

Bainbridge Township, Ohio
Board of Zoning Appeals
April 19, 2012

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

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.

Mr. Lamanna stated that the board will take the applications out of order from the published agenda.

Application 2012-9 by Anthony Paskevich & Associates/Al Klauss for Katie & Mike Fox for property at 8394 Lucerne Drive

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

The zoning inspector's letter dated April 19, 2012 was read.

Mr. Mark Murphy recused himself from this application.

Mr. Al Klauss was present to represent this application.

Mr. Klauss testified that he is with the architectural firm of Anthony Paskevich & Associates and they were before the board and were granted a variance of 10' from the sideline in Lake Lucerne. He said he apologizes because he did not realize when they were making a change and they thought it was better by moving it even further away from the sideline and would not need to come back but Mr. Wrench has done a very good job in helping him with this and he appreciates the board letting him go in front of them again. He said the reason they moved the house away from the sideline a little further west is because of the neighbor and also because of a big tree that straddles the property line and in order to save that tree and also to accommodate the neighbor they moved the house five feet away. He said the Lake Lucerne Homeowners Association reviewed the plans and approved the house location.

Mr. Lewis said so the variance reduces from 40' to 35'.

Mr. Lamanna said it will be 15' away.

Mr. Klauss said they got the variance of 10' from the property line, they moved it an additional 5' so actually the whole house is a little bit more centered.

Mr. Gutoskey said it will be centered with a 35' setback.

Mr. Klauss said they will be saving a big huge tree which is on the property line and they don't want to get into a dispute about whose tree it is and also the neighbor was very pleased that they are moving it away.

Mr. Lewis asked how they are set on the other side yard setback and did it encroach on the 50' on that side.

Mr. Klauss replied no and this is a double lot if you recall.

The board discussed the setbacks on each side.

Mr. Lewis asked if the ARB in Lake Lucerne had any issues.

Mr. Klauss said no based on approval with the zoning.

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

Motion BZA 2012-9 – 8394 Lucerne Drive

Mr. Lamanna made a motion to grant a change to the variance previously granted in 2011-26 on the side yards to the following:

1. A variance from the minimum required side yard setback of 50' to 15' for a variance of 35' on the west side.
2. A variance from the minimum required side yard setback of 50' to 35' for a variance of 15' on the east side.

Based on the following findings of fact:

1. All other parts of that variance will remain the same.
2. This is a minor change and based on the same findings of fact as the previous application.

Mr. Lewis seconded the motion.

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

Application 2012-4 by St. John Funeral Home for property at 16381 Chillicothe Road -
Continuance

The applicant is requesting a use variance for the purpose of establishing a funeral home. The property is located in a R-5A District.

The zoning inspector's letter dated March 15, 2012 was read.

Mr. Lamanna stated that this is an application to substitute a non-conforming use for a previous non-conforming use at the property.

Mr. Charles St. John, Mrs. Lois St. John, Mr. Chris St. John, Ms. Sue St. John and Mr. Ed St. John were present to represent this application.

Mr. Charles St. John testified that their son Ed St. John is present who is a civil and an environmental engineer and he helped them through his company to put together the packet that they sent to the board members for review ahead of time. He said they put together the renderings and it is a thought of how they can convert the building to make it look uniform and fit in with the architectural style throughout the Bainbridge area as well as they took a hard look at the homes at the Woods of Wembley to see how things are designed in order to make it fit. He said when they did this they had to think strongly about the visual accommodations that would be something that would be attractive to people as well as the accommodations that would be on the inside to accommodate the people they are serving. He said this is a rendering of what they think would fit well in the community and at the same time size-wise would be certainly accommodating.

Mr. Lamanna said so basically you will be adding a couple of porte-cocheres onto the building for the structure of the building.

Mr. Charles St. John said there are a lot of cosmetics to make the building look nice and the porte-cocheres are there so when you are coming out of the funeral home with a casket, you have to protect the people, it is just common sense.

Mr. Lamanna said those require an additional approval.

Mr. Charles St. John said yes they realize that.

Mr. Lamanna asked if they are going to come back with final plans.

Mr. Charles St. John said when they get the final plans they have to present them and also he thinks the board received a twelve point letter from the Woods of Wembley with their concerns that they (St. Johns) signed off on.

Mr. Christopher Ernst, Attorney for Bricker & Eckler LLP and resident of 16425 Crown Pointe, Woods of Wembley Subdivision testified that subsequent to the last meeting there was a meeting of the homeowners association of the Woods of Wembley where the application was discussed and an invitation was extended to the St. John family to come and address the homeowners which they agreed to and there was a clearing of the air and they tried to make sure everyone was on the same page and as a result of that they were able to acknowledge about twelve points that were a concern of the neighborhood and the St. John family very readily and graciously agreed to address and we asked them to put it in writing so that if the board would go ahead and grant them permission for a variance then these conditions would then be made part of the record of the variance that is granted so the residents are then protected later on down the line if there would be a change in ownership of the property or something along those lines. He said they graciously agreed to do that and they prepared that and submitted it for a signature from Mr. St. John, he signed it and he also has additional copies for the board.

