

Bainbridge Township, Ohio
Board of Zoning Appeals
April 16, 2009

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:11 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals. He then explained the hearing process and swore in all persons who intended to testify.

The following matters were then heard:

Application 2009-7 by Edward Svoboda for property at 17437 Traymore Drive

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

The zoning inspector's letter dated April 16, 2009 was read and photos of the property were submitted.

Mr. and Mrs. Ed Svoboda were present to represent this application.

Mr. Svoboda testified that he wants to build a garage and didn't realize he was going over the lot coverage when the plan was drawn up and submitted a site plan to the board.

Mr. Lamanna noted that the applicant has given the board a drawing which will be entered as part of the record.

Mr. Svoboda said the colored in areas are the new areas that were added and according to his numbers he needs 2.75% to get this done and he asked for 3.5% but the numbers were a little rough.

Mr. Murphy asked if there is a dirt drive out to Chillicothe and if the property is across the street from the Barnard's and if there was an old driveway by Twilea right at the top of the hill on Rt. 306 just north of the Lynch property.

Mr. Svoboda said yes.

Mr. Olivier asked Mr. Joyce if he has seen the revised lot coverage.

Mr. Michael Joyce, Zoning Inspector testified that it is above 10% and he has not seen the one he has just submitted.

The board reviewed the total lot coverage.

Mr. Svoboda said he is going to remove part of the drive.

Mr. Murphy asked which part of which drive.

Mr. Svoboda said the existing and he explained per the GIS photo where the drive will be removed and added that he does not need to remove it but for the lot coverage he can take some of it out. He said he is going to have to lower it to the new addition anyway because it drops down.

Ms. Sass asked Mr. Svoboda what he is going to do with the area when he removes the asphalt.

Mr. Svoboda said it will just be gravel. He showed the board the original drawing and said it was taken off of something and it was way out of proportion so that is why he drew that up and it is a little more realistic.

Mr. Murphy asked Mr. Svoboda if he will still keep a gravel drive to the pole barn.

Mr. Svoboda said yes it is basically storage for yard tools and junk and the garage will be for the two vehicles they have. He referred to the site plan and explained the area that is all drive and said the addition is going over part of the driveway, he will remove part of the driveway, and added that this garage will be lower than the other one is, it is going to drop down.

Mr. Lamanna asked if the drive will be added in front of the garage in this area and referred to the site plan.

Mr. Svoboda said yes and showed the board the back of the existing house on the site plan and explained the paved and gravel parts of the driveway.

Mr. Lamanna said you are going to add 940 sq. ft. and take out 445 sq. ft.

Mr. Svoboda said right and the added part will be about 30' x 30' and showed the area that will stay.

Mr. Lamanna said the net amount will be about 500 sq. ft. of driveway.

Mr. Svoboda showed the board per the site plan the corner of the house and which section that is going over the old driveway and the shrubs that will be removed.

Mr. Murphy asked where the garage door is.

Mr. Svoboda showed where it is per the site plan.

The board discussed the proposed lot coverage and which part is the driveway.

Mr. Svoboda said he is not counting the gravel driveway.

Ms. Sass said that gravel driveways are considered lot coverage.

Mr. Svoboda said the old driveway is from 1960 and it is dirt back there.

The board reviewed the property and old driveway on the GIS photo.

Mr. Svoboda explained the location of the old driveway.

The board discussed that gravel driveways are considered structures.

Mr. Lewis asked if there is still a culvert at Rt. 306.

Mr. Svoboda said no.

Mr. Murphy said he has seen cars for sale parked there so he thought the driveway was usable.

Mr. Svoboda said that was the previous owner but you can't drive through there.

Ms. Sass asked what is going to be stored in the garage.

Mr. Svoboda said cars and landscape equipment.

Ms. Sass said as long as it is landscape equipment for your home and not a business.

Mr. Svoboda said no, he is a drywaller by trade.

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

Motion BZA 2009-7 – 17437 Traymore Drive

Mr. Lamanna made a motion to grant the applicant's request for the following variance to add a new garage.

1. A variance to add 974 sq. ft. with a net addition to the paved area of 500 sq. ft. which results in a total increase in lot coverage of approximately 2.25% raising the total lot coverage to 15.75% from the maximum permitted lot coverage of 10% for a variance of 5.75%.

Motion BZA 2009-7 – 17437 Traymore Drive - Continued

Based on the following findings of fact:

1. A practical difficulty exists because this is a pre-existing lot of record.
2. The total area is only 1.5 acres.
3. The total coverage would be less of 75% of what would be otherwise permitted if this was a three acre lot.
4. Given the nature and scope of the buildings and lot coverage that the applicant is proposing it is consistent with the development in the neighborhood and will not cause any adverse impact on any of the adjoining properties.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Application 2009-8 by Steve Renaker, Receiver Tanglewood for property at 8745 Tanglewood Trail

The applicant is requesting a modification to a conditional use permit for the purpose of “golf club allowing non-member play per pending Order of Court and HOA approval”. The property is located in a R-3A District.

The zoning inspector’s letter dated April 16, 2009 was read and photos of the property were submitted.

Mr. Bruce Nesdore, Attorney for the applicant and Mr. Steve Renaker, Attorney and Receiver for Tanglewood Golf Club were present to represent this application.

Mr. Nesdore testified that Tanglewood Golf Club was put into receivership by the Geauga County Court back a couple of years ago and Mr. Renaker was appointed as Receiver and is acting still in that capacity. He said the reason they are before this board is the existing zoning specifies that the use be a private golf club and that is presenting a problem because of a number of things. He said first of all they have a strong interest in maintaining the facility and it is currently being maintained but as we speak there are no members, all of the old Tanglewood members have gone away, it is a member-less private club and in order for them to maintain the facility and operate the facility they need to generate some revenue by allowing play but if they have no members and the restrictions are it must be a private golf club they have this problem that they have to open it up to the public or non-members because there are no members. He said they have engaged the homeowners of the Tanglewood Lake Association and they are in agreement with this and there is also a pending motion before the court, the court also actually has to approve this but with the existing zoning being what it was we wanted to make this application a request to get this board’s permission as well.

