “Wireless” and will just have the jacks logo with Cingular only.

Mr. Lewis asked if they are going to modify the existing one to the new format.

Mr. Dragon replied yes.

The board reviewed the variance request.

Mr. Dragon said the sign there now, on the Aurora Road side, is 21.9 sq. ft.

Mr. McIntyre said that each proposed sign will be 29 sq. ft.

The board reviewed the proposed calculations.

Mr. Takacs asked if the signs will be lighted.

Mr. Dragon said yes, they are individual channel letters.

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

Motion BZA 2004-8 – 7197 N. Aurora Road (Cingular Wireless)

Mr. Lamanna made a motion to grant the applicant a variance for the purposes of installing two signs. Each of those signs will be 29 sq. ft. giving a variance of 13.15 sq. ft. of the total signage permitted under the provisions of the zoning ordinance.

Based on the following of fact:

1. The applicant has a two sided building, therefore it has two frontages, therefore it is reasonable to have two signs.
2. The total signage only slightly exceeds the total permitted signage.
3. The signs are very reasonable in size for the location of the building and would not exceed the amount of signage that would be permitted if the longer side of the building was used to calculate the allowable sign area.

Mr. Takacs seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:51 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Olivier  
Ellen Stanton  
Donald Takacs

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

Date: May 20, 2004

Bainbridge Township, Ohio  
Board of Zoning Appeals  
April 15, 2004

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:51 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs.

Minutes

Mr. Takacs made a motion to adopt the minutes of the March 18, 2004 meeting as written.

Mrs. Stanton seconded the motion.

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

Applications for next meeting

Application 2003-56 by Heritage Development Company for property at PP# 02-420598 Aurora Road - Continuance

The applicant is requesting a conditional use permit with area variances for the purpose of building a commercial retail center. The property is located in a CR District.

Application 2004-2 by Thomas C. Bauer for property at 17350 Tall Tree Trail - Continuance

The applicant is requesting an area variance for the purpose of maintaining a shed. The property is located in a R-3A District.

Application 2004-7 by Arnold Leeb for property at 17787 Chillicothe Road - Continuance

The applicant is requesting a use variance and area variances for the purpose of constructing an animal hospital. The property is located in a R-3A District.

Application 2004-9 by Bernarda and Anton Veselic for property at 8102 Bainbridge Road

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

Application 2004-10 by Brett Weber for property at 8140 Bainbridge Road

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 2004-11 by McMillon Construction Inc. for Melanie Stubbs for property at 16755 Bedford Street

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

Application 2004-12 by Bistro 306, Inc. for property at 16765 Chillicothe Road

The applicant is requesting a use variance, an area variance and a conditional use permit for the purpose of adding an outdoor dining area for the Fire Fly Restaurant. The property is located in a R-3A District.

Application 2004-13 by Boyer Signs & Graphics, Inc. for Ruby Tuesday Restaurant for property at 7135 Aurora Road

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

Correspondence

1. Letter from Robert and Susan Dippel, dated April 5, 2004. RE: Federated Church Family Life Center.

Since there was no further business, the meeting was adjourned at 9:05 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Olivier  
Ellen Stanton  
Donald Takacs

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

Date: May 20, 2004