

Bainbridge Township, Ohio
Board of Zoning Appeals
April 20, 2017

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:04 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all persons who intended to testify. He noted for the record that everyone present had been duly sworn in.

Application 2016-40 by Ivan Nassif for property at 7170 Chagrin Road - Continuance

The applicant is requesting a substitution of a non-conforming use and area variance(s) for the purpose of a chiropractic and acupuncture wellness clinic. The property is located in a R-3A District.

Dr. Ivan Nassif and Ms. Janis Evans were present to represent this application.

Dr. Nassif testified that the owner, Ms. Evans, got the driveway put in by the county, they put in a chip and seal driveway, 24' wide, so the driveway is in. He said Ms. Evans called the county engineer and asked how they could help her out and got it done.

Mr. Gutoskey said this driveway, because of the well, is closer to the south property line. He said the only other question is to talk about some buffering for the house next door.

Mr. Murphy asked if there is any way of knowing exactly what it looks like today.

Mr. Gutoskey said you can see it relative to that property corner.

Mr. Lewis said at one point there was conversation about bringing it up along the lot line which would have been difficult so what they've done, it looks like from these markings, they brought it right up to the edge of the corner so it is a continuous line right into the lot with no hard turn.

Mr. Murphy said these photographs don't help him understand where the driveway is today.

The board discussed the photos with the driveway.

Ms. Karen Endres, Zoning Inspector testified that the driveway is 24' wide and 62' long at the road right-of-way, it is longer because it abuts Chagrin Road.

Mr. Gutoskey said yes because part of it is in the right-of-way.

Ms. Endres said the 24' x 62' is actually on the property.

Mr. Gutoskey said it is a projection of the parking lot line.

Mr. Lewis said which is consistent with what we spoke about last month.

Mr. Gutoskey said it is probably 20' to 25' off the property line; it is not jammed up against the edge like the other drawing.

Mr. Lewis said and the well-heads are down in this area here (he referred to a site plan).

Ms. Endres said the drive needs to be 2' off of the property line.

Mr. Gutoskey said there is more than 2'.

Mr. Lewis said that is part one and asked now we know where the driveway is intersecting with the parking lot, do we have a parking space plan.

Ms. Endres said he doesn't need a variance on the driveway to the lot line, it is not where she thought it was so he is good on that but the parking lot is dissected by the lot line.

Mr. Murphy asked if they are taking care of getting the county to add the front lot to the back lot to make it one lot.

Mr. Lewis said that would be the seller's responsibility.

Mr. Murphy said that whole thing never existed before they took down the railroad bridge. He asked Dr. Nassif if he is still buying this property.

Dr. Nassif said yes.

Mr. Murphy said this will be your property front and back and asked if there is anything involved that he is going to try to get them legally the front and back into one parcel.

Dr. Nassif said he didn't have any intentions on doing that because it is the cost of the surveying is what he understood, it is a big cost.

Mr. Gutoskey said the survey is done so all you have to do is prepare a legal description and get it recorded and run it through the county engineer.

Dr. Nassif asked what the advantage is for him.

Mr. Murphy said if you are going to take care of this and it is going to become your property you really want to consolidate all of this into one legal property.

Dr. Nassif said when the transfer goes through both properties will be in his name.

Mr. Lamanna said the zoning code used to have a provision about contiguous lots of record but that has been eliminated so if you have two lots technically they are two lots and they would have to be each individually considered and have their own variances etc. on them and the board has decided that when people have two lots and they want variances they are going to be required to merge the lots together because it becomes too complicated to keep track of what is going on and cases like this, these lots are being used as a single purpose and we don't want people coming back in and trying to sell the lot separately at some future time and taking advantage of the fact that they considered it one lot and now they don't. He said it has been abused in the past is the problem and in this case the survey is already done, if it cost thousands of dollars it would be one thing.

Dr. Nassif said he would be all for combining it if it didn't cost money but if it is going to cost him money then, a little money is still money, he works hard for his money. He said if the county wants to do the legal description with their surveyor and they want to pay for it that is fine with him.

Mr. Gutoskey told Dr. Nassif that he already has the survey.

Mr. Murphy said he doesn't want more money spent than has to be so could we in some way ask that before you sell the property it is done.

Mr. Lamanna asked Dr. Nassif when he is actually going to purchase the property.

Dr. Nassif said he did not know, when all of this gets taken care of.

Mr. Lamanna asked him if he is going to lease it for a while.

Dr. Nassif said no.

Mr. Murphy said he is not in it, this business is waiting on us.

Mr. Lamanna said he didn't know if Dr. Nassif was going to start operating in it and then complete the purchase at a later time.

Dr. Nassif said no, the purchase has to go through.

Mr. Lamanna said in that case even more so, as part of the purchase, just do it as part of the purchase.

Dr. Nassif asked what is that.

Mr. Lewis said consolidate the lots and then you (Dr. Nassif) buy it as one piece, so what you two work out but he would expect to see that in the board's motion.

Mr. Murphy said perhaps the property owner should do that and he is sorry because the county should agree to do it for free because they left you holding the bag.

Ms. Janis Evans testified that she purchased the property and they gave her the second piece when they took down the railroad trestle, she would be happy to do that, she thinks it would just be a title change.

Mr. Lewis said since they did the driveway, have them do the rest of the housekeeping for you.

Ms. Evans asked if that would be the auditor or the recorder.

Mr. Gutoskey said you have to prepare a legal description and then the county engineer reviews the survey and the legal description, they approve that and then it goes to Mr. Dave Dietrich of the planning department, they approve it and then you can transfer.

Mr. Lamanna said it can probably be done all in one recording and transferred with the new deed.

Mr. Murphy said the hard work and expensive work is done, the homework is done and the intent is done and he doesn't have a problem with it and added we have neighbors here.

Mr. Lamanna asked if there is a parking plan.

Mr. Gutoskey said from what he remembers there is enough room for six or seven spaces but it is not wide enough to get two tiers of parking, it is about 55'.

Mr. Lewis said with staggered clients, it is not like a store opening and suddenly the parking lot is completely full.

Mr. Lamanna asked what the calculated required parking is.

Ms. Endres said there are three different things that it could fit under, nursing homes clinics and emergency care centers, medical in nature then there is general office, one space for every 300 sq. ft. of usable floor area and then personal service establishments, one space for every 250 sq. ft. of usable floor area. She said the calculation she did and she just used the front building is 2,352 sq. ft., that is the gross building size, she doesn't have a floor plan to see how big the various rooms are in the building so what she is looking at is the maximum number but the true number would actually be smaller than that because it would be usable floor area, not gross building size.

Mr. Gutoskey said based on the information that has been provided originally there was a variance on this for six parking spaces back in 2002 so the best he can see is seven spaces.

Mr. Lamanna said any variance for parking spaces is inherently tied to the use of the building so he doesn't know if that variance continues on when the use of the building changes.

Ms. Endres said six spaces worked for the use that was approved for.

Mr. Gutoskey asked what the previous use was.

Ms. Endres said there were office spaces in there before.

Mr. Lewis said there are four treatment rooms and there would be four patients in at one time.

Mr. Gutoskey said it was a permit for professional offices.

Ms. Evans said that is correct.

Ms. Endres said there were lawyers in there before.

Mr. Lewis said he can't see there being more than six people in here at one time and that includes two staff.

Mr. Gutoskey said but you have the other person working in the back.

Mr. Lewis said he has an access issue.

Ms. Endres said the previous use was professional office use so the use would be similar.

Mr. Gutoskey said based on Ms. Endres' calculations he is under the 40% but if you add 9' to the front of the parking lot you can get a little area.

Mr. Lewis said which may be phase two so that could give him some growth elbow room as the business grows.

Ms. Endres said the parking lot right now is only 70' from the road-right-of-way so adding on to the front of the parking lot would bring it even closer.

Mr. Gutoskey asked how close the Eagles parking lot is.

Mr. Lewis said it is on the roller rink parking lot.

The board discussed the desired setback from the road.

Mr. Gutoskey said he doesn't see that adding 9' in the front is going to affect anything.

Mr. Lamanna asked if it would still be under lot coverage.

Mr. Gutoskey said he thinks so, yes.

Mr. Lewis said put some inexpensive plantings in front of it. He asked if the board wants to talk about part of the property that is adjacent to the neighbor's driveway.

The board discussed the number of parking spaces required, the setback from the road right-of-way and the isolation of the two properties.

Mr. Lewis said there has to be a solid barrier between where your (Dr. Nassif) parking lot ends and their driveway is so that there are no patrons, UPS deliveries or anybody else going through your parking lot coming in and borrowing their driveway so it seems like there are a few ways to do that with concrete pylons or pulling up part of the driveway, 3' of it and putting in shrubs that are all-season and blocking it and that would be on your end to do but he thinks there should be a hard definition of what exactly is going to happen to that before we leave tonight so one way or another there is a barricade there, we can't have asphalt meeting asphalt and patrons thinking that that is the giant turn-around. He said because whatever you are going to put for an obstruction is going to be on your property that satisfies the neighbor by keeping traffic off their driveway so we are going to wait to hear from you as to what you are going to put there and asked if there is a suggestion.

Ms. Evans said the driveway has been there since 1937, the house was not built until 1954 and she is sorry that when they did the driveway they didn't put it on her property but that was what Geauga County chose to do at that time and it certainly seems to her, she is the one who paved the driveway and she is the one that plows the driveway, Mr. Mishne has parked in her parking lot because he can't get up his driveway in the winter and they always had a cooperative relationship and she sees no reason for that to stop now, she is sure they can work out something.

Mr. Lewis said we will circle back around to that because this is a business use and the other one is residential, the use of that driveway for anything that would be remotely associated with your business it is not appropriate so the question is who is going to build the wall.

Ms. Kim Portman of 7168 Chagrin Road testified that she is here with Mr. Sean Mishne the property owner. She stated that starting off with something positive they are very elated that the driveway got put in by the county, it relieves a lot of stress for both parties, financial stress and emotional stress. She said obviously it is a very emotional thing for Mr. Mishne, herself and all of the parties included.