Mr. Nesdore continued by saying he wanted to point out a couple of things and that is any approval from this board is subject to the court order and this is a very temporary thing and if it is granted it would allow non-member play only until a purchaser is found and the property is closed or at the end of this fall season and hopefully they will find someone to buy this property by then. He said Mr. Renaker is here to answer any questions and he knows there are some homeowner's association representatives here and he will entertain any questions and concerns.

Mr. Lamanna asked the applicants to tell the board their plans for their operation.

Mr. Steve Renaker testified that last year when they had it open they charged a \$100.00 fee to become a member and then they paid each time they played and typically it is usually only a cart fee, they maintained a fee of \$100.00 because it was so open-ended and shortly after they were under contract for somebody to purchase the club and what they did not want to do was tell a story, they wanted to be able to be honest with people and tell them where the club is going right now, they do not have the course in contract and it was a decision a year ago, actually October 2007, whether to open the golf course in 2008 and there was a lot of discussion whether to do it or just to let it sit and hopefully try to find a buyer. He said it was his opinion that the course should try to be put back as much as possible into good condition because the golf industry is very difficult right now and it is extremely challenging so what they were hoping was just to be able to open the golf course and get more people utilizing this facility and not losing a whole lot more money than what has already been put into it so that is pretty much the plan. He said to open it to the public for anybody to play is not the theme, it is just to give people access to this golf course.

Mr. Lamanna asked what the plans are for advertising.

Mr. Renaker said depending on what happens they would like to get the word out that people can actually play on the golf course but they don't have a big marketing plan, they don't have a big budget.

Mr. Lamanna asked from the marketing standpoint if it would be marketed locally in the immediate area as opposed to buying advertisements for the entire greater Cleveland area.

Mr. Renaker said he thinks that they would identify a couple of local newspapers to put it in and depending on the support of this, yes he would like to put it in Cleveland, he would like to get more people to see the facility and utilizing it, that would be the goal.

Mr. Lamanna asked if they decided on how much they plan to charge per round.

Mr. Renaker said the fees are generally related to value, when they opened last year the course wasn't in the best condition so they charged a lesser fee after they paid the \$100.00 but they feel it is in much better condition this year. He said they were thinking somewhere in the neighborhood of \$30.00 to \$40.00 right out of the gate, \$30.00 on weekdays and \$40.00 on weekends and then hopefully they are trying to sell the property and until then if they move into summer they could potentially be charging more or want to charge more.

Mr. Olivier asked what differentiates the 2008 season from the 2009 season to charging a fee or not charging a fee.

Mr. Renaker said the difference was in 2007 when the course closed there were still 140 – 150 members and they had been paying a monthly fee for members for a year and when they opened up in 2008 there was no plan, they did not know who the owner was going to be and when somebody calls and wants to make a tee time, the reputation of Tanglewood was that it was private so pretty much they did not have a story to tell and they don't right now because a year ago they were in contract, in June, so they could tell people that they thought the club was going to close to a new owner and a plan was put in place but right now it is hard to tell.

Mr. Lewis asked Mr. Renaker to tell him about the membership fees, not the greens fees for this year and what the plan is or the differentiation would be with a membership fee to a Tanglewood resident versus a membership fee for a non-resident, the general public and asked what the duration of this membership embraces. He asked if it would be a calendar year, a golf season for 2009, so when snow hits the ground the membership is expired, how does this work.

Mr. Renaker said right now they can't promise anything because they are trying to sell the facility so to promise a membership and if any of you decide to buy the club and you made an offer and it was accepted and it closed within 45 days, you may have a different plan so they don't want to put a plan in place.

Mr. Lewis asked if there will be no membership fees, just open course play and greens fees.

Mr. Renaker replied yes.

Mr. Lewis asked if they are looking at a differentiation on the rate scale between a Tanglewood resident and a non-resident.

Mr. Renaker said initially he hadn't, he was looking at this as a temporary situation but if they are going to be involved in June, July and August, potentially they could do something like that sure.

Mr. Lewis said his thoughts were you are asking for additional consideration for folks that are not part of Tanglewood right now to satisfy your economic well being so he is just trying to find out the viewpoint here towards the existing Tanglewood resident and a non-resident while you pursue your economic model.

Mr. Renaker said one of the things considered too was the bank's decision to open the course. He said last year they supported the decision and they ended up putting more money into it and it takes a lot of money so they are facing the same issue, do we open this golf course.

Mr. Lewis asked if there is an existing bid on this.

Mr. Renaker said no.

Ms. Sass said this is not completely accurate because the summary the board has says that it is reported to be very close within 90 days of new ownership and asked if that is accurate or not accurate.

Mr. Nesdore said they have no idea and right now they are in contract with no one and there is a pending motion before the court looking to put the place up for a public auction and possibly the likely time-frame would be mid-June and does know they have at least three interested parties that are in various stages of expressing interest in purchasing it, they have no purchase contract inked and it could go to auction and that is part of their problem, they are not sure how long or who may buy it and there is so much uncertainty and we don't want to have to sell memberships, that is what they are trying to be excused from and regarding the residents of Tanglewood, he does not think they are looking to differentiate them in any fashion and he is not aware they ever necessarily had privileges at the club unless they were members but he may be mistaken, he is not good on the history there. He said it would be open to everyone and he does not know if they would be treating them, Tanglewood residents, in any lesser fashion.

Mr. Lewis asked if they plan to operate the clubhouse as well with food service and other services.

Mr. Renaker said the plan was just to have hot dogs and snacks and probably not to the level they did last year.

Ms. Sass said it was talked about opening this up until a new owner is found or through the end of this golf season.

Mr. Nesdore replied yes.

