

Bainbridge Township, Ohio
Board of Zoning Appeals
April 21, 2016

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:07 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. He then explained the hearing process and swore in all persons who intended to testify.

Application 2016-5 by Tim Roach for property at 7045 N. Aurora Road - Continuance

The applicant is requesting a substitution of a non-conforming use for the purpose of mulch, plant, nursery and outdoor furniture sales. The property is located in the MUP District.

Ms. Karen Endres, Zoning Inspector testified that the landlord is dragging her feet on surveying the property and she told him that he can't open for business until he gets his permit and he still needs an acceptable site plan. She said she has not heard from him this week and added that the hoop building should go through permitting and she thinks it is problematic. She said they are considered structures and it needs a permit because it is a commercial business and he is likely to have the public using the building and she knows the Geauga County Building Department generally likes to make sure they are safe and secure and nobody is going to get hurt.

Mr. Lamanna said the board will continue this.

Ms. Endres said she has not issued the permit yet and he should not be open for business and he doesn't have a sign permit either.

Mr. Murphy said he is open for business there.

Mr. Lamanna said the board has been more than accommodating and he has had plenty of time to get the site plan in.

Ms. Endres said she will follow-up with a violation letter advising him about the signage, the building and he should cease and desist doing business until such time he has all of the permitting paperwork in order and he should come to a meeting to present his plans to the board.

Mr. Lamanna asked if he has non-conforming signage.

Ms. Endres said he has a ground sign right now just a few feet in front of the building and her understanding that his long term plans was to have a wall sign.

Mr. Murphy said he has got to get zoning approval and he has been in here for several months and next month would be a good time to finish this up.

Ms. Endres said he can't get his sign permit until he gets his business permit and he can't get his business permit until he gets the site plan in.

Mr. Gutoskey said he needs to understand.

Mr. Lewis said he thinks he gets part of the delay because he is a renter, it is not his property so he is not interested in spending the money on a survey, he is hoping that the property owner will do that as a condition of him being there as a lessor.

Ms. Endres said his landlord is not being proactive in getting a survey.

Mr. Gutoskey said this is probably one of his prime times of the year, spring and he is not in business.

Mr. Murphy said he has been open for six months.

Mr. Lewis asked who the applicant is the tenant or the landlord.

Ms. Endres said she will be citing both.

Mr. Lamanna said as long as nothing is happening to him they will keep doing what they are doing and they have had plenty of time already and there is no reason to give them any more time and if they don't make it right very quickly the next step should be taken.

Ms. Endres said last month they brought in a new site plan what she thought was unacceptable.

Mr. Lamanna said they have had more than enough time and there is really no excuse that this time that they haven't gotten it in order.

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

Motion BZA 2016-5 – 7045 Aurora Road

Mr. Lamanna moved to continue this application to the next regularly scheduled meeting to be held May 19, 2016.

Mr. Gutoskey seconded the motion.

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

Application 2016-8 by Rosemarie Althans for property at 16995 Cats Den Road

The applicant is requesting a modification of a previously granted area variance for the purpose of constructing a detached garage. The property is located in a R-5A District.

Mr. John Althans was present to represent this application.

Mr. Althans testified that he came here and asked for a 10' variance from the property line, the board approved 20' which is fine. He said he had Chagrin Valley Engineering come in and find the property lines and mark off the 20' variance so he was originally thinking about going with a 30' x 26', he doesn't want to call it a garage, he wants to call it a barn because he doesn't want it to look like a garage so after the board approved it he didn't realize that he had to come here with the exact plans so he went to Mr. Steve Ciciretto to make it 30' x 30' because it will give him a little more room and it allows him to add a peak roof coming out which gives a little more flavor so he needs an extra 4'.

Mr. Lewis said you are requesting 30' x 30' with a front porch.

Mr. Althans said the only difference in the plans to what he proposed was Mr. Ciciretto has some distance between the existing driveway and he plans on coming off the driveway and going a little distance there to put it in there (he referred to the site plan).

Mr. Gutoskey asked if this wasn't much farther off than what it was before, it is the same spot but bigger.

Mr. Althans said it is the same spot.

Mr. Murphy said it is the same side yard setback it is just a little bigger.

Mr. Althans said he is also going 4' back a little farther.

Mr. Murphy said but not any closer to the side lot.

Mr. Althans said no.

Mr. Murphy asked about the lot coverage.

Ms. Endres said no, the big issue is the board approved the building but BZA 2015-34 was approved for a specific size.

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

Motion BZA 2016-8 – 16995 Cats Den Road

Mr. Lamanna moved to grant the applicant a change to the previously granted variance by the board in hearing 2015-34 to modify the structure from 24' x 26' x 17.2' high to 30' x 30' x 20' with a 4' x 6'8" covered porch entryway all of which will be as shown in the drawings submitted with the revised application. All of the provisions from the prior variance continue to apply.