Ms. Portman continued by saying speaking about what Ms. Evans just commented on two times the driveway has been blocked where we haven't been able to get up to the driveway. She said Ms. Evans said she has allowed us to park at the end of his driveway, remember, it is his driveway, he is parking on his property that he pays taxes on, that he has been paying taxes on. She said as of today they have had multiple damage from the landscaping trucks, the snowplow trucks and just in the past two weeks they have had extreme damage to the lawn on both sides of his driveway and the trash pick-up which we called today and we have pictures of it so she thinks both parties have gotten positive notes from each other, it is trying not to be a negative thing for either one of us because we also have to see each other amongst the community and we don't want to be negative but another thing that we are going to be doing, is we are going to be requesting and turning in for zoning a request to put up a privacy fence. She said they are working with the zoning department on the proper things to do to put in that request, get the drawings in and they do want to have a fence up because they want to make it a very nice residential entrance way and they want to have that disconnect between a commercial property and a residential driveway, we want to make a nice entrance with a residential mailbox and we have already been informed that we have to contact the mail, the person we need to see for the requirements for that and have our own mailbox and our own entranceway. She said they would be open to hearing when you say that the new tenant or owner has to put in pylons or something we would like to be more knowledgeable about what is a pylon because aesthetically for a residential property, if Mr. Mishne wants to sell that property in the future what is going to be aesthetically nice for a residential property to go up for sale, she is not saying at this point that he is considering that but obviously we want to make those two separations.

Mr. Lewis said boulders work also so the real question of it is is that whatever the barrier is to deter crossing into your driveway or people on your driveway crossing into their parking lot, those materials and that expense is going to be borne by somebody, one of these two property owners is going to step up and say they will bear the expense and they will put it on their property, you may put it on your property and say you will do it to defend your property and to control the aesthetics.

Ms. Portman said correct and they are in the process right now of getting estimates for the fence and working on the zoning requirements.

Mr. Lamanna said they could cut down the property line.

Mr. Murphy said their driveway is at the corner of the property so he would guess if they are going to make a nice residential driveway with a little lawn on either side you've got to cut yourself loose from the asphalt that is part of your heritage.

Ms. Portman said they understand that.

Mr. Murphy said and you are going to have to do a little bit of site work and you are going to have to shut them down to at least their property's distance and if you work with the neighbors you may be able to go 6' onto their property and take the asphalt out there and in which case you could have a little bit of a landscape buffer. He said your (Mr. Mishne) property has been associated with this property for a long time, there is asphalt that was there for a long time so if you are thinking you are going to put up trees and a fence, that doesn't exactly solve his problem to make your property a real nice landscaped residential driveway so he is thinking that you may want to actually work with your neighbor a little bit on this and figure out how the two of you can make this good for all of you because right now the homeowner to your south could just put some big trash barrels there and fill them with concrete.

Ms. Portman said they already had that.

Mr. Murphy said so you are going to put a fence up and not see their trash barrels and you are going to leave the asphalt there, is that your plan.

Ms. Portman said yes because that would be part of the driveway and right now they have already gone to a couple of companies they have asked to give them quotes.

Mr. Murphy said he thinks it is short sited but he understands that things cost money.

Ms. Portman said when you pull down the driveway the things we see is the deterioration, the roof damage, the mold, the mildew, it has not been kept up behind the property, the ditch area, the creek, all of that is in distress and it doesn't make for a very nice view, they have the garbage containers, multiple different vehicles park in there, so now that the driveway has been opened up for commercial we find that appeal that we can actually make that so we don't have to see all of that. She said they hope the new owner will clean up that building and make it nice and everybody can be happy neighbors.

Mr. Murphy said we like happy neighbors, we are big fans of that.

Mr. Gutoskey said as Ms. Endres has mentioned, the setback for the driveway is 2' off of the property line so Dr. Nassif is going to have to cut his 2' off the line also.

Mr. Murphy said you are going to have to cut 2' of asphalt away from the property on each side.

Mr. Lamanna said it sounds like the best solution.

Mr. Murphy said a surveyor can come up and paint the property line, you can't have asphalt within 2' of that, you have to have 2' of grass.

Dr. Nassif asked how the fence will work too.

Mr. Murphy said the fence is typically on the line and asked what type of fence will be installed.

Ms. Portman said they are following the zoning rules that are listed on the website and have been talking with Ms. Endres about the rules. She said 4' from the front of the property to 100' in and then you can go up to 8' but we had discussed 6' but we will clarify that with Ms. Endres before we do our site plan and what we were wanting. She said they were informed that you should have enough room to come around on the side of the fence to be able to do maintenance, weeding, trimming, painting, staining, whatever without trespassing on their property.

Mr. Murphy said so the fence is going on your property if you are going to put a fence up.

Ms. Portman said right.

Ms. Endres said if it is in the front yard it can be 4' high and after the 100' setback they can go higher than 4'.

Mr. Gutoskey asked how close to the right-of-way can the fence get.

Ms. Endres said it can't be in the right-of-way.

Mr. Gutoskey said but right up to it.

Ms. Endres said yes.

Mr. Gutoskey said his only concern is running a fence, especially a fence you can't see through, up to there, blocking views turning out.

Mr. Murphy said we don't have to think about the fence tonight, we have to think about the asphalt driveways that have been co-mingled since 1936 and since we have a new driveway to the new business, new front yard, then basically then it should be a pretty simple thing from the property line, they both have to take asphalt out at least 2' away from the property line.

Ms. Endres said there should be 4' of grass, 2' on either side, 4' total.

Mr. Murphy said the surveyor should paint that line and they should each take away 2' of asphalt from the line, you are going to separate a long standing tradition and we go from there.

Mr. Lewis asked how the tenant will get to the back building, day forward there is no use of their driveway and there is no room back there for them to park a car and there is no way to get a car back there without using your (Mishne) driveway so he is anticipating that that era is over so now if you are renting that back space.

Mr. Murphy said we talked about a sidewalk to the right of the front building and add a door.

Mr. Lewis asked how many people are back there.

Mr. Lamanna asked what is going on in that back building.

Dr. Nassif said a furniture refinisher, one guy.

Mr. Lamanna said that is now a substitution of a non-conforming use.

Ms. Endres said we will get it into compliance.

Mr. Lamanna asked if that part will be the subject of a different application.

Ms. Endres said yes, the furniture refinisher will need to get a zoning application and it will be the same process, it will be an easier process than what Dr. Nassif went through because a lot of these issues will be handled so it will be more of a straight forward substitution of a non-conforming use.

Mr. Lamanna said at that point in time we will have to figure out the access.

Ms. Endres said that will be addressed at that time if the board chooses to do it that way.

Mr. Murphy said no one knows how close that property line is to the corner of the building.

Mr. Gutoskey said whatever is on the survey. He said it is 2' at the closest point there.

Mr. Lewis said if he has six parking spaces and maybe there are two workers and as many as three or four patients at a time, where does your renter park.

Mr. Gutoskey said that was his question.

Mr. Lewis said which is one of the reasons the board is talking about the additional 9' and dealing with that now because that guy back there (renter) is going to be there five to six days a week.

Ms. Evans said he does a lot of the work off site so he is there maybe three days a week.

Mr. Lewis asked if he does woodworking.

Ms. Evans said yes, he does a lot of restaurants and does the finishing of the new restaurants and design work for an interior designer and he could park somewhere else and bring the stuff in.

Mr. Lewis asked if there are fire restrictions or code for this.

Mr. Lamanna said every commercial use has potentially different fire code issues, there is a whole set of different categories, he doesn't know if that particular one has one.

Ms. Endres said once a zoning permit is issued for a new use a copy of that permit goes to Geauga County and that triggers then an occupancy permit and the building and fire departments typically do building inspections to make sure that it satisfies the code and that is different than zoning.

Mr. Lamanna said but it is tied into the process.

Ms. Endres replied right.

The board reviewed the proposed parking plan with Dr. Nassif and discussed the location of the building to the property line.

Mr. Murphy told Dr. Nassif and Mr. Mishne that if they have to remove asphalt they could use the same contractor.

Ms. Portman asked why they have to remove asphalt.

Mr. Murphy said zoning allows paving within 2' of the property line, you are not allowed to pave right up to a property line.

Ms. Portman asked say they are just going to leave that front area paved as is and then pave from the gravel road up, do they still have to remove the asphalt.

Mr. Murphy said if you are asking to fix all of this you have to remove 2' of paving from the property line unless you want to leave the parking lots connected and just put some trash cans there then the board will ignore it like it has been for several years. He said if you want to do this right you want a nice residential driveway, a gorgeous property that just happens to go through a historically commercial property you can buy that and actually turn it into a house and then you would have residences and you could do whatever you want.

Mr. Lamanna said if you want your driveway totally over on your strip of property.

Ms. Portman said obviously everyone is working on a budget and we are not looking to spend a ton of money we just want to make sure that it looks nice and aesthetically pleasing.

The board discussed the location of the driveway.

Mr. Murphy said some of your driveway is on your neighbor's property.

Ms. Portman said for some reason that aerial view does not look correct.

Mr. Murphy said you are stuck with the asphalt that is next to your neighbor's property and once you get rid of 2' you are probably going to have to repave, you may want to actually rethink a little bit about moving your driveway just slightly north so you can get some grass and a fence in, it is a pretty piece of property back up in there.

Mr. Lamanna said as the driveway comes in and it gets about 70' – 80' back and it starts to bend to the right, if you start where that bend is and go up to that other section that sticks out and then on the other corner of that section if you go in a straight line to where the paving ends now then you have sort of a natural looking driveway without adding a lot of extra asphalt on that side and then the other side would just follow along, it would have a nice arch to it and you would move it effectively 4' to 5' away from the property line, it would look like a nice flow and not have bends and nicks in it and you really aren't adding a ton of extra paving there, you are just filling in a couple of areas, most of the first 70' to 80' is probably okay. He said Dr. Nassif has to get his pavement 2' from the property line. He added that Ms. Portman and Mr. Mishne are not officially here so the board can't order them to do anything, Ms. Endres could technically cite them but at this point in time he doesn't think we are going to do that pending what the resolution is.

