

Bainbridge Township, Ohio  
Board of Zoning Appeals  
April 17, 2014

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey; Mr. Todd Lewis, Vice Chairman; Mr. Mark Murphy and Mr. Mark Olivier. Ms. Karen Endres, Zoning Inspector was present.

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

Application 2013-9 by Naraish K. Gautam for property at 17257 Catsden Road -  
Continuance

The applicant is requesting a variance for the purpose of correcting the acreage of a previously approved lot split. The property is located in a R-5A District.

Mr. Lamanna stated that the lot split was previously addressed and there is some variance in the actual acreage amount.

Mr. Joe Gutoskey recused himself from this application.

Mr. Joseph Shanfeld, Mr. Gautam's father-in-law was present to represent this application.

Mr. Lamanna asked what the final survey number is.

Ms. Karen Endres, Zoning Inspector testified that there is a .27 acre difference between what Mr. Gautam had calculated in the site plan he submitted. She said this is the site plan he submitted that detailed the 1.64 acres and 8.3 acres when the board approved the motion in acreage specific. She explained when the actual survey was done and the plat map was created the smaller lot was .27 acres smaller and the big lot was .27 acres bigger.

Mr. Lamanna said other than that, that was the only change.

Ms. Endres said that was the only change and she didn't feel that she could just approve it, it was too big of an error.

Mr. Lamanna asked if there is anybody else present to speak on this application.

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

Motion BZA 2013-9 - 17257 Catsden Road

Mr. Lamanna made a motion to amend the board's previous motion granting this application to reflect that when the actual field work was done on this split that .27 acres needs to be moved from Parcel A to Parcel B.

Based on the following findings of fact:

1. Because of the nature of this lot and the existing items on it, it is not easy to reconfigure it.
2. With respect to the basis for the board's decision this small change in the acreage of the lots is not material to that decision and will not affect that decision.

Mr. Lewis seconded the motion.

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

Application 2014-10 by New Creation Builders for Ed Lennon for property at 19025 Brewster Road - Continuance

The applicant is requesting area variance(s) for the purpose of constructing an accessory building. *The applicant is requesting a modification to a condition of a previously approved variance.* The property is located in a R-3A District.

Mr. Lamanna stated that the board has a modification to a previously approved variance.

Ms. Diane Bija of New Creation Builders and Mr. Ed Lennon, homeowner were present to represent this application.

Ms. Bija testified that they are looking for a side setback, and you are requesting 50' and the drive is 29.5' and in order for him to get his vehicle in properly, to move it in further, closer to the house would be totally defeating its purpose. She said also there was a lean-to that was originally on and she doesn't know if it is heard tonight.

Ms. Endres, Zoning Inspector testified that she doesn't think there needs to be a hearing on that. She said the plans were modified somewhat and she believes that it is a little smaller now.

Ms. Bija said yes 8' x 15' smaller and they are not doing the lean-to.

Mr. Murphy said as he remembers the lean-to was not actually on the square footage of the first request anyway.

Ms. Bija said they were talking about an affidavit to combine those two properties the last time but now that won't be the issue, the offset is the only issue they need to address.

Mr. Murphy asked Ms. Endres if she had a site plan on that.

Ms. Endres said it has already been approved, they are not changing it but what is changing has to do with the method of combing the lots. She said the price for a lot consolidation would be roughly two-thousand dollars so they are asking for an affidavit of fact to be recorded at the recorder's office.

Mr. Lewis said which then left the board with revisiting the lot coverage on the primary lot which with a consolidation would have left it about 9.6% but without it would have put it over 10% and our limit is 10%.

Mr. Lamanna said they are still going to effectively consolidate the lots.

Ms. Endres said right.

Ms. Bija said she thinks that would just be a matter of an affidavit.

Mr. Lamanna said he thinks it should be a restrictive covenant, not an affidavit of fact.

Mr. Ed Lennon testified that he is the owner.

Mr. Murphy said that little piece of property we are talking about that we are not now officially adding to yours (Mr. Lennon) could later be added to your nephew's property next door, he is just asking. He asked if Mr. Lennon has any sort of relationship with the property next door.

Mr. Lennon said he has no relationship with the properties next door.

Mr. Gutoskey said the property is attached to the rear of the lot and they were short on acreage because they included the right-of-way so they had to add 30' to the rear of the lot so that they would meet zoning.

Mr. Murphy asked Mr. Lennon if there is never going to be a neighbor in the front or behind him.

Mr. Lennon said no.

