

Bainbridge Township, Ohio
Board of Zoning Appeals
April 18, 2013

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:12 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Jason Maglietta, Alternate, Mr. Mark Murphy and Mr. Mark Olivier. Mr. Joseph Gutoskey was absent. 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.

Application 2012-6 by Motorola c/o City of Cleveland, Ohio for property at 16780 Savage Road – Geauga Park District (Gauga County Sheriff Communications Facility (Radio Tower)) – Previously Postponed from 4/19/2012

The applicant is requesting a conditional use permit and variance for the purpose of adding an equipment shelter and antenna/line co-location for the City of Cleveland, Ohio. The property is located in a PPP (Passive Public Park) District.

The zoning inspector's letter dated April 18, 2013 was read.

Mr. Ronald Mirka of Motorola was present to represent this application.

Mr. Mirka testified that he is from Motorola and he is the project manager on this collocation for the City of Cleveland. He said back in August 2011 they received a contract from the City of Cleveland, they currently operate eight sites within the City of Cleveland proper and they have been operating since 1993 or 1994 and on those eight sites, they entered into a contract with Motorola to upgrade those sites and the equipment was end of life and in addition to that they have asked them to expand the coverage out to the county, the public utilities/public works, their territory has expanded as well as they want to offer the system to their neighbors in the county so the Chagrin Falls site as we refer to it is one of those sites that we are going to get collocated and expand to. He said he previously submitted the construction drawings and what he was asked to bring here tonight is a copy of the structural analysis and he has the state approved drawings for the 12 x 16 shelter. He said they are proposing a pre-fabricated shelter certified by the State of Ohio so those are the drawings he has here that were not part of the original submittal. He said the original submittal had a 12 x 16 structure there but he wasn't sure if the board wanted to see before drawings. He said this is the City of Cleveland's public safety, public service, radio communications system.

Mr. Murphy said law enforcement and city water, the meter readers.

Mr. Mirka said it doesn't say meter reader but the water department will operate it along with public power, basically Police, Fire and EMS, they have got all their works, parks, engineering, streets, water, commission control, all of those folks currently use this and they just signed a contract with the southwest communities, there are eight of them, Berea and North Royalton, Olmsted Falls, Olmsted Township, Strongsville, Middleberg Heights and there are eight of them who agreed to utilize this system which is why they are dividing three sites out to the southwest and they are also in discussion with some other agencies throughout the eastern side of the county that will use this system as well.

Mr. Olivier asked if the City of Cleveland is currently on this tower.

Mr. Mirka said they are not. He said they will set their own shelter and Geauga County will basically through a fee allow them to collocate on the existing tower.

Mr. Murphy asked what the fee is.

Mr. Mirka said he does not know, that is something that is negotiated between Cleveland and Geauga County.

The board reviewed the plans submitted by Mr. Mirka.

Mr. Olivier asked if the structure is inside the fence.

Mr. Mirka said it is a fairly large compound and everything they are going to do is inside the compound.

Mr. Maglietta asked if a generator will be in there too.

Mr. Mirka said yes, on the second or third page of the drawings shows the location of the shelter generator and that was one of the changes that were made.

Mr. Lewis referred to the site plan and asked if this is the accessory structure that is being talked about.

Mr. Mirka said yes, this is the 12 x 16 pre-fabricated shelter and then the generator.

Mr. Murphy asked if the gas line that is going in big enough for the existing tower when their generator fails they can hook into it and asked if a gas line will be installed back there.

Mr. Mirka said they originally proposed a propane tank for their generator but the Park District was unhappy with that and that was one of the things that took so long because they went round and round with the different scenarios of even increasing the existing propane tank to operate both generators, but Geauga Parks wanted nothing to do with it, everything was predicated on bringing gas to the site. He said to answer your question they will have a two pound service there and that is intermediate pressure which Dominion provides, obviously they will set a meter for their generator and Geauga County may want to in the future go to gas, they will just have to set their meter height to it. He said they will use a house regulator on the generator but two pounds will suffice.

Mr. Murphy asked about the size of the line, the diameter.

Mr. Mirka said he doesn't know if it is on the drawings or not, he wants to say that pressure doesn't have to be more than 1-1/2" or 1-3/4".

Mr. Maglietta said it is 1-1/4".

Mr. Murphy said the township agreed to the tower with the possibility of adding two additional collocations so you being the second group on that tower, there could be a third group. He said the township encourages that rather than building new towers in this township and it should be tall enough for anybody to use. He asked if that gas line is big enough if there were a third generator.

Mr. Mirka said truthfully he would like to know the size of the generator but two pounds generates quite a bit of BTUs and he thinks theirs is 760,000 BTUs, Geauga County's is probably about the same, give or take a little bit.

Mr. Murphy said he wouldn't want a third guy to come in and have to dig another gas line and we wouldn't want to put the whole thing on the City of Cleveland but he doesn't remember the Geauga Park District not wanting propane there.

Mr. Mirka said it threw them for a loop too because they went round and round, there was a pre-existing grandfathered propane tank and they got their own propane tank and it brought up a lot of luggage. He said they would double the size of the tank but they wanted nothing to do with it. He said a gas line is actually a very expensive investment that Cleveland is making to get on this site because it is about a 1,200' run back there.

Mr. Lewis asked if the generator gets exercised on a routine basis.

Mr. Mirka said typically once a week for about one-half hour, there is about a 15 minute cycle and a 15 minute cool time. He said they transfer full loads to the generator, they exercise it.

Mr. Lamanna asked how flexible they are with the orientation of the generator.

Mr. Mirka asked as far as the recycling of it.

Mr. Lamanna said no, how it is oriented on the site and his concern is the generator will make a lot of noise when it starts up and there are residences in one direction where the other direction there are no residences it is all park district land so what he is worried about is can it be oriented so that the exhaust is directed. He said he assumes that the greatest amount of noise will be coming out of the exhaust.

Mr. Mirka said the layout there was directed by Geauga County and it was not their preferred location but generators themselves are pretty quiet and he thinks they are rated because of OSHA. He said in terms of common noises around the house, they say it is equivalent to a lawn mower or possibly an air conditioning unit and said it is very wooded around there.

Mr. Lamanna said the other thing is that it is very quiet there which means there is no other ambient noise to screen it out so it is going to be more than noticeable to people who are close by and as it turns out he thinks the close houses are all towards Chagrin Road and the ones on Savage Road are quite a distance away.

Mr. Murphy said there are a couple of houses on the back corner of Heatherwood that are pretty close.

Mr. Mirka said basically if he remembers the map correctly, about 20' that you move it is called a DB3 increase in the sound and he would venture to say that by the time you get to Heatherwood, he would be surprised if you can hear it. He said if the board has a preference on the way it was oriented they could certainly do that.

Mr. Lewis asked if the exhaust can be oriented.

Mr. Lamanna asked which way the exhaust goes.

Mr. Mirka said the exhaust goes straight up and the generator has insulation and sound enclosure.

Mr. Lamanna said his concern is where the exhaust pipe is pointed and that it would be aimed right at somebody's house.

Mr. Lewis asked if this is exercised on a weekday or weekend.

Mr. Mirka said typically they do it on a weekday and it is recommended in the event of a failure you still have somebody you can call out. He said the city tries to stagger them from site to site but that is totally programmable and flexible.

Mr. Murphy asked if there are any neighbors here about this particular application. He said there is already a generator there and he is a neighbor who walks there and occasionally there is a noise but for the most part there is none.

Mr. Mirka said those are very common questions. He said they have a site in Walton Hills where it is the same thing but that is set back probably several hundred feet in a fairly wooded area. He said he doesn't have it printed out but for the rating of that generator it can give you comparative to household items such as vacuum cleaners, air conditioners, lawn mowers and that is within 20' and as you decrease it drops significantly.

Mr. Murphy asked if the county shares with the township on that cost.

Mr. Lamanna said probably not because the township did not pay for any costs putting that tower up there and it could not have been inexpensive.

Mr. Murphy asked if they are not bringing power to the site, just a gas line.

Mr. Mirka said it is all in the compound, the service will be 200 amps.

Mr. Murphy said he would like to make sure that nobody else has to bring in an additional gas line or the next guy has to have his own propane tank. He said he would like to make it clear that the plastic gas pipe is big enough for three generators.

Mr. Mirka said he will say his experience with Dominion he doesn't even know if they can request a larger line without having the drop there, he doesn't know if they would allow the service to be brought in.

Mr. Murphy said he doesn't know if that could be asked for.

Mr. Mirka said it might be easier for him to find out how many BTUs that two pounds will support and that is a lot of gas, a lot of pressure for these generators. He said he knows it will support the two there and he knows of other collocations within the City of Cleveland but he can find that answer out, what two pounds will support BTU wise and Dominion might be able to tell him that pretty easily.

Mr. Murphy said we could ask them to consider it. He said there is going to be another collocation and there is a good chance that somebody else will come in and want to use that tower.

Mr. Mirka said public safety are the ones that are real particular about having back-up generators, if you notice on a lot of cellular towers, they have a generator on wheels that they would plug in there. He said if you go to large sites it is very common to see a generator plug on the outside, they just don't invest in those, public safety more so. He said public safety is a whole other animal as far as liability etc.

Mr. Lamanna said there are other cell towers if one goes down you could probably get to the other ones, if there is an area wide failure that could be a problem.

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

Motion BZA 2012-6 – 16780 Savage Road (Motorola c/o the City of Cleveland, Ohio)

Mr. Lamanna made a motion to grant the applicant a conditional use permit for the purpose of installing an equipment shelter, generator and collocated antenna line on the already approved tower located in the park district designated as 16780 Savage Road in accordance with the plans and specifications submitted by the applicant.

Based on the following findings of fact:

1. There is an existing tower that was approved several years ago and one of the conditions on that approval is that they would make it available for collocation and they are now doing so.
2. Based on the review the board finds that this is an appropriate conditional use for this area and it will not expand the footprint on the ground as all of this will be exposed in the existing fenced-in area at the base of the tower.

Mr. Lewis seconded the motion.

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

Application 2013-7 by Dr. Caleb Chou, The Church in Solon for property at 7765 Country Lane

The applicant is requesting a conditional use permit and area variance for the purpose of establishing a Place of Worship. The property is located in a R-5A District.

The zoning inspector's letter dated April 18, 2013 was read.

Mr. Jason Maglietta recused himself because he is a contiguous property owner.

Dr. Peter Wu, Mr. Arthur Wu, Dr. Caleb Chou and Mr. Benjamin Wang were present to represent this application.

Dr. Peter Wu testified that he would like to introduce their church and give a summary of it. He stated that their church is a conservative Evangelical Christian church, and they are using the NIV (New International Version) Bible. He said they currently have 60 to 80 adult members attending Sunday worship and most members are professionals living in or near Solon. He said they respect the community's rules and regulations, as well as the privacy of our neighbors. He stated that the intended major uses of this building are indoor Sunday worships; possible daily office meetings or small group Bible studies; occasional outdoor parties during summer weekends or holidays. He said the major characteristics of this property are: it is located in a R-5A district with 5.6 acres; their house is far from neighbors with at least 200 feet; this house is surrounded by dense trees serving as natural buffers to their neighbors. He stated that their major commitments to the neighborhood and community are: they will use this facility as it is; they will maintain the property with residential characteristics by not having a big church sign; not having outdoor speakers or outdoor worship services; not having commercial outdoor lighting; they will not cause any traffic problems on Country Lane because it is a small size church with an average of 30 cars arriving between 10 and 11 am and departing between 12 and 2:00 pm sporadically on Sundays. He said they will encourage carpooling and they may also consider buying or renting one or two vans to take members from Solon to reduce car volumes. He said they will respectfully address their neighbor's concerns if any in the future.