Mr. Lamanna said the board will give Dr. Nassif a variance on parking spaces to six and a variance to either add spaces in the front or the side if that proves to be necessary.

Ms. Endres said and a variance on lot coverage.

Mr. Lamanna said with the understanding that the driveway is not for parking, the board will give him a variance on six based on he is not using the driveway for parking on any kind of a regular basis unless more parking is needed.

Mr. Gutoskey said more can be added and there is an issue with the lot coverage.

Ms. Endres asked what the variance is on the parking spaces because she thinks he is okay lot coverage wise.

Mr. Lamanna said we will let him have a variance to six parking spaces with the understanding that he can add more if he wants to but there will not be parking on the driveway, we are not giving him a variance to six and have cars parked up and down the driveway but if he needs to add more spots because he finds out six isn't enough and it is creating a problem he can add either three at the end or four in the front so we will give him a variance on the setback from the front lot line, if he adds the ones in the front by 9' and the side lot line is 2' so he won't need a variance there.

Mr. Murphy asked if he has six spaces parked in the front facing the building.

The board discussed the proposed locations of the parking.

Mr. Murphy said before you cut your 2' of asphalt off you might want to consult your neighbors because they have to remove some too. He said they will just cut it with a saw and pick it up.

Mr. Lamanna said if you can coordinate it, it makes sense. He asked if there is anything on signage.

Ms. Endres said she has no sign application and one of the issues she always has with non-conforming uses is how do we do the signage because the zoning resolution in the sign chapter has regulations for home occupation signs and it has conditionally permitted use regulations but it is silent on non-conforming uses so if the board could give her some direction and if she should apply the same standards that apply to conditional uses for a non-conforming use. She said the home occupation signs are very small.

Dr. Nassif said the first time he met the board, he took pictures of the Lyndall Insurance, Boardwalk Properties next door and they are all about 6' wide and 5' tall, about 30 sq. ft.

Mr. DeWater said it would be nice to keep it uniform down there.

Mr. Murphy said he doesn't think anybody got a variance to go bigger down there.

Mr. Lamanna said there is going to have to be a separate action on the signage, we will want to see it relative to the location because there are residential properties on both sides and even conditional uses because they are very specific and a lot of cases require some big setbacks and other things and those permitted amounts may not make sense and here the location and everything else is far more critical and we need to see it.

Mr. Murphy asked if there are other people here interested in this issue and if the other neighbors are here.

Ms. Endres said Mishnes are here but the neighbors on the other side are not. She said what she is hearing is when it comes time to install signage the signage needs to come back in front of the board.

Mr. Lamanna said yes, the board has to address signage specifically for this property.

Dr. Nassif said so when he does come back, he came back with a sign that is about the same size as the business down the road and the businesses over at the Boardwalk property and they are around 4' x 5' or 5' x 6' and asked if he has something like that will that most likely get approved as long as it is not neon pink or flashing, it will be a simple wood sign.

Mr. Murphy said the neighboring property has a ground sign to the north and across the street Lyndall has a sign.

Dr. Nassif said and Venture Point property also has a sign.

Mr. Lamanna said we wouldn't want anything bigger than anything that is out there already.

Ms. Endres said commercial sign regulations would apply to those.

Mr. Murphy said but this is not a commercial sign regulation that he is stuck with so what is his sign regulation that he is allowed.

Dr. Nassif said he wants street presence and he would like to have a sign, but if it is a 2' x 2' sign he will go find another place, he will move on. He said he went out with a measuring tape and measured the signs and he thinks the Lyndall Insurance sign is about 4' x 5' and he thinks the Venture Property sign is about 5' x 6'.

Mr. Lewis asked about the setback from the road.

Mr. Lamanna asked where is there going to be a spot to put it.

Mr. Murphy said he doesn't see a problem with a sign there, there is a giant big front yard.

Dr. Nassif said one of the things he would like to do there is that well that is kind of ugly, he would love to put a sign on either side of it to kind of cover it up.

Mr. Murphy said he doesn't think there will be any problem getting a sign from the board.

Mr. Lamanna said probably about 25 sq. ft. and consistent with what is in the area.

Dr. Nassif said he wouldn't intend on doing anything bigger than what is allowed.

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

Motion BZA 2016-40 – 7170 Chagrin Road

Mr. Lamanna moved to grant a substitution of a non-conforming use on this property for the purposes of establishing a chiropractic and acupuncture wellness clinic. In connection with this substitution of use the applicant has a dedicated driveway to his property and in conjunction with that the existing paved area that is contiguous with the paved area on the adjacent residential property to the north will be separated by removing at least 2' from the property line in the existing parking lot area.

Variance

1. The board grants a variance for six parking spaces versus the ten the board believes would be required.

Based on the following findings of fact:

1. There is limited space in the existing parking lot.
2. The nature of the use is a little unclear as to exactly how these parking spaces would be required and based on the description of the applicant it appears that six parking spaces will be sufficient for his use.
3. The board notes that this is based on not using the driveway as a parking area.

Variance

1. In addition the board will grant a variance to the front yard setback to extend the parking lot by 9' towards Chagrin Road.

Based on the following findings of fact:

1. If the applicant determines that he needs additional parking he can add four spots there.
2. Alternatively the applicant can extend to the south to add three parking spaces and the layout of these alternate parking areas and existing parking to meet the six spaces is going to be generally as shown in Exhibit A that has been prepared at this meeting and will be added to the record to show that.
3. Specifically the board is not addressing the use of the back building in this application and we are not addressing any signage for the property.

Motion BZA 2016-40 – 7170 Chagrin Road - Continued

Conditions

1. An additional requirement is, since this is currently two lots and there would be issues with respect to lot coverage on one of these additional lots, considering only one of these lots, the applicant will also at the time the property is transferred from the current owner to the new owner will combine the two lots so that they will be a single lot.
2. All of the lighting or any new lighting must comply with the zoning requirements with respect to lighting.
3. Also since this is located in a residential district any of the area lighting or security lighting will be selected and installed so that it does not adversely impact the neighboring properties and shine into residences on the neighboring properties.
4. With respect to alternate three on the map with the parking there will be planted shrub buffering between that parking and the residential property to the south if that alternative is selected to partially screen off the additional parking.

The reason for granting the substitution is it appears that with the changes and the other conditions that have been applied, this use will not cause a greater impact than the prior uses of this property and will not adversely affect the adjacent properties in relation to the previous uses after accounting for the changes that have been required.

Mr. Lewis seconded the motion.

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

Application 2017-5 by South Franklin Circle for property at 16575 S. Franklin Street (Corner of Rocker Road and Chagrin Road) - Continuance

The applicant is requesting modifications to the conditions under which the setback variances for the sign were approved for the purpose of installing photo cell lights on the existing ground sign. The property is located in a R-3A District.

Mr. Bill Fehrenbach of S. Franklin Circle was present to represent this application.

Mr. Lamanna said we were left with wanting to know what the lights look like.

Mr. Fehrenbach testified that when he met with the board last time he had some insufficient and inappropriate lighting picked out so the top fixture that you have here indicates the fixture that we have selected although used on a different sign with a low light fastened to the cross-bar and pointed in a downward position in front of the sign. He said the second page is just a detail of that picture with the power source.

Mr. Murphy asked if it is solar powered.

Mr. Fehrenbach said yes it is solar powered and the second and third sheets give you the specifications. He said the lumen output on this particular fixture is 100 to 125 lumens, the fourth page indicates that that is about 1/3 of 25 watts so a 25 watt bulb divided by 3 is about the lighting output for this. He said the lights are on a photo cell already so that they will go out however we have it interfaced with the power source with a small clock that we can time and turn it off although the full charge on this lasts about 8 hours on the 125 lumen setting so in the wintertime it would go on at 5:00 PM when it gets dark it and goes out about 1:00 AM. He said the last two pages of this are just some relationship between wattage and lumens and the LED and incandescent comparison.

Mr. Lewis asked if both bulbs share the same photo cell.

Mr. Fehrenbach said since they are probably going to throttle this down, the manufacturer has indicated that they would work with them on whatever our specifications are and we think that a single photo power source will handle the full lights. He said the armature on that is 24", we can cut that back and we will adjust that to have the absolute minimum amount of length so there is a maximum amount of impact on the sign and not a lot of washout to bleed out light anywhere else but the sign.

Mr. Murphy said when he saw this photograph he said we could do something like that.

Mr. Lewis said this is perfect.

Mr. Murphy said he still thinks that as a commercial business it should go off at 11:00 PM as part of the timer system rather than running until 2:00 in the summer.

Mr. Fehrenbach said point taken but this is where people live and they are coming back and forth from the airport at ungodly hours so it is not a business it is place where people live so they are coming at odd times and coming in late from various places.

Mr. Lamanna said this is more of a directional sign than an advertising sign.

Mr. Murphy said it is a small light. He said then we realized at the last meeting that it is in fact it is an allowable development sign, so he thinks it is a beautiful way to light the sign and 8 hours of battery sounds like it is right.

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

Motion BZA 2017 - 5 – 16575 S. Franklin Street (Corner of Chagrin and Rocker Roads)

Mr. Lamanna moved to grant the following:

1. To modify the variance previously granted in 2015-31 to remove the condition that there not be any lighting on the sign and replace that with a condition that lighting can be provided on the sign by photo cell powered LED lights of the type that the applicant has submitted in his application which is a solar sign and wall light with surface mounts (Item Code SL114).
2. To modify condition #2 to allow the base of the sign to remain at 2' instead of 6" since the entire sign was moved so that will allow the current sign height to be 9' exclusive of the decorative wall.

Mr. Gutoskey seconded the motion.

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

Application 2017-6 by the Federated Church by Amy Eugene, Senior Director of Operations for property at 16349 Chillicothe Road

The applicant is requesting a conditional use permit for the purpose of a temporary use for the YMCA to hold a day camp. The property is located in a R-5A District.

Ms. Amy Eugene, Senior Director of Operations, Federated Church; Mr. Robin Harbage, Moderator, Federated Church and Ms. Cyndi Larned, Geauga YMCA were present to represent this application.