Based on the following findings of fact:

1. The slight changes made to the building structure do not affect any of the considerations that were relevant to the granting of the original variance.

Mr. DeWater seconded the motion.

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

Application 2016-9 by Dr. Caleb Chou, The Church in Solon for property at 7765 Country Lane

The applicant is requesting a review and renewal of an existing conditional use permit. The property is located in a R-5A District.

Dr. Caleb Chou and Mr. Michael Drain, attorney for the applicant were present to represent this application.

Mr. Lamanna stated that this is back for review based upon the original grant of the conditional use permit. The board wanted a fairly short review period because in order to determine that the various conditions were being satisfied and there were no circumstances that the board hadn't been able to foresee at that time and decided that it would be worthwhile to review this situation again. He asked Ms. Endres if she had any open issues.

Ms. Karen Endres, Zoning Inspector testified that they have satisfied all of the conditions on the property and she has not had any complaints in the past couple of years.

Mr. Michael Drain testified that he is the Attorney for the Church in Solon and for Dr. Chou and as Mr. Lamanna stated the matter is up for review of the conditional use permit that was issued April, 2014, it is on a short leash so it comes up for review so at this point based on information that this board had in August, 2013 it limited the occupancy to 80 persons but subsequent inspections and reviews disclosed that the premises could easily handle more than 80, specifically the EPA said it could hold up to 135 people without any problem and the Geauga County Building Department inspected and certified that 198 people could be there so the church has a little bit of difficulty in accommodating all of the church members under the present restrictions and requests that this board expand the occupancy use to something greater, at least 135 as stated by the EPA or 198 as stated by the Geauga County Building Department.

Mr. DeWater stated that he looked at the well meter recordings and he sees the letter from the EPA from September 2013 and asked if there has been any review from them of the septic since then because with 80 people constantly using it he would have thought there would have been an updated letter from the EPA. He asked who is responsible for rating these recordings on a daily or weekly basis, the flow meter chart.

Mr. Drain said the average usage down at the bottom of the table indicates that it is a one person dwelling in Geauga County.

Mr. DeWater said he understands that but he is asking who reads the flow meter on a daily basis.

Dr. Chou said when he is at the church he uses his I-phone to read it every week.

Mr. DeWater said in the EPA letter they ask for the daily rating volumes which is different from the weekly reading.

Dr. Chou said they only have one meeting per week.

Mr. Drain said the property is not used constantly; it is only used on Sundays.

Mr. DeWater said so you are not having these other meetings and has anybody evaluated the system since then besides this flow meter chart to make sure it is handling the flows that are currently coming in.

Mr. Drain said the latest reading they have is from March 6, 2016.

Mr. DeWater said that doesn't tell you that the system is operating properly, is there sewage coming out of the pipe, is the leach field overflowing, has anybody checked that out.

Mr. Drain said he doesn't know.

Mr. Gutoskey said it is considered commercial so the EPA would have jurisdiction and either you have a septic maintenance person.

Mr. DeWater said it is an operator on record with the EPA permitted system.

Mr. Drain asked to clarify exactly what the board is asking.

Mr. Gutoskey said if you look at the EPA letter it is spelled out in there with what they are looking for and it says “you must ensure that septic tank pumping receipts are retained on site, and made readily available...”.

Mr. DeWater said it has to show that maintenance is being done and that it is operating as designed. He said the logs don’t tell you that it is operating as designed it just tells you how much is flowing through.

Mr. Gutoskey asked how many parking spaces there are.

Mr. Drain replied about 45.

Mr. Gutoskey said 45 and you are approved for 80 people and you want to go to 135 so his concern is if you go to 135 is there enough parking.

Mr. Drain said there is no plan to expand the parking.

Mr. Lamanna asked what the current utilization is.

Mr. Drain said generally on Sunday there are 5 – 10 vacant parking spaces so the utilization is between 35 – 40 spaces for the Sunday service.

Mr. Lamanna said that means you don’t have really room to bring in maybe another 20 to 30 people.

Mr. Gutoskey said it is a function if you are filling four people in every car and his biggest concern is there will be two per car.

Mr. Lamanna said the parking is more limiting.

Mr. Gutoskey said he thinks the parking is a more limiting function than the septic.

Ms. Endres said zoning requires one parking space for every six seats plus one for every two employees and one for each 500 sq. ft. of usable floor area not used for seating.

Mr. Gutoskey said he remembers when we had the original hearing there was talk about they were going to park at another place and then shuttle over but he doesn't know if that is happening or not.

Mr. Murphy said zoning requires one parking spot for six seats.

Ms. Endres said one space per six seats.

Mr. Drain asked Dr. Chou how many employees are at the church on Sunday.

Dr. Chou replied only myself.