Mr. Jason Maglietta asked when the people will be arriving.

Dr. Wu said on Sunday mornings between 10:00 and 11: 00 am.

Mr. Maglietta asked if there will be any other traffic during the week.

Dr. Wu said right.

Mr. Benjamin Wang testified that during the weekdays they may have meetings etc. with probably five cars.

Mr. Lamanna said the board would like to ask questions and when finished it will be opened up to everyone else. He asked the applicants if they are going to modify the existing structure or is the space already for a meeting and asked what is the capacity of that space.

Dr. Wu said right now they can sit about 100 people on the property.

Mr. Olivier asked if there will be any interior wall modifications.

Dr. Wu replied no.

Mr. Lamanna asked if anybody will be living there.

Dr. Wu said no.

Mr. Lamanna asked if it will strictly be for meeting purposes, it is not going to be a residential purpose at the same time.

Dr. Wu said no.

Mr. Lamanna asked about the plan for parking.

Dr. Wu said in the back of the house there is an enclosed riding arena and they can put down gravel and the space will be for 34 cars.

Mr. Lamanna asked if there is a parking number that would be required for this use.

Ms. Karen Endres, Zoning Inspector testified that it is based on their application and the number of people in the congregation. She said there should be one space for six seats, one for two employees and one for 500 sq. ft. of usable space.

Mr. Lewis said it looks like 34 parking spaces are proposed.

Dr. Wu replied yes.

Mr. Lewis referred to the site plan and asked if this area is behind the house and there is an open horse arena. He asked if they are going to put gravel down.

Dr. Wu replied yes.

Mr. Murphy asked if there is a diagram for the installed septic system leach bed.

Dr. Wu said currently he is working with the Ohio EPA and he got a letter from them yesterday and a copy of the letter is in the package he just presented to the board and they plan to work on their septic system according to their recommendations.

Mr. Lewis said he is looking at the letter from the Ohio EPA dated April 16, 2013 and asked if he is looking at the right one.

Dr. Wu said yes.

Mr. Lewis said it establishes the criteria of capacity based on seating and it seems to concur with what Dr. Wu said that so far they have not been provided with what you have or its current capacity so they can't really give you a ruling quite yet because they don't know if either you have met capacity or you have to increase your system to meet capacity and then it has to pass their regulations on your five or six acres.

Mr. Murphy said they said the current condition of the septic would not support the church's proposal. He said later in the letter it said equalizing the flow from the church and daycare over a seven day period would allow a smaller flow to be treated by the septic system. He asked if they plan on having a daycare at this facility.

Dr. Wu replied no.

Mr. Murphy said so they just added that in.

Ms. Endres said it is very usual for churches to have daycares.

Mr. Lewis said so as it stands right now your septic does not comply to the EPA standard.

Mr. Olivier asked where the septic field is on that property.

Dr. Wu said yes, it is in the front and referred to the location on the GIS aerial map. He said they plan to work on their septic system to enlarge the capacity.

Mr. Lamanna asked if there is a driveway that goes back to the barn.

Dr. Wu said yes.

Mr. Murphy asked if it is gravel.

Dr. Wu replied yes.

Mr. Lamanna said the parking area will be off that drive oriented with the direction of the lot.

Mr. Murphy said it is a horse track that you see in front of the barn there, it is where the parking is supposed to be.

Mr. Lamanna said it is oriented perpendicular to the lot so that would leave only 35' on each side.

Mr. Allen Segedy asked if he could bring something up to the board.

Mr. Lamanna said when the board is done everyone will have a chance to speak. He asked if there is any reason why the parking area couldn't be oriented the other way so that it matches the lot shape with the parking area, so its long dimension is oriented along the long dimension of the property because then you would have 70', 80' or 90' separation to the property line.

Mr. Murphy said you would lose woods because that area is an arena and the arena is cleared in an area behind the house and between the arena and the barn is still wooded so if they were to turn it 90 degrees they would end up clear-cutting the woods. He said he thinks they plan to park in the arena because it is already cleared, it is already a grassy area.

Mr. Olivier asked if there is a lot coverage issue.

Ms. Endres said she doesn't think so.

The board discussed the lot size and proposed parking lot.

Mr. Lamanna said residential homes don't have parking lots or required parking spaces. He said he was looking at orienting the parking lot the other way because otherwise we will be looking at a substantial variance for the parking lot.

Ms. Endres explained the setback for structures.

Mr. Lamanna opened up the public hearing for comments from the audience.

Mrs. Rolene Murphy of 7583 Country Lane testified that in 1954 they bought property on Catsden Road and built their house there because it was such a beautiful residential street and she now lives on Country Lane. She said she would like to know what the zoning is for a church and is there a special zoning in Bainbridge for a church.

Mr. Lamanna said no a church is a permitted conditional use in a residential district.

Mrs. Murphy said she objects to it being in a residential district, she thinks a residential district is for homes.

Mr. Lamanna said he doesn't know how many churches are in Bainbridge but every single one of them is in a residential district, at least eight or nine.

Mrs. Murphy said but not on Country Lane.

Ms. Jane Mazak of 17301 Red Fox Trail referred to the GIS aerial photo and testified that this is her property and this is where they want to put a parking lot.

Mr. Lamanna said it will be between the two buildings.

Ms. Mazak said she can see it from her window and showed where it is clear cut. She said her kids used to walk over and pet the horses and there are no trees here, we would look at their parking lot.

Mr. Lewis said their site plan shows it on where the horse track is. He said regardless of whether they have to take trees down, that is where their site plan shows they want to put their parking, between the house and the barn.

Ms. Mazak said they bought their lot because they were told that this could not be anything but residential, so they lied to us.

Mr. Lamanna said all he can say is that it is a zoned residential district and in a zoned residential district there are number of other permitted activities that are not strictly residential.

Ms. Mazak said to bring in a church, can a 7-Eleven come in there.

Mr. Lamanna said every church in Bainbridge is in a residential district.

Mr. Murphy said the church in Solon is in a residential district.

Mr. Lamanna said most churches are in residential districts and they are a common permitted use in a residential district, that is just the way it is.

Ms. Mazak asked if a decision will be made tonight or will they have time to hire a lawyer to fight this for them.

Ms. Beth Minzter of 17281 Red Fox Trail testified that she lives next to Ms. Jane Mazak and if you turn the parking lot 90 degrees it is within 500' now, it is going to be closer and they will see it all with no dense trees. She said she would like to see restrictions on the total number, no daycare, that the parking lot doesn't expand, the church itself doesn't expand.

Mr. Lamanna said any use that the board would allow in a case like this is going to be subject to a certain number of restrictions to make sure that this does not adversely affect the neighborhood in an unreasonable way.

Ms. Minzter said the board should define adversely.

Mr. Lamanna said the board has to make a decision on what is reasonable within the context of what is permitted in the zoning.

Ms. Minzter asked if that automatically prevents the growth of the number of cars and members.

Mr. Lamanna said just from a theoretical standpoint, but if the board is looking to granting something in a location like this because of the size of the lot, the board would put limits on the number of people they are allowed to have, how many cars they are allowed to have on the basis that beyond that then it implicates some of the things that are regulated by the conditional use so that if the use is allowed the board is allowed to say these are the conditions that you must satisfy for the use of the property to prevent it from becoming an unreasonable burden on the neighborhood or causing an undue amount of burden on the neighborhood so that regulates it.

Mrs. Heidi Stull of 7830 Country Lane testified that she lives two houses from the church and she objects to having a church there for many reasons. She said they moved out here in 1968 for the rural character of the area, we had a gravel road at the time, we also had a gravel driveway, the gravel road became oil and became a few years later asphalt and so did our driveway so the change is inevitable so if we have a church here with 30 cars going down from 10:00 to 11:00 am, that is a considerable burden on little Country Lane. She said it is a narrow road, their mailman got stuck in their ditch this week for three hours and somebody finally pulled him out but putting a church there and putting a huge parking lot there for 30 cars or maybe 65, trees will have to come down and most likely the water level and the ecological aspect of the area, many things will change. She said if there is nobody living in that house once the church is established she thinks it will attract vandalism, it would attract teenagers to throw parties, we all know that when there is a place available where they can have a party and so these are some of the things she objects to or the reasons why she objects and she is especially concerned because of their water level, the ground water and she knows there is decent water available and most of them do have wells and septic systems. She said churches have a tendency to grow and today there will be 60 members maybe in five years from now there will be 600 members and there will be added services offered not only Bible classes and kindergarten but this is the nature of the beast, it changes, we all change, everything changes so she objects vehemently to have a church on Country Lane, it is too small a road for that kind of traffic.

There was an applause from the audience.

Dr. Wu said they can plant more trees and referred to the GIS aerial photo. He said the parking lot will be used once a week on Sundays and during the weekdays they will park in the front because it is a really long driveway. He said during the weekdays they have a small group and they will park about here, he referred to the GIS aerial photo. He said he is pretty sure they will not bother the neighbors and regarding the worry about the growth, he is from Taiwan, he is Chinese speaking and around this area Chinese speaking people are minorities.

Mrs. Stull said you could grow in five to ten years exponentially.

Dr. Wu said they only have 70 members and those people come and go and they move out so if we get more members we would seek another property but we will treat this house as our own house and like he said in the summary they won't treat it as a residential house, you won't notice a church, we won't have a big sign.

Dr. Caleb Chou testified that they won't have a shower or laundry service so they won't increase the water usage much at all so he doesn't think that is a concern. He said unless it is required by the regulations of the zoning inspector or other government agencies, we promise we will not cut trees.

Mr. Will Stoner of 7812 Country Lane testified that he lives diagonally across from this property and he used to own a landscape business and he has done a bunch of work on this property and where the riding ring is now, it is pretty muddy and he has several concerns. He asked what the depth of bedrock is because if there needs to be any septic system changes, they just went through, two years ago, they were challenged and they had to completely redo their septic system and it cost \$40,000.00 and he along with his wife and son live in that house and they just got the routine check on the septic system and it is just the three of them and it says they are using 83% of the capacity of it and it took up about 1-1/2 acres of his backyard with two huge 100' x 12' x 30" high mounds and that is going to have to go into an open area in the back or they will have to cut down all of the trees.

Mrs. Kit Stoner of 7812 Country Lane testified that they have an engineered system and Geauga County wanted to approve the system and it was very difficult to engineer and extremely difficult to install, their landscaping still hasn't recovered and some of it never will, the contours in the backyard are not the most attractive things, they lost large trees that they had them taken down for \$2,000 etc. so her respectful concerns to the gentlemen is putting in a septic system to meet the needs of even a Sunday congregation or a happy thing like a wedding could be quite a challenge and she doesn't know whether it can be done and preserve the ground water sufficiently to meet current standards.

Mr. Stoner said he thinks that the driveway is going to have to be expanded, when you get past the garage it turns into a mud hole so there is going to have to be a much wider driveway.

Mrs. Stoner said two cars can't pass in that driveway.

Mr. Stoner, said no, not at all and he is also curious what the plans are for that barn, is it going to be maintained or just turned into what his son would say, a sad barn with the roof caving in.

Dr. Wu said they will maintain it but will not use it.