Mr. Lamanna said that would be helpful.

Mr. Ernst said the only issue that is not directly addressed in here is the sign. He said he doesn't believe that the approval of the sign is part of the decision that is being made but there was a concern as to whether the size was within the code, whether it was in keeping with the neighborhood with the drawing that was prepared and there were some representations made to them as well that the sign would have St. John Funeral Home without the additional verbiage, it would be within code and it basically would be in keeping with the neighborhood, for example, the Northwoods sign that is already there as opposed to the 8' wide, 7' tall sign. He said he is not sure it needs to be addressed at this juncture or not but he wanted to bring it to the board's attention.

Mr. Lamanna asked what the homeowner's association position is on the sign and if they are happy as long as it meets the standard code size.

Mr. Ernst said yes as long as the language on it is St. John Funeral Home, the application talked about and it was basically a copy of the sign from the Bedford Heights home, it talks about cremation services, monuments, markers, pre-need funeral planning and he thinks the tenure of concern by the homeowners is to make it a little less commercial and just say St. John Funeral Home and the street address but nothing about cremation services or funeral planning, just the name of the business.

Mr. Lamanna asked Mr. Wrench if the board granted any variances for the existing sign, Northwoods Grille.

Mr. Wrench testified that he wasn't sure.

Mr. Ernst said he doesn't pretend to be an expert on signage but he thinks it is within the code in terms of square footage.

Mr. Lamanna said we will refer to Mr. Wrench on that.

Mr. Charles St. John said concerning the sign, he has already spoken to the lady who does the signs for them and she is a professional sign maker and she has the right information regarding size etc. and they sent her a copy of what was explained to them and they told her to re-do it and the only thing that will appear on there is St. John Funeral Home with the address and that is not a problem with them.

Mr. Ernst said he wanted to mention for the record that on behalf of the homeowner's association there is a genuine sense of appreciation with the way the St. Johns' have been able to address the concerns and to listen to us and be accommodating to us.

Ms. Augusta VanDomelen of 8340 Wembley Court testified that she is concerned about the funeral home and to begin with generally the families follow a funeral home and the people who presently live in Bedford Heights, Maple Heights or Warrensville Heights plus the residents who live out in this area, the traffic congestion will be overwhelming, if they have four viewing rooms and there are two showings per day and you have 25 cars times 8 showings, that is 200 cars per day, 6,000 per month, that is 72,000 cars a year on a road that has one lane going north and another one going south, she just feels that the congestion will cause delays, possible accidents and she thinks there will be a lot of frustrated residents who live in Geauga County and pay taxes so she is concerned about the traffic congestion and the amount of people who would be coming into this area due to the fact they will be coming from Cuyahoga County to this area and there will be a lot of frustration for the residents due to the congestion on the road. She asked if they have any plans for Rt. 306 and E. Washington in the event this should go through.

Mr. Lamanna said they have gone to the expense of having a traffic engineer do a trip study on this property. He said the daily traffic on Rt. 306 is over 16,500 cars per day going by that property just to give everybody an idea of the level of traffic and basically their estimate of this is it is inconsequential.

Ms. VanDomelen asked how many cars a funeral home will be adding to the traffic on a daily basis.

Mr. Lamanna said on a daily basis, not that many.

Mr. Charles St. John said they have a report.

Ms. VanDomelen asked if they had any intention of closing down the funeral home in Bedford Heights therefore the residents from Bedford Heights, Maple Heights and Warrensville Heights may find themselves coming out into this area and creating further congestion, more traffic, more delays, more accidents and more frustration for the residents.

Mr. Murphy asked Mr. St. John if they are closing down their current funeral home.

Mr. Charles St. John said they are not closing the funeral home in Bedford because it is the one that is going to support this so you can't close it. He said secondly, just from 65 years of experience, if we were to close the one in Bedford, the people of Bedford would go to the other funeral homes, they would not drive out to Bainbridge, they just simply wouldn't. He said the people from Maple Heights won't come to Bedford, if they have to pass a funeral home up to come to us they don't pass it up, they stay right there. He said with all due respect to the remark, you can see on the report that was prepared by his daughter, first of all there will only be two chapels and secondly we have never had funerals going on every day of the week, never. He asked his daughter Ms. Sue St. John to explain the report.

Ms. Sue St. John testified that she prepared the usage report for 2011 which would be in the board's packets and they have been in Bedford since 1959 and in 2011 they only had 139 funerals. She said it would take quite awhile in Bainbridge Township to get to 139 funerals and 61 of them actually had a funeral procession that left their property, 61 funeral processions left their property in 365 days.

Mr. Charles St. John said and of those 61 you could figure that meant that they had a visitation on each one of those once a day and a half so they are up to about 90 days of the year.

Mr. Olivier asked when those processions leave the facility, at what time.

Ms. St. John said between 9:00 AM – 11:00 AM.

Mr. Charles St. John said 9:00 would be early and they would be between 9:00 – 11:00 or 12:00 and they figured an average of 20 – 25 cars would be in the funeral procession based on the short ones like that of four and the one they had last week was 35 so you come up with an average of 20 – 25 cars, it takes them with an escort one minute to get 10 cars on the road and they have been timing it, Rt. 306 is a busy road so he won't compare the two (Rt. 306 and Bedford).