Ms. Sass said which she would assume that if that is something this board is inclined to do, it would obviously be stated and stipulated not only here but also for the court order that would have to be adjusted.

Mr. Nesdaore replied yes.

Ms. Sass asked if there is a plan for the future after that if no owner is found, would this still continue.

Mr. Renaker said he thinks as a Receiver, he is representing all of the creditors and first of all they have the State of Ohio who was in line first, then the taxes and then the bank so they are trying to make decisions as the Receiver in the best interests of all of these creditors. He said the last point he wanted to make and the driving force here is to represent the creditors so they don't have a plan because the intent was to have the ownership transferred by now.

Mr. Olivier said so it could auction as early as June although ultimately if you get into negotiations with the buyer, you would probably put off that auction and that is why you are asking to extend it through the end of the summer in the event you have a party you negotiate through the summer with.

Mr. Nesdaore said correct and even if it would go to auction, they are looking at mid to late June, there would be a period of time, the winning bidder would have to close on the property and it would probably be another 45 days and that would put it pretty much to the end of the golf season and that is their best guess but they are really hoping someone here is really interested and comes up with a purchase contract by tomorrow, it would be nice, and they could withdraw this request to the board and move on but they just don't know.

Mr. Lewis asked if anyone has entered a formal offer, he does not mean a contract, has anybody tendered an offer on it on the table today.

Mr. Nesdaore said no written offer but they were in contract last year on and off through a month or so ago, but right now they have no written pending offer.

Mr. Lewis asked if they have a verbal offer.

Mr. Nesdaore said they have a lot of verbal people who are interested and some of them are here.

Mr. Lewis said he is trying to find out if there is a solid offer on the table regardless of the written and legalese if a party has made a finite offer.

Mr. Renaker said he had a finite offer about six weeks ago that was very, very low.

Mr. Lewis asked if it was not acceptable.

Mr. Renaker replied no.

Mr. Lewis asked how many golfers can be put out on a typical day from 6:00 in the morning until 6:00 at night.

Mr. Renaker said they had eight last Friday.

Ms. Sass asked if there is a manager.

Mr. Renaker said he has a gentleman that worked here last year and some people who worked for Mr. Dennis Romanini in the past have helped. He added that it is a beautiful golf course and he understands the reason for the membership but we are in different times right now and he is in the golf business, he loves the golf course, he loves Tanglewood but they have to get an owner in there.

Mr. Lewis asked if this is the first time in the history of the course that a Tanglewood resident would be able to just walk on with greens fees and use and enjoy the course without having to pony up a membership fee to boot.

Mr. Nesdore said they wouldn't have to be Tanglewood residents.

Mr. Lewis said it would be interesting to see how Tanglewood residents would use the course if they didn't have to buy a membership and would there be a higher fill rate of the tee time slots by residents.

Mr. Renaker said a lot of it is based on price, if they charged \$10.00 to play Tanglewood they would probably have 200 players. He said they don't have a big crew to take care of the golf course so it is not like they can take on 200 players, they will have one person working in the pro shop and that is why they did not go with a food situation but he is hoping to get on weekends 100 players on Saturday and 100 on Sunday and in full season on most courses there would be 200, back eight to ten years ago the way it used to be, but it has changed, it has really changed.

Mr. Lewis said he was just wondering what the fill rate of the slots by Tanglewood residents would be if there was no membership fee and straight greens fees.

Mr. Renaker said typically about 30% of homeowners join the club where they live, either social or golf and most people buy on golf courses because they love the view.

Mr. J. Jared Flynn, Attorney from Thrasher, Dinsmore & Dolan testified that he represents the Tanglewood Homeowner's Association. He said Mr. Nesdore and Mr. Renaker both came to the homeowner's association some time ago and they said there is a lot of uncertainty and they need the association's help. He said they asked the association to temporarily relax their deed restrictions and also appear here tonight.

Mr. Flynn continued by saying in the opinion of the homeowner's association, the association wants the course to be well maintained and to thrive and the association ultimately wants an owner that supports and the community to ultimately support the owner so the key is play equals revenue equals upkeep and in this uncertain time we felt that it is very important that there is some play there because there are no guarantees as Mr. Renaker indicated with respect to Huntington Bank or any upkeep of the course so that was first and foremost the association's concerns. He said the second one was the association wanted to make sure they were not waiving any rights to the private play in their deed restrictions and ultimately for the purposes of the conditional use permit so they drafted and negotiated with Mr. Nesdore, the attorney for Huntington, language that is going to go into the court order which we feel protects our rights that focuses on other potential members to play because the practical reality is you need to have people come in the door to get any membership so we do this as a membership drive, it is temporary in nature and ultimately we hope that it leads to more play and an interested buyer and ultimately back to where it was several years ago. He said the position of the homeowner's association is we support the application as long as it is consistent with the court order which they have asked for and we have negotiated certain language into this proposed court order that we feel protects the homeowners.

Mr. Marc Strauss of 2433 Michelle Court, Willoughby Hills, Ohio 44094 testified that he is standing here this evening because he thinks it is important as the people who have come this evening from the neighborhood need to know what is going on with the golf course. He said for the board to understand, he is the individual who had it under contract. He said he greatly respects Mr. Renaker and Mr. Nesdore and he has heard what they have to say but he wants to be clear and the residents are clear. He said they keep on saying this property is no longer in contract but technically the legal terminology is the property is under contract and that is his position, he missed the closing date but the property is under contract. He said they have filed a motion with the court which is going to be heard on May 4th to be released from the contract with Tanglewood National Golf Club LLC. He said he wants people here to understand that he stands here before them and is still committed to being the owner of this course and operate it and bring it back to the stature it once had. He said we all know what is going on with the economy in the United States and the banking industry and the last thing the bank wants to lend on today is a golf course. He said they are not lending on apartment projects, they are not lending on malls or lifestyle centers and there is no lending going on right now in commercial real estate. He said you all have probably heard that and know it, the economic stimulus packages passed by Congress aren't making it down to golf course operator/owners, home buyers and commercial real estate operators. He said there is a hearing on May 4^h and the only reason why he is standing before this board is because he wanted to be clear that ultimately if he is the owner, he will be standing here in the same position as Mr. Nesdore and Mr. Renaker are today because private country clubs are no longer making it, not only in northeast Ohio but all over the country. He said Acacia is for sale, Aurora County Club was sold, they tried to sell that to the city and the city turned it down, it may or may not open, there is a plan by some operators there. He said fifty members left Barrington last month, Shaker Country Club, one of the most prestigious clubs in northeast Ohio is down from 502 members to 173 members.