Mr. Murphy said he lives right around the corner and he has been there for the two or three years the church has been there and nobody knows they are there and he agrees that we have to find out if the septic system is working and how the water is flowing through there.

Mr. Lamanna referred to a letter from September 2013 that talks about that the estimated maximum daily usage is 405 gallons per day.

Mr. Drain said they are way under that.

Mr. DeWater said when we report to the EPA we are not allowed to do it as an accumulative number we have to specifically show that 30 day count and we have to break it down on a daily basis of what is coming in daily that is why when you see these climbing numbers, it might be a climbing number but the other question is have you gotten the flow meter calibrated once a year as is required by the EPA or are you just running a flow meter with no service and that is why he was asking these questions.

Mr. Lamanna said the big issue here is going to be the parking.

Mr. Drain said there appears to be plenty of parking spaces for the usage.

Mr. Lamanna said if we are doing 85 and using up 75% of the parking we can increase by a third and use 100% of the parking.

Mr. Murphy said they have been told they can't park on the street.

Mr. Lamanna said right and what the parking standard for a church is we still have to look as a conditional use as to what is actually happening and one of the problems you run into is you have got a standard that is based upon generally a much bigger structure so you tend to have a much lower utilization rate and that is the assumption that gets built into all of these parking things is on a typical Sunday you only have 60% of the capacity actually used and we assume people are coming four to a car which is probably totally unrealistic in today's world. He said the problem with some of these standards is they are not exactly updated to what the current reality is, we have to sit and look at there may be a standard that says you have got to have this minimum number of parking spots but we have to look at what is really happening here because we have a peculiar situation, there is no place for the overflow to go, people can't be parking on the street so unless somebody says we have got a remote site, when we fill up our site people can go park at the remote site and we will shuttle back and forth so parking is the limiting factor, it is not the septic system or anything else it is parking. He said part of the reason why we have these conditional use reviews is that we can look at these things on what is really happening because even though the parking standard may say you need one space per 5 seats or 6 seats if in fact the actual usage is you get one car for every two seats you need a lot more parking if you want to have 140 people in there, there is not enough parking, you are short about 15 or 20 spaces. He said he thinks the board would be willing to go out to the number of parking spaces that you have but we have got to look at what is really happening, what is going on, on the ground at that site on a regular basis.

Mr. Drain asked if they could expand it to 100 for example.

Mr. Lamanna said that is what he is saying, he wants to hear from other people and then they can look at specifics. He asked who else is interested in this application.

Mr. Peter Alves of 17291 Red Fox Trail testified that they look at the cars on Sundays and on Wednesdays for a while and it is what it is, you can't change what is there, he has other concerns more than another car there or something else, there is screening and trees and lights, there was water and Ms. Endres was at the house with Mr. Jeff Markley and there was a huge water problem that comes out of a pipe that comes out of the back of their place that runs right across his property and his neighbor's property which is now a small river so there are other things that need to be said other than the parking that concerns at least him.

Mr. Lamanna said that is what the board is here to listen to.

Mr. Alves said they have been okay neighbors it is not a problem with what they do on Sundays or Wednesdays and for a while on Wednesday evenings because of the lights, we get up very early and go to work like a lot of people and the lights at night shine right into our bedroom which is the way it goes, the trees that were put in were not the same big trees that were initially supposed to be put in so there were some additional trees put in and we appreciate the trees, there were six trees and we got three and our neighbor got three so it is what it is. He said they can see all of the vehicles so a few more cars or people is not a big issue to him.

Mr. Lamanna asked if the water issue is solved or is still there.

Mr. Alves said there is water that comes down that wasn't there before.

Ms. Endres said she can't say that because she doesn't know what it was before.

Mr. Alves said that is true, she is 100% correct.

Mr. Lamanna asked if the pipe is new.

Mr. Alves said yes it comes out of their leaching field and it comes right to the fence line and right onto our property and he doesn't know where they can put it, he doesn't know how that works with engineering but it is right there, what catches in that big basin comes right across their property.

Mr. Gutoskey said it is an outlet from the retention pond.

Mr. Alves said yes, exactly.

Mr. Gutoskey explained that the volume will increase because there is paving but the peak flows have to be reduced but there will be more volume.

Mr. Alves said they have kept up the fence so there are a lot of good things too.

Ms. Beth Minzter of 17291 Red Fox Trail testified that there is really no screening.

Mr. Lamanna asked if they can adjust the peak flows.

Mr. Gutoskey said not really because the pond size is designed based on what the level of outflow is so it is only going to get up so high and then it is just going to go over the emergency overflow. He said how it is designed is you look at the flow from a one year storm pre-development and then you look at the flow for the one year storm post-development and you look at the percent increase and then that tells you the storm you have to design for so if you come up with a 25 year storm all of your flows have to be equal to the one year storm up to the 25 year storm and at the 25 year storm you can release what you were pre-development.