Mr. Gutoskey said the visitations are 2 – 4 and 6 – 8 typically and then those hours are outside the typical peak hours so when you do a traffic study those are normally outside the peak hours.

Mr. Ed St. John testified that the peak hours are 7 – 9 and 4 – 6 and the traffic study was done at worst case, he was looking at the Ferfolia Funeral Home at 140 funerals which is not the case when you first open the doors so that was a worst case analysis so what we conclude is there is no impact, you are comparing it what you have there and it is not a restaurant, there is no impact on the level of traffic and no impact on the level of service and that equates to the delays on the street and the level of service has remained the same, level A is the best, so you end up with the same level of service, A, and you have no impact on the traffic.

Mr. Gutoskey said if it were a restaurant use doing a decent business it would generate almost 700 trips a day.

Mr. Lamanna said we have this report and it is actually compared to the present use and this use will actually generate less traffic at the site including probably a lot less traffic during the peak rush hours.

Mr. Charles St. John said and a lot less usage.

Mr. Lamanna said from having seen lots of traffic studies for a lot of things that are a lot bigger than this, you have got to have a pretty good size facility before you really have a significant effect on traffic, most people don't realize that but you have to be generating a lot of trips in and out of a facility to begin to even notice that that facility is there. He said if there is nothing there and they were putting this in, it wouldn't affect the level of service and in fact what they are putting in is actually going to create less traffic than the existing permitted use there of a restaurant, there is almost more than double the number of cars coming in and out of the restaurant as there will be out of this so that is what the experts say as far as traffic goes. He said when they put in the Weils people were all worried that it was going to create a traffic problem but we have never had an issue there, when you drive by you don't see cars backed up trying to get out or traffic messed up by people trying to turn in there, it just doesn't happen at this level of usage and we have never had an issue there, when you drive by you don't see cars backed up trying to get out or traffic messed up by people trying to turn in there, it just doesn't happen at this level of usage, that is the board's experience and it is pretty clear here that there is really no significant increase in the traffic.

Mr. Lewis said he just wanted to clarify something and wants to address this to the Woods of Wembley Homeowner's Association and asked if he is satisfied that a fair representation of that subdivision was present for this meeting or those that wanted to be here or how was that approached.

Mr. Ernst said there was a first meeting to discuss everything, the culmination would result in lending an invitation to the St. Johns. He said the first meeting had 20 people at the meeting give or take and at the second meeting, most of the meeting occurred with the board of the homeowner's association, the people in charge of running the organization, then there was an additional meeting with interested homeowners, there were a few homeowners who showed up at that as well but most of this was done at a board level through the HOA. He said can he represent to the board that everyone was there at the meeting, no he can't but it was being done by the HOA pursuant to its authority.

Mr. Lewis said he just wanted to be certain that everybody in the community in that association was notified at least of the preliminary meeting and was invited to be there.

Mr. Ernst said that is his understanding yes.

Mr. Lewis thanked Mr. Ernst.

Mr. Ken Polanka of 8400 Wembley Court testified that he is a member of the board and there were emails that went out to all 68 households and 20 were represented and there was a discussion just like was held here, they voiced their opinions, we discussed it and everybody has calmed down, there are still a couple of people that were against the funeral home at that particular meeting. He said they had a meeting with the St. Johns and they presented the information as they did here at the zoning meeting, discussed it and opened it up, their meeting was at 6:00 with the board and at 7:00 we invited anybody else who wanted to meet with the St. Johns and only a couple of more households showed up. He said the board has eight members and probably there were only 10 – 12 people, everybody seemed very receptive to their proposal. He said obviously this is a zoning issue and what Mr. Ernst indicated, as a board we don't have an objection to what they are proposing but it is still a zoning issue.

Mr. Lewis thanked Mr. Polanka.

Mr. Lewis said it appears it would be less intense than what was there.

Mr. Gutoskey said because of the reconfiguration of the building and parking from what it was to what it may be such as some kind of architectural review such as a parking lot plan, landscaped islands and lighting plan.

Mr. Lamanna said yes they will have to come back and at least as far as number eleven, he was going to have them come back with a full building and site plan for review.

Mr. Gutoskey said when he looks at the parking lot there is a lot of extra pavement in there and it looks like they are going to be as part of the agreement, with ingress and egress and you may end up narrowing those lanes down a little bit because they are going to be one-way.

Mr. Charles St. John said so you are concerned about less parking.

Mr. Gutoskey said no, when you look at the way the parking is laid out on here versus where the pavement is, there is extra pavement on there so try to work in some islands for landscaping and if there is pavement in here that is unnecessary, the west side of the site plan you have got two-way traffic there but there really isn't any parking spaces for those the way the parking lot is laid out and it may change when you reconfigure the front.

Mr. Ed St. John said what you are looking at is conceptual.

Mr. Gutoskey said that is just something to look at when you are doing your final site plan.

Mr. Lewis said he would definitely consult the local fire department to make sure they can get trucks in there for service if you need it.