Mr. Donald Sheehy of 7825 Country Lane testified that Country Lane is a rural residential street made of primarily five acre lots and an eclectic mix of residential homes. He said many of the homes on Country Lane have barns and outbuildings as many of the properties have accommodated horses, ponies and other livestock. He said most of the lots are wooded with a pleasant mix of trees and small pastures and lawns. He said housing on Country Lane ranges from a couple of original farmhouses to modest ranch, larger colonial and modern homes. He said he has been a resident of Country Lane in Bainbridge Township for 22 years and during that time there has been a lot of changes in Bainbridge but his street has been pretty much the same. He said there has been some new home construction on a handful of vacant lots, including the new home he built in 2008 on his street, actually he lived on the street and moved down the street. He said he could have built his home anywhere and it would have fit nicely in Canyon Lakes but he was after something that the other areas did not offer, Country Lane is a quiet street. He said residents respect their neighbor's privacy, at night the street is dark and quiet, he can stand in his yard and look up at the stars at night because it is darkness. He said most of his windows have no shades to block his view of his woods and the surrounding neighbors. He said he positioned his home on his lot to protect the privacy of his neighbors and to maintain his own privacy. He said all of his neighbors have unknowingly contributed over the years to create this private oasis with the noisiest thing you hear are crickets or an owl. He said County Lane is an unimproved gravel pavement with a tar and chip driving surface and while the township does a good job of keeping the roadway surface in good condition, the road has not been designed for significant traffic, the width of the roadway is narrow, there is no consistent berm area and there are several areas where there is limited site distance just to the west of the proposed use. He said there are also a couple of sharp turns and safety concerns. He said the drainage ditches in these areas can pose a hazard to motorists who are unfamiliar with the roadway. He said he has personally pulled people out on the hill, in front of his old house on the sharp turn. He said the residents on Country Lane know the hazardous areas and take necessary precautions when driving on that road. He said the proposed conditional use, if granted, would certainly change the essential character of the street in a number of significant ways. He said traffic, the proposed use will generate a significant amount of traffic, far more than generated by a typical residential home. He said this traffic will be generated primarily on the weekends at a time when most residents are home trying to enjoy the quiet. He said this additional traffic with people who are not used to driving on country roads will change the character of this quiet neighborhood. He said many people walk, jog and hike on this road and especially on weekends when their safety will be compromised. He referred to noise and said he cannot stress enough how quiet this neighborhood is and on weekends he will typically wait until he hears other power equipment running, usually around 9:00 or 10:00 am before he would do any outdoor chores that would make any loud noises. He said he feels bad when he wheels his noisy garbage can out on a Sunday evening because it disturbs the quiet neighborhood. He said having 30 – 40 cars going at 8:00 am on a Sunday with enthusiastic families going to join a celebration may be music to a their ear but not to him or his neighbors. He said this proposed conditional use does not stop on Sundays and holidays, it appears they will have plans for programs, weddings and other celebrations and this conditional use will become a party center for the congregation and will be impossible to regulate the hours of use.

Mr. Sheehy continued by saying if this conditional use is allowed there could be a midnight mass, a before dawn celebration because that is how the congregation chooses to worship. He said with regards to lights, currently at night this portion of Country Lane is very dark at night, the point where your eyes can adjust to see only by moonlight. He said the well-spaced houses have some light coming out of a few windows but once people turn off their outside lights and once families settle in for the evening you can't even see the other houses in the distance. He said there are no streetlights, no glare and only occasional headlights from traffic but with the proposed use it will allow a significantly increase in the amount of light generated on weekends and holidays when most residents are home and most affected by light intrusion. He said safe parking lots in fear of dark woods often lead to numerous glare producing floodlights on the structure, walkways and from headlights on vehicles arriving and leaving at night will create a steady flow and destructive traffic will have a significant change of the essential character of the existing neighborhood. He said the proposed use does not provide any new or additional screening on the property but primarily benefits from the screening provided from the mature trees on the neighboring properties. He said nothing in the plan provides for any new trees, mounding or screening that would shield the view of the site or parking lot for the six months when there are no leaves on the trees. He referred to the environment and said the proposed gravel parking lot in a concentrated use on the property will generate an additional impervious surface, reduce ground water recharge and increase water run-off. He said the existing area is a grassy pasture area and this proposed parking lot will reduce surface water quality. The existing septic system is designed for a single family use, the proposed public use will significantly change the loading of the system. He said it is a very shallow depth of bedrock which is only 2' to 3' which was his experience on his property and this additional loading of public use will increase the pollution load and will adversely impact wells and water quality. He referred to safety and said the proposed repurposing of this residential home to a public building defies good common sense. He said the house and facility was not built for public use, entrances and exits, fire suppression and other building code issues are a major concern. He said this structure was not built for handicap access as a public building, the proposed rendering is not showing handicap parking, and the existing driveway cannot accommodate two-way traffic. He said if there is an emergency at the congregation during a service, Fire and EMS will not be able to adequately access the intensive public use. He said the solutions to these problems involve more pavement, a wider driveway and other improvements that will increase the negative impact from the site development. He said there is a problem with the excessive variance request. He said let us be clear, this is an existing residential home that is 55' from one property and 80' from the other and the proposed use does not comply with the side yard setbacks on either side. He said granting a 45' variance with the proposed setback would be, in his opinion, a truly substantive variance and if granted he cannot think of a single existing five acre lot that currently conforms to our current zoning that wouldn't qualify for this use. He said what happens if the church needs to expand, there are already variance situations for the setbacks so there is no room for expansion without additional variances. He said in conclusion the proposed conditional use and variances are more than this lot can support on its own. He said this proposed use if granted would break the conditional use and adjoining residential properties.

There was an applause from the audience.

Dr. Chou testified that the church name is the Church in Solon but we don't have any church in Solon right now, we rent from Solon High School and the rent is now \$3300 per month and they have asked us for \$400 for only Sunday service. He said they appreciate the opportunity this country gave them for the freedom of worship but our church cannot afford that much money each week to the Solon High School so the main purpose to buy this lot is really to use this property for Sunday service and get rid of the \$4,000 per month rent. He said the only service they will try to have is the Sunday morning worship service and that is what they spent the money for, the resources for their church right now and if they can only use this for Sunday morning service that will be fine and all the other times, they will promise not to use.

Mrs. Stoner asked if they already purchased the property or are they considering to purchase.

Dr. Chou said they already purchased the property and the reason is that the owner came to them a couple of weeks ago and said they have a competitor and if they don't buy this property right away, they will have to lose it but they searched for places for so long, this is kind of their only opportunity because if they don't buy now then they probably would have no chance to maintain the \$4,000 per month rent for the Solon High School.

Ms. Susan McLaughlin of 7860 Country Lane testified that there are a lot of properties on Rt. 306 that are vacant homes on a main drag and she just doesn't see why they would want to go in a residential neighborhood, you are just disrupting the whole reason we all moved to Country Lane for privacy.

Dr. Chou said as he mentioned, they are a small church and they cannot afford to buy a former church or something like that but this is right for them.

Mr. Alan Leach of 6132 Independence Drive in Hudson, Ohio testified that he has been attending this church for more than five years and he believes it may be seven with his wife, Qingqing who is from China. He said when Qingqing came to this country she wasn't Christian but she is now and he is very grateful for the pastor's speaking and nurturing of her and the congregation. He said one of the questions that was asked here today was about the size of the church and he can tell the board what his experience has been in two observations. He said about five or six years ago he thinks it was about the same size it is now in terms of members and he thinks the reason for that is there is a core, you see a lot of the core here today and the Chinese community tends to be somewhat transient, folks will come into the Cleveland area and they will get a job and maybe within a few years they will move to another part of the country so you will see new people coming in from time to time and you will see new people and some of the older folks going out from time to time and that is one of the questions he wanted to address is that from his experience the size of the congregation is about the same.

Mr. Maglietta asked if it has changed.

Mr. Leach said in the last five years it probably hasn't.

Mr. Maglietta said okay, that is fine, he doesn't have a problem with it but at the same time what if you decide that you love this area and want to stay in this area and you go from 80 to 100 members and now you are at 120.

Mr. Leach asked Mr. Maglietta if he is one the board.

Mr. Maglietta replied yes.

Mr. Leach said at that point they might exceed the variance exception and if that were the case then that would have to be dealt with if there is a certain rule with that.

Mr. Lewis said if the board puts limits and if they outgrow the limits, then they need to make a decision, either they are going to cap their membership to stay within the limits or like any other growing entity they are going to have to go find another property somewhere else that would accommodate the size of their congregation. He said he doesn't see in any way that the board or the township, even if they elect to proceed with this, is going to go anything with unlimited, there will be a ton of caps and boundaries or limits on this and right now as it is being presented with 34 parking spots. He said on a typical Sunday when you have a worship of other than the congregation, how many are staff.

Dr. Wu replied one staff, me.

Mr. Lewis said which also means that during the week typically one staff or you may have a visitor or a congregational member.

Dr. Wu said most of his congregation come to his house for counseling or visiting so he still uses his house for that.

Mr. Lewis said he has two teenagers that drive and they have friends so he has more traffic on his street in a week than you have in a worship service on a day so that just kind of shows you how much the weight is, it is a dedicated road, it is not a private road, it is maintained by the township as is his road and he would wager to say that he is putting more burden on the roads in his neighborhood which are highly residential than one service a week on Country Lane as far as road wear and tear goes.

Mr. Maglietta said his concern is with the lighting, you have different phases if you have got some light fixtures that are going up at 36'' and some are at 6' or 9' and you have shown driveways and main entrance lighting, lights in the windows and parking area and then lighting around the parking area. He said during the night, what are we looking at, is this going to be something where we are looking at a Griswold family house when the lights are on.

Mr. Maglietta continued by asking how bright is it going to be, we do enjoy the nighttime, we enjoy going out there seeing that it is a perfectly dark night, not having to see anything and now all of a sudden you have people on Red Fox Trail looking at all these lights on that property and you have people driving down, you have neighbors not being able to enjoy a quiet night without lights so what are we talking here, what are we looking at.

Mr. Arthur Wu, board member of the church, testified that the house will be dedicated for Sunday morning and some fellowship in the afternoon so during the night probably there will be no one there. He said there will only be a couple of the lights on outside for safety purposes and they plan to use low voltage 24 watt lights and no higher than 2' on both sides and they plan to do it about every 24' on one side and the other side so you can assure that we will have very light use on that. He said again, they will barely use that in the nighttime, the lights from the entry all the way to the parking lot.

Mr. Maglietta said that is what he wanted to know, that was one of his concerns and his questions to the board then, does that fall under, what is our code as far as lighting.

Ms. Endres said shielded fixtures with no light trespass.

Mr. Lamanna said the board can impose whatever is reasonable to maintain the character of the neighborhood and we can limit the amount of light and kind of light they have, the height of their fixtures, light trespass onto adjacent properties. He said it is virtually limitless to maintain what the character of the neighborhood is.

Mr. Maglietta said he wanted to see where it stands, and the decision that is made.

Mr. Arthur Wu said they can control the lights in the house.

Ms. Mazak said you will have services on Sunday morning, what about holidays.

Mr. Arthur Wu said the past ten years we have hosted small groups and we don't have anything on Christmas.

Ms. Minzter said then there will be no lights at night.

Mr. Arthur Wu said no.

Mr. Vince Opaskar of 17972 Catsden Lane asked the applicants how they came to arrive an interest in this parcel and why they like this piece of property so much.

Dr. Chou said they have been looking for property for 10 years and they have been looking around the Solon area but they are mostly industrial and they were looking for something quiet for them because they have been in the high school for so long, they like the place, but most live in the Solon area, but somehow we couldn't find a place to meet, they looked everywhere around this area.

Mr. Robert Sickling of 7774 Country Lane testified that they say they are not going to have stuff at night.

Dr. Chou said it will be very little, rare, he can't say not, we don't know the situation right now but we are meeting at our homes in Solon, many groups.