Mr. Alves said just from their time living there and since the asphalt has been there, there has just been more water.

Mr. Gutoskey said he thought the pond was going to be up more toward by the parking lot.

Mr. Alves said it is right behind the other barn.

Mr. Gutoskey asked if they moved it back from what they had originally proposed.

Mr. Alves said it is behind the barn.

Mr. Gutoskey said that is part of the problem because from the original design the pond was closer to where the parking was.

Ms. Endres said there are two ponds, one in the front and one in the back.

Dr. Chou said yes.

Mr. Lamanna asked if someone from Soil & Water actually reviewed it and determined that it was working correctly.

Ms. Endres said she will check with Soil & Water.

Mr. Gutoskey said supposedly they inspect them once a year to make sure they are functioning.

Mr. Lamanna said we need to make sure these are designed and built to the accepted legal standards that are required, now unfortunately sometimes you will get more flow, total flow coming out but it is designed not to exceed what there was before at any given time but whereas before you could have had a flow for an hour and now it might be three hours.

Mr. Gutoskey said it is probably spread out over 24 to 48 hours so instead of just having all of that flow go through and it is gone you are seeing it slowly being released.

Mr. Alves said again they never had ponds, the earth sucked it up, it didn't come whisking across, you can see it when the water comes out of that pipe it is pretty impressive at times but it was never there.

Mr. Lamanna said there is an upside and a downside to detention ponds, the upside is it slows it down, the downside is, it concentrates and if you didn't have the detention pond, instead of coming out of a pipe you would have a sheet of water flowing down across a much bigger portion of your property at a much higher rate so it is an engineering trade-off unfortunately. He said where it is it does become a relevant issue if somebody says they want to add more parking, then that situation obviously would be a big factor in any review, if you have already got some increase in water issues here and they want to add more parking it will increase that problem.

Mr. Murphy said he doesn't think they are asking for any more parking.

Mr. Gutoskey said normally if your pipe from the pond is running to a ditch but if it is just going into a field, you need a level spreader so it spreads it out and he doesn't know if that is how it is designed.

Mr. Alves said you can see where they have diverted the water to a spot.

Mr. Gutoskey said Soil & Water should come out and look at it.

Mr. Lamanna said you might consider the fact that you think it would be better if it was spread out over a wider area but it could be worse. He said these things are very tricky and in spite of people's best intentions and hard work in engineering it, it doesn't always come out the way you hope it comes out. The question is how many more people can be accommodated given what the parking is. He said if it is increased to 100 it would be a 25% increase which would be about right for their parking usage right now.

Ms. Endres asked what percentage of the parking is being used every Sunday.

Mr. Gutoskey said it looks like 80%.

Mr. Lamanna said a little less than 80% so that gives you a 25% increase and then you are at capacity on the parking.

Mr. Drain asked that instead of a two year review that the Conditional Use Permit be extended to five years under the regulations.

Mr. Gutoskey said he didn't have any issues but something needs to be done so the septic gets checked out.

Mr. Murphy said he doesn't have a problem going to 135 but we have to find out if the septic is working.

Mr. DeWater said they can have the EPA come back in and do a review.

Mr. Lamanna said the board can add to the conditions that within the next six months the EPA will come in and verify that the system is working.

Mr. Murphy said if the zoning doesn't disallow 135 how can you say they can only have 100 people.

Mr. Lamanna said because it is a conditional use and the difficulty here is there is no overflow, there is no place to go.

Mr. Murphy said from the front-end they have been great neighbors.

Mr. Lamanna said he would like them to continue to be great neighbors.

Mr. Gutoskey said he gets concerned if we go to the 135, if there is overflow they will be parking in the fire lane and the main thing is keeping the ingress and egress clear for the fire department.

Mr. Alves said they have been very good neighbors but it is not about being good neighbors it is about doing what is right for the community and for what is around, environment, the whole thing.

Mr. Lamanna said if it turns out at 100 and you are not using your parking you always have the option to come back and ask for more and you can take pictures every week and show us how many extra spots you have every week and then we can address that but just based on the numbers you are telling us going to 100 should be okay and it is not going to cause any problems and you always have the option to come back to the board.

Mr. Alves asked if it is all good with the fire inspectors etc.

Mr. Lamanna replied yes.

Mr. Gutoskey said their occupancy is higher. He asked if the screening is per what the board approved.

Ms. Endres said initially the board of zoning appeals had a screening plan and she actually went out and counted trees and stood next to them to see if they were high enough when they first went in and everything was constructed as the board had required. She said the neighbors had a problem because the trees weren't tall enough to screen it in the way the neighbors envisioned so Mr. Jeff Markley went out there with his knowledge of horticulture and made his recommendation to the church to plant an additional six or eight trees and they were planted closer to the rear lot line to try to achieve additional screening. She said the church went above and beyond what they were required to do.