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

Motion BZA 2012-4 – 16381 Chillicothe Road (St. John Funeral Home)

Mr. Lamanna made a motion to grant a substitution of a non-conforming use to permit the operation of a funeral home as has been described by the applicant in place of the existing restaurant use. In connection with that substitution of use the board will impose several conditions. These conditions will include 12 conditions that have been voluntarily agreed to by the applicant in accordance with a document submitted as a record in this case which are as follows:

A. Voluntary Conditions

1. No crematorium shall ever be constructed or operated on the property.
2. No party center or meeting rooms will be operated on the property.
3. Wake or post-funeral receptions will not be held on the property. However, a small coffee room will be utilized.
4. There will be no parking or storage of hearses in front of the building.
5. All lighting for the property, including the parking lot, will be non-intrusive to the neighboring properties and such shall be installed to minimize light pollution.
6. There will be no processions operated through the Woods of Wembley Subdivision.
7. There will be no parking of cars on S.R. 306 or in the Woods of Wembley Subdivision.
8. The North driveway shall be used only for exiting or leaving the property.
9. The South driveway shall be used solely for entering the property.

10. The parking lot will be painted (striped) so as to clearly convey the traffic pattern (listed in #7 and #8) to the guests of the funeral home and “No Exit” signs will be placed along the South driveway.
 11. The exterior of the building on the property will be remodeled in a tasteful and understated fashion, consistent with the “look and feel” of the houses of the Woods of Wembley Subdivision.
 12. All exterior lights, including any lights on the sign, shall be turned off after the close of business each day, with the exception of security lights providing low level illumination on the building.
- B. In addition to the authority granted to the board to impose appropriate conditions in Chapter 165.09 the board also finds that these conditions are necessary in order to satisfy the legal requirements and the findings of this board granting this substitution of use and without such conditions the board would not find in favor of this substitution of use.
- C. With respect to the aforementioned twelve conditions the board will note that as far as conditions relating to exterior lighting notwithstanding those conditions that the applicant will also have to comply with all requirements as to exterior lighting which would apply if this property were located as well in a commercial district if they are more restrictive so any more restrictive requirements in the zoning code that would apply to this property be specifically as a residential property or as a commercial property in a lawful commercial district will also apply.
- D. With respect to item 11 on the look and feel of the property that the applicant when it gets a final site plan together including modifications of the property because the board understands the applicant wants to add porte-cocheres to the building which will require another action from this board with the specifics of that particular application. The board will note at this time that is consistent with this use and it is really not an expansion of the non-conforming use but the applicant will have to submit for approval of the board a complete site plan showing any modifications to the building, changes to the parking lot, lighting and landscaping so the board will have a complete site plan for final review to assure consistency with this.
- E. With respect to the signage, the signage will be limited to a ground sign with the name of the business and address only on it. That sign will be no larger than the existing sign and as well other reasonable direction signs as defined within our code in/out, egress, enter here, those types of things are also permitted so long as they meet the size and definition of directional signs.

Based on the following findings of fact:

1. The board determines that the use is the same kind and character as the prior lawful non-conforming use.
2. It is not going to increase the noise from that which would exist with the restaurant.
3. The traffic will not increase as shown in the traffic analysis presented to the board.
4. There is no evidence that there will be any additional pollution in fact there will not be any significant discharge as opposed to the cooking discharges there.
5. The signage area will not change.
6. The number of people using the property will probably decrease.
7. The proposed use is no more intrusive than the existing use.
8. The board does see that there will not be any adverse effect, in fact, the remodeling of the exterior of the premises will bring it more in tune with the existing architecture of the homes in that area.
9. There has been no evidence introduced that there should be any adverse effect upon adjacent non-residential properties which are both churches or the residential properties in the area from this business.

Mr. Lewis seconded the motion.

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

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))

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.

Mr. Lamanna made a motion to postpone this application to the next regularly scheduled meeting to be held May 17, 2012 at the request of the applicant.

Mr. Lewis seconded the motion.

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

Application 2012-7 by Dennis Barba for property at 8699 Chase Drive

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

Mr. Lamanna made a motion to postpone this application to the next regularly scheduled meeting to be held May 17, 2012 at the request of the applicant.

Mr. Lewis seconded the motion.

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

Application 2012-8 by Cynthia J. Vasu for property at 7290 Ober Lane

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

The zoning inspector's letter dated April 19, 2012 was read.

Mr. and Mrs. William Vasu, property owners and Mr. Alan Brown, builder were present to represent this application.

Mrs. Cynthia Vasu testified that Mr. William Vasu will be the spokesperson.

Mr. William Vasu testified that this is a plan they had prepared, before they purchased the property by Hess Engineering with potentially the opportunity to split the lot and show the septic and associated facilities what their proposed building location would look like. He said the total acreage of the property is 5.92 acres and they understand the current minimum is three acres however most of the other properties within the development are in the neighborhood of 1.75 acres to a little over 2 acres. He said there are two properties in the entire development that are three acres or more and they consulted with Mr. Wrench and prepared the application and he is happy to answer any questions or anything their builder can answer.