Mr. Lamanna asked how soon the applicant is looking to get this done because he really would like to look at the format of our affidavit of fact.

Ms. Bija asked if they will have to wait another month.

Mr. Lamanna said no it wouldn't be another month, he just wants to review the form we are using before we go ahead but it might take him a week to do that.

Ms. Bija said she believes what is holding them up is the off-set to the side property.

Mr. Lewis said the board already approved that.

Mr. Lamanna said you can't get your zoning certificate until these other things are done. He said the board will approve this modification with some kind of a filing in lieu of an actual lot consolidation.

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

Motion BZA 2014-10 – 19025 Brewster Road

Mr. Lamanna made a motion to modify the previously granted variance to allow for the lots to be effectively joined via an affidavit of fact or restrictive covenant form that the board will provide to the applicant in lieu of doing the formal lot merger.

Mr. Lewis seconded the motion.

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

Application 2014-11 by OME Inc./Anthony Koziar for property at 7307 Aurora Road

The applicant is requesting a substitution of a non-conforming use for the purpose of operating a computer service business. The property is located in a CR District.

Mr. Anthony Koziar, Mr. Sid Koziar and Mr. David Lynch, Attorney were present to represent this application.

Mr. Lamanna asked if this is in a CR District.

Mr. Anthony Koziar testified by saying yes.

Mr. Lamanna asked what is the business we are talking about doing here.

Mr. David Lynch introduced Mr. Sid Koziar and Mr. Anthony Koziar and said they are father and son and testified that they are the largest computer operated machine color injector device repair organization in the world right here in your local community. He said when you go into Lowes and you decide on the color chart that you want such as Magic Fuchsia, if that were the case or you wanted Orange Tango it has got to be mixed somehow and there is a computer controlled injection device that injects tints into the paint and mixes it up exactly and this organization services those machines and they break down all of the time. He said that essentially they are dispatching people from all over the country, all fifty states, including Alaska and Hawaii and people answer the phones and say no problem we will send a guy right out to take care of it. He said the reason they have so much space however is that in addition to being a call center all of the parts that all of the repair people need, they have to know what part they need, and they send those parts out to the location. He said there are actually only three repairman that work out of this location so essentially this location is a place that acts as a call center and a place where the parts are sent out and no paint, zero paint, actually comes into this facility. He said they do have five prototype machines which are color injection machines so they know what the machine looks like when someone calls and says they have a model XJL they would have a copy of model XJL right there so that is essentially what they do but to understand better the scope, there are 5,000 locations across the country for which they are dispatching these folks so that is why they are such a big operation. He said last year they grossed in the vicinity of three million dollars as a result of doing this so there is nothing in terms of harmful chemicals taking place there, they don't even keep the colors in this location because the properties are served at the location of the property, whether it is Lowes or Walmart or even a mom and pop hardware store. He said they bought the property last fall, they moved in and set up operations but they don't get a zoning permit out of ignorance and fortunately they are on the agenda tonight because somebody called and thought they were operating a tannery so fortunately the zoning inspector went there and asked where is the tannery and saw that there was no tannery and she was able to identify what was there and of course realized that they did not have a zoning certificate and that is when he got the call as a lawyer. He said this is the old Sirnas location and there are some criteria for a substitution of a non-conforming use. He asked if this is an operation which is less offensive from the non-conforming use that was operating there and he will tell you there are much fewer cars, traffic and trucks than Sirnas, no offensive activity and Sirnas was a great place but when you have lots of old rotting fruit and vegetables there is a reason for critters to hang around but you don't have that here. He said it is clean and they are growing but they haven't reached the final conclusion as to what to do with the rest of the grounds since they are a relatively new operation and there is an old building there that Ms. Endres can talk about a little bit which is located on the northwestern border, it is an empty building. He said they were operating without a permit but he thinks by the criteria that has been identified by the zoning inspector as a substitution of a non-conforming use it seems to be a pretty good fit. He said surrounding this property is a BMW dealership on one side and the other side they have got a place that sells alcoholic beverages and then across the street is an empty field adjacent to the old Geauga Lake property.

Mr. Lynch continued by saying it is a family operation from beginning to end, you see the dad and the son, there are brothers, nephews, nieces, aunts, uncles and are beginning to live the American dream because of the location here. He thanked the board and will answer any questions the board may have.

Mr. Lamanna asked what percentage of the building is devoted to the warehousing.