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

Motion BZA 2016-9 – 7765 Country Lane (The Church in Solon)

Mr. Lamanna moved to grant the applicant an extension of its conditional use for an additional period of five years with the following modifications.

1. The maximum occupancy will be increased to 100 people.
2. All other conditions and requirements will remain in effect.
3. Within the next six months, the applicant will have the septic system reviewed by EPA to confirm that it is operating properly.
4. The applicant will also have a review by the Geauga Soil & Water Conservation District to determine that the detention pond is also operating properly as designed.

Mr. Lewis seconded the motion.

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

Application 2016-10 by Kelly & James Smith for property at 17383 Snyder Road

The applicant is requesting area variance(s) for the purpose of installing an above-ground swimming pool. The property is located in a R-5A District.

Mr. and Mrs. James Smith were present to represent this application.

Mr. James Smith testified that they live next to the school.

Ms. Karen Endres, Zoning Inspector testified that they want to install a 24' diameter above-ground swimming pool.

Mr. Smith stated that the other garage is gone.

Mr. Gutoskey said this drawing shows 60' to the center.

Mr. Smith replied yes.

Mr. Gutoskey said the setback is 48'.

The board discussed the lot width and proposed setbacks.

Mr. Murphy asked if the former owner had a pool because there is a circle on the grass.

Mr. and Mrs. Smith replied yes.

Mr. Lamanna asked if there was anyone else here interested in this application.

Mr. Murphy asked if there will just be a ladder up and over to get in.

Mrs. Smith replied yes and it is locking.

Ms. Endres showed the board a site plan from when the hearing was approved for the new garage and it is based on a survey.

Mr. DeWater said the septic system is in the front yard so that is not an issue.

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

Motion BZA 2016-10 – 17383 Snyder Road

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing a 24' diameter circular above-ground swimming pool as shown in the application.

1. A variance on the north side yard to 20' for a variance of 30'.
2. A variance on the south side yard to 40.67' for a variance of 9.33'.
3. A variance on the minimum rear yard requirements from 90' to 48' for a variance of 42'.
4. A variance to the total lot coverage for an increase to 24% which represents an increase of 2.35% from that currently granted to the property.

Based on the following findings of fact:

1. This is a non-conforming lot, it is only ½ acre in size and only about 84' wide and 257' deep.
2. The house is already set back substantially so this leaves very little room in the rear yard to construct anything.
3. The new structure is located pretty much in the center of the rear yard very close to the existing dwelling structure so there is no easy way to move it to reduce the amount of variances required.
4. This is a residential use.
5. It is only 52" high therefore the board does not believe it will adversely affect the neighboring properties nor will it be inconsistent with the character and nature of the neighborhood.

Mr. Lewis seconded the motion.

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

Application 2016-11 by Hunter M. Walter for property at 7033 Cedar Street

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

Mr. and Mrs. Hunter Walter were present to represent this application.

Mr. Walter testified that they purchased this 1,600 sq. ft. home in 2012 and they made great use of it for the first two years but they now have a two year old boy and are hoping to maybe have another someday and if they do they wanted to add a second full bath to the house and add another bedroom so they are looking to double the square footage of the home.

Mrs. Walter testified that the house right now is just a rectangle so what is being done is the house is being pushed backwards and out to the side like an L being attached and part of the existing house will be demolished, the back third because it seems like it was built at a different time.

Mr. Walter said the original part of the house will be maintained, there is an apparent addition, a lower level.

Mr. Lamanna said so the back part goes up farther.

Mr. Walter said correct and the L shape proposed off the back will be demolished.

Mrs. Walter said the total built is more than 1,600 sq. ft.

Mr. Gutoskey said there is no garage.

Mrs. Walter that is right, there is no garage. She said the addition is going out one side and that is going to be a living room with a fireplace and behind it a room for an office or guest bedroom and there will be what is now a half bath, it will be a full bath and then upstairs there will be a master with a full bath. She said the house is going from a 3 bedroom 1-1/2 bath to technically a 4 bedroom and 3 full baths.

Ms. Amanda Meitz of 7044 Cedar Street asked if the little box on the site plan is a shed and asked if the tree will go.

Mr. Walter said the big Oak tree will stay.

Mrs. Walter said the two trees on the side have to go but the big Oak tree in the back will stay. She said they had an arborist come out and determine that the tree will stay unless it gets damaged.

Mr. Lamanna asked if the existing house is two stories in the front with an extension on the back.

Mr. Walter replied yes.

Mrs. Walter said there is an attic and they can barely walk in there and there is no duct work.

Mr. Lamanna said the side extension is only one story (the increasing side extension).

Mrs. Walter replied yes.

Mr. Lamanna said he assumes the entire exterior is being redone.

Mr. and Mrs. Walter said yes.

Mr. Lamanna asked if there are any other people here with comments or questions.