Mr. Lewis said he wanted to walk through this and make sure everyone on the board understands the application.

Mr. Vasu said it is basically the same house but in order to make sure that they are within all of the appropriate setbacks the garage has been swung out the side and this is a reduced footprint of the same house that we showed so it fits between all the setbacks as designated by Hess Engineering.

The adjacent neighbors approached the table to view the site plan submitted by the applicant.

Mr. Lamanna asked if they are going to build the new home and move into it.

Mr. Vasu replied yes.

Mr. Lamanna said it looks like the new house will be right off the culdesac.

Mr. Dale Kramer of 7181 Ober Lane asked about the square footage of the house.

Mr. Vasu said the first floor will be about 1,700 sq. ft. and the finished house will be between 2,300 and 2,500 sq. ft. and added that he has more complete plans here.

The board reviewed the plans and GIS photo.

Mr. Murphy asked if they are abandoning the older driveway.

Mr. Vasu replied no.

The board discussed which would be the front yard and side yard.

Mr. Lamanna asked if any of the neighbors had any questions or comments.

Mrs. Norma Bobbitt of 7295 Ober Lane testified that she lives the first drive off of the culdesac and she has lived there about 14 years and in that length of time, two houses have been built on either side of her and she did not move there because she wanted to be in a lot of houses, she moved from Shaker because she wanted to be in the woods, she objects to any house being built there, it will be directly across from her kitchen window and does not want to look at another house. She said the people we bought our house from asked for a variance to quote build a house for themselves, all they did was sell the lot, it is a skinny little one acre lot and there is a house flopped right next to the side of her and there is another house that went down into a ravine on the other side of her. She said she does not want a third house across the street from her and in 14 years she did not plan on having three houses when she picked property that was wooded. She thanked the board and showed the board her house on the GIS photo.

Mr. Dale Kramer referred to the GIS photo and testified where the new houses were built.

Mr. Lamanna asked Mrs. Bobbitt how far her house is from the street.

Mrs. Bobbitt said she didn't know but hers is the first house into the culdesac. She said she objects to any house, she doesn't care what the plans are.

Mr. Murphy asked Mrs. Bobbitt how big her lot is.

Mrs. Bobbitt said she has 3-1/2 acres, a lot of it is behind her house that goes down into a ravine so the ravine separates the houses on Samuel Lord from her house and there is a huge ravine so most of her acreage is in the ravine back behind but she has 3-1/2 acres.

Mr. Wrench said it is 3.71.

Mrs. Bobbitt said Norbuta's is about one acre and their lot was split off from her original property.

Mr. Olivier asked if it was split before she purchased it.

Mrs. Bobbitt replied yes, the extra lot was for sale when she bought her property and they were told when they bought their house that it was probably considered an unbuildable lot and it was vacant for about seven years before somebody could put in the newer septic system because there was not enough acres for the older systems so it was vacant for about seven years and we had hoped it would remain vacant.

Mr. Murphy said he grew up on Catsden Road and he wishes he could have bought all of those 1/2 acre to 2 acre lots before they were built up.

Mrs. Bobbitt said she wished they hadn't zoned it for a one acre lot.

Mr. Murphy said none of the board members were here at that time.

Mrs. Bobbitt said the Norbuta's lot is very narrow, it goes way back.

The board discussed the lot sizes in the area.

Mr. Jim Brett of 7320 Ober Lane testified that he has a lot on the other side and they came out 40 years ago for the zoning and Geauga County was a place with a lot of green space and that is why they came out here. He said if he thought this was going to happen they would have gone out further 15 to 20 miles but they were assured by everybody they talked to that these were unbuildable lots and because of the ravines nobody can build there but already there have been two houses.

Mr. Lamanna said there is no such thing as an unbuildable lot unless it can't satisfy the septic.

Mr. Brett said the second house that was built is on the culdesac and it is down 45°, a 90° turn driveway and in the wintertime, bad weather, the guy has a four-wheel drive vehicle and he cannot get up and down that driveway so he parks two vehicles on the culdesac and during the school days the school bus comes there and tries to jockey around the cars along with the snowplows. He said that was an unbuildable lot and it is still unbuildable. He added that they call the police and they show up and make a statement and then you don't see them again for another three months.

Mr. Lamanna said if No Parking signs are put up, then the police can do something, they can write them a citation.

Mr. Brett said he considers that lot as still unbuildable because they can't use it properly. He said they went through this process twice before and the last one, the people came in and said they wanted to split it off because it was unbuildable and as soon as they sold it, they took the money and ran. He said all these promises and they are gone so, so much for somebody's word here, you need a written contract as far as he is concerned. He said another thing several years ago after these two houses were built he had to take his well down another 20 ft., water is on a ragged edge right here and he doesn't think it can stand anymore building and he doesn't want to pay for a well when the water is down half-way to China and he wasn't aware of the problems and he went through two submersible pumps in a span of about a year and two months and you are coming back and you want to do this again. He said people who buy here to live and there is no reason to change it, if they don't want to live in the house they bought, buy a house somewhere else.