Mr. Sid Koziar testified that the back part of the building is a warehouse where Sirnas used to ship all of their produce and that is where they now store some of the more used parts because a lot of the parts come out of the manufacturer's locations so the whole front right now is still fairly empty, they haven't done much with that but they are talking about maybe, the offices are above the warehouse the way the building is situated right now and the way they are growing, they are thinking if the board approves this and they move forward is to possibly move the offices into that front building and cubicles in.

Mr. Lamanna said the issue isn't with the office part.

Ms. Endres, Zoning Inspector testified that the office part is fine.

Mr. Lamanna said the dispatching etc.

Ms. Endres said it is trying to fit it into a permitted use.

Mr. Lynch said it looks like about 28% - 30% of that really is for warehouse purposes, they just need to have parts on hand.

Mr. Lamanna said the issue of trying to substitute a non-conforming use, you are trying to substitute a non-conforming use into a CB district where there are a huge number of permitted commercial uses and it is pretty hard to justify unless it is a dead on one-for-one replacement it is hard to justify that on the basis that there is any kind of hardship because there are a million other things that could go in there that that building could be used for from that standpoint and that is why from his viewpoint he would rather be looking at this thing as a situation as maybe what we really have here is an office-sales type of operation, an incidental warehouse and parts operation that is a part of that business but is not the primary business. He said if the primary business there relates to other things and this is just supporting that, it is a repair business but we have to have some parts because we can't do a repair business without them.

Mr. Gutoskey said it is kind of similar to the BMW business next door, they probably have parts for repairs.

Mr. Lynch said their business model is set up for growth and his point is the main function is a call center because they have got probably 300 repair technicians all over the country and only three of them work at this particular location so the main thing is if they can grow the call center, part of it, the office operation, they really don't need to increase the space they have for warehousing.

Mr. Olivier asked how the parts are shipped.

Mr. Anthony Koziar stated that they are shipped via UPS.

Mr. Lewis said or they could be dropped-shipped from the manufacturer so they don't have to be re-shipped back out. He said drop-ship it and coordinate with the tech at that site when there is a part there and he can do his repair at the client's location. He asked what kind of repairs they do locally at this site.

Mr. Anthony Koziar said they don't repair anything at the site, their main business now is taking phone calls in and being a call center and all of the different stores out there have their number, they call in with the machine's problems and they in turn trouble-shoot with them and try to figure out what is going on and they send the part out and have their guy go and take care of it. He said the primary business is basically the call center, taking phone calls and trouble-shooting.

Mr. Sid Koziar said and dispatching.

Mr. Lewis said you have got some parts on hand because you don't want to be 100% relying on a manufacturer being able to drop ship.

Mr. Anthony Koziar said exactly.

Mr. Lewis said you basically have a small amount of inventory.

Mr. Sid Koziar said they run into delays with the manufacturer with backorders etc. and the parts move quickly, they try to keep some on hand so they can get them going, we can wait for the part that is on backorder, the store cannot.

Mr. Lamanna said he assumes these are small parts.

Mr. Sid Koziar replied yes.

Mr. Anthony Koziar said they are things that fit on shelves.

Mr. Lynch said the computer portion of these devices is really magnificent, you can punch in a code and come up with thousands of colors so a computer portion might have the most tiny element that needs to be replaced so it is kept as minimal as possible.

Mr. Lamanna said we are trying to look at it as fitting it in, if somebody comes in and says they want to distribute bulk materials or big, huge items, then that is really industrial zoning but here we are talking about the kind of things that are coming out of retail stores in terms of its size and packaging and he would view this more as it is an interpretation as to what constitutes an appropriate business and to look at the part aspect of this thing is an incidental part of a bigger sales and service type of business which he thinks would be permitted here, administrative sales professional type office because what they are doing is they are trouble shooting people's problems and determining what needs to be done and then the parts part of it seems to be incidental enough that it doesn't really create an issue in terms of the zoning.

Mr. Anthony Koziar said that is the part that is growing faster than anything else.

Mr. Lynch said he would like to point out that they are one of the few technical trouble-shooting call centers located in the world located here and not in India.

Mr. Lamanna said that the board's decision will be based upon the existing warehouse space and no expansion of that warehouse space, the applicant would have to come back here and seek approval of a variance for the expansion of that warehouse space, there would be no guarantee that that would be granted but the board would look at the facts at the time but he thinks that this is the best way to handle it because getting into this substitution of a non-conforming use, he thinks you are getting into a real morass because when he first looked at this he really had a problem with the substitution of a non-conforming use in a commercial (CB) plus area because there is already all kinds of things you can do there he thinks it would be a real hard time meeting the legal standard to justify that type of substitution without getting into all of the other issues about the history and whether or not it has been abandoned or not so he thinks if the board handles it as he is proposing it is a lot cleaner to do that. He asked if anybody has any issues or objections.