Mr. Strauss said he will stand before the board and say regardless of public play or private play he promises that Tanglewood will command respect of those people who come to play there and those people that do play there. He said they will wear proper golf attire, they will wear golf shoes, there will be no like you see at some of the Metro Parks with people bringing their own beer, it will be an upscale playing course if he is ultimately the owner. He said the board asked about whether or not there has been a verbal offer, yes, he will stand here before the homeowners and tell them that on March 6, 2009 he made a 1.2 million dollar cash offer that the bank rejected. He said this is the bank doing it and he plans on still trying to close this before the public auction and he will get it at the public auction if they don't allow him to purchase it under a negotiated principal he has with the bank, but he stands here before the homeowners saying he could have easily walked away many times over, he has been to San Diego, California he has been to Dallas, Texas; Atlanta, Georgia; Boca Roton, Florida and New Jersey begging golf course financing companies to lend him the money for this. He said Textron Financial, a large defense contractor financing company in Atlanta, Georgia lends on the average of a billion dollars a year.

Mr. Lamanna asked Mr. Strauss to try to be germane because the board is not here to discuss hypotheticals; the board is here to deal with this application.

Mr. Strauss said he just wants the board and the homeowners to be clear that it would be his position that this, and the board obviously has the ultimate decision, but he wants the homeowners to know if he is the ultimate owner of this, there is a requirement that after the title transfer within fifteen days the new owner has to apply for a conditional use permit so regardless of who owns it, the conditional use permit that is in existence today and he understands that it expires on title transfer so he is telling the board and the homeowners here that he will be back.

Mr. Lamanna said somebody will be back but it is speculative at this point as to who is going to be back.

Mr. Strauss said he just wanted the homeowners to understand that it is not out of contract, there has been no termination letter sent by the bank, the Receiver or anyone of that nature, we missed the closing date that is pure and simple, that is all there is and on May 4th there is going to be a hearing in court to determine whether or not the Receiver has been released from that contract so he wanted to be very clear before the homeowners and he has not left them and he has not abandoned this opportunity and he is still pursuing it.

Mr. Ralph Wonnell of 8795 Tanglewood Trail asked in terms of the damage that has been done currently around the clubhouse and around the A-frame, who is responsible for that and who is getting that cleaned up. He said all of the trees have been taken down and if you walk around that area right now it looks pretty deploring.

Mr. Flynn responded by saying that was one of the conditions in the court order, it was asked that they take care of both the fence around the pool to make sure it was taken care of and also the brush that has been left and the pump house that has been left and that was one of the conditions the association negotiated into the proposed court order from the homeowner's standpoint.

Mr. Strauss said he hired a company to take down the trees, they did not return, they breached the contract and he paid a considerable amount of money and a lot of the trees that were on the back nine are gone but it will all be addressed, it will not be left like that, the fence is up around the pool, the pump house has been resolved and everything has been cleaned up except for the stumps.

Mr. Greg Wasinski of 17651 Merry Oaks Trail testified that Mr. Renaker is a colleague, a competitor in the golf industry but a very professional individual in what he has tried to do with Tanglewood but with that said he is opposed to this being a complete public facility at this point because as a homeowner there is not a specific business plan in place that deals with additional traffic inside the neighborhood for those of us who have children and the numbers in which the rounds are stated at and the number of rounds done inside a year currently at golf courses in northeast Ohio don't really add up with the amount of rounds that need to be done with what is being charged and the attire has not been addressed specifically so without those different kinds of things and he wants to thank Mr. Strauss for his speech. He said with regards to what the zoning board is considering he would ask that there would be a specific business plan in place and presented to the homeowners and presented to those in the community that specifically outlines how the golf course will be operated and provisions in which the golf course conditional use permit would be changed and he would ask that the conditional use permit is not transferred or the auspice of any deal that is done with the owner that it would remain a public golf facility and also for those of us who have easements along the golf course that have granted to the property owners when is the verbiage or what is the condition on which those easements were granted and written in and how would they be used for future use so as a homeowner he is opposed to going public without having that information provided and asked that it remain private based on the history of the course.

Mr. Flynn said he would like to respond to that from the homeowner's standpoint and as you can see in Clause F there are conditions about the attire and keeping it consistent with the play from last year so we feel that the homeowner's association has addressed that.

Mr. Wonnell said at some point we have to have 15 to 20 thousand rounds for them to be able to make money and sustain the revenue coming through other than what they would need to maintain the green space which is an option for them and they could continue to maintain the green space for a lesser dollar amount and not have additional traffic and additional play and have some privacy inside our community.

Mr. Lewis said this is a self terminating conditional use permit.

Mr. Andrew Tisler of 17355 Long Meadow Trail testified that as a property owner that backs up on the golf course itself he can say that his property probably is more valuable when we have an operating golf club than if we have a desert or a jungle behind his home like we had when the property was un-maintained. He said consequently while he doesn't really like the idea of a purely public course he will accept it because it maintains the property value of his home.