Mr. Sickling said his question is why do they need the lights if they are not going to be there at night.

Dr. Chou said it is two things, one is we are thinking about the entrance and the parking, we need light, we don't want to have commercial light.

Mr. Sickling said but if you are not going to be there in the evening, why put lights in.

Dr. Wu said just in case.

Mr. Lamanna said one of the possibilities too is if you have a big parking lot, you don't really have to light the whole parking lot. He said you can spend a lot of money to light the parking lot if you are only going to use one-third of the spaces. He said what you can do like a lot of places do, you put the lights only on part of it and you don't run the lights, you turn the lights off, you have it controlled so that the lights are only turned on if somebody actually is going to be there and using it so the other five or six nights out of the week if nobody is there, the lights wouldn't come on automatically, somebody would have to actually program them in and to go off.

Ms. Minzter asked if that could be written in.

Mr. Lamanna said he hates to say this but Country Lane is not a minor street, it is a thoroughfare in the township, unfortunately, it connects two significant roads and there are well over 100 houses either on it or on culdesacs that come off of it so you are looking at a significant amount of traffic and he uses that road from time to time and there is a fair amount of traffic that moves up and down that road and when you start talking about 30 cars, this isn't Parkside or ever will be or anywhere close to it. He said this isn't even going to be the size of the former Holy Angels church on Rt. 306, it is not even going to be 25% of that so we are talking about a pretty small operation here and pretty much frankly one that is not going to have a lot of room for expansion on the site, at best, we are looking about what this site can accommodate.

Mr. Lamanna continued by saying the health department regulates the septic system and they are going to tell them what they have to do and the building department will tell them what they have to do with respect to the building, they have to meet those requirements independent of what we do here. He said it is a 10, 000 sq. ft. parking area and we are looking at about 5% of the entire site for the parking area and one of the things we can look at is mounding around it and trying to screen it perhaps so it is less visible but we have to sit here and consider are there going to be any significant impacts on the neighborhood because the nature of the structure there is not going to change, it is going to still look pretty much like a residential property. He said he doesn't think from a traffic standpoint that on this particular street 30 cars coming and going a couple of times a week is an unreasonable burden on this road. He said that just does not stand up factually and if the board's decision is reviewed by a court we could never sustain a decision based upon the traffic impact from that number of cars, other things would have to be the basis of it, not that so he thinks factually that would be a more difficult situation.

Mr. Opaskar asked Mr. Lamanna if he would like to come and run with him on Sunday mornings on Country Lane, 30 cars is a bunch of cars to dodge.

Mr. Sheehy stated that since Flintlock goes all the way through now and Rocker cuts through to Chagrin Road, our traffic has dropped significantly, there is a lot less traffic on Country Lane, there are not that many streets on Country Lane, Penny Lane, Abby are the only culdesacs he can think of. He said it is a pretty quiet street, it really is and he asked the township specifically about three years ago why the road hasn't been upgraded to make it safer, they have some hairpin turns, some really steep hills and it has not been fixed and that is a big, big problem. He said it doesn't make it safer to take a non-safe road and put an additional 60 – 80 vehicle trips for one lot and it is a big deal. He said you guys talk about how many vehicles will be coming in here, a single family resident alone has 10 vehicle trips a day, that is one in, one out ten times, coming home to your house is two trips and if you've got 30 or 40 cars going into this church on Sunday and going, that is 80 trips on a Sunday morning, that is not consistent with a residential property.

Mr. Murphy said but that 80 trips spread over the week means they are going once to that house compared to four people in your house. He said before the freeway was built there were 650 cars going up and down Country Lane everyday so right now and even with the church, being a neighbor, he knows what is being said, you feel it is a lot but you just shot your own argument in the foot, they are there one day a week 80 times and it is less than your house.

Mr. Sheehy said all that means is that they don't have three or four people coming and going, they will have the same traffic on a daily basis as a single residential house, they are not going to shut the doors and abandon the place all week.

Ms. Minzter said the bottom line is there is no room for them to expand but it is going to change and they are looking for a place to be more comfortable, of course it will attract more people. She said they are meeting in their homes now because they have to but why should they meet in their homes when they can all meet here.

Dr. Chou said that is debatable because you say the reason they don't grow is because they don't have the space right, they are meeting in a room at Solon High School where we could fit 150 people but there would be about 70 people coming and going. He said a lot of the Chinese and Taiwanese actually do not all stay in the United States because there are more opportunities in China and Taiwan and we will only have a certain size parking lot so we can only have so many people. He said we gave the proposals based on the spirit of residential and we will try not to interrupt and not disturb the neighbors, we are trying to have a good relationship with them. He said we are honest people, we are God's people.

Mr. Mazak of 17301 Red Fox Trail said you are putting a parking lot in our backyard for the church.

Mr. Lewis asked how far that parking lot is from your house.

Mr. Mazak said their lot line goes right to where the horses were.

Mr. Lewis said they aren't using that space, they are putting parking between the barn and the home.

Mr. Allen Segedy testified that the property doesn't abut their property.

The board reviewed the distance between the proposed parking lot and the houses on Red Fox Trail.

Mr. Lewis referred to the GIS aerial map and said from the bottom of the racetrack or corral area or arena to the lot line is 412' and from there down to the house we are at that 500'. He asked if you go to the two houses just below there that are side-by-side how far apart are those, the two on the culdesac.

Ms. Endres said they are about 45' to 50'.

Mr. Lewis said what we have is we have some cars parked 500' away and the other place, 45' from one another we have homes placed and said he thinks he made his point.

Ms. Mazak asked what is your point and if he is going to go out and count those cars.

Mr. Lewis said no because the cars from your (Ms. Mazak) visibility can be handled with screening.

Ms. Mazak asked what if there are 60 cars out there.

Mr. Lewis said there can't be because their parking plan shows 34 cars and if they exceed that they are in violation of their conditional use and they lose their permit so they get shut down so it is easy enough to see what the limits are. He said the site plan with the 34 parking spots, if it is in truth a parking lot, then we have got side yard variances that are entering into this as well.

Ms. Endres said there are only two places in our zoning resolution that speaks to parking lots and in one area it applies to parking lots with more than 100 spaces so that part is not relevant, the other section of the zoning resolution regarding parking areas is in Chapter 161.11, under permitted yard obstructions "Modular, porous and solid pavements, aggregate stone driveways, turnarounds, and sidewalks provided that they are located not less than two (2) feet to any side or rear lot line."

Mr. Lewis said that answers that one.

Mr. William Stull of 7830 Country Lane testified that they didn't know about this meeting until 9:00 AM this morning, why and who is responsible to notify the residents in the area because we were not notified.

The secretary responded that if you are not within 300' of the property you would not be notified.

Mr. Stull said it seems like you are trying to cover up something.

Mr. Lamanna said there is no basis to make that kind of a statement, everyone within 300' received notification and it is also published as well and it is on the township website.

Mr. Allen Segedy of 7707 Country Lane stated that he wanted to state that the road is not paved, it is chip and seal, and all of the other churches he believes in Bainbridge also have curbs on the side of the road, not ditches. He asked how many cars are they going to be allowed to park on the road, we don't have anything that says you can't park cars on the road. He asked if the map can be brought up that shows the river between the two properties.

Ms. Endres brought up the GIS aerial map.

Mr. Segedy asked where the culvert is that runs under Country Lane. He said there is a culvert that goes under Country Lane and asked what happens when there is a storm.

Mr. Murphy said the same thing that has been happening.

Mr. Segedy explained where the river goes through the properties. He said they are talking about putting a parking lot in there which could impede the water from going back into the ground. He said one day they are going to pave the parking lot, they could if they want.

Ms. Endres said if they do they will have to come to zoning if they expand it beyond the parking that is approved, then they would need a variance from the board of zoning appeals.

Mr. Segedy said we have well water and of course we could pay a lot of money to have city water too.

Mr. Lewis said there is no basis to say they are going to use more water if they are not showering and if they are not doing laundry, they don't have 100 people in their congregation.

Mrs. Murphy said they will have.

Mr. Lewis said toilet flushes don't constitute laundry and showers.

Mr. Segedy asked if you have ever walked in his woods to see how deep the river is back there. He said his point is the ground rock comes right up to the ground, he can walk on it, when you go back in the woods and the rock on his property is higher than their house and the rock goes all the way up to Sharon, Pennsylvania but he thinks the Army Corps of Engineers should take a surface water look at this because they are going to tear up his back property worse than what it is because look at the ditches on Country Lane, look at the pipe that doesn't show on this map. He said over 1,000 acres supposedly drain through his property plus it runs right down his driveway and he has a ditch in front of his house and it runs right through his barn which it never did with ground water.

Mr. Lamanna asked Mr. Segedy what his point is.

Mr. Segedy said his point is that they are going to tear up his property worse than it is.

Mr. Lamanna asked Mr. Segedy who is going to tear up his property.

Mr. Segedy said God because God is Mother Nature.

Mr. Lamanna said we have not been given the power to regulate God and Mother Nature. He said when the legislation feels fit to give us that power then we will exercise it but in the mean time we can't.

Mr. Segedy said that is why they have retention basins and what he is saying is there is more water going through his backyard these days than ever and he means you can see the damage, the trees are all dying on Dunn's property and his property because of the amount of water, because the trees are right on the rocks, there used to be rock quarries on the property.

Mrs. Rolene Murphy said she thinks the zoning board has done a wonderful job in keeping Bainbridge rural and she thinks that when you come from Solon you are changing Bainbridge to a Solon and we do not want this to become Solon out here. She said she thinks there are a lot of commercial buildings in Solon that would be much better used as a church than this residential home in a residential area.

Mr. Sheehy said this is being converted from a residential use to an assembly hall use which is what the building code would become for this structure and there will be additional requirements based on the requirements for the assembly hall, parking, access, paving, storm water retention that will probably be part of any kind of detention basin, they have required additional parking closer to the house, there are a number of issues that are going to come up when they try to get this thing approved as an assembly hall property. He said a residential home is not constructed the same way, anybody who works in the trade or knows the construction industry knows that it is a different animal with a different standard of inspections and a different standard for building so if this is approved there are things that are going to come up, widening the driveway is definitely going to come up. He said they have an assembly area with 40 cars and 100 people in the building and all of a sudden somebody has a heart attack and they can't get in there because somebody decides to leave while the ambulance is coming down the driveway. He said that is not shown on the plans, those types of things are going to be needed. He said the septic system, he knows you are trying to do some quick math and say well it is about the same as a residential home, it is different, trust me, it is a different animal, it is a different permitting process. He referred to the EPA and said they are going to have to put a bigger septic system in and he doesn't know how they are going to do it on rock. He said when you are talking about putting in a parking lot 17' off of some guy's property, the guy who lives on the east side of the property unfortunately rents the property out, he is not here so he is not here to speak about this but that parking lot is going to be sitting right there and when he comes back he is going to find out he has a parking lot 17' away with zero trees between that parking lot and his 500' of woods and the 500' of his woods that he owns is their buffer, they don't have any buffer, there is no screening, winter screening, no Hemlocks or Pines or any type of screening whatsoever to protect the people that live around this property. He said just because that guy is not here today doesn't mean his concerns shouldn't be protected by the BZA and the biggest thing the board is overlooking, he thinks, is the substantial nature of the side yard setback, it says in your conditional uses, mandatory 100' from all property lines for the building. He said the building is 55' away from the property line, it is a huge variance and we are not even talking about that, that is a big substantial variance and they don't meet the setback on the other side, you have a lot that is 235' wide, the existing home is 100', is the lot too small. He said if this lot is 300' wide, he would have nothing to say about this but that is a huge, huge variance, it is 20% on one side and 45% on the other side. He said there are plenty of properties in Bainbridge, they could take the old Scorcher's restaurant and turn it into a church in a minute, it is a commercial use, it is on E. Washington, it has got an assembly hall, it has got a kitchen, it has got a parking lot for 60 cars, done. He said there are lots of places like that in Bainbridge, in the surrounding area, that could handle the traffic, that could handle the noise, the in and out, everything, and be much safer for the congregation.