Mr. Murphy asked for a clarification. He said they are in a CR District (Commercial Recreation) which allows certain things plus all of everything that is in a CB District which are permitted uses with zoning and conditional uses of a CB District so they have got not only commercial recreation, they have all commercial so the only thing that is not in commercial is warehousing, the problem is that Sirnas was given (before him) the ability to use it as a warehouse. He said he doesn't know how long they actually call it warehousing when you bring in watermelons you are not storing them very long.

Mr. Lamanna said they also had a retail store.



Mr. Murphy said professional business, sales office, office buildings, business trades, food sales, drug stores, daycares, museums, funeral homes, vet services, service stations, game rooms, all of these things are permitted uses and shopping centers, indoor miniature golf, other than warehousing.

Mr. Lamanna said he sees everybody as warehousing, every retail business has warehousing and that is why his view is that given the size of the warehousing.

Mr. Murphy said they don't even need a variance.

Mr. Lamanna said it is more of an interpretation, the board is interpreting based upon their particular situation that this use of the property fits as they have described it where a small part of what is really an overall service business of analyzing and servicing equipment problems that this is just an incidental part of it and therefore at the level it has been described to the board that that would be permissible and wouldn't constitute something that had to be done in an industrial district.

Mr. Olivier asked what their plans are for growth regarding employees and what the current count is and where they are going with it.

Mr. Anthony Koziar said right now they have 12 total with three technicians that go in and out and 13 people answering phones and from there they are looking at hiring another one or two in the next couple of weeks, they have been interviewing. He said the office upstairs where they are currently is getting cramped so the front area where their retail setup was they were thinking of growing into the call center.

Mr. Olivier asked if they are going to double in size in the next 12 months.

Mr. Anthony Koziar said no.

Mr. Murphy said so if you end up with 26 employees is there enough parking.

Mr. Sid Koziar replied yes.

Mr. Murphy said if you decide to do something different with the separate structure if it becomes more office space you don't have to come and see us but if you decide to do something else you may need to change that through zoning.

Mr. Lynch said he looked at the history of this property and the relationship with the zoning board and the only thing he saw was they were providing helicopter rides from that location.

Mr. Lewis said the landlord is not here right.

Mr. Sid Koziar said we are the owners, we bought it.

Mr. Lewis said we are looking at the aerial view and asked if the gravel parking lot is going beyond their property.

Mr. Sid Koziar said the parking lot is paved in the front.

The board discussed the site plan.

Mr. Anthony Koziar explained the gravel parking lot.

Mr. Gutoskey said the parking lot from the previous use is way over off the property.

Ms. Endres said it is green space for the shopping center.

Mr. Murphy said we are not exactly positive that the red line on the GIS is accurate but there is several hundred sq. ft. of gravel on the neighbor's property.

Mr. Lamanna said the problem with it being on the neighbor's property is that the assumption is and other decisions that have been made that that area is not graveled and we are calculating that as being undeveloped area so we have to tell the shopping center that it has come to our attention that a piece of their property is represented as green space but it isn't.

Mr. Sid Koziar said they went into the swamp.

Mr. Lamanna said all this means as far as the board is concerned is they have enough parking, they are not using that, they are not going to be bringing in tractor trailers so it is not like they have to use that area and as far as you know there is no agreement with the adjacent property owner.

Mr. Sid Koziar said not that they know of.

Mr. Lamanna said the adjacent property owner may come in and tell you to get rid of this gravel because there is an encroachment on the property.

Mr. Murphy said down the road you don't want to go any further and put more gravel back there.

Mr. Lamanna said we are going to tell the other property owner so he is going to have to clean that up.

Mr. Murphy said they need to get some topsoil and some grass put back there and not drive on it.

Mr. Lamanna said the board can't tell you (the applicants) that they can do something on somebody else's property we are going to have to tell him that it was discovered in another application that part of his property is covered with an impervious surface by a previous owner. He said the adjacent property owner may want his property back because he may want to do something with it.

Ms. Endres said she will handle it and will call Mr. McGill.

Mr. Lamanna said it doesn't change anything with this application. He said that there should be no using of the adjacent property for the conduct of this business without a legal easement to do so.

The board discussed the access drive.

Mr. Lamanna said he thinks the access drive is okay but they may have to adjust it a little bit.