Mr. Lamanna said in the interest of full disclosure, he is a Tanglewood resident, he does not live on the golf course, he lives on North Brook Trail so he doesn't actually live close to the golf course. He said there is certainly an interest in being able to keep this property as a viable golf course and the real interest in this is and in looking back over the history of the course and the various rules and restrictions, in the private club nature, is that it recognizes the fact that this course is smack dab in the middle of a residential district and you can't get there without going down the residential streets, the play is all through fairways that are pretty much lined on at least one side if not both sides by residences in fairly close proximity to that and therefore you have to maintain a certain level of quality and nature of play as to not create an undue burden on the residences and people living there. He said in quickly looking through what the association has been talking about, that is what they are trying to do here, and again one thing the board may want to look at here is the definitive number of what kind of greens fees there are because at a certain level you attract a certain kind of clientele with a certain greens fee and if you are charging \$10 or \$15 every hacker in the world coming in spraying golf balls all over the place would be a problem for people who live along the course. He said the applicant has given the board the numbers and he thinks the numbers are reasonable but the board would like to see something definite.

Mr. Renaker said he can promise the board that the quality of play has nothing to do with the greens fees.

Mr. Lamanna said the board's sentiment is with reasonable controls and we don't want a situation where there is a huge amount of traffic coming in although the physical nature of a golf course is you can only put so many people off per hour and it is somewhat self-limiting.

Mr. Olivier said that Mr. Lamanna has a point because you get to a dollar level so he would like to see some minimum or commitment on a minimum fee.

Mr. Lamanna said the numbers that were quoted certainly seem reasonable.

Mr. Olivier said with a \$15.00 fee you would get a lot more traffic but maybe not the right kind of traffic.

Mr. Kevin Smith of 17646 Merry Oaks Trail asked Mr. Renaker how many rounds were played last year all season.

Mr. Renaker said about 6,500.

Mr. Smith asked by opening it up for public play can you ballpark guesstimate how many rounds you would now bring in.

Mr. Renaker said the hard thing with any of these questions is it is all to value and if you ask any golf course they don't have one fee all year they have a spring fee if the course responds well and it is in really good shape. He said a typical private club in northeast Ohio, if it is a flourishing club somewhere between 13,000 – 16,000 rounds per year and public golf courses do significantly more than private but he is not looking at it as having it all year but if we did have it all year and we could do 13,000 – 14,000 rounds, and he is sure Tanglewood played that many in the past, and he would be happy with 13,000 – 14,000 but the economy is just not there and it would be amazing if there was a trail of cars coming down Tanglewood Drive but he just does not see it.

Mr. Smith said then you need to double what you did last year.

Mr. Renaker said he hoped it would if he had it for the whole year because it wouldn't make any sense to open it if he didn't.

Mr. Lewis asked if that would have been 6,500 rounds from Tanglewood members who also paid a membership fee so he was thinking if the membership fee was dropped for this season as part of this offering it should prompt more substantial response from Tanglewood residents.

Mr. Renaker said he hopes so and if they like it and when the new owner comes in he is sure there will be a membership of some kind.

Mr. Claude Gotthardt of 17367 Sugar Hill Trail testified that he would support a temporary open membership as an advertisement for Tanglewood and he agrees with this gentleman here along with several others because it values his home. He said he does not know which non-owner gave another non-owner the right to cut down all the trees and foliage and he would like something going forward to say that that stops until somebody owns this place, they don't have the right to do that.

Mr. Lamanna said the Receiver has the authority to be acting as the owner and he is the guy who has the authority to do that.

Mr. Nesdore said some of the brush issues have been addressed with the homeowner's association and it is been incorporated into what the court hopefully will be approving here shortly so he thinks they have the debris that has been left from the tree cutting under control.

Mr. Richard Papaleo of 17352 Sugar Hill Trail testified that what Mr. Gotthardt is referring to is, and he does not know who allowed it but, somebody went in and cut a bunch of trees down and you can't replace a 100 year old tree. He said he doesn't know how many trees are gone and asked if anybody knows. He said he does not think the bank ordered that, he does not know who ordered it or who allowed it but if somebody buys the course, has the money and it is in their name and if they want to do something fine but right now it seems like stuff is going on there that nobody seems to have control over and as homeowners they would like to have some control over that. He referred to the memberships and said we are all for it if the price is going to be \$40.00 but if he wants to run a \$10.00 special you could get all kinds of crazy people on the golf course. He said we ought to have some control over what is going on there and right now our property values are devalued because what sits across the street from his house looks like a trailer park and he wants to know who is going to fix it and who is going to replace the trees.

Mr. Lamanna said one property owner doesn't have any claim on trees on another property and if somebody decides they want to cut down all of the trees on their property, it is their prerogative.

Mr. Papaleo asked who had the right to do it.

Mr. Lamanna said it doesn't matter who had the right to do it, it is up to the property owner to decide if he wants to take action and the neighbors don't have any standing to complain about trees being cut down on somebody else's property.

Mr. Papaleo said there is no property owner, the place is in receivership.

Mr. Lamanna said the Receiver is the property owner.

Mr. Renaker said he respects what is being said and understands but they felt as though Mr. Marc Strauss was going to close on this and all indications were that at the time and he cut down some trees, there were a number of dead trees and if you want to blame anybody blame him (Mr. Renaker) because this was his deal. He said he thought the trees were going to be taken down on the golf course first, he was going to look at them but when he got there the company doing it took them all out around 18 and he understands what the people are saying, it was a shock to him too but ultimately it was his responsibility.

Mr. Papaleo said that is why he was asking because somebody is in authority and in control and somebody can't go and cut down trees they have no business doing and if Mr. Renaker authorized it, he is okay with that.

Mr. Richard Dragonette of 8753 Holly Springs Trail asked Mr. Renaker if he is granted a conditional use permit when he would be ready to operate.

Mr. Renaker said tomorrow.

Mr. Dragonette asked Mr. Strauss if he prevails in closing his deal would it be a private club or a public club.