Ms. Amy Eugene testified that she is the Senior Director of Operations at the Federated Church and with her this evening is Mr. Robin Harbage the Moderator for church council and Ms. Cyndi Larned who is the Youth Activity Director for Geauga YMCA. She said Mr. Harbage is going to say a few words and then Ms. Larned will take over from there.

Mr. Harbage testified that Reverend Throckmorton would be glad to be here but has a service tonight. He said the YMCA has approached them about allowing them to use their property for a day camp during the summer and as the Federated Church looks at a fellow Christian organization we see that it is within our mission to help them out with the opportunity to host them on our property and as such our council agreed that we would love to have them so he is turning this over to Ms. Cyndi Larned and hope that we will be able to be good stewards and help them out with a community outreach within our facilities.

Ms. Cyndi Larned testified that she recently sent out a brief description of a summary of what they would be doing this summer and she took it upon herself to look at their past summer's enrollment and dissect week day by day by day and referred to the concerns the board might have with the traffic impact. She instructed the board to turn to the third to the last page. She said the columns are indicating each of the weeks we were in service this past summer for 2016 and apologizes because one of the week's information was missing, they digitally store their sign in and out sheets and somehow one week got put into the wrong week so she has two of the same weeks. She said she dissected that into half hours and the first top table is arrival times, the typical arrival time is and they are half hour increments so the large number for that whole entire week during that half hour increment is an average for the week. She said impact is pretty minimal, it is spread out over the course of their typical sign in and out times, their hours of operation during the day are 7:00 AM and the last pick up is 6:00 PM so they are in early and out a little late but typically they spend about six hours of time off of the property for most of the day, they travel to parks, they go to the YMCA branch two days a week to swim and one day they go off for a field trip and their big field trip is on Wednesday so with regards to concern about water they are off the property for about six hours a day. She said on the second to last page you will see she did a traffic plan which is what they would be introducing to the parents as far as the parking lot and arrival and pick up and drop off locations within the parking lot. She said she has samples of signage, proofs of signage for the board too where they could designate where the parent parking and drop off and pick up areas are, where the entrance would be and they would be using the one back entrance of the building.

Mr. Lewis asked where they are currently operating.

Ms. Larned said they have been holding summer camp at the Chagrin Falls Intermediate School.

Mr. Lewis asked if they are a displaced group.

Ms. Larned said they are not currently displaced. She said she took this position in late October of 2016 and she has been with the Geauga branch for about 12 years and she made an appointment with Mr. Christopher Woofter and he explained what was going on with the levy and in their conversation it came to light that he would sign the contract and give them their lease space back but they wanted to write a clause in it that they could kick us out at any time without warning. She said if the levy passes and they choose to start the construction early they would potentially want to displace us and she couldn't see doing that to these families.

Mr. Lewis said if the levy doesn't pass this whole conversation is moot.

Ms. Larned said absolutely not.

Mr. Lewis said you are bailing on Chagrin regardless.

Ms. Larned said they tried to work out an agreement with them to be able to get in to Gurney because they provide before and after school care at Gurney also which is her same site administrator that runs the camp, she does the before and after care and we just couldn't come up with a way for us to stay in the school and now that we have gone out and found the Family Life Center and Mr. Woofter is fine with it, we already have our signed contract for the 2017 – 2018 school year for before and after care, we are not moving out of Gurney, they are not kicking us out they are not disheartened that we are moving, it was his suggestion that she reach out to them, he was being very forthcoming and trying to be helpful.

Mr. Lewis said so no more than 72 children.

Ms. Larned said our maximum license is for 72 kids and we don't get near that.

Mr. Lewis said he is looking at the traffic piece, 50 to 70 cars arrive around the same time, drop off and pick up at the end of the day.

Ms. Larned said those are averages for each week and then that was their maximum number that they had each week. She said she dissected all of their sign in and out sheets to see where the numbers were and how many people came in in that week and gave an average for a day.

Mr. Lewis asked when the staff arrives.

Ms. Larned said the earliest staff member will arrive at 6:45 AM and the second staff will be there with her at 7:00 AM, we are now required by the state to have two staff on duty at all times, we used to have one and now we have to have two. She said there are staggered arrival times for the staff as well so from 7:00 to about 8:30 there is just the two staff and then the rest of the staff start coming in between 8:30 and 9:30.

Mr. Murphy said your 7:00 – 7:30 is 18 and your per day average is 3.6.

Ms. Larned said correct.

Mr. Murphy said and the next slot is 33 and the per day average is 6 and the next time slot is 32 but only 6 average per day.

Ms. Larned said she is not saying that it is a day what she is saying is in those half hour time slots, she is telling the board how the traffic is staggered out so it is not that at 7:00 in the morning there are 45 people trying to pull into the parking lot because people are getting there anywhere between 7:00 and 8:00.

Mr. Gutoskey said it looks like 7:30 – 9:00 is the peak.

Ms. Larned said that week during that time 18 people signed in.

Mr. Murphy said there are six cars in a one half hour space.

Mr. Gutoskey said it looks like the peak is 7:30 – 9:00, those three half hour periods.

Mr. Murphy said sometimes there are six cars coming in in one half hour.

Ms. Larned said she did try to give the board as much information before we had to do a traffic study.

Mr. Murphy said you are with the Geauga County YMCA.

Ms. Larned said it is part of the Greater Cleveland Association.

Mr. Murphy asked if this program is just Cuyahoga County and you just happen to be bringing it out to Geauga County or Geauga County kids are coming to this as well.

Ms. Larned said they mostly service at this location because they have 47 locations in four counties that the YMCA facilitates, not her personally, but all their branches have off-shoots of different school districts. She said they have been out here for about 17 years.

Mr. Murphy said in Chagrin Falls.

Ms. Larned said yes, correct.

Mr. Murphy said but not in Geauga County.

Ms. Larned said they have always been under the Geauga branch since they have been there for 12 years, they just never had a childcare director at the site, it was always run by the childcare director that was out of their Hillcrest branch which is in Lyndhurst which is not in the right location.

Mr. Gutoskey asked where most of the kids come from.

Mr. Murphy asked what happened to the kids that were going to Centerville Mills.

Ms. Larned said that camp was always the camp of the Greater Cleveland Association and then when that went away, they started building a new building, but that was always part of the association.

Mr. Murphy said Centerville Mills in Bainbridge Township.

Ms. Larned said they service mostly the Chagrin Falls kids, we get some Kenston kids however with this move it will allow us to service more Kenston kids and if she leaves here tonight with the board's approval she will be pushing it to the Kenston kids. She said it is a little more difficult for people to get in town that aren't heading that way, this is just a little more centrally located for a camp.

Mr. Lamanna said by being here you will attract more people from around here.

Ms. Larned said certainly. She said because they have already been marketing the program that they are running the camp and people are very excited on the prospect of them being able to use the Family Life Center, it is a beautiful piece of property.

Mr. Lewis said from the church, do you have a signed lease with this tenant.

Mr. Harbage said not yet.

Mr. Lewis asked if they will be collecting rent from this tenant.

Mr. Harbage said yes they will.

Mr. Lewis said from what he understands you are going to take over, for a couple of months, some of the rooms in the building which will be dedicated to your group.

Ms. Larned said correct so the meeting room and art room, they would have sole use of that during their hours of operation and they will schedule the gymnasium if necessary but they spend 70% of their time outside.

Mr. Harbage said it is low utilization time for the facility, especially during the summer months because a lot of people are on vacation etc. other than a couple of walkers from their congregation. He said it is unutilized time for them.

Mr. Lewis asked when the kids are taking perimeter hikes and we have caught word from residents before that sometimes they don't necessarily stay on your property. He asked if these are guided tours or are they run of the house, is it do whatever they want on the property.

Ms. Eugene said this is the first time she is hearing that there were some issues in the past that some of the people were going beyond the property lines so certainly Ms. Larned and her team would take a walk around and say here is the limits and make sure the kids aren't extending beyond the perimeter.

Mr. Lamanna said there was a concern originally but he doesn't think the board has heard anybody complain recently.

Ms. Karen Endres, Zoning Inspector testified that she has never had a trespassing complaint.

Mr. Lamanna said he thinks it was a concern in the beginning.

Mr. Lewis said most of the activities have been supervised, soccer, etc.

Ms. Larned said the kids are not allowed out of site.

Mr. Gutoskey said if you look at the conditions and standards from the conditional use he thinks that one page pretty much covers it but the only thing he sees is to limit the time starting at 7:30 not 7:00.

Mr. Murphy said the average from 7:00 to 7:30 daily is 3-1/2 cars so he really doesn't have a problem with anything here. He asked if there are any neighbors here to talk about this.

Mr. Jose Feliciano of 46 Wolfpen Drive, S. Russell testified that he lives in the Kensington Green development and is a recent retiree and he asks the board, please don't do this. He said they have been through a very similar experience before and it was a disaster. He said some years back the church set up some kind of a soccer camp there and the problems that it created both in terms of noise and trespassing were significant and very unpleasant. He said he hates to be the Grinch on this thing but this is a residential area and it is built, that whole church is built in a residential area and for some reason the way that it is structured there is an echo in there that just exacerbates noise and the problem that existed before quite frankly was more than unpleasant and he read the letter that was submitted by the YMCA where they say that effectively it is going to be de minimis activity outside and he just has a hard time accepting that, if these kids are kids like his they are going to be running around and they are going to be enjoying the outside and this is the middle of summer and kids are going to be kids and so what he suggests is that the appropriate remedy here is that ought to go to the school, work something out with the school or something that is like a school but not in this residential area. He said he thinks that the problems that were created before in terms of noise and then you remember because he was here before when that soccer issue came up and there were lots of people that had concerns about that plus kids running in our backyard.

Ms. Larned asked where his property is.