Mr. Segedy asked if Canyon Lakes was notified of this meeting.

Secretary's note: Canyon Lakes was notified of this meeting via certified mail, return receipt. The green return receipt was signed by Laura Cramer and returned to the township.

Mr. Segedy said he would like to put in a resolution that the county engineer and possibly the Army Corps of Engineers look at the overflow of the water situation before this is approved because there will be a lot of water running off of that property.

Mr. Lamanna said just for the record, Canyon Lakes was notified.

Mr. Segedy said these guys get notified because it is within 300'

Mr. Lewis said with your proposed parking area in the back where the arena is and the arena right now is hard-packed soils from the horses from years of wear. He asked what it looks like now.

Dr. Wu said it is just covered with grass.

Mr. Lewis said when you put down your proposed gravel parking lot what were you going to do, are you going to excavate that area and put down a base and gravel over.

Dr. Wu said they will contract with a professional contractor to do the work for them but without a zoning permit it is hard for them to move on to the building permit.

Mr. Lewis said he is just trying to get an idea of what you had in mind with that. He asked if they will peel off the topsoil and put gravel on top of it.

Mr. Murphy said typically peel off the topsoil and put down some gravel but he doesn't know if there is any kind of county or building requirement at that point, do they have to get a building department permit to put in parking for a church in a residential district. He said he does not know.

Mr. Lamanna said the building department requirements are based on use not on the zoning district.

Mr. Murphy asked if the Geauga County Building Department has a use specific standard for parking lots for a church in a residential district. He said you say it is going to be called an assemble hall.

Mr. Sheehy said the building classification is an assembly hall. He said they will either bring this house up to the building standards and as far as impervious surfaces go Bainbridge Township and Geauga County Soil & Water count gravel parking lots as impervious surfaces and if it is compacted it will function basically like an asphalt driveway.

Ms. Endres said they will also get a soil erosion plan if they were to improve the parking area if 300 sq. ft. is disturbed.

Mr. Mazak of Red Fox Trail asked if any of the board members have gone over to the property to look at it to see what it is like.

Mr. Lamanna said generally the board members don't.

Mr. Murphy said he drives by it every day.

Mr. Sickling asked if they are not going to cut down any trees or widen the driveway unless the inspectors require it and now we are talking about the possibility of that being required because of safety issues so this proposal really is open-ended depending on what the safety and building inspectors deem they have to do and he would think that widening that driveway would very well be something that they would have to do and that is included in there so are we saying that there isn't going to be any trees cut down and the driveway is not going to be widened and asked if that is hard and fast or if that is just if the safety and building officials deem it necessary.

Mr. Lamanna said it is just like everything else, you have to look at the impact of it.

Mr. Sickling said according to their proposal if safety officials or building inspectors require that they make some changes that is already included in the proposal.

Mr. Lamanna said depending on what gets approved here, they would have to come back and get approval for the changes. He said if the board approves a plan with a single-wide driveway and they come back and say they now need a double driveway then they are going to have to get approval for that change. He said the change is measured on if you want to make this change, what does your proposal now look like. He said with all things there is a straw that breaks the camel's back so if you reach the point where they want to change their proposal and we say no without that change you can't go ahead. He said the board looks at the total impact with each change.

Mrs. Kit Stoner said she has a concern and a fear and there seems to be so many different regulatory agencies involved and the gentlemen have already said that they have a financial hardship of affording the rent for Solon High School that is on-going expense and her fear is they will need to move soil from the arena area, they will need to bring base in and compact it and just that alone and fixing the driveway alone to be where it is serviceable without widening it is a huge expense and added to that a complete new septic to bring it up to code and the cost of doing all of these things and she understands that it is not the board's problem but what happens if they start and get halfway through and they say they can't afford this, is there any protection for either side for that.

Mr. Lamanna said if they start and can't afford it then they are not going to be able to use it, simply put.

Mrs. Stoner said what if they have to sell.

Mr. Lamanna said that happens, people start off renovating places and then run out of money, it is half renovated, the siding is half off the house and there are blue tarps on the roof etc. and it happens sometimes, that we can't control obviously.

Mr. Sickling asked if this were approved and would be there a few years and then sell the place, would it be able to be sold as a conditional use.

Mr. Lamanna said you can't sell the conditional use, the conditional use is not salable.

Mr. Sickling said so then it would revert back.

Mr. Lamanna said if somebody else wanted to come in and use it for a funeral home, it doesn't work that way.

Mr. Sickling asked what about next door to them, someone wanting to put in a funeral home.

Mr. Lamanna said that is not a permitted use, a church is a permitted use.

Mr. Sickling asked what are permitted uses in a residential district.

Mr. Lamanna said group homes.

Mr. Olivier said tennis clubs and a few other ones.

Mr. Lamanna said only under very limited circumstances, nursing homes have to be adjacent to a commercial district and it has to have sewer and water so that would be irrelevant in this area.

Ms. Minzter asked the board to explain the whole process and what happens.

Mr. Lamanna said the board considers all of the evidence presented and then the board decides whether or not to grant the conditional use and the variance and if it is granted what conditions the board would attach to that conditional use.

Ms. Minzter asked if it would be in a public hearing.

Mr. Lamanna said this is the public hearing right here.

Ms. Minzter asked about the conditions.

Mr. Lamanna said the board would consider all of the concerns and the testimony in the public hearing part in establishing what conditions would be appropriate under the ordinance if we were going to grant the conditional use. He said if anyone does not like the board's decision it would have to be appealed to the court of common pleas and that would apply to only affected and adjacent property owners. He said the board tries to get everything out all at once, listen to all of the considerations and say what should be ameliorated, how can it be ameliorated and come to a decision.

Ms. Pamela Murphy asked if the board will decide tonight.

Mr. Lamanna said we may or may not decide tonight. He said there is a lot of information here to digest.

Mr. Lewis said there are 19 categories and there is an awful lot here and the board has stacks of paper and the public hearing brings out a lot of elements that don't necessarily show up in a presentation and one of the folks in the audience serves our township in a legislative capacity, another one in the audience sits on this board and then there are a lot of you that are neighbors so there is a ton of stuff here.

Mr. Lamanna said it is not unusual that some of these applications spread over more than one meeting, either because we need more information or because of the volume of information and the board needs to go back and look through it and we have other applicants here tonight so we don't want to sit here for 45 minutes trying to read through all of this stuff. He said at the next meeting the board can discuss the issues.

Ms. Minzter asked if everyone will be notified again.

Mr. Lamanna said if this application is continued it will be continued in this meeting and if you are here you are on notice that it will be continued to the board's next meeting.

Mr. Murphy said somebody asked what the permitted conditional uses in residential areas are and the zoning code said these things are permitted, places of worship, it goes then to cluster development, governmental buildings, private and parochial schools, residential care facilities, nursing homes, publicly owned parks, cemeteries are permitted so this could just as easily be that, adult family homes and adult group homes, that is what is in the zoning code for permitted uses with a conditional use in a residential five acre district.

Mr. Olivier said and tennis clubs.

Mr. Murphy said he thinks he has a lot of questions and he thinks for the applicant, one of the biggest ones is going to be the septic system, there is a giant footprint and dollar value associated with that and according to what the EPA said in the letter, it says that the system does not satisfy the requirements and if it is \$150,000 issue, that lot may not look as good.

Mr. Lamanna said the applicant needs to do more investigation on the septic system and what that is likely to mean is if that is something that is going to require tearing up the entire lot, that certainly is a factor the board has to look at and the second thing is they need to talk to the building department and find out what are the building requirements because they are changing the use of this property, it is moving into a different category of use, what you are going to have to do to that building and what you are going to have to do with respect to the property in terms of access and whether it is going to require a different size of ingress and egress to meet their requirements and those are two very key things that the board needs to know to look at what the overall impact on this is and then the other thing to look at is whether or not we can turn that parking lot the other way so it is not as close to the adjacent property owners and what we can do as far as mounding and screening it so that it won't be visible because obviously that is a big concern with people to look out and see a parking lot and he thinks there are ways it can be landscaped.

Mr. Lewis said there is ADA compliance and the whole assembly hall question.

Mr. Lamanna said the question is what does that mean as far as the outside more than the inside and if they aren't changing the exterior look of the building it is less of a concern, he is more concerned that if there are requirements that are going to affect the exterior of the building and if they need to do additional roadways etc.

Mr. Murphy said the driveway width could double.

Mr. Olivier asked if fire safety should look at it for ingress, egress access.

Mr. Sheehy said they really need to hire an architect as an advice type of thing. He said we are concerned with the small portion as far as the outside.

Mr. Lamanna said they have some serious issues.

Mr. Murphy asked if they (applicants) would consider changing the name to the Church in Bainbridge.

Dr. Wu replied yes.

Mr. Sickling said he wants to go back because he thinks it is important for the board to consider as one of the other gentleman pointed out that the variance that you are granting, you are talking about a requirement that is 100' and this is almost half of that and he thinks that is very significant. He said he knows there has been some talk about it being a long way from the houses but that is not the only issue, close to our property lines is an issue and he thinks the codes were drawn up that way because people use their property, they walk on their property.

Mr. Lamanna said understand this aspect of the variance on the setback requirements, we have an existing structure and the 100' setback requirement is put into place on the assumption that somebody is going to build a purpose building on the property so it is not going to look like a house, it is going to look like a church. He said if somebody is coming in and saying the Lord of Life Lutheran Church, they want to come in and place that building on that property then you would say it needs to be 100' away because it is a big building, it has a huge steeple on it, it doesn't look at all like a residential house. He said we have a residential house here and as of now it is not going to stop looking like a residential house so that is a big factor when you look at why we have a 100' setback for these things and it is because the expectations are these are going to be buildings that are not residential buildings, they are going to be something else and therefore they should be at least 100' away.

Mr. Sickling said it is still something you are granting, setting a precedent on.

Mr. Lamanna said the board technically would not be setting a precedent, every case stands on its own merits so either you meet the qualifications for the variance or you don't.

Mr. Segedy said he would like to have the board members or any personal people to come to his woods and look at it to see the damage and look at what is happening in the woods and the amount of trees, the trees are dying because there is too much water back there.

Mr. Lewis asked where the water is coming from.

Mr. Murphy said the water is coming from the top of the hill and it is been coming from there for the 58 years he has lived here, it is the same water that has been going across your (Mr. Segedy) backyard. He said water is abrasive, it cuts ditches, it cuts through things, it does it every year, it is the same water you have had every year. He said the Sheehy house is the only new house upstream from you and in fact you guys work that out.

Mr. Maglietta said he has a question for the church. He said he is looking at the pictures of the house and he understands it is a big house but when you have 60 – 80 people in the house, where are you going to hold the service. He asked where everybody is going to sit and how this is going to go and his concern is the people, he doesn't want anything to happen to the people, he is looking at the pictures and the great room is big but is it big enough to facilitate all of the services.

Dr. Chou said thank you for your question. He said they plan to host most of these people in the living room. He said the living room is open to the family room on one side and the other side is adjacent to the kitchen which is already open so they probably will install a big screen TV on the other side. He said they had a contractor come to see the place already.

Ms. Pam Murphy asked about the bathrooms.