Mr. Strauss said if the board doesn't mind him explaining what his plan was and it will take thirty seconds. He said their plan is that anybody who lives 35 miles or more from the club can have unlimited play but the fee for that was going to be \$30.00 more than the regular posted green fee so his green fee rates were going to be \$37.50 during the week and \$49.50 on the weekends so if somebody lived 35 miles or more, they could play unlimited but it would be \$67.50 during the week and would be \$79.50 on the weekends. He said if you live under 35 miles, it is almost like a kick the tires test drive, you could play three times a season for \$79.00. He said if you decide you want to join one of our membership packages then you would get a 50% credit so if you play three times for \$240.00 and then we would give you 50% of that \$240.00 so the fees would be higher than the normal posted green fees and there would be a limit on how many times people could play.

Mr. Lamanna said whoever buys it will have to come back to this board.

Mr. Lewis said the conditional use permit follows the owner and when there is a change of ownership, the permit is dead and the new owner needs to come in to the board.

Mr. Lamanna said whatever the board grants is going to terminate on the transfer of ownership and whoever comes in here as the new owner with respect to whatever the board does on this, they are going to be coming back not really to transfer, they will be coming back at ground zero, starting all over again with no prior right or prior advantage from whatever action this board takes because the board is viewing this as a temporary situation to deal with a special period that exists right now that when a permanent owner comes in it is no longer going to exist and then the board will look at that on its own merits at that time based on looking at something that is going to go on in the future for a long period of time. He said this is one season at the maximum remedy so that is the way this will happen, this is going to be temporary and it is going to be only for the Receiver and the new person coming in is really not going to have the option to continue this, they will have to start from the beginning and figure out how to approach this.

Mr. Strauss said while there are no guarantees nobody is going to buy this if this Board of Zoning Appeals won't issue a conditional use permit to operate a golf course at Tanglewood.

Mr. Lamanna said normally when somebody comes in and asks for a transfer of a conditional use permit it is fairly perfunctory. He said the board looks at whether or not the conditions are being satisfied that were imposed and whether or not anything has changed since it was originally issued that would say it should not be issued or issued with additional conditions.

Mr. Strauss said the zoning code has also changed since 1966 because it does provide for public and private golf courses in residential districts.

Mr. Lamanna said yes but this is different because of the nature of how this whole thing was done, because it was done as a PUD it makes it somewhat of a different animal and all he is saying is that the board is looking at this as a special situation for a limited period of time so whoever comes in later is going to have to come in and say what their long term plan is and why it is appropriate to do whatever that person wants to do and they are looking at a narrow period of time so the board does not have to figure out and the new owner will not have to worry about what is happening next year or the year after that because the board is not addressing those issues here because that is a different set of circumstances. He said he wants everybody to understand the parameters the board is dealing with.

Mrs. Barbara Cohen of 8725 Lake Forest Trail testified that she lives on the lake and across of what is now the 17th green. She said she is looking at the map and she is glad that it is shown on the map. She continued by saying that the property that touches the lake does not belong to the country club, it belongs to Tanglewood Lake Homeowner's Association and whoever has been taking care of the golf course has cut down all of the weeds and exposed the embankment to the lake and at the same time over toward the mouth of McFarland's Creek there is an abandoned pump house in terrible, terrible condition. She said if she had her house look like that she would be cited. She said it is full of weeds and trash and that also belongs to the Tanglewood Lake Homeowner's Association and the only reason that the pump house is on our property is that the association granted it many, many years ago so that the golf course could get water from the lake and put plumbing from the golf course property to the lake through that pump house, but that entire perimeter belongs to the Tanglewood Homeowner's Association. She said part of it is being maintained and part of it isn't being maintained and the pump house is abandoned and a shack and falling apart. She said as she understands, the other pump house at the other end of the lake has a door missing and an open well that drops down at least 30' and a resident voiced a complaint about it at a township meeting and the comment that was made was it was vandalized but it is a very bad way to maintain something. She said she sees it across the lake and that is another issue and what she is concerned about is that she has in her hands a piece of paper that was sent out from Michael Eisner and Bill Oler on March 31st and asked how many people have received this talking about that we should have a petition for the homeowners to vote with some names of some people who were thinking about buying the property. She said she and her husband are shareholders in this corporation and she demands copies of the minutes.

Mr. Lamanna told Mrs. Cohen if she has an issue with the homeowner's association to please take it up with them because it is not germane to this application and this is not the venue for that.

Mr. Flynn said the homeowner's association has meetings the first Monday of every month.

Mrs. Cohen said we have no sidewalks, everybody has to walk in the street, the children have bicycles and when the club was in full operation, there were trucks and all of the things shooting up and down the street to service the country club and her concern is if we allow this to be public it will increase the traffic, what are we doing to give the homeowners the pleasure of living there with that country club and are we protecting the kids.

Mr. Lamanna said as far as the streets go, the streets are publicly dedicated streets, we cannot control the use of the street, they are public streets. He said he thinks the applicant said they will be maintaining a limited snack bar situation and the prior club used to maintain a full restaurant doing catering events and everything else so they had substantially greater traffic, provision trucks etc. but the way he is going to be operating this for this season, that is not really going to be an issue and added that the board has attempted to address some of the maintenance issues.

Mr. Flynn said the language in the order and the issues that came to their attention that we felt the Receiver could handle and some of these could be Tanglewood Lake Association issues, but the issues that were the Receiver's, we felt we took care of with the proposed order and to his knowledge everything has been taken care of or is being taken care of.

Mr. Lamanna said the board can address general considerations but for the board to start trying to address extremely specific maintenance requirements, it becomes very unmanageable for this board to try to get into that type of situation. He said he understands they are an eyesore but the best the board can do is say they have to properly maintain their property but beyond that there is limited authority to control those types of things and the board does not have unlimited authority to impose whatever we might like on somebody.

Mr. Bill Spatz of 8818 Tanglewood Trail testified that he has lived on Tanglewood Trail since 1990 and his comment is germane to the issue before the board. He said prior to receivership he did not notice any significant abuse or inconvenience on Tanglewood Trail when the club was operating as a so-called full scale country club. He said he walked the course before Huntington recognized what Romanini had done to it and he has played several times since the bank has taken care of it and he compliments them for what they have done. He said his own criticism would be that they didn't go after the guy a few years before they did but he thinks it is extremely important that a conditional use be allowed at a reasonable rate and he would expect that the price competition in this area and the number of golf courses in this area would limit any prospective use by riff-raff if the fees were kept anywhere near reasonable which he thinks is what the proposal is and therefore along with a number of his neighbors, he supports the request for the conditional use.