Mr. Feliciano said it is 46 Wolfpen Drive and it is right at the end. He said what you are trying to do you are trying to impose a function here that this is not designed for, this is a residential area, everybody around there is a resident and the fundamental reason you buy a house and the reason he moved out here from Shaker is for the quiet enjoyment of his property and now that he is retired he spends most of his time at home, he spends most of his time reading and writing and he takes naps in the afternoon, he doesn't want to hear a bunch of noise when he is trying to enjoy his property and when he is trying to enjoy his retirement.

Mr. Feliciano continued by saying as he suggested before they were in that school, they should work something out with that school or a different school or the other YMCA but something that lends itself to what this is all about and to suggest that this is going to be a de minimis impact on the neighbors with 72 kids running around there he thinks is just a school party so you will pardon me for being a Grinch but he suggests it is a significant problem and among the reasons for it is and he is going to repeat himself it is the way this thing is shaped that stuff just carries and the second point is with respect to kids are going to be kids, running around the woods, he would do that and he thinks his kids would do that and there isn't any reason for him to believe that these kids aren't going to do that so he asked the board to think about the neighbors and think about why we are there to enjoy the quiet enjoyment of our property and he suggests that this is going to be a problem.

Mr. Joseph Franzese of 45 Wolfpen Drive, S. Russell testified that he lives next door to Mr. Feliciano and the building is immediately in his backyard. He said he shares the concern and he would make the same suggestion that having spent most of their time in the school environment he doesn't understand why they didn't approach Kenston School System because if they are trying to attract people and S. Russell, Kenston has a far bigger facility, probably better equipped even than the Intermediate School to handle a large group of kids and the traffic there, there are multiple ways to get in, there are two ways in and out of that school campus where here there is only one, it is already a school environment, the neighbors and nothing against the neighbors, they are already next door to the school, he didn't want to live next door to a school even if it is a summer camp. He said he has dogs who when they are in his backyard, anything that walks at or near the backyard, deer, woodchucks, they bark at them, all he needs now is having a group of children and when he was a kid he did the same thing, he cut the neighbor's backyards shamelessly.

Mr. Murphy said when he was a kid he wasn't part of a YMCA group, he was in the woods because everybody was in the woods, this will be a supervised group and you both said something about them wandering the woods, he did that but he wasn't part of any YMCA.

Mr. Feliciano said there are woods back there.

Mr. Murphy said he can't imagine the YMCA is going to let kids wander into the woods, he is pretty sure that the YMCA doesn't allow that.

Mr. Franzese said he will assume for a moment that the children are totally supervised, but even supervised and believe him he has nothing against kids, when this was built he came here basically and supported it and unhappily they decided to put it in his backyard even though they agreed they would move it, you can see its location relative to his house and it is what it is now, he is just asking that you not make the situation any worse than it is now and he would suggest to them that they go to the Kenston School System and ask them and assume that they would welcome them and it would be a better venue for them than being in this facility and it is just as central for Geauga County.

Mr. Lamanna swore in Mr. Robert Dippel and Mrs. Susan Dippel and noted that they were duly sworn.

Mr. Robert Dippel of 8672 Lake in the Woods Trail testified that he may want to be a Grinch too, he has lived out there in peace and quiet and in all fairness to the church they have been respectful for the last 10 – 12 years, whenever we met here about that soccer business and you told them they had to put fencing up, they did nothing and now you have another group in here managing this and he has no confidence that it will be any better than it was 10 – 12 years ago when we met here. He said he fears for the noise, it was terrible, it was awful back then, amplified sound every day. He said he works and doesn't get home until 5:00 but people who are retired, and he should retire pretty soon, he may not be able to with this, he wonders if this grows and this is a temporary permit or resolution, what does that mean temporary, does that mean they can come back next year and ramp it up to 500 people, what becomes then. He asked why is it that some developments can have mounding and does that help with the sound and does that help with the private side of it, why do some communities get that like over at Goddard School, they got it with that little Goddard playground over there, the little playground, that big mound before Craig there, how did they get that, we get nothing, why.

Mr. Lamanna said the mounding had nothing to do with the Goddard School.

Mr. Dippel said that Mr. Chuck Hesse told him that the Goddard School did that.

Mr. Lamanna said they did it on their own then, it was not a requirement for the school, he thinks it had to do with the development of the property itself. He said that also happens to be a commercial district abutting a residential district and he doesn't remember all of the details with that but they may have gotten some consideration.

Mr. Dippel said that Fellowship was forced to do mounding there and he doesn't know if it helps with sound and privacy but he thinks it would to some degree and if this is going to become a playground should that be a consideration.

Mr. Lamanna asked Mr. Dippel if they live in Lake in the Woods.

Mr. Dippel said yes, 8672 right behind that playground.

Mr. Murphy referred to the site plan and said they are at the bottom of the drawing.

Mrs. Dippel testified that 10 – 15 years ago, whenever the soccer situation happened the resolution was that they needed to do it in the front and asked can they do that, would that be a compromise.

Mr. Feliciano said that would put it closer to his property, that is where they are now and he showed the board on a site plan. He added that he hears the trash dumped at 5:00 AM.

Mr. Dippel asked where does it go from here and if this is a temporary thing that they needed shelter because they are being kicked out of Philomethian we could live with it this summer but where does it go from here and how do you protect us from that and can you protect us from that.

Mr. Lamanna said in terms of the quantity of the size of the plan, whatever approval they got would be limited to a certain number of participants.

Ms. Larned stated that there is a state law that mandates with regards to size of the building their license gives them the capacity of 72 children but their highest number of children on a day of a week last year was 53 and the average was 45 so they are not anywhere near 72 and their highest average was 44.

Mrs. Dippel said but your goal is to increase that.

Ms. Larned said not necessarily.

Mr. Franzese said you are trying to attract other people to this program and that would be 72, let them go to Kenston.

Ms. Eugene said she would like to share with each of you that we, the church, this group has heard what you said and she hears very clearly that you are here for the peace and quiet and you have encountered a lot more noise than you like with something 12 years ago with the soccer camp and it sounded really disruptive so she just wants to start there by saying that we hear you and we appreciate the opportunity to be here in dialog and see if we can figure this out.

Mr. Franzese said he was here when this thing was first proposed and your architect, when he asked why the building was in his backyard, his answer was that we wanted to mitigate the effect of this building on the highway, on Rt. 306, we didn't want that large of a structure that close to the road, 400 ft. so he puts it in the backyard of a bunch of houses, that to him was just irresponsible so his concession was moving it a few feet putting it even closer so rather than putting it in the middle of the property or toward the front of the property he chose to put in the backyard of a bunch of houses, it is not in your backyard, it is in his backyard. He sees the back of the building with the trash dumpster and it is not what he bargained for and when he goes to sell his house he can guarantee the people are going to say what is this.

Mr. Dippel said he has put in almost \$5,000 of Pine trees and that is water over the dam, done, but what next.

Mr. Franzese said he still doesn't understand why you can't go to Kenston and ask them.

Ms. Endres said she thinks all questions and comments should be addressed to the board.

Mr. Franzese asked the board to ask them why they can't go to Kenston, to the Kenston School System and ask them why they can't use their facility, they were in a school, why they can't go to another school, it is only two miles further away.

Mr. Dippel asked what about Centerville Mills and if that is open for the summer. He said that was a camp, that was their camp.

Mr. Gutoskey said there is really no facilities there anymore.

Mr. Feliciano said the fundamental problem here is this is in a residential area when you have a number of developments around there and he understands their promises about what they are going to do and you heard the reaction that we had to the past problems and that is how much stock he puts into representations and promises made here. He said all he knows is what happened before and what he knows is you have got a bunch of kids, they say they have got 45, they got a license for up to 72, you just heard her say she has all of this marketing, they want to market it up, there is going to be a bunch of kids running around there all summer, it is just that simple and to suggest somehow they are not going to be running around outside, that their supervisors are going to be on top of them.

Mr. Dippel said when you let kids out from being structured all day what do they want to do, they want to explode and yell and scream, they want to be kids and he doesn't blame them but there should be a facility more adapt for that.

Mr. Lamanna asked what percentage of the time do the kids spend outside.

Ms. Larned said they spend about six hours off site and the time they are away from the building they average six hours a day. She said the day they spend the most time at the site is Thursday and three days a week when they were at the Intermediate School they were able to walk into town and go to the Popcorn store and get ice cream and now we will be utilizing the bus to do that but there is inside stuff that they do and the outside stuff doesn't really start until 9:00 once everybody is there because they break off into centers on the back page in the booklet that was submitted to the board, there is the daily schedule so those are their non-field trip days so their field trip days are Mondays and Wednesdays and then Tuesday and Friday they are at the Geauga branch swimming and they leave the site at about 11:30 and they don't leave the branch until 2:30 so they would be back at about 3:00.

Mr. Feliciano said he is not prepared to give up two hours of his day to a bunch of screaming kids, however much you want to minimize this it is still a camp, these are still kids and they are still going to be screaming and they are still going to be running around, the idea that they are not going running through our woods again is just ludicrous for us to sit here and suggest that that is not going to happen, they are children.

Mr. Franzese asked if it would be rude for him to ask again why the board doesn't ask them why they didn't go to Kenston, that to him seems to be the simplest thing to do, go to another school, why go to a facility that is in the middle of a residential neighborhood, go to another school, what is the problem with that.

Mr. Lamanna said schools are also in residential neighborhoods.

Mr. Franzese said it is already there as a school, you are not changing the use, it is a school use, people who live in proximity next to the school and across the street from the school, it is already there.

Mr. Feliciano said he has a question that he would like directed to their church neighbors and you heard here today issues with regard they really were good neighbors and they started being good neighbors after we came here about ten years ago and then the behavior got a lot better. He said there used to be concerts at 10:00 on Sunday night, he gets up at 5:00 in the morning and he has done that for 40 years and he came here and he complained about that but one night when he was trying to get to sleep and he has to get up and get on a plane or do something, he called up the church and he asked if it was possible to talk to the minister and they said oh no, no, no, the minister can't be disturbed at 10:00 on a Sunday night but he can be disturbed at 10:00 on a Sunday, the neighbors can be inconvenienced and so after those issues were raised in here the reverend behaved much better quite frankly and part of that too there was an extraordinary arrogance from that church, you will forgive me, but that is just exactly the way it was and so if you want to be good neighbors then you ought to review that internally and review the past history and our feelings before you undertake this when people are out doing all of this marketing already, way out in front of this stuff, assuming that there was going to be an acceptance of this without consulting, it would have been nice of them to consult us, you think maybe the church could have thought about that, do you think maybe over there your counsel would say it is terrific that we have a dialogue now, how about a dialogue before so that we don't have to come here. He said he was supposed to leave town today and this came to this attention he said he knows exactly what is going to happen here so he suggests to the church that maybe in terms of being good neighbors there ought to have been a consultation with us prior to this.