Dr. Chou said they have four already. He said they don't have pews, they will have a podium and chairs.

Mr. Sickling asked if there are any plans to use the barn.

Dr. Wu replied no.

Mr. Lamanna stated that the board will continue this application to May so it will give the board some additional time to study the application and see what other issues might be out there.

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

Motion 2013-7 – 7765 Country Lane (The Church in Solon)

Mr. Lamanna made a motion table this application to the next regularly scheduled meeting to be held May 16, 2013.

Mr. Lewis seconded the motion.

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

Mr. Maglietta joined the meeting.

Application 2013-8 by TDI Terraplan Development Inc. for property at 8327 E. Washington Street

The applicant is requesting a renewal of an existing conditional use permit for the continuation of a car wash. The property is located in a CB District.

Secretary's note: The applicant was unable to attend the meeting due illness.

Motion BZA 2013-8 – 8327 E. Washington Street

Mr. Lamanna made a motion to table this application to the next scheduled meeting to be held May 16, 2013 due to the inability of the applicant to attend.

Mr. Lewis seconded the motion.

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

Application 2013-9 by Robin and Nick Gautam for property at 17257 Catsden Road

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

The zoning inspector's letter dated April 18, 2013 was read.

Mr. Nick Gautam was present to represent this application.

Mr. Allen Segedy asked if the property owner could be pulled up on the GIS and asked when it was sold. He said he wants to know who the owner is on this property and he wants to see when it was sold.

Mr. Nick Gautam testified that he has owned the property for five years.

Mr. Segedy said somebody said it was sold in January.

Mr. Lamanna asked Mr. Segedy to wait until he is recognized before he starts speaking.

Mr. Segedy said he wants to know if we can have this discussion because he heard the property was sold.

Mr. Lamanna told Mr. Segedy that if he has a question he can wait until there is a time during the meeting when the board opens the floor to questions so it will help to move things along because people have been patiently waiting.

Mr. Gautam said it is pretty much two distinct parcels, basically there is the front part that is right there on Catsden and the bulk of the property, the big L which is behind it and there is a long drive, road, that comes up the left side and his intention is to build on the back parcel.

Mr. Lewis asked if the back one is the big flag, the 8.3 acres.

Mr. Gautam said that is correct.

Mr. Lamanna asked if this has always been one parcel.

Mr. Gautam said yes.

Mr. Lamanna said this represents something that was either a leftover and asked if anybody aggregated this.

Mr. Gautam said no, it hasn't been assembled.

Mr. Lamanna said there is an existing house on the front part of it.

Mr. Murphy said right now there are four houses that share that easement for a residential driveway off of what would look to be the extension of Catsden. He said it looks like Catsden continues but it is a gravel driveway and it pulls up to Saraneys on the right, the next house on the right the Shavers on the left and the western on the right at the end right there.

Mr. Maglietta asked if there are four houses on that shared drive.

Mr. Gautam replied yes.

Mr. Vince Opaskar of 17072 Catsden Road asked if that is one he renovated.

Mr. Gautam replied yes and said it is all crazy back there.

Mr. Murphy asked Mr. Gautam if he owns the western as well.

Mr. Gautam said yes.

Mr. Lamanna asked if it is a rental property.

Mr. Gautam said yes.

Mr. Murphy asked if there is a reason he didn't include the whole western property in this whole overall proposal.

Mr. Gautam said he didn't think it was germane, he is not trying to hide anything.

Mr. Murphy said acreage-wise the western lot is three acres.

Mr. Gautam said they are all the largest parcels for the most part.

Mr. Lamanna asked if this is titled to the middle of Country Lane.

Mr. Gautam said yes.

Mr. Lamanna asked if that 9.94 acres is with or without the right-of-way.

Mr. Gautam asked if he means the easement.

Mr. Lamanna said this looks like these lots were originally platted out to the center of the right-of-way.

Mr. Gautam said he would have to check with the surveyor. He said you would be talking about 15 x 65 feet.

Ms. Endres said the 9.96 acres includes the centerline of the right-of-way.

Mr. Gautam said there is an easement that goes back to the 1950s.

Mr. Lamanna said somebody probably made it 9.94 acres instead of 10.

Mr. Segedy said he can tell the board exactly what they did if they would like to know. He said they took three acres off of that big piece which is Western Reserve, it is landlocked, you were allowed to do that back then, they got an easement.

Mr. Lamanna said he doesn't know why they would have ended up with 9.94 acres, if people are going to keep a plot, they are going to keep it at 10 acres unless somebody somewhere made a mistake.

Mr. Segedy said but they only had three acres plus 9.94.

Mr. Lamanna said somebody made a mistake in surveying and they ended up short .06 of an acre because they laid out a line not exactly where they thought it was and probably ended up shorting it off somewhere. He said two lots with an easement even though one has frontage.

Mr. Murphy asked if he is planning on changing any of the driveway structure, all four of those existing houses will still share the same common gravel driveway and basically you are giving a legal frontage to the 8.3 acres.

Mr. Gautam said correct. He said he will stipulate that it is only for a house, not a cluster development, he would agree to that and would put some language to it to make sure that that is all it becomes but the 8 acres is pretty much a standalone parcel, the other house already has more acreage than most of its surrounding neighbors including in Canyon Lakes where they are .9 acres and .8 acres and he thinks it makes for a very nice property and is consistent with what Bainbridge is trying to accomplish.

Mr. Lamanna asked how wide is the little neck that goes out here and asked if it will have 60'.

Mr. Gautam said no, 35' and 25' and he thinks Geauga County wants 25' of frontage.

Mr. Lamanna said he thought they wanted more than that.

Ms. Endres said 60' is required and referred to the township zoning.

Mr. Lamanna said so the county only requires 25' for a lot.

Ms. Endres said they require 60' for a subdivision road and it is her understanding it is per township zoning. She said the minimum lot width is 250'.

Mr. Segedy said he objects to this hearing. He said this man lied, doesn't it say there that the lot sale is 1/4/2013. He asked didn't he tell the board it was transferred in January.

Mr. Gautam said he didn't sell it, he transferred it to himself.

Mr. Segedy asked if his name is Robin.

Ms. Gautam said that is his wife.

Mr. Lamanna said transfers to spouses are not considered sales, they are exempt and are not considered sales.

Mr. Lewis said getting back to the lot width and the minimum frontage.

Mr. Lamanna said it is the Bainbridge thing where it is a minimum of 60' frontage.

Mr. Murphy said that Mrs. Murphy over here has that little flag lot to the left of the pond and several years ago that was the minimum standard so if you want to measure that driveway to the left of that pond and you will find out exactly what the minimum was, it was just several years ago. He said as he remembers it, it was 20'.

Mr. Lamanna said one of the reasons they instituted that along with the lot width thing is they didn't want people creating lots that looked like that.

Mr. Gautam said there has been an easement since the 1950's that goes all the way back to the center of the property so he thinks the intention back in the 50's was to be able to continue coming off of that road, that easement.

Mr. Lamanna said right but that doesn't do any good because it is not a platted area so, it was never platted and never subdivided, the lots were never created.

Mr. Lewis said before the lot split is it currently 60' of frontage right now.

Mr. Gautam said right.

Mr. Lewis said that meets the township requirement and asked how the width is measured.

Mr. Lamanna said the difficulty is we are taking one conforming lot and we are creating two substantially non-conforming lots. He said neither lot meets the frontage requirement, one of the lots doesn't meet the area requirement. He said he is less concerned perhaps about the area requirement just on the theory a little snake that runs all the way around to the back side here and in theory create lots like that but in practice would be foolish just to satisfy the formula. He said if you gave 9.94 acres with sufficient frontage on the street, he probably would not have a problem with subdividing it into a 5 acre and 4.94 acres, that is a pretty small issue. He said the total acreage is a small issue, the fact that one of the lots ends up being 1.64 is a more significant issue but it could overcome that in theory that one could gerrymander this around with some creative surveying but then you are creating kind of a totally bizarre situation which in reality there will be one parcel in the front that wouldn't be used anyway. He said his biggest problem is we are creating two lots and we are doing common drives. He said this issue comes up once every five or six years and his recollection is the board does not like common drives anymore, we are not supposed to be doing common drives and so this would be an expansion of four going to five.

Mr. Gautam said it has always been there.

Mr. Lamanna said the point is people have common drives up to a point where somebody says this common drive is really not working out and causing a lot of problems, no more and what that means is fine, the ones that are there can stay but we are not going to keep doing new ones or expanding the ones that exist so that is another problem here is that you are really asking the board to expand common drives which is clearly not something that resolves in his favor to increase the number of common drives and this common drive that comes out in not exactly the most ideal spot in the world, it is coming out to a T juncture.

Mr. Gautam said he was interested in why it was called Catsden in the first place and that it goes all the way back there. He said everyone's address is Catsden even though they don't have frontage on Catsden.

Mr. Murphy asked when the Western Reserve Estates got cut out of the three acre area.

Mr. Gautam said that was back in the 1960s.

Mr. Murphy said so when you bought this you bought two properties.

Mr. Gautam said he bought them at separate times.

Mr. Murphy asked if there would be any reason why you couldn't extend the driveway back and have five acre lots.

Mr. Gautam said yes he could, there are almost 13 acres. He said he could change it but why start changing everything when it is very clean. He said in Canyon Lakes 1.7 acres is the largest parcel and then .8 and .9.

Mr. Lewis said we have gone through that matter with a couple of other applications and some of the tract developments and their lot sizes stand on their own and just because you are adjacent to it is nice to make reference to them but we don't get to consider them but it is a good argument. He said on the one parcel, the 1.64, there is a home on that already.

Mr. Gautam replied yes.

Mr. Lewis asked what the lot coverage is on that one if it gets sliced to 1.64 with the structures that are on it and the driveway.

The board reviewed the lot coverage on this lot.

Ms. Endres gave the definition for a front lot line which means the lot line which abuts a dedicated street, private road or easement of access. She said it appears the easement of access qualifies as 60'.

Mr. Gautam said the easement actually goes all the way down to here (he referred to the GIS aerial map) close to the center of the lot so it would actually have about 500' of frontage.

Mr. Murphy asked if there is a legal description of the easement.

Mr. Gautam replied yes and the board should have it.

Ms. Endres said the easement detail here appears to go into the property down through here so that would be a variance you want to have addressed.

Mr. Lewis asked if he is looking at the right one for the easement.

Mr. Gautam said this is the easement for the Shavers to use. He said it dropped a few feet and that is why it was at 9.94 acres but you don't want to create small lots but you are also creating a very large lot well above the five acres and putting the two together average for purposes of rounding 5 acres each if you took the sum of 9.94 and divided it by two so you would be creating a small lot instead of a nice shaped lot. He said he was also trying to do something to help one of the neighbors also and he will put this into writing and that is when the survey was done it turns out that the Shaver's property, their fence is on his property and he was going to put into writing that that fence never has to be moved, that it would always be with their parcel and that they wouldn't worry about anyone, himself, or anybody else ever encroaching upon that property so you can actually see their house and driveway, you wouldn't want to see the fence moved.

Mr. Maglietta asked which ones are the Shavers.

Mrs. Terri Shaver testified that we are the Shavers.

Mr. Gautam explained per the GIS aerial photo that his property line is right here but their fence is actually out by the road.

Mrs. Shaver said when they bought their house they were told the fence was on their property and it was already there.

Mr. Gautam said what he will also do is rectify that situation that that fence never has to be moved and you will never have to worry about driving on that property, that property will actually be treated if it was theirs even though it is technically his.

Mr. Segedy asked if it is open for discussion yet.

Mr. Lewis said no, not yet, we are still conferring with the applicant.