Mr. Scott Rico of 17349 Sugar Hill Trail testified that he wants to go back to the tree issue and said it is something that Mr. Lamanna had mentioned that property owners can't control what another property owner does with their trees. He said in the conditional use certificate, he believes it is either the second to last or the last item, it talks about screening and most of the trees that were cut down between his property which abuts the A-frame provided the screening for many of the properties between residential use and what amounts to he thinks and he is not a lawyer but it amounts to a commercial use. He said that screening is gone now and he didn't buy his lot to look at the building just falling down and if he can't control or he can't control what another does, does the CUP control what another does.

Ms. Sass said yes, if there is a violation of a condition then the approach from the township's perspective is to report the violation to the zoning inspector and request an inspection and that matter can then be brought in front of the Board of Zoning Appeals for consideration of revocation of the allowed conditional use permit.

Mr. Rico said when the board was talking about the zoning for the conditional use permit expiring and added that he is concerned at this point now, but when the conditional use permit expires in mid-month or at the end of this month or at the end of whenever we are talking about or if it is a transfer and it expires.

Ms. Sass said it is not that it expires it has to actually be transferred to the new owner.

Mr. Rico said then it will be transferred in kind so that the way that it is written now is the way it will be transferred or are we going to make up a new one.

Mr. Lamanna said it depends on what the person wants. He said they can ask for the existing one to be transferred or modified and the board can modify based on whatever is presented and if there are changed circumstances from when it was originally granted and that is part of the idea of the conditional use.

Mr. Rico said you have to go back a long way to find it and actually Mr. Joyce helped him find it and he believes the section he is referring to is paragraph J of the 1996 or 1968 resolution.

Mr. Lamanna said that is a different circumstance if there is a situation where there has been a condition imposed by the board that says you have to maintain some type of landscape barrier, that is a different circumstance.

Mr. Rico said and that doesn't start until someone files a complaint.

Mr. Lamanna said right and with all of the things he would have to look exactly at what that condition was and the board has to look at what it would reasonably take to satisfy that condition for example the board always has screening requirements when people put up accessory structures. He explained the screening requirements and the board would have to look at that specific situation. He said if we have an issue of a particular location where screening is required and that disappeared then that needs to be dealt with and that is probably something better off dealt with on a longer term basis because of this interim period and if it is not an immediate hazard or major eyesore he really doesn't want to get into it for this period of time for something that may only last three or four months. He said when we get down to somebody going to operate it for the next 10 – 20 years then the board will need to revisit some of those things to see what makes sense. He said he does not know what impact those conditions have 30 – 40 years later so we need to look at it if it goes through again.

Mr. Ed Pressman of 8628 Tanglewood Trail testified that time is of the essence that the conditional use permit gets approved as soon as possible because grass is starting to grow and the quality of the course and the greens and everything else is going to start to go down pretty quickly.

Mr. Lamanna said the board is going to act on this tonight.

Mr. Dennis Romanini testified that his address is 8745 Tanglewood Trail which is the country club. He said he has owned Tanglewood for the past 30 years and he always did whatever the community asked him to do. He said he allowed the lake association to make it easy to drill water wells on his property at no cost to them whatsoever and he paid the largest water bill of anybody in the community. He said he paid for his own water and he always worked with the community and he allowed them to drill a sewer line across his property to start the Tanglewood Trail road project in 2001 and he was promised they would never shut the road, the contractor came in and they allowed him to shut the road for a better part of three years and his weddings and parties dropped off 70% and destroyed his business. He said he came to the board several years ago because he needed to do public play because he was losing ¼ million dollars a year and he came to this board to do public play and residents came here and acted like public play was criminal activity. He said your board sent me a letter and he was losing 1/4 million dollars a year and pleaded with them to let him do some public play and the board said they would revoke his conditional use permit and take away his business and stop it from being a golf course. He said he continued to lose ¼ million dollars a year until Steve came in and the bank came, he was destroyed and he marketed his club for five years nationally and he could not sell it as anything but a private club and this is wrong and he is telling the board if they do this, they will never have a private club, you make somebody do what he had to do, you make them charge dues of \$300, \$400 or \$500 a month and that is a private club.

Mr. Romanini continued by saying a private club is not charging \$30 more for a round of golf, a private club is not charging \$100 for a membership, a legitimate private club pays dues and pays initiation fees and that is what you made him do and if the board does this, you will not have anything ever again but a public golf course and it is not right, he assures you, they practically told the board they will come back and want to be a public golf course, they wouldn't allow him to do it and he gave his heart and soul for 30 years and he asking the board to not allow anybody else to do it.

Mr. Nesdore said the unfortunate fact is that we have no members and if we cannot generate some amount of revenue to maybe help offset the costs of maintaining it, there may be a legitimate decision to mothball the place and not maintain it and we don't want that and he does not think too many people here want that, it is sort of the economic reality of the situation and that is why they are here asking for a little bit of help.

Mr. Romanini told Mr. Nesdore that he left him with 200 and some members and he doesn't know what he did with them but they did not get the service they needed.

Mr. Lamanna asked if anyone else had any additional comments.

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

The board made the following additional comments.

Mr. Olivier said he would like to see where applicable some of these conditions that are in the motion for the court incorporated into the board's granting it, if we ultimately do grant the temporary public play.

Mr. Renaker said he does not want to suggest anything the board does not want to do but he would have no problem with making occur what is approved by the court and you could do it by reference making it an easy way to accomplish that.

The board discussed putting a limit on the fees and the applicant would have to come before the board if they change.