Mr. Lamanna asked Mr. Brett if he understands that what is being discussed here is there is a lot that is 5.92 acres and if this lot was 6 acres we wouldn't even be having this discussion. He said the only thing they are looking at is they are short .08 acres to having enough property to make two full size three acre lots in an area where many of the lots are not even 3 acres to start with and if we went back in time we would find out that at some point in time this really was a 6 acre lot because it was extended out to the center of Chagrin Road which was a common practice way back when, when most of those lots were platted and what happens is the county takes part of the road for widening and they end up short .1 acre and in the past people have been short very miniscule amounts of acres, especially when they lost that acreage to the road and other circumstances beyond their control so the board readily grants it.

Mr. Brett said if that lot had been divided in the beginning, they wouldn't have bought there, if there was a lot there, they would have been somewhere else. He said they bought in good faith that the zoning was there to protect them.

Mr. Lamanna asked when they bought there.

Mr. Brett said in 1972.

Mr. Lamanna said in 1972 he believes the zoning in that area was two acres, they could have divided this into three lots. He said there is no guarantee, the zoning at the time would have allowed them to split it into three lots so you can't claim when you bought saying the zoning was going to protect you because when you bought it there was no zoning that would have protected you. He said the whole reason why variances exist is to deal with situations like this where people have some small problem that they can't do something and where it would be unfair to them to say because you are short a few hundred square feet on your property you can't divide up your almost six acres with two perfectly legal three acre lots.

Mr. Brett said everybody in the whole township does that, the entire county, this is not Geauga County anymore.

Mr. Lamanna said if he went out and divided up every piece of property that was .08 acres short he would probably add five lots to this entire county and added that this comes up about once every five years.

Mr. Brett said we are the people who live right next door and we want that rural feeling that we bought in here to have.

Mr. Lamanna said you are in a three acre district, there will be two lots, one will be three acres and one will be 2.92 acres.

Mrs. Bobbitt said but there will be a house there.

Mr. Lamanna said there is no guarantee, they could tear down their existing house and put their house there if they wanted to so you have no guarantee or right to say on that piece of property you don't want a house there that meets the zoning. He said yes they don't like people to come and build where there wasn't something before but certainly there is nothing in the zoning that says it is not appropriate to have two three acre lots here.

Mrs. Bobbitt said then why did you ask us to come if you already made up your mind, she thought the board wanted her objections.

Mr. Lamanna said you are entitled to make your objections.

Mrs. Bobbitt said but you said they don't have any validity, why did you ask us to come.

Mr. Lamanna said the fact that you don't want to look and see a house there, everybody would say that.

Mr. Brett said it is the integrity of the neighborhood and that is why we bought in there, they built two houses and now there is a problem with the water and it was an expensive problem for him. He said they have a creek that runs down there to the Chagrin River and that is more pollution and when they cut the trees down back there and harvested the timber there was soil erosion and then they were forced to stop by the county, there have been problems, this lot has a history and he doesn't want to see it get worse than it is at this point. He said there was a point there about the soil conditions, he does not know what the status of that is, he would like to see a tree study, for endangered species, trees, animals.

Mr. Lamanna asked Mr. Brett if there was a tree study on his property.

Mr. Brett said it was already an approved lot. He said he bought the lot at that time because of the way it was.

Mr. Lamanna said what somebody told you when you bought your property, the board can't verify that and if somebody gave you misinformation about somebody else's property it is binding on them and if they sold you your property and said they will never build on the adjacent part we are keeping, then we would have something to discuss but nobody likes it when somebody starts building on lots that haven't been built on for a long time. He said we get people in here all of the time unfortunately and the rule is everybody wants to build on their own lot whatever they want to build and they don't want anybody else to build on their lot unless they approve it.

Mr. Brett said these people have a lot and they have a house.

Mr. Lamanna said they have six acres and one of the things they are entitled to do if they have six acres is to subdivide their lot if they can make an appropriate lot that will meet the county requirements for septic and will meet the area requirements for the township. He said there are already quite a few lots in this area that aren't even three acres.

Mr. Brett said they have been existing for 30 – 40 years.

Mr. Lamanna said it goes with the character of the neighborhood and that is one of the factors the board looks at, the character of the neighborhood and there are already lots smaller than three acres. He said if this area was five acres, there might be something to discuss and maybe he would say it would be inconsistent with the character of the neighborhood.

Mr. Brett said it is all about the character of the neighborhood.

Mr. Gutoskey said according to the application 51 of the 53 lots in the subdivision are smaller than three acres.

Mr. Brett said that was in Stoneridge at the time and the reason you see lots like that is because there are so many ravines there and a great portion of that is unbuildable.

Mr. Gutoskey said that is why we have the riparian setbacks so the township recognizes there are some issues with lots because of ravines etc. and they went to the trouble to develop the riparian setbacks so that is another thing that they have to contend with to build a house on the lot.

Mr. Brett asked what the setbacks are from the riparian.

Mr. Gutoskey said 25' for each lot from the riparian so basically it is where the normal stream would run down through there, 25' on either side of that.

Mr. Olivier said it is to not be encroached upon to protect the integrity of the stream.