The board discussed the proposed lot split.

Mr. Lewis said it looks like it is reducing one compliant lot into two smaller ones leaving only one compliant.

Mr. Gautam said correct.

Mr. Lewis said it is a lot reduction but that one still stays.

Mr. Gautam said if one is 5 and the other is 4.94 and then the lines will get so crazy and effectively the existing house uses the yard it has.

Mr. Lewis said we realize that that is an option not necessarily the best make sense option but our zoning code on this is very, very direct so the 5 to the 4.9, from 5 to 1.64 that is going to be in the substantial category.

Mr. Gautam said he is going for a pretty lot.

Mr. Lewis said so you own both of these lots already, you own the one lot and asked Mr. Gautam why he needs to split it, it is all yours.

Mr. Lamanna said when you cut this down to 1.64 will that create any issues with the septic.

Mr. Gautam said it is an off-lot, it is right in front. He said the reason to split it off is to better utilize the 8 acres and how to best use those acres, could one start farming on it.

Mr. Lewis said you are only allowed one primary residence on the lot and right now it is your 9.6.

Mr. Gautam said he understands that but it could be used for other stuff.

Mr. Lewis said but not for a residence.

Mr. Gautam said that is why he is seeking a variance. He asked if he is that far different than his immediate neighbor.

Mr. Murphy explained that the driveway is a flag lot and in the back is five acres.

Mr. Gautam said we are almost completely similar. He asked if that happened about three years ago, for the second lot, 5.01 would have been the lot that was separated. He said he is not that far different than that other lot.

Mr. Murphy said it was entirely different though because that was a landlocked five acre parcel.

Mr. Gautam said he is not even landlocked.

Ms. Pamela Murphy said they could not get in off your (Mr. Gautam) easement but added that she didn't think Mr. Gautam had it then.

Mr. Lamanna said there is an existing easement that runs down through here (he referred to a site plan) and crosses the corner of this property. He said at this point this easement is granted in favor of the two parcels.

Mr. Gautam said the easement served all parcels.

Mr. Lamanna asked if this easement benefits the parcels.

Mr. Gautam said they have the right to use it, he can't say they can't use the driveway anymore, the easement is what it is.

Mr. Lamanna said the easement is in favor of those properties as well.

Mr. Gautam said yes otherwise one house wouldn't have frontage.

Mr. Lamanna asked which house.

Mr. Gautam said the Shavers.

Mr. Lamanna said the house looks like it is across the parcel line too.

Mr. Gautam said no but this will clean up some other problems with the fence being basically on the road and if he sold the property somebody else could say we are going to bump out 15' and we will be right on your front porch so he is trying to be neighborly all at the same time.

Mr. Lamanna asked how wide the existing driveway is going back there.

Mr. Gautam said probably 20'.

Mr. Robert Shaver testified that it is a single lane.

Mr. Lamanna said that is one thing the board might require here is that this thing be sufficiently wide that at least back to the access to Western Reserve so you can pass two cars on it and good enough so that it can allow access for emergency vehicles. He said basically what you are creating here is a private road.

Mr. Gautam said he guesses it is a private road and he often wonders why it is actually Catsden, it is called Catsden Road but it is treated like a private street.

Mr. Lamanna said technically it is not a private street because a private street would be an actual separate right-of-way parcel that was owned in common by all of the people who are on it. He said it is one thing if it is a drive up to your house, it is another thing when you start having a private road and that is what you are going to really have a private road that is serving four parcels and then the question is that is fine but the board may put demands on you to say at least up to a certain point this thing is going to meet certain standards, it is going to two-way and it is going to be sufficient enough you could drive a fire truck back there and it doesn't get stuck.

Mr. Gautam said he has had semis back there without any issue.

Mr. Maglietta said what we are saying is if you have a semi coming down the road and the Shavers are driving out, that is what we are getting at.

Mr. Gautam said what about some pull-off sections.

Mr. Lamanna said it is not long enough for that and people don't want to be looking for pull-off sections in the case of an emergency. He said if the ambulance comes around the corner and heads up the driveway and somebody pulls out and heads their way and where is the pull-off.

Mr. Gautam said it has worked for the last 30 years.

Mr. Lamanna said and then you are adding another person on the end of it so that is the difference and when you want to do something that is out of the ordinary there are some conditions that come with that. He said this is a pretty big adjustment here and he can see the 1.64 acres on the basis that we could create some artificial additional flag-lot with this and explained per the site plan. He said there is the way you could do this but it would be somewhat silly.

Mr. Gautam said and you would still want the drive to be wider.

Mr. Lamanna said what he is saying, because of the oddball shape of this thing and how the property has been used we can probably see our way clear doing the 1.64 acres just on the basis that this is a totally unique situation.

Mr. Gautam asked how wide does it need to be, 20'.

Mr. Lamanna said yes and if you have ever been on some of the roads in certain places, you have never lived until you pass a truck on a bridge that is 16' wide from girder to girder and you are going by a tractor trailer going 70 mph so 20' wide would probably be sufficient.

Mrs. Shaver asked how wide it is now.

Mr. Gautam said it is 12' and in certain areas it is a little wider.

Mr. Lamanna asked if this is an easement of access right now.

Mr. Gautam said he thinks so.

Mr. Lamanna said it is just a bare easement and the other reason with these easements, the issue that comes up is when the parties start fighting over it, who is going to maintain the road and then the township gets dragged into it because people don't want to maintain the common driveway and it falls into disrepair.

Mr. Gautam said it would be a beautiful thing if the township stepped up.

Mr. Lamanna asked Mr. Gautam if he wants to create a dedicated road here.

Mr. Gautam said no.

Ms. Endres said it is about one million dollars per mile.

Mr. Gautam said he has plowed it and he hasn't asked for money although on a couple of occasions he has graciously accepted money from someone.

Mr. Lamanna said it is okay now because you basically control the lion's share of what is going on here and his concern is if there is going to be a common driveway is there actually an agreement as part of the easement, a maintenance agreement that if you want to use this easement you are responsible for some shared maintenance of the driveway so it is assured that there is upkeep on the driveway so somebody can't say they don't want to do this anymore they want to give up their easement but they don't want to pay their share to have new gravel in or whatever else. He said it is not a big deal when the same person owns all of them but when parcels are now owned by four different people and you have somebody that doesn't want to pay their fair share and if all it is is a bare easement, they don't have to pay anything, they have a right to go over the property and technically the person granting the easement has no obligation to put a road in either.

Mr. Gautam said he has always plowed it but he never asked for anything.

Mr. Lamanna said what he is looking at is somewhere down the line with these properties ending up in different hands and now four different unrelated parties own these properties and there is no agreement among them on maintaining the road and what he would like to see is that type of an agreement reached.

Mr. Gautam said he can't make somebody, he can only ask.

Mr. Lamanna said you have got three of the lots here.

Mr. Gautam said yes and he can put that into terms.

Mr. Lamanna said you do have the other person who just has an easement but there is no way you can compel them to do it, you can ask them if they would enter into that agreement as well. He said there are benefits because it now assures that someday if you are gone and the next guy is not so nice as you are that now they have some mechanism for making sure that the road is structurally maintained, he is not talking about plowing.

Ms. Endres said she thinks that people can find problems with their financing when trying to either refinance or sell a property, banks don't love that.

Mr. Lamanna said it helps if you have some assurance that all of the property owners are responsible for maintaining the road structure like when you have a private road, you can compel the parties who live on there to contribute to maintaining it in a certain level of service.

Mr. Murphy said this is a shared common gravel driveway that four houses are on and for 60 years it was a driveway and they have gotten along so far with four different owners at different times.

Mr. Lamanna said yes but we are trying to get away from that.

Mr. Murphy said it is going to be a five owner and in the past it hasn't been a problem. He said by creating something that says everybody has to share in the expenses of it, somebody will have 1/12th of a percent, he thinks it is causing more of a problem than it needs to be.

Mr. Lamanna said they will have to figure it out.

Ms. Pamela Murphy of 7583 Country Lane said it has been working already, it has already been figured out.

Mr. Gautam said the Shavers fence just happens to be on his property about 15' and he is saying it looks good, he can't see bumping into their front yard and ruining their lives, he will put in writing that the fence stays.

Mr. Lewis asked if this is the easement area.

Mr. Gautam said it is the easement area.

Mr. Lamanna said the trouble with some of these things, you don't want to create a title problem for yourself.

Mr. Gautam said he doesn't want to develop or do anything from that fence towards their home.

Mr. Lamanna said then you are restricting the easement though, you don't want to restrict the easement. He said if the fence has been there long enough and you don't complain about it, the property becomes theirs through adverse possession.

Mr. Gautam said he has owned the property about five years and did the survey.

Mr. Lamanna said he wouldn't do anything about it because there really should not be any restrictions on the easement and that would be a restriction, limiting the easement which might create a title problem for somebody, if you look and see that you have an easement except you don't really have an easement because there is this further restriction on the easement you created and he doesn't think you want that, speaking from a person who has delved in real estate titles from time to time, he thinks that is just a complication. He said it is better to have a private understanding and not recorded, it is what it is and it might cause some problems in the future if you did that. He said if we are relying on this easement for the basis of creating these lots it should be an un-feathered easement.

Mr. Segedy asked whose property was this deeded into before you (Mr. Gautam) took control of it.

Mr. Lamanna asked Mr. Segedy what he is referring to.

Mr. Segedy asked who were the property owners before they took control of this land.

Mr. Gautam said they have owned it for five years.

Mr. Segedy said when they first took control.

Mr. Lamanna asked Mr. Gautam who he bought the property from.

Mr. Gautam said a court appointed receiver.

Mr. Segedy asked whose property was it deeded in.

Mr. Gautam said the receiver from Geauga County.

Mr. Lamanna asked who the owner was.

Mr. Gautam said Moon Road Development.

Mr. Segedy said he lied to you again.

Mr. Lamanna said it is recollection.

Mr. Segedy said he didn't say that.

Mr. Lamanna said first it has to be relevant.

Mr. Segedy said it is relevant. He went on to say he was the owner of the property and his sister was and they got it through a receiver where there was funny stuff going on under the table because they took the property away from him and his sister because a notary's term expired which is totally illegal on this thing, not only did he buy that property, he bought another property through the same receiver. If you give this easement out to him.

Mr. Lamanna asked Mr. Segedy if he was Moon Road Development Company.

Mr. Segedy said he was also that too.

Mr. Lamanna said there is a deed in here that says he got it from a receiver.

Mr. Segedy said it doesn't say it is legal.

Mr. Lamanna said when a judge signs his name on the order that says this property is transferred to the buyer from the receiver and that is legal.

Mr. Segedy said he went in and tried to do the same thing he is but he was denied and told he needed 60' out on the road so you give him the lot split which he is asking for, then you guys violated him back when he wanted to do the same thing he is doing, which you should talk to your prosecutor that you have on staff. He said it says 60', sure he doesn't know what goes on when he leaves here, whatever, but he would think twice. He said in 1980 you needed 60' for a lot split and it was when it went to 3 – 5 acres, that is why they made 5 acres. He said it would be an ideal spot for a church and now you can sell both pieces of property or all three to the church and they would be happy but he is saying there is not a clear title to that property, even though a judge signed a piece of paper. He asked if there has been a title search, title searches are great. He asked are you going to bend the law and if there is one for public record, he would like a copy of it.

Mr. Gautam said they have a clean title to it.

Mr. Lamanna said he thinks there is one in the packet.

Mr. Segedy said he would like a copy of it because it is public record and in your hands.

Mr. Lamanna said you can make your request through a formal procedure, you can't get a copy right now.