Ms. Kathy Schulman of 7041 Cedar Street testified that she lives just east of the Walter's and her question is how much lot coverage will there be with the addition as opposed to what it is now.

Mr. Lamanna said it will be 28%.

Mr. Gutoskey asked if the calculations include the patio.

Ms. Karen Endres, Zoning Inspector testified that she asked the architect to calculate all of the hardscapes.

Mr. Gutoskey asked if that included the future patio.

Ms. Endres replied yes and asked that the board include the future patio tonight so when they are ready to build it they won't have to come back to the board.

Mr. Ward Pierson of 7049 Cedar Street asked what will happen when they come back three years from now and ask to build a 400 sq. ft. two-car garage.

Mr. Elliott Kaufman testified that maybe if we knew the variance being requested.

Mr. Lamanna said the board will go over it.

Mr. Gutoskey said it looks like the lot coverage is going from 18.9% to 28%.

Mr. Lamanna said from 19% to 28% and they are adding roughly, when they are done including the patio, about 1,000 sq. ft.

Ms. Schulman said she thought it was a larger number when she first looked at the plans but maybe she misread it.

Ms. Endres said part of what you were looking at was the existing house.

Ms. Schulman said she has lived in her house for 33 years and the street flooding has gotten worse since improvements were made at the other end by the roller rink but it floods regularly and she has a century house and she is the lowest spot on the street, both neighbors on the sides are higher and the neighbor behind is higher and even the street is higher and her concern or question is has there been any kind of a study done for storm water management to see how building and taking away all of this greenspace will be affected when there won't be anything to absorb the water.

Ms. Endres said there is city sewer and city water there.

Mr. Lamanna asked if there is a storm sewer.

Mr. Kaufman said there is no storm sewer.

Mr. Lamanna asked where the gutters are discharged.

Mrs. Walter said their contractor told them their downspouts would be discharged into a storm sewer.

Ms. Meitz said she has lived there since 1979 and there has been lots of water back and forth into her basement and she had B-dry system in her basement and she has had water across the back of her yard she had a five gallon bucket of dirt that she kept under the porch and she had that float to the other end of her lot where it got caught in the vegetation that is there so there is a lot of water in this area. She said she got 2" of water in her garage recently and it has gotten worse since they did work by the roller rink and even farther up the hill on Chagrin Road, there was some additional ditching done there. She said there are some underground culverts in her lot and her neighbor's lot, the culverts are not big and when it gets overcome the water flows on down the street.

Mrs. Walter said they were part of that flood.

Ms. Meitz said there are some covered ditches and the culverts she believes are 10" at the most.

Ms. Schulman said she can also speak to that, the culverts are not connected down the street and she just went to get a new culvert pipe in her driveway, it was rotted out and there was no point because there was no way to connect it anywhere.

Mr. Lewis asked if you are the lowest point and the road and the lots on your sides and behind you are all higher, where does your storm water go.

Ms. Schulman said it stays and it goes into her basement.

Mr. Lewis asked if her lot isn't draining currently.

Mr. Walter said the water flows from east to west so during that big storm that made the news, it flows from east to west, past Ms. Schulman's house to ours from S. Main Street toward S. Franklin. He said there might be some contours visually as you are seeing it but overall things are flowing from east to west.

Mr. Chuck Shulman testified that he is Ms. Schulman's brother and he is not here as an expert but he typically does testify in cases similar to this for a property management/property development standpoint and typically any heavy rain becomes a pool of water, there is a pond in the backyard. He said the displacement of additional water and having the house being closer to her property line and then currently the downspouts point to her yard on that side of the house so it is just going to create more water in her backyard and her suggestion is having a hydrologist take a look at the plan to see how the water would actually flow and where the water could go because otherwise you are just going to create additional water. He said currently she is ankle deep in her backyard, the backyard does not grow grass because of the amount of water that flows in there, it just needs to be controlled so additional water doesn't create more of a burden on her home and added that her sump pump runs continually every time it rains, all it does is pump water into the backyard which eventually leaches back into her basement so there should be some consideration as to where that water is going to go.

Mr. Lewis asked Mr. and Mrs. Walter where their storm water currently goes.

Mr. Walter said there are downspouts from the one part and currently the downspouts are directed towards Ms. Schulman's house and then towards the beds around the east and west sides of the house. He said his understanding is that with this plan those downspouts are actually now being directed in the north/south area which in fact there are two big round terracotta type drains in their backyard, one kind of near the end of their driveway and they are elevated up so you have to have that much standing water before the drains start working.

Mr. Chuck Schulman asked if possible put a swale in between the two houses so it doesn't allow the water to flow from their house into her yard.

Mr. Gutoskey asked about the slope of their yard, does it slope toward the street or towards the back.