Mr. Lamanna said he can't disagree with that, it is often what people do, they try to talk to the neighbors and see what the issues are.

Mr. Harbage said unfortunately Ms. Eugene only started at the church last year in 2016 and he has not been a member of the church for more than six years so he does not have the history of what had occurred. He said the only reason they entertained this is because they think it is a good activity for the youths in the community and he doubts that the YMCA is a place where the kids come to be unsupervised and they feel it would be a good use of the property and certainly don't expect that it would be a high level of noise and it would be a good use of the property during the day.

Mr. Feliciano said that is preposterous and he would like to come and talk to the council and he asked Mr. Harbage to let him know when the next date is and invite him and he wants to come and talk to the parish council.

Mr. Lewis said so you don't have a lease, you don't have a client as we stand today so we are doing a hypothetical.

Ms. Eugene said they have a lease that was drawn up and prepared and reviewed by attorneys and agreed to and ready to go.

Mr. Lewis asked if they have that document. He said because you will taking in income, becoming a partial rental property, you have taken care of that with the State of Ohio Department of Taxation and your property taxes.

Mr. Harbage said they already rent the property for other occasions.

Mr. Lewis said he gets that, a clambake, a wedding, you are taking in a seasonal tenant, that is a little bit different but he isn't in the tax department so he is just looking at the use of the property.

Mrs. Dippel asked if it is a temporary use, is that a temporary use every summer because originally she thought it was because the Philomethian was going to be under construction but now it sounds like this could be an on-going, every summer thing.

Mr. Lewis said he thinks what we have in front of us right now is a two month use offer, this year, this two month term and quite frankly his thoughts are and he is not speaking for the other board members but even if a favorable vote were to occur on this he doesn't suggest that this would repeat itself unless this was one perfect season and that is because what is around it and it was not originally designed for this and no this is not servicing the congregation, this is servicing an external group which was not what the initial purpose in this designed use of this building was for so there is a lot to weigh.

Mr. Lamanna asked what the outside activities are, is it free playtime, is it organized.

Ms. Larned said they are organized games whether it be kick ball, tag games.

Mr. Lamanna asked if all of the kids go out at once.

Ms. Larned said no they go out in groups and separated by ages and depends upon how many children are in each age group, sometimes they have more 6 – 8 year olds and sometimes they have more of the older age groups so she couldn't say specifically until she knows what the enrollment was looking like from age group to age group, you might have 12 in this group and you might have 20 in this group and another 10 in this group and it is not to say they won't be playing on the playground from time to time either but not all of the kids will be out at once because of ratios and staffing.

Mr. Feliciano asked what about us, do we just have to put up with this. He said 20 kids out there playing soccer or whatever and whenever they decide to do that and then he has to plan around what their activities are, because that is not what he paid for when he bought his property to be subject to the whim effectively of a day camp that shouldn't be there in the first instance let alone whether they are going to have a game or not going to have a game. He asked if he will have to call over there and say if it is okay if he can take his nap now because when are the kids playing soccer and when are they not.

Mr. Dippel said it was so loud last time and when you have 20 kids throwing the ball around yelling and screaming, it was so loud he could hear it over his lawn tractor, that is loud.

Mr. Lamanna asked if 20 kids were making that much noise.

Mrs. Dippel said yes just playing soccer.

Mr. Franzese said he has the sneaking suspicion that all of this talking is a formality and you guys are just going to tolerate and then let them do what they want to do and they are going to do what they want to do and our feelings and what has happened in the past is meaningless and it will just be a little more water under the bridge. He said that is his concern because you still have not asked them why they can't go to Kenston and ask Kenston to accommodate them.

Mr. Lamanna said technically it is irrelevant as to whether they can go somewhere else.

Mr. Franzese said okay.

Mr. Feliciano said we just spent an hour here talking about practical solutions and we talked to a neighbor who wasn't even technically a part of it before so does it have to technically be here we just spent an hour talking about issues that were technically before here.

Mr. Lamanna said we can't compel somebody to do something.

Mr. Franzese said the point is to help people.

Mr. Lamanna asked if they explored the possibility of other locations.

Ms. Larned said she didn't because of the conversation she had with Mr. Christopher Woofter and he made a couple of suggestions to her of places to reach out to, he recommended the Federated Church. She said he is the operations director for Chagrin Falls Schools. She said when they met he explained what was going on with the levy and suggested that they would sign their lease but could kick them out in the middle and 40 kids with nowhere to go and moms not being able to go to work.

Mr. Lewis said so you appreciate that they also found an alternative.

Ms. Larned asked did they, because she knows they were looking for one.

Ms. Eugene said she would like to make a statement. She said as the new Senior Director of Operations at the church, she started there in mid-February, and the things that she has heard about what happened in the past and the potential opportunity that we have to serve these kids she just wants to affirm for the board that as the operations director she is committed to making sure that this goes well and that we will work in the very best faith that we can with these neighbors and she has already heard some things that she wasn't aware of about trash cans and 5:00 AM trash pickups that she is making a note of it to go back and see if she can change it so she just wants to say that as the Director of Operations she is committed to making sure that we do this well and do this right.

Mr. Lewis asked Ms. Eugene where her office is located.

Ms. Eugene said at 76 Bell Street.

Mr. Lewis asked if she is in the Village.

Ms. Eugene said yes.

Mr. DeWater asked what the Federated Church runs for children's programs on their own out of that facility on Rt. 306. Do you have anything up there on the weekends.

Mr. Harbage said they have a youth group, middle school and high school.

Mr. DeWater asked how many kids are in it.

Mr. Harbage said there is a range anywhere from 15 to 30 or 40.

Mr. DeWater asked if they are outside.

Mr. Harbage said they use the outside facility yes.

Mr. Feliciano said he doesn't hear those kids so he wants to know exactly what they are doing and he wants to know when you assert that they are there.

Mrs. Dippel asked when were they there.

Mr. Feliciano asked what it is they are doing, you are just coming in and making a blanket statement like that is just not good enough given your history.

Mr. Franzese said not to sound argumentative but when he was out in his yard with his dog he doesn't know what was going on next door but there was some activity in the front yard of the church that he could hear just as clear as he is sitting here and not that it is terrible but he can still hear it, my dogs hear it.

Mr. DeWater said they are entitled to use their property.

Mr. Feliciano said they are for the original purpose.

Mr. Franzese said that is exactly what the tension is, that is what the premise is, this is not the church's purpose.

Mr. Murphy asked if we have the original purpose that is permitted here.

Mr. Gutoskey said according to our code a conditional use for place of worship provided no part of any building or land for place of worship use shall be used for business, commercial use or non-place of worship related activities.

Mrs. Dippel asked how they can rent it out for wedding receptions and it is advertised on The Knot.

Mr. Lewis said and also with your property's tax classification and non-profit and for-profit and all these and it is his understanding if it is a congregational related activity which could be a congregation member that wants to have a clambake there or a rehearsal dinner for their marriage or a birthday, that could be serving their congregation.

Mr. Dippel asked how that transcends into this.

Mr. Lewis said that is the million dollar question and we have some more displaced souls and Chagrin Falls is going through a possible school rebuild so it creates some people looking for other places to reside temporarily.

Mr. Murphy said we have seen before where a church, to enhance its congregation, allows certain things that come with their children and with activities with preschools and those kinds of things have been allowed up here before us.

Mrs. Dippel said but sponsored by the church.

Mr. Murphy said sponsored by the church yes.

Mr. Feliciano said there is an underlying religious aspect to that and he is suggesting that is exactly what you have to have here in order for you to do this and if they have a church social there typically there are prayers there, that is what happens.

Mr. Murphy said he understands what you are saying.

Mr. Feliciano said but not this.

Mr. Murphy said he is not saying that a YMCA kind of day camp is not all that different than a preschool and we have got churches all over the township that have preschools in them and that is not on Sunday, it is a Monday, Tuesday, Friday sort of thing so he is just looking at if the church is providing a facility for the neighborhood kids to come and play.

Mr. Franzese asked if this facility has a license to run a preschool.

Mr. Murphy said this facility is a church.

Mr. Franzese said he is the last person in this room and he is sure everyone else feels the same, he doesn't want to feel that there are kids who have no place to go during the summer.

Mr. Murphy said he appreciates that and he doesn't think anybody does.

Mr. Franzese said he wants desperately for those kids to have a place to go just not in his backyard.

Mr. Murphy said now we are talking about zoning.

Mr. Harbage said it is clear to him that there is some concern about the user, it is not the church's desire to be bad neighbors, to disturb the neighborhood or to cause a problem here and with that said we think that this is an absolutely wonderful use for the facility, we would love to be a good host to the organization here and help them out. He said whatever we could do to make this work out without being a burden to the neighbors we would love to do, as Ms. Eugene said, we want to work with them, if there is a problem with the noise and such we would like to address it but there is no way to know unless we at least have a provisional use here and try it to see how it works, whether it be the YMCA or if we decide to have a day camp there that was sponsored by the church and in either case we want to make sure it was done right.