Mr. Gutoskey said he sees that the site is going to be cleaned up.

Mr. Sid Koziar said yes they will, they just have not had time because of all of the snow they have had.

Mr. Anthony Koziar said they are trying to figure out what to do with the old building, they will put the siding back on, they will paint the building and make it look decent, they will put flowers up front next to the street, they have a bunch of flower boxes, they will have bushes and flowers and mulch and will clean up the inside. He said they are having an engineer do an evaluation of that building so one of the resolutions of the aesthetics of that building may be demolition, once the engineer takes a look at the structural issues so beautification is on its way so it just may be converted to green space.

Mr. Murphy asked if he was talking about the accessory building.

Mr. Anthony Koziar said right and as it sits now they have it locked up so nobody can get in it so they are making it as safe as possible.

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

Motion BZA 2014-11 – 7307 Aurora Road

Mr. Lamanna made a motion that the board determined that based upon the description of the use of this property by the applicant as contained in the record that the use of the property as described will fit into the permitted uses within the CR (Commercial Recreation) District.

Based on the following findings of fact:

1. This is primarily a call center, repair, trouble shooting and service business.
2. The warehousing of parts for distribution in connection with that business is a small and ancillary part of the business and not so much as to make it impermissible in this district.
3. The board does note that the applicant must confine the warehousing area to the existing space being used for that without expansion of that space.
4. The applicant will not use the adjacent property for purposes of ingress and egress and deliveries into the building because it appears from an aerial photograph that the prior owner was using adjacent property for that purpose without getting the consent of the adjacent property owner.

Mr. Lewis seconded the motion.

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

Application 2014-4 by Joel Frezel for Tanglewood Country Club for property at 8745 Tanglewood Trail (Rt. 306 across from Lucerne Drive) - Continuance

The applicant is requesting a conditional use permit with variance(s) for the purpose of installing a sign on the golf course property at Rt. 306 across from Lucerne Drive. The property is located in a R-3A District.

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held May 15, 2014.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 7:46 P.M.

Respectfully submitted,

Joseph Gutoskey  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy  
Mark Olivier

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

Date: May 15, 2014

AUDIO RECORDING ON FILE

BZA PH 4/17/2014

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Bainbridge Township, Ohio  
Board of Zoning Appeals  
April 17, 2014

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:46 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey; Mr. Todd Lewis, Vice Chairman; Mr. Mark Murphy and Mr. Mark Olivier. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the March 20, 2014 meeting as written and to correct the minutes dated February 20, 2014, page 26, under Motion BZA 2014-5 – 16695 Chillicothe Road (The Montefiore Housing Corporation), Item 1., to add the word “bed” after the word “18” and before “memory care facility”.

Mr. Lewis seconded the motion.

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

Other Business

Ms. Endres met with the board to discuss BZA Application 2012-10 for a proposed shooting range at 8535 Tanglewood Square which is now considered a stale application. The board was in agreement to schedule it for the May 15, 2014 hearing to dispose of it. She reviewed the shopping center owned by Mr. Bill Shaw that is located on the southeast property of E. Washington Street and Chillicothe Road; a driveway on Darby’s Run; BZA 2014-4 (Sign for Tanglewood Country Club) and the proposed mixed using zoning for the currently zoned CR District. Also discussed was a list of duties for the Board of Zoning Appeals and Zoning Commission members that Ms. Endres recently compiled.

Mr. Lamanna departed the meeting at 7:52 P.M.

Applications for May 15, 2014

Application 2012-10 by R. Blake Frederick for property at 8535 Tanglewood Square, Unit T-8 Rear - Continuance

The applicant was requesting a use variance for the purpose of establishing an indoor shooting range and retail sporting goods facility. The property is located in a CB District. *(The Board of Zoning Appeals will dispose of a stale application).*

Application 2014-4 by Joel Frezel for Tanglewood Country Club for property at 8745 Tanglewood Trail (Rt. 306 across from Lucerne Drive) - Continuance

The applicant is requesting a conditional use permit with variance(s) for the purpose of installing a sign on the golf course property at Rt. 306 across from Lucerne Drive. The property is located in a R-3A District.

Application 2014-12 by Carl (Ed) Speck for property at 8440 Lakeshore Drive

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

Application 2014-13 by Richard and Tracy Wodarczyk for property at 7799 S. Riverside Drive

The applicants are requesting area variance(s) 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 15, 2014 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 8:17 P.M.

Respectfully submitted,

Joseph Gutoskey  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy  
Mark Olivier

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

Date: May 15, 2014