Mr. Walter said there is a large Oak tree in the backyard that kind of defines the contour of the backyard so everything kind of leads up to the top of there and there is that little square shed, just to the upper right corner and so everything kind of goes from there and in the front everything is driven towards the driveway and so when we get the big rainstorms on our property our driveway becomes a river.

Mr. Gutoskey asked if it flows out towards the street.

Mr. Walter said no toward our house.

Mrs. Walter said the neighbors behind them have this little hill that they built.

Mr. Walter said they built a fish pond and they built it up and since then we had some planting boxes that aren't going to be of any use anymore since they redid their backyard. He said their neighbors to the other side of Ms. Schulman's on the west side did do some re-contouring of their property that has kind of created almost like a berm on their side.

Mr. Murphy said you are on the south side so the water comes from the roller rink up to the right and down Cedar Street while it is on its way to the Chagrin River, you should be upstream and everybody on Cedar Street has been fighting this for years, the Army Corp has been out along with the township and everybody has told homeowners to do what you want for yourself and even the Case Western Reserve students came out and tried to do something but it is bad and when it rains logs are rolling down Cedar Street, it is bad. He said he knows what the residents are dealing with here.

Mr. Kaufman said the real issue is what impact is this going to have on the water because it is bad enough and if you add the downspouts, more roof, more downspouts pointing towards your property and less greenspace it is going to make it worse.

Mr. Lamanna said the problem right now is we don't know where these things are supposed to go and you are thinking they are going into some collection system.

Mrs. Walter said that is what our contractor told us.

Mr. Murphy said there are rain gutters in the street in the cement that takes water off of the street into storm sewers.

Ms. Schulman said she didn't think they had storm sewers on their street, she doesn't believe.

Mr. Walter said they knew the flooding was a problem and when they talked to the architect and had this all drawn up they very clearly said you are going to have to dig up this foundation and you are going to have to get things figured out here because we are not going to invest in this if we don't get something resolved so his understanding is with these plans the intention is to resolve some of these issues not exacerbate it.

Mr. Schulman said the problem is there is nowhere to connect it to and nowhere for the water to go and it is his understanding that all of the pipes along the front of the homes have all been crushed over the years, the drain companies can't get snakes through the drains, they couldn't even get a camera through.

Mr. Kaufman said there is no storm water drainage there in terms of storm water sewers in the street.

Mr. Murphy said there are storm basins at the corner of Cedar and S. Franklin.

Mr. Walter said and there is one right in front of their house, doesn't know what it is for but it is there.

Ms. Schulman said that is totally clogged up and they don't even connect anymore.

Mr. Gutoskey asked if anybody has talked to the Road Department or Service Director about getting the ditches cleaned.

Ms. Schulman said she had people come out to do work in her driveway, it was a little higher than the street but when they re-did the street last summer it was flush so when they came out they jackhammered because they were going to go down and replace the culvert pipe and regrade it but they found that underneath her culvert pipe was rotted out because water would go in there and just lay there and she said the township could ditch and the township would replace the culvert pipe.

Mr. Murphy said there were ditches but now all of the pipes are collapsed.

Mr. Gutoskey said the township will replace the culverts for free.

Mr. Schulman said the contractors looked at it last fall and they did contact the township and county and there was nothing that could be done that we should just fend for ourselves.

Ms. Endres said some years back they did ditch elimination but nobody has maintained that piping over the years.

Mr. Schulman said most of those ditches were piped in by the residents on weekend projects without permits.

Ms. Schulman said she wouldn't mind ditching but everybody else didn't ditch so there is really no point.

Mr. Gutoskey said you would have to get all of the neighbors together to do it but it sounds like it would solve a lot of your problems because it would give you somewhere to drain your water to.

Ms. Schulman said she is concerned with the additional lot coverage.

Mr. Gutoskey said 1,000 sq. ft. isn't going to make any difference.

Mr. Murphy said they are asking for a 9% increase.

Mr. Schulman said this is also creating an addition that is going to be closer to her house.

Mr. Lewis said the downspouts coming off of that addition need to be directed someplace else on their property.

Mr. Murphy said the idea is downstream. He said typical construction would go through a storm drain but if there is no storm drain then they have to take it someplace which would not be in the direction of the uphill neighbor.

Mr. Kaufman said there has to be some kind of study done to determine if there will be increased water because of the addition and if there is how it is going to be handled.

Mr. Gutoskey said the way the EPA regulations are in soil and water if you are less than one acre you don't need a storm water permit or a storm water study, if you are disturbing less than an acre.

Mr. Kaufman said he thinks your ordinance says that if it is less than five acres you have to have a storm water study.

Mr. Gutoskey said not for home additions because they do have approval from Soil and Water, they review this and approve it.

Mr. Kaufman said what about 159.01 that talks about an addition with lots less than five acres in size. He said we are not anti what they want to do the question is how is the storm water going to be managed when they do it.