Mr. Lamanna said in a practical matter if you decided to partner with the YMCA and do this, you've already got some interesting issues because the YMCA is a religious based organization so certainly they could say we are going to partner with another religious based organization and conduct this kind of day camp in terms of what would be an allowable use under the zoning, it is still a conditional use and part of a conditional use is what impact it has on the neighbors but it is also as all zoning things it is a balancing test, people have a right to use their property and they don't have a right to use their property in a way that unduly impacts the neighboring properties so that is why we listen to you and we are looking for ways to ameliorate it and nothing anybody does doesn't affect some of the neighboring properties to some degree so when there are those impacts how can we ameliorate them to a point where they are not unreasonable so that is number one, we are looking for ways to ameliorate and we are looking for what are people actually doing and are they doing it in a way that is going to cause a problem to people and if it is going to cause a problem to people we are not going to let them do it and they say they have these controls and if it turns out they don't have those controls their conditional use permit won't be renewed, they won't have a chance to do it again. He said if they present a program that looks reasonable and they don't execute that program then we are not going to approve it again.

Mr. Feliciano said you have enough information to make that decision right now.

Mr. Franzese said they are currently in the school at Philomethian, is that correct and if he is not mistaken the Federated Church is contiguous to the Philomethian school so if they want to accommodate this group who is already their next door neighbor couldn't they very reasonably accommodate them at the Federated Church in Chagrin Falls and they would merely have to walk next door.

Mr. Harbage said there is already a preschool operating at the Federated Church.

Mr. Lamanna said he is not familiar with that property at all, there is a not a lot of outdoor space.

Mr. Franzese said there is already a preschool there.

Mr. Lamanna asked what problems have you had with them in the last ten years, he knows there was the soccer issue.

Mr. Feliciano said that is exactly what the problem was, the problem is that is exactly what happened and that is why we are here, if that had not been a problem we wouldn't be here and the reason there hasn't been a problem the last ten years is because they haven't done it but now they are back at it.

Mr. Lamanna said it is obvious they have been conducting activities with kids outside with their youth groups.

Mr. Feliciano asked what and said with the youth groups they are out there.

Mr. Lamanna said if you can't hear them you don't notice them.

Mr. Feliciano said right but we know the nature of youth groups, those youth groups are not running around out in his backyard, they are not playing those soccer games.

Mr. Lamanna said he understands and he thinks organized sports activities, and he has been involved for several years coaching etc., they do tend to generate a lot of noise because the parents come and they yell and scream and the kids scream and it is a competitive thing and you have got referees blowing whistles and they make a whole different level of noise than kids just playing.

Mr. Dippel said but she just said they were going to have kickball and isn't that organized.

Mr. Lamanna said that is informal, he was talking about leagues organized with teams competing against one another where they are keeping score and they are keeping standings which is a different thing.

Mr. Feliciano said this is a day camp and there are going to be day camp activities and all kinds of sports and the idea that this is not a camp is preposterous, you know they are going to be out there, it is a beautiful place, they are going to be engaged in sports, they are going to be running around and they are going to be making a lot of noise and the idea that their supervisors are going to tamp down on that not to affect us is just preposterous and is just going to happen, they are kids, this is a day camp with day camp activities, it is going to be outside, they are going to make noise and they know it and for the troops to come here and be so disingenuous and say look we want to work with you to make this amenable and reasonable and they know what the problem is, it is a problem for the neighbors and you are continuing it, you are aiding and abetting this, our uncomfortableness, our unhappiness, you are helping do that and you are not listening to us. He said not only does he ask them not to do it he is asking you not to do it, you know it is a problem. He said he suggests that the board tell them to go and find somewhere else and let them go out there and try to do that, they just assumed this was going to happen, there was no consultation with us either by them or the church and here you have created this problem on us.

Mr. Murphy asked who created what on you.

Mr. Feliciano said they created this problem by coming here right on the verge of the day camp season, we are in this situation because of what they did.

Mr. Murphy said this is the first place that they come and this is why we are having this and nothing is approved, nothing is written in stone, they have applied for a variance here and this is what we are looking at and talking about and we are asking you as neighbors and invited you to come and help us make our decision tonight. He said he is reviewing the zoning on conditional uses and there are a lot of things such as “non-residential uses shall not be located adjacent to residential uses unless buffered or conducted so as not to interfere with residential property enjoyment”, that is one of the things in our zoning resolution and he doesn’t think anybody is arguing with that.

Mr. Feliciano said it is the fundamental concept behind the property.

Mr. Lamanna said he would point out though that there is not much more of a residential thing than children playing.

Mr. Franzese said 72 kids playing in your backyard, that is a little different than kids playing in your backyards.

Mr. Lamanna said there is not going to be 72 kids playing at one time.

Mr. Lewis said she has got capacity to 72.

Mr. DeWater said they are allowed to have 72 and the school was going to have 300 kids on that site and none of you were at that meeting and they are requesting up to 72.

Mrs. Dippel said they knew about that too.

Mr. Franzese said they knew about that.

Mr. DeWater said you didn’t come to the meeting. He said they are trying to get their point across to represent their day camp, you have got to give them time to represent what they are requesting here and you have got to give them the respect, yes you may have had a situation ten years ago with soccer, you have got to give them the respect to present their cause.

Mr. Feliciano said he thinks they have.

Mr. DeWater said every time one of them starts to speak you turn around and get boisterous with them and it doesn’t sit well with him.

Mr. Feliciano said he takes exception to that and if he did that he apologizes.

Mr. DeWater said we are here to work this out.

Mr. Feliciano said he understands but the board needs to understand the problem that was created before and the history of it being just ignored, our concerns subsequent to that ignored.

Mr. DeWater said he has only been on the board for three years now, ten years ago he wasn't a part of that but they are new.

Mr. Feliciano asked if he is suggesting that somehow we should not consider that, that we should forget what happened ten years ago.

Mr. DeWater said he is not saying you should forget but you have got to give them a chance to explain how they would handle it, how they would keep the noise down.

Mr. Lamanna said what happened ten years ago is relevant but we also have to look at what happened ten years ago is or is not like what they are proposing now and he understands that that was a bit of a dicey situation and going in it was kind of a tough decision because there were some concerns about that type of activity and how much noise it was going to generate and unfortunately it generated more noise than people thought it was going to be and maybe there are some issues with just the way that property is laid out that accentuates certain things but he has done enough youth sports and the noise you get is a different level of noise than you get with kids who are doing non-competitive things and the biggest problem is the parents, it is not the kids who are making most of the noise it is the parents who are making most of the noise and you are not going to have that problem with a daycare center because the parents are not going to be there making the noise.

Mr. Franzese said he would like to respond to Mr. DeWater's comment about him not showing up for the school meeting, that clearly and unambiguously was going to be a temporary use because you can't occupy a school while it is being reconstructed so he knew intuitively, it was intuitively obvious to anybody that that was going to be a one-time use while they built the new school, he didn't have to worry about continued use that they would somehow going to open a school next door and he was here when they built this and they ignored everything that we said, what we said was meaningless because if they had put any credence in what we said that building wouldn't be where it is today, it would have been closer to Rt. 306 where it belonged not set in the middle of a residential neighborhood. He said there is a church to the south, there was a nursing home property to the north and now in-between the two you have this vast vacant space that could have reasonably been occupied by another building of the same stature.

Mr. DeWater asked how long the nursing home property has been there.

Mr. Franzese said that property was zoned a nursing home, Warren Wilson bought it 20 years ago and he didn't do anything with it until the current owner, The Lantern, purchased it and he went to that meeting because he was chairman of the architectural board and lived in S. Russell for 25 years and we worked hard to make sure everybody was happy and that building, they listened to us instead of building as they had originally designed they cut it back so it is significantly smaller, they paid attention, they put a berm up between all of the residential properties on all of the sides, he doesn't know whether the Federated Church showed up or not to that meeting but there is no berm and perhaps they weren't concerned. He said his concern is the way we were collectively treated when this place was first built if not total disregard, significant disregard for our feelings, well we are going to do it anyhow, that is why he came here tonight, he came here to listen, and he understands from listening to Mr. Lewis that there are a lot of other considerations here about how they are allowed to use the property. He said he understands having been on a board for 25 years that an ugly precedent set gets even uglier, you allow one thing and it is well you know that is not quite different from that, we are going to let you do this and next year it might be a program for 150 kids, he doesn't know how their program works, he is only suggesting that they give serious consideration, she admitted it, she didn't go talk to anybody else, did she take the time to make a few phone calls, she might be welcome by Kenston Schools but he understands he doesn't know whether Kenston can get any rent out of it, he understands for the church this is an opportunity to fill in the gaps and perhaps get a little more revenue. He thanked the board.

Mr. Lamanna said the whole idea of a conditional use procedure is to prevent things like that from happening, you can't have 75 this year and 150 next year and just keep increasing it, that is the control we assert by the conditional use process and that is why we also have renewal provisions on these things which we can set for the time period we think is reasonable so for example if we said we are going to allow it this year but it is a one year deal and then if they come back and say they want to renew next year then the people can come in and say here is what happened.

Mr. Feliciano asked if they come back a year from now if you give them this go ahead and we come back a year from now say exactly what we are saying now.

Mr. Lamanna said no and here is the difference, if you came back and say exactly what you are saying today, that doesn't carry any weight but if you come back next year and say kids were screaming all day long and they were disturbing us all day long and there were all of those kids out there and making all of this noise then we would say this isn't working out so we are not going to renew it.

Mr. Feliciano said you can see that right now you don't have to wait for us to come back next year.

Mr. Franzese referred to something Mr. Murphy said and they were granted a use of this building so now they want to have a conditional use.

Mr. Lamanna said all uses are conditional.

Mr. Franzese said so they were allowed to have something for the congregational activities, this is not congregational.

Mr. Lamanna said if it was a congregational activity to do this it would probably require them to extend their conditional use. He said they don't have a broad conditional use that they can do anything they want, you can do certain things and then you can come back and say you want to add more things there that are permitted within the broadly permitted use in the district but they are still all conditional and we can say yes you can do this but it is still subject to A, B, C, D, and E and it is subject to being renewed so there are cases where the board can't exactly tell what is going to happen, we are concerned there might be issues so we will let them do it once and see what happens and if they don't control it properly and if there are issues then that is going to be the end of it.

Mr. Feliciano said you know there are going to be issues already.

Mr. Murphy said we are pretty sure you will be back.

Mr. Feliciano said why should we have to wait.