Mr. Segedy said what they can do is go buy Mrs. Murphy's house and her five acres and let her live there for the next 99 years. He said the church can buy this and do a lot more.

Mr. Maglietta asked Mr. Segedy if he is Moon Road Development and who is Robert Zulant.

Mr. Segedy explained that they did something to the title and it wasn't any good.

Mr. Lamanna said he doesn't know what claim you (Mr. Segedy) have, all he knows is that there is clearly a deed that has been recorded of record.

Mr. Segedy said the court could sell your property and you wouldn't even know it, hypothetically. He said he wants to play by the rules here in Bainbridge and it says 60' along the road, you guys held me to that standard, that is all he is asking the board to do for his standard.

Mr. Lamanna said he doesn't know who held him to that standard.

Mr. Segedy said he can prove it. He said they made him make 60' roads, that is why he couldn't do it to this property when he owned it and he doesn't run the court system up in Geauga County and yet you get to buy a property from a receiver.

Mr. Lamanna said he doesn't know how any of this is relevant.

Mr. Segedy said the relevance is he wants the board to treat him (Mr. Gautam) like they treated me.

Mr. Lamanna said he doesn't know how they treated you.

Mr. Segedy said they said no.

Mr. Lamanna said he doesn't know what was applied for and what testimony was given to the board.

Mr. Segedy said why go to the board if the answer is no and they tell you no before you go. He said if he puts his three lots back together will the board let him put 15' roads back there if he has separate roads, I only need 15' per vehicle so I don't need a 60' easement, that is what you are telling me you are going to let me do as soon as you let him do it. He said he has three acres on each one but that is all he is asking to be treated like you treat him.

Mr. Lamanna told Mr. Segedy that he is entitled to come in and seek whatever variances he thinks he can support before this board and based on his circumstances, not on Mr. Gautam's circumstances.

Mr. Segedy said okay. He said to Mr. Gautam, when you bought the property you knew it was 9 pt. some acres and it was one building lot in a R-5 right.

Mr. Gautam said he bought it through a realtor.

Mr. Segedy said you bought the property and it was 9.5 acres and it was one piece of property in a R-5A district.

Mr. Gautam said he thought it was R-3.

Mr. Segedy said it wasn't, the maps are here.

Mr. Gautam said it was a lot with a lot of acres and that was what he was interested in.

Mr. Segedy said it has one building on it and that was it.

Mr. Gautam said and now six years later he sought a variance.

Mr. Segedy said but he bought it without knowing what it was. He said one of the questions is, it was said the septic is off-lot right, so where does the septic go, if you are going to split the lots.

Mr. Gautam said it goes downstream like everybody else's.

Mr. Segedy said it goes under the easement.

Mr. Lamanna said that lot will have to get its own septic.

Mr. Segedy said the question is the utilities will be going through that easement.

Mr. Lamanna said he will own the property.

Mr. Segedy said you said it is going to go to the back property.

Mr. Lamanna said the front piece of property will own the access out to Country Lane and then there is an existing easement already that runs over the left side of the front lot and down through the little neck and actually over part of the square property there and then down along the square property.

Mr. Segedy said he is asking for a lot split on the easement.

Mr. Lamanna said the easement already exists on the lot.

Mr. Segedy said there is not 60' at the road.

Mr. Lamanna said the surveyor said there is.

Mr. Segedy said he owned the property, he knows what it was and he knows there are a lot of dead bodies on the property too and you shouldn't desecrate them. He said he will take a lie-detector test.

Mr. Lamanna said we have a survey in front of us and it says 60'.

Mr. Segedy said then it was surveyed wrong.

Mr. Lamanna said the board has had enough of these accusations without foundation or basis accusing people.

Mr. Segedy said he will bring the legal description in. He said it is 50' out there and if he is wrong he will apologize.

Mr. Gautam said so you cast dispersions upon me, you called me a liar several times but I actually have a survey with a title company that I have no affiliation with and they would lose their license if they committed fraud and they would be sued.

Mr. Segedy said he would like to see what has been submitted to the board so he can physically look at it.

Ms. Endres said there is a conflict in the zoning regarding the lot line for easements because each lot shall abut a street. She said she doesn't want to confuse things but she knew she had a reason for doing what she did. (Chapter 161.04) She said it conflicts with the definition of front lot line.

The board discussed lots abutting streets.

Mr. Segedy asked when a decision will be made on this.

Mr. Lamanna explained that the decision will be made now once the proceedings are closed.

Mr. Segedy said make the right decision.

Mr. Gautam said it has been resurveyed.

Since there was no further testimony, the public hearing was closed.

Motion BZA 2013-9 – 17257 Catsden Road

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of splitting a 9.96 acre lot.

1. A variance for the smaller of the lots because the actual frontage nominally on Catsden Road, should actually be Country Lane, to 1.64 acres.
2. The second lot to the balance of the property of 8.3 acres so there will be a variance from the minimum lot size of 5 acres and a minimum lot width of 250'.
3. A variance from the minimum required rear yard setback of 90' (south property line) to 17.38' for a variance of 72.62' (newly created 1.64 acre parcel).
4. A variance from the minimum required side yard setback of 50' (north property line) to 19.56' for a variance of 30.44' (newly created 1.64 acre parcel).
5. It will also be true with respect to what will now become the rear yard setback for this new parcel. The distance from the house to the back property line and that becomes a new rear yard (the existing house on the 1.64 acre parcel).
6. Secondly in doing this what is the real property line of the 1.64 acre parcel will extend on the drawing over until it meets the other property line.
7. On the drawing that was submitted by the applicant to clarify matters in the new property line will run from the ½" iron pin found and used from that point running parallel to the western property line up to the street where there will be 25' of frontage for the 8.3 acre lot and 35' of frontage for the 1.64 acre lot.

With the following conditions:

1. This division requires a common driveway and as a condition to the variances granted for these lots and found necessary to grant these variances and without these conditions the applicant would not have satisfied his burden of proof to obtain these variances.
2. The applicant will assure that all of these properties will be the beneficiaries of the existing 60' easement that runs from Country Lane down the western boundary line of the property across part of the adjacent property owned by the related party and then down partially into the 8.3 acre parcel.
3. The common driveway serving the properties will be at least 20' wide from Country Lane until the point of which the driveway serves only one remaining property and there will be amongst the two new parcels and the adjacent parcel owned by the related party.
4. An agreement with respect to the maintenance of that driveway and the driveway will be 20' wide and will be sufficient to allow standard fire equipment to be able to access the several properties.
5. The applicant will submit the legal documentation for review to the zoning inspector and all of that will be in place at the same time that the time that the lot split itself is recorded so that should all be done at the same time.

Motion BZA 2013-9 – 17257 Catsden Road - Continued

6. The actual construction of the road will be allowed at the time something is actually built on that property. The road is not going to have to be put in until the construction of the dwelling is actually commenced on the 8.3 acre parcel.

Based on the following findings of fact:

1. This property is a unique situation.
2. It is only a very small amount less than the 10 acres minimum required to create two lots of permitted size. However because of the unusual shape and the fact that there already is an existing house on a part of this lot that is like an appendage to the rest of it made practical sense to create that as a separate lot rather than creating an artificial division of the remaining property and having a long tail to another piece of property for the purposes of balancing out the acreage.
3. The reason the board is allowing the reduced frontage is because there already exists in this situation a common driveway and that by execution of the conditions it will make that common driveway in a better more stable situation which will benefit the public in that it will improve access in case emergency services have to be provided to any of these properties.
4. Because of the nature and size of the surrounding properties the creation of this 1.64 acre lot will not be in consistent with the neighborhood or create any undue adverse impacts on the neighboring properties.

Mr. Lewis seconded the motion.

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

Application 2013-10 by J.J. Anderson Construction Co. (John Anderson) for Martha Boland for property at 17095 Catsden Road

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

The zoning inspector's letter dated April 18, 2013 was read.

Mr. Mark Murphy recused himself because he is a contiguous property owner.

Mr. John Anderson was present to represent this application.

Ms. Endres testified that she has a document from the property owner authorizing Mr. Anderson to represent her on this application.

Mr. John Anderson testified that they are taking a little ranching and bringing it into a nice house. He said one of the things on the existing house, this is the inside measurements of the garage, call it a two car garage and they want to extend it and the only way to go is to come forward and they are going to be further back from the road than their next door neighbor.

Mr. Mark Murphy testified that his mom and dad built that house and it is where he grew up.

Mr. Anderson said they just want to get an appropriate garage for this kind of house.

Mr. Lamanna asked if the garage is at 75' (setback) now.

Mr. Anderson said he doesn't believe so.

The board reviewed the site plan and floor plans.

Mr. Anderson showed the board a site plan of the existing garage.

The board viewed the property on the GIS aerial photograph.

Mr. Anderson said there is another house on the other side of Mr. Murphy's house that is closer to the street.

Mr. Lamanna said the ones going up the street are pretty much similar and the ones across the street are slightly closer and two of them are way back in the woods and the next one down is pretty close. He said most of the houses on that side are in a line and there is not a good place to put this thing. He asked if anybody has any issues with this application.

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

Motion BZA 2013-10 – 17095 Catsden Road

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of putting an addition on an existing house for a garage.

1. A variance from the minimum front yard requirements from the 75' required to 61.61' for a variance of 13.4'.

Based on the following findings of fact:

1. The purposes of putting an addition on an existing house for a garage is the existing house does not have a functional garage.
2. Because of the nature and location of the house on the property and the lay of the land there is no other practical place to put a garage and therefore the variance is granted.
3. The board also notes that other houses on this same side of the street have similar setbacks and therefore this would not be inconsistent with the neighborhood nor would this small addition on the front of the house will adversely affect the neighboring properties.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 11:30 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Jason Maglietta, Alternate
Mark Murphy
Mark Olivier

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

Date: May 16, 2013

AUDIO RECORDING ON FILE

BZA PH 4/18/2013

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Bainbridge Township, Ohio
Board of Zoning Appeals
April 18, 2013

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 11:30 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Jason Maglietta, Alternate, Mr. Mark Murphy and Mr. Mark Olivier. Mr. Joseph Gutoskey was absent. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the March 14, 2013 meeting as written.

Mr. Lewis seconded the motion.

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

Applications for May 16, 2013

Application 2013-7 by Dr. Caleb Chou, The Church in Solon for property at 7765 Country Lane - Continuance

The applicant is requesting a conditional use permit and area variance for the purpose of establishing a Place of Worship. The property is located in a R-5A District.

Application 2013-8 by TDI Terraplan Development Inc. for property at 8327 E. Washington Street - Continuance

The applicant is requesting a renewal of an existing conditional use permit for the continuation of a car wash. The property is located in a CB District.

Application 2013-11 by HCP Properties, LP, formerly known as HCR ManorCare Properties, LLC, by statutory conversion now HCP Properties at 8100 East Washington Street

The applicant is requesting a conditional use permit with area variance(s) for the expansion of eight additional beds at Arden Courts facility. The property is located in a R-3A District.

Application 2013-12 by Aldo Dure for property at 8574 East Washington Street

The applicant is requesting area variance(s) for the purpose of installing signage for Chagrin Saddlery. The property is located in a CB District.

Application 2013-13 by Joyce Building Company for property at 8460 Lakeshore Drive

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

Application 2013-14 by Connie Hecker for property at 8300 E. Washington Street

The applicant is requesting a conditional use permit with variance(s) for the purpose of reconstructing a building. The property is located in a CB District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for May 16, 2013 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 11:42 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Jason Maglietta, Alternate
Mark Murphy
Mark Olivier

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

Date: May 16, 2013