Mr. Gutoskey said and the watershed.

Mr. Brett said there is already soil erosion with the trees coming down.

Mr. Gutoskey asked if they ground the stumps when they took the trees out.

Mrs. Vasu said that is not their lot, it was behind their lot where they took the trees out.

Mr. Brett asked about the big tree that is sliced up sitting in the middle of the culdesac.

Mr. Vasu said that is one that blew over and they had somebody cut it up.

Mrs. Vasu said they love trees and they have got a plan to save some trees.

Mr. Gutoskey said the septic system they are proposing, you don't have to cut the trees down to put it in, it is a drip system so they can run the tubing around the trees, you don't have to take the trees down.

Mrs. Vasu said they are building green and they do love nature.

Mr. Brett asked Mrs. Vasu if they are planning on living in the new house.

Mrs. Vasu replied yes.

Mr. Brett said the other house is in disrepair.

Mrs. Vasu said yes it is and we are working on it, it is a beautiful home but it needs a lot of work, it is beautiful and we are trying to beautify it.

Mr. Dale Kramer testified that this isn't personal.

Mrs. Vasu said they want to talk to the neighbors but not have it part of the testimony.

Mr. Alan Brown referred to the site plan and testified by explaining how the house will fit on the lot and added that it will have a walk-out basement.

Mr. Lewis said because of the lot split it will create a lot of variances and he is not 100% comfortable with it.

Mr. Kramer said part of this problem they didn't cause but the fact that this property was, he believes it was this piece of property, was subdivided already and if this is Chagrin Road he thinks this property was cut off from this original property and now there is a house here. (He referred to the GIS photo.) He said in this small little area there is a house here and a house here and their existing structure. He said he likes his neighbors but they wanted a rural setting and he sort of feels like now they are creating a cluster home area. He said literally there are new houses built on either side of them and if this piece of property hadn't been cut off from the original piece, we wouldn't be sitting here tonight. He said the concern, although it is not on their property, it is directly across from all of them, everything is a ravine, the house on the other side is harvesting all of the trees and after a phone call to Geauga County, they got the Soil & Water Conservation District in there and they put a halt to the harvesting of the trees. He said the former owner of the house was supposed to go in there and re-grade all of the property, replant seedlings to hold the soil and dig out all of the stumps and nothing was done so one of the things he would ask is prior to any construction, have Geauga County come in here and do a soil conservation or a survey to find out what is going to happen when they put another house on this property. He said like his neighbors, \$4,000 later he had to put in a new water system this year because they were not getting water.

Mr. Lewis asked if that was the entire aquifer.

Mr. Kramer said he doesn't know if it is the entire aquifer and he didn't know until just now that his neighbors put in a new system but he had to have a whole new water system put in their house because they weren't getting any water. He said he doesn't know about the water table there.

Mr. Lewis said it may be robust enough that maybe the table was altered throughout the years and there are sometimes underground rivers and you have got to punch that a little deeper but you may be in the Berea aquifer which is extremely healthy and robust.

Mr. Kramer said a lot of it is the quality of the water, they had to put in a lot more filtration. He referred to the lots that were cut off and said a new house was built here about six years ago.

Mr. Gutoskey said that is where they relocated Chagrin Road.

Mr. Kramer referred to the GIS photo and said this house was built and the person who previously owned the Vasu's house cut off that property. He said they all moved out there because they liked the big open area, a lot of trees and ravines and so it is really nothing personal, we will welcome you as a neighbor if this goes through but he is concerned more about soil erosion, what is going to happen to that stream at the bottom, whether a study has been done by Geauga County etc.

Mr. Brett asked if there is any plan of putting a water system in because his well doesn't have a long future, they are down 240 ft. now, how much deeper can you go with a well.

Mr. Lewis said his well is down 465' to hit an aquifer he is satisfied with so there is actually two of them that travel through here, they are at different depths.

Mr. Kramer asked Mr. Vasu how soon they will start construction.

Mr. Vasu said as soon as summer or early fall. He said they have been watching that property to the north which has been a rental for a long time and the house has deteriorated and they actually have been working with the Geauga Park District and the Land Conservancy to buy that from the bank that foreclosed on it, it is owned by Home Federal in Youngstown and have been working with the Park District and the Land Conservancy to find a way to buy that and have a conservation easement on the property.

Mrs. Bobbitt said she would like a conservation easement across from her.

Mr. Lewis said she could buy the property and put the easement on it.

Mrs. Bobbitt said if she had won the lottery she would.

Mr. Lewis said he understands but the opportunity is available, it is whether or not you want to participate.

Mr. Kramer said he is worried about frontage on the property and what the zoning code is and what would have to be amended to change that.

Mr. Lamanna said the secondary issue here is a house cannot be built on this property without a major front yard variance.

Mr. Vasu asked what that is.

Mr. Lamanna said the front yard setback is 100'.

Mr. Vasu asked if it is not 50'.

Mr. Lewis said no it is 100'.

Mr. Vasu said that is a surprise to him.

Mr. Lamanna said he doesn't know why it shows 50' here when it is a 100' setback. He said the board has granted variances for lot splits but they are for example ten acre lots but now we are looking at someone wanting to put a house in at 50' and he is guessing that there are no other houses on the street that are 50' back.