Mr. Murphy said there are other things involved here, he sees this is what they are asking for is a lot like a daycare, there is not a whole lot that is in our zoning about a place of worship but if you have a daycare we've got two pages that say in the event of outdoor activities on site part of the child daycare center operation is subject to take place in or more completely secured fence, play lot which is to be no closer than 100', we have got all of these things that may be more appropriate to what you are planning on that property and even though you are not planning a daycare as such perhaps your plan ought to include some of these pages are that in the zoning. He said the zoning commission very specifically made two pages of items of what a daycare would have to do.

Mr. Feliciano said 7 to 6, that is daycare.

Mrs. Dippel said 7:00 AM to 6:00 PM.

Mr. Murphy said all of those things are in there. He said the township has talked about this before because a daycare is a permitted conditional use in places in neighborhoods so perhaps we should at least ask the applicant to tell us how closely they might be able to follow the criteria.

Mr. Lamanna said the play area is a safety issue.

Mr. Lewis said they are 5 to 12 year olds and some of these things may actually speak to the attributes of the property not the tenant, if you are going to run a program or lease a program out, does your facility have the attributes to meet the daycare type standards and he sees in here you buy it by the week so he knows it is fun to call it a camp but it is not a camping experience so the question of it is does the facility have the attributes and if it doesn't have the attributes for safe outdoor activities can that happen or do the kids have to stay indoors unless you have them on a field trip or on an activity.

Ms. Eugene said they have an enclosed playground area for younger children, not necessarily for probably school age but we do have an enclosed playground area.

Mr. Lewis said okay which would limit the kids from having the run of the property per say which would lessen any potential impact or intrusion at least physically of kids getting onto the neighbor's properties.

Ms. Eugene said the small enclosed playground that they do have really is geared for younger kids for a daycare.

Mr. Lewis said the little, little guys.

Ms. Eugene said right and she wasn't sure what the definition of daycare is here.

Mr. Lewis asked if that is what this is, a daycare with programmed activities.

Ms. Larned said she will shed some light on it. She said their license is a license for children that completed kindergarten up to 12 years old, they are capped out at 72 children and the license specifically gives the length of time and each year it has to be indicated for the length of the time the camp is running so this year it is scheduled to go on June 8 to August 18th so within those dates is when we can provide it to parents and children, she can't do it a day sooner and she can't do it a day later.

Mr. Lewis said that gives you your licensing to operate a program but you need a hosting facility that meets a certain set of standards.

Ms. Larned said correct.

Mr. Lewis said which is your part, it is their part, you don't own the hosting facility.

Ms. Larned said she doesn't own any of her hosting facilities, they lease all of their properties. She said with your approval they have to put in a planned operation to move their previous license from the Intermediate school, she has to get an occupancy permit, a fire inspection and then the state will come and inspect the property. She said the Department of Job and Family Services will oversee it.

Mr. Lewis said and you plan to do this regardless with what happens with the Chagrin Falls levy.

Ms. Larned said only because of the time and effort that she has put in in getting to this point.

Mr. Lewis said you have looked at one property from what he is gathering.

Ms. Larned said she has been trying to speak to that piece and the reason that she went no further is that Mr. Woofter suggested she contact the Federated Church and that conversation started and didn't need to go anywhere else, we are seeing the same vision is what she meant by that.

Mr. Franzese said he would suggest for a group that finds themselves under the gun trying to find a place to go on very short notice that they take the path of least resistance and go to a facility where they already have all of the prerequisite requirements, they already have the zoning for it, that would be the most sensible thing to do rather than fighting an uphill battle where you may not even be granted by this board, you may leave here tonight without an approval. He said if he were in your group he would say we really need to talk to other schools, he is trying to be respectful and trying to help you, you only have a month and one half to come up with something.

Mr. Lewis said he struggles with this the same way the application was with the school and his fundamental struggle has nothing to do with the YMCA as a potential tenant, his fundamental struggle was that it is not what the property was originally approved for and it does not serve the congregation directly and whether it is a camp or a rock festival or a beer fest or a clambake or a car show they are just all temporary extra rentals based on a property that has enough parking and outdoor space to accommodate an event or a group and he just doesn't see that this group is not the congregation so does he see 72 kids potentially as a high impact, no, does he see traffic as an impact, no, does he see the hours of operation as an impact, no, just the fact that it is not a congregational based activity and we can banter it for another two hours.

Mr. Lamanna said maybe we can go back and regroup on some of these issues and look at them more completely and there is also a question as to what exactly is a child daycare center and of course it reverts back to a revised code provision so we have to go look at that.

Mr. Gutoskey said the definitions in our code refers back to the ORC.

Mr. Lamanna said plus it is also very clear that the code has some very specific mandatory requirements for screening for daycare center type activities so we need to look at that a little more carefully because if the legislative side of the house here is set up with the circumstance where it says that child daycare centers need to do these types of things to prevent an adverse impact on the neighboring properties then we have to look and say how does it fit in and we need to spend a little more time taking a look at that issue to see how it would fit in because it might make it not feasible for you to do this if we say if you want to have this type of thing you have to put in a berm around the play area and screening etc. and now it becomes a question is it worth it to make the investment in the facility to do these types of things so the board needs to look at this a little more carefully. He said we take testimony but often these issues get a little more complicated and we need to go back and reread the statutes and may need to get an opinion from our legal counsel in the prosecutor's office if that is called for.

Mr. Feliciano asked if that is Cuyahoga or Geauga County.

Mr. Gutoskey said Geauga.

Mr. Franzese said having designed daycare centers there are specific requirements for the physical attributes of a daycare center particularly with regard to how the children are segregated from one another in terms of age groups.

Mr. Lamanna said right but most of the restrictions, they are from zero to six months and 6 months to 18 months where care and attention is extremely important.

Mr. Murphy said he is pretty sure the YMCA knows what they need to do to run an efficient and safe youth program and he doesn't think that is the problem he thinks there is a problem with the property being allowed to just rent this to somebody that is acting more like a daycare than just a weekend camp for a church group, it seems if we are going to allow this it really should follow more of the criteria that the township has for something like a daycare and we have got very specific two or three pages of things that are required for daycare type properties. He said he doesn't feel comfortable with just saying this is okay.

Mr. Gutoskey asked Ms. Endres to point them to the section of the code to review.

Ms. Larned said she already has it.

Mr. Lamanna said he thinks the board is going to have to continue this and obviously everything is on the record and when you come back again and restate things certainly they will be considered, everybody is welcome to come back. He said from the applicant's standpoint you could certainly at least make some inquiries as to other possible sites, talk to the Kenston School System, he doesn't know if they have any suitable facility that they have available for renting but the question has been raised and sometimes it is easier to make a couple of phone calls and maybe it will work out or maybe it will answer the question and they may say they don't have any kind of available facility during the summer that would accommodate this but they raise an interesting question and sometimes it is easier to explore it rather than battle against it. He said if they come back and say they don't have an appropriate sized space or building or it may not be worth their while to open an entire building with janitors etc.

Mr. Murphy said perhaps, the only real issue with the neighbors is the outdoor playtime and sound.

Mr. Lamanna said you can certainly look at that issue and come back and say you can modify the program and do something else.

Mr. Murphy said if that is an option or possibility.

Mr. Lamanna said that is another way to skin the cat as they say. He thanked everybody in attendance.

Ms. Larned asked where this leaves them for the moment.

Mr. Lamanna said the board will continue this and do some investigation and she can do some investigation and we can take it up at the next meeting.

Mr. Feliciano and Mr. Franzese thanked the board.

Mr. Lamanna stated that he is going to look at how this plays in and what the exact definition of a child daycare center is versus what they are doing but certainly it is something for us to consider just because it is a conditional use, even though it may not apply by law, it certainly is to some extent some guidance for things the board should look at as a consideration in the conditional use situation that is similar or to the extent it might be similar and obviously it has to be applied subject to the distinction between what they are doing and what a daycare center is.

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

Motion BZA 2017-6 – 16349 Chillicothe Road (Federated Church Family Life Center)

Mr. Gutoskey moved to table this application to the next regularly scheduled meeting to be held May 18, 2017.

Mr. DeWater seconded the motion.

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

Application 2017-7 by Matthew Domonkos for property at 17055 Savage Road

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

The applicant was not present.

Mr. Gutoskey moved to table this application to the next regularly scheduled meeting to be held May 18, 2017.

Mr. DeWater seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 10:05 P.M.

Respectfully submitted,

Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: May 18, 2017

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
April 20, 2017

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Gutoskey moved to adopt the minutes of the March 16, 2017 meeting as written.

Mr. Murphy seconded the motion.

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

NEW BUSINESS

Medical Marijuana

Mr. Timothy Proffitt of Honest Buds Organic met with the board to discuss a proposed medical marijuana grow site at the former Sears building on E. Washington Street.

Applications for Next Month

Application 2017-6 by the Federated Church by Amy Eugene, Senior Director of Operations for property at 16349 Chillicothe Road - Continuance

The applicant is requesting a conditional use permit for the purpose of a temporary use for the YMCA to hold a day camp. The property is located in a R-5A District.

Application 2017-7 by Matthew Domonkos for property at 17055 Savage Road - Continuance

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

Application 2017-8 by DiMuzio-Speranza Enterprises, Inc. for property at 16706 Chillicothe Road

The applicant is requesting a conditional use permit for the purpose of change of ownership of a childcare center (Goddard School). The property is located in a PO District.

Application 2017-9 by Church of the Holy Angels for property at 18325 Chillicothe Road

The applicant is requesting a modification of a conditional use permit for the purpose of waiving part of the tree planting and mounding requirements for the barn. The property is located in a R-3A District.

Application 2017-10 by Ted and Kathleen Hoaglin for property at 17821 Northwood Lakes Drive

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

Application 2017-11 by Megan Roche for property at 18294 Cranberry Ridge Lane

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

Application 2017-12 by Kyle Witczak for property at 18070 Harvest Drive

The applicant is requesting area variance(s) for the purpose of constructing a driveway and pole barn for storage. The property is located in a R-5A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for May 18, 2017 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 10:30 P.M.

Respectfully submitted,

Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy

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

Date: May 18, 2017