Mr. Olivier asked the applicants if they were comfortable at a \$30 floor of weekday play and a \$40 floor for weekend play.

Mr. Renaker said yes and wishes to make that part of the order and would be comfortable if it never went below that.

Mr. Murphy asked if the board has a history of Mr. Romanini's letters.

Ms. Sass said they would have been from the zoning inspector.

Mr. Olivier said he (Mr. Romanini) attempted public play without going through due process and coming before this board, he opened for public play without making a formal application.

Mr. Flynn said the homeowners feel this is very temporary and the language in this proposed order is temporary and if a new owner comes in the homeowners may have a different stance but we understand the situation the Receiver is in and we want that grass mowed.

Mr. Lewis said he had a question on Item #6 and wants to understand the language and referred to the phrase in the middle of paragraph 6 – "...are hereby temporarily relaxed for the summer of 2009 through the date of closing to allow ..." He asked about the reference of the date of closing and if they are talking about the date of closing of the course because of the end of the season or are they talking about the date of the closing of the sale?

Mr. Flynn said of the sale.

Mr. Lewis said you are probably going to want to pursue clarification on that.

Mr. Flynn said sure.

Mr. Lewis said the date of closing leaves it generically way too open ended for him.

Mr. Lamanna said whatever action the board provides is going to be on the earlier of the date of closing because by statute it would have to be transferred anyway so it would end on the earliest date of closing or at the end of the fall season of 2009.

Ms. Sass asked if they had a definition section earlier on.

Mr. Nesdore replied no.

Mr. Lewis said the homeowner's association needs to be attentive to their common grounds and maintain them, manage them and also be sure that your residents rather it is the golf course or property owner is not infringing into your common property and that is the homeowner's association's responsibility, to police, manage, modify and maintain everything having to do with it.

Mr. Lamanna said he sees three provisions here. 1. The \$30 to \$40 fee. 2. They maintain appropriate rules of conduct as would be expected at a private course. 3. In terms of the number of rounds that are played that it is also kept commensurate with what would take place at a private course so when you are out there you are not trying to schedule people every five minutes and have a huge number of people flowing through and he does not think that is practical from a staffing standpoint and he would feel better if that was part of it and he sees those as three conditions.

Mr. Lamanna continued by saying the lake association has dealt with the maintenance issues in their agreement and he does not think this board needs to deal with that nor do we want to get down to the level of detail that they have but the concerns that have been raised, they have included in their agreement with the Receiver so those have been adequately addressed. He said all of the other conditions would remain in effect and this one modification will last either until a transaction closes and of course is sold or until the end of the 2009 golf season and also with the understanding that nothing in this temporary permission for public play in any way indicates that it will be allowed for any future owner and that would have to be considered totally and completely a new with all of the circumstances that arises solely by this temporary circumstance.

Mr. Lewis said his observation is this is keeping the course operational and in some reasonable condition is really important to the property owners in Tanglewood, particularly those that are adjacent to the course so this temporary measure while it benefits the course and the economic model it is a stop-gap measure to make the course whole and profitable and keep the property values up.

Mr. Olivier referred to future owners and said certainly when there is a new plan and a new site plan and driveways and buildings are all laid out and look with proper buffering and screening for a commercial use abutting residential, for this short period, let's not deal with planting new trees because who knows where the new owner is going to want to put buildings, structures, driveways etc.

Mr. Murphy said in relation to Mrs. Cohen's statements in the back, this is going to be part of the court proceedings and the Receiver is supposed to secure and maintain security of the pump house and clubhouse as part of the contract obligations so if the pump house is still missing a door, he is sure it will be taken care of and he would think the Receiver should probably be a little more considerate of other people's feelings about trees and shrubbery.

There was no further discussion.

Motion BZA 2009-8 - 8745 Tanglewood Trail

Mr. Lamanna made a motion to temporarily modify the conditional use permit to permit the operation of the Tanglewood Golf Course located at 8745 Tanglewood Trail to permit public play on that golf course and not restrict it only to operation as a private golf club.

Based on the following conditions:

1. All of the other conditions applicable will remain unchanged and the following additional conditions will be required that the greens fees shall not be less than \$30.00 on the weekdays or \$40.00 on the weekends.
2. The operator will establish rules of conduct that are similar to those that would pertain to the private club and that in terms of the number of rounds played that it will be commensurate with what would be expected at a private club.
3. This modification to the conditional use will remain in effect until the earlier to occur of the closing of the sale of the course or the reasonable end of the 2009 golf season in Northeast Ohio.
4. The board also notes that this modification is solely limited to the current special conditions existing at the golf course and will terminate upon closing and the new owner will have no right or benefit accruing to them because of the grant of this modification.
5. The board also notes that the only reason that it is making this modification is because of the special circumstances that exist with the course at this time since it is under receivership and in the process of being sold and that this is necessary in order to maintain appropriate maintenance of the course and to assure an orderly transition to a new owner.
6. Nothing in this decision could be construed to indicate that any future requests to operate as other than a private club will be granted and that any such application will be decided solely upon the merits of that application without viewing this decision as any precedence in that case.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Since there was no further testimony, the public hearing was closed at 9:00 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: May 21, 2009

AUDIO RECORDING ON FILE

BZA PH 4/16/2009

-25-

Bainbridge Township, Ohio
Board of Zoning Appeals
April 16, 2009

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:00 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the March 19, 2009 meeting as written.

Ms. Sass seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Applications for May 21, 2009

Application 2009-5 by Jozef Kofol (Northwoods Grille) for property at 16381 Chillicothe Road - Continuance

The applicant is requesting an expansion of a non-conforming use by the addition of two lighted arch structures. The property is located in a R-5A District.

Application 2009-9 by Brian W. or Jennifer L. Meyer for property at 18093 Millstone Drive

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

Application 2009-10 by Timothy & Rhonda Savage – Savage Homes, Inc. for property at 17197 East View Drive

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.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for May 21, 2009 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 9:25 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: May 21, 2009