The board discussed the setbacks.

Mr. Lewis said this is not where we want to be and we are almost into the point where this lot split is creating an unbuildable lot unless substantial variances would have to be granted to make it buildable and that is not a good place to end up on this. He said his guess is that maybe one of the reasons this wasn't carved into two, three acre lots initially is because if you look at where the riparian and stream runs through this it is almost a bowling alley lot with the riparian running lengthwise on it.

Mr. Lamanna said the problem you have, the board could approve this lot split and then you come back in here and ask for a variance on setbacks and the board could deny the variance because the owner created the problem.

Mr. Vasu said this is a new piece of information because they had Hess Engineering design it and their understanding was that it was a 50' setback.

Mr. Gutoskey said they are showing a 30' side yard setback if that is the side but the code calls for 50'.

Mr. Lewis said it is 50' on the sides, 100' in the front and 90' in the rear so the lot split would be creating a very minute area where you could build unless you are coming in for substantial variances on the side yard and front yard. He said he is not real excited on creating more non-conforming problems and he is not concerned about the 8/100ths of an acre but he is not real satisfied about creating a virtually close to an unbuildable site.

Mr. Lamanna said he is real concerned about looking at a 50' setback when everybody else is 100' and that is a concern that their house will be much closer and that is why you (neighbors) get to come to these things and it is important to know what is going on.

Mr. Lewis said it then does have an adverse effect on the adjacent properties so that is something tangible the board can grab onto so his thought as far as the applicants go, if the applicants want to come back and re-present where they can show the board without setback variances, he would be inclined to look at the lot split for the 8/100ths but this is really substantial. He said right now he is not comfortable with what it is going to create and the dilemma.

The board discussed the setbacks with the lot split as drawn.

Mr. Vasu asked if it is from the actual road and not the property the township owns.

The board responded by saying it is from the right-of-way.

Mr. Lewis asked Mr. Vasu if he would like to table this so he can reconfigure the site plan.

Mr. Vasu said yes he would like to table it to next month.

Mr. Lewis suggested to Mr. Vasu that he could always consult with Mr. Wrench on the setbacks and consult with the Geauga County Health Department on the septic system layout.

The board discussed the setbacks with Mr. Vasu.

Mr. Lamanna explained shared driveways with easements.

Mr. Brown said Mr. and Mrs. Vasu hired Hess Engineering and are very shocked today so he just wanted the board to know that Mr. Vasu was totally blind-sided tonight and asked how this was missed.

Mr. Gutoskey said that on the GIS you can look up plats.

Mr. Wrench brought up the plats for the Stoneridge subdivision.

Mr. Gutoskey said it doesn't show any setbacks on the plat so he doesn't know where the 50' came from.

Mr. Lamanna said the board needs to see what the front yard setback was when it was platted and it looks like it might have been 75'.

Mr. Vasu said Mr. Steve Yingling is their broker on the other house and he noticed the house that sits on this lot (he referred to the site plan) has a deck out the back which either encroaches or is probably too close to the property line and what he suggested is that we trade to use this driveway for this house or an easement on this deck and there is a driveway here we just don't have an easement on it.

Mr. Gutoskey asked if the drive is on the other property.

Mr. Vasu said yes and he (Mr. Yingling) suggested that we bring this deck into conformance and agreed with the landowner to give us an easement on the drive so this property could use this drive (he referred to a site plan).

The board discussed the lots.

Mr. Vasu said if we got this guy (he referred to the site) and gave him an easement for his deck and in turn gave us an easement on the existing driveway which would then be shared by three properties instead of two that it would be in the front of the house and come in off of Chagrin Road and abandon this driveway.

The board discussed the frontage on Chagrin Road.

Mr. Lamanna said as long as you have legal access and the fact that the landowners want to grant each other legal access, it is not the board's concern.

The board discussed the proposed layout of the house with the applicant.

Mr. Lamanna suggested postponing this to the next meeting.

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

Motion BZA 2012-8 – 7290 Ober Lane

Mr. Lamanna made a motion to postpone this application to the next regularly scheduled meeting to be held May 17, 2012.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:02 P.M.

Respectfully submitted,

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

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

Date: May 17, 2012

AUDIO RECORDING ON FILE

BZA PH 4/19/2012

-24-

Bainbridge Township, Ohio
Board of Zoning Appeals
April 19, 2012

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:02 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the March 15, 2012 meeting as written.

Mr. Lewis seconded the motion.

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

New Business

Mr. Wrench met with the board to discuss riparian areas and rental buildings in residential districts.

Applications for May 17, 2012

Application 2012-7 by Dennis Barba for property at 8699 Chase Drive - Continuance

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

Application 2012-8 by Cynthia J. Vasu for property at 7290 Ober Lane - Continuance

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

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

The applicant is requesting a use variance for the purpose of establishing an indoor shooting range and retail sporting goods facility. The property is located in a CB District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for May 17, 2012 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 9:18 P.M.

Respectfully submitted,

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

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

Date: May 17, 2012