Mrs. Walter said their plan ultimately was always to get their backyard sorted out by some engineer so it was always on the docket to do. She added that when they bought this house it was never disclosed that there was flooding and they knew it was a floodplain but they were never told how severe it was.

Mr. Walter said you are asking for more time but time is money.

Mr. Lamanna asked if Geauga Soil & Water does storm management plans on something like this.

Ms. Endres said typically there is not a storm water plan required if there is less than one acre.

Mr. Lamanna said his guess is this is meant to tie into the Geauga Soil & Water so if they don't require it they won't be requiring it.

Ms. Endres said she refers them to Soil & Water.

Mr. Lamanna said but if they are not requiring a storm water plan on small building projects.

Ms. Endres said those don't go to them.

Mr. Gutoskey said the one acre of disturbance is the breaking point to where you go to a full-blown erosion control and storm water management plan but if you are below an acre you get an abbreviated storm water plan.

Ms. Endres said right, that is what they have here, it is a sediment control plan.

Mr. Lamanna said all of this ties together, you have got to go look to see what Geauga County's requirements are because she doesn't have the capability to evaluate these things besides jurisdictionally they are the ones who are responsible for this so they sort of set the rules. He said we have this in our zoning to make sure that people know not to come here unless they have made their peace with the experts on this.

Mr. Kaufman said he thought this was brilliant because it focuses on this problem we are confronted with, we have a lot that is one-quarter acre in size so there is a storm water issue.

Mr. Lamanna said people have made a decision that when you get down to a certain size it is not generally an issue.

Mr. Kaufman said the problem is the undue hardship caused by this project that might be more on her than on them.

Mr. Lamanna said we have gone over many residential lots on where they are sending their storm water because there are a lot of places that have issues with this lot in sending water over here and we force people to swale and redirect. He said part of the problem here is we don't really understand what is going on in this area and we don't understand what is available as far as storm water discharge goes, they think there is a place to discharge it to and now there is some doubt as to whether that is true or not.

Mr. Kaufman said they don't even know where the downspouts are directed.

Mr. Lamanna said they are having their downspouts being collected and diverted so it will all be going into a collection system.

Mr. Kaufman asked what collection system it is going in and that is his point, that is why we need to have a better understanding.

Mr. Lamanna said that is what we are trying to do.

Mr. Murphy said we have had twenty years of hydrologists saying you are on your own and he is really sorry, they have abandoned you and Bainbridge Township doesn't have the money to go down there and they are asking to put on an addition and you are asking them to hire a hydrologist for their particular lot. They get the same amount of rain, they are not getting more rain. He said you have had experts from all over the place in the past 15 years looking at that watercourse, Cedar Street is badly designed, it is a floodplain, you have all known that so if they add 100' of roof you are expecting them to bear the burden of spending all this money to find out that you are living in a floodplain, he is not sure what you are asking for.

Mr. Kaufman said it is worse if you are in a floodplain if you affect the discharge of water coming from their house or anybody else's house on their property, it makes it worse. He said all they have to do is build a swale and take it out to the front and put it in the ditch or culvert.

Mr. Schulman said or build a swale between the two homes.

Ms. Schulman said on the property line.

Mr. Gutoskey said what it sounds like if you put a swale on the side and direct it to the backyard it would direct the water from the downspouts away from your lot into their backyard.

Mrs. Walter said yes.

Mr. Gutoskey said if you put a swale on the east side of your lot and swale it towards the back.

Mr. Lamanna said you can contour it so its high point is above where the water discharges and you could probably pipe the water part of the way.

Mr. Murphy asked where the water is going to go. He explained that the ditch starts in Bainbridge by the Greenville then it crosses Cedar, then it crosses into Chagrin Falls so Bainbridge should be able to pipe to that storm sewer at Franklin, you should be asking Bainbridge for storm sewers on Cedar and added that it is an old problem.

Mrs. Walter said last summer when we had the big rain storm, it was her third summer there and she had never seen anything like it but everyone on the street said it is a culvert and engineering problem between Bainbridge and Chagrin Falls that the culverts weren't large enough and it has something to do with the roller rink being there, that is what we had heard.

Ms. Schulman said with all due respect she doesn't want to impose an undue hardship on them to fund some kind of huge thing that is overkill to the problem but she would like to have a plan so we have an idea of what is going to be done because once it is built, it is done already so rather than wait until it is constructed.

Mr. Gutoskey said they need a topo of the lot and a grading plan.

Mr. Lamanna said if somebody can demonstrate that there is a place to discharge it to that actually works.

Mr. Murphy said you hired an architect and an architect typically is qualified to evaluate a site plan and topo and he should have some sort of clue about what you are dealing with already.

Mr. Gutoskey said or a civil engineer.

Mr. Lamanna said this is a legitimate interest but he doesn't think it is a major problem, he doesn't think we are talking about some incredible fancy study, this is somebody getting an eyeball of what the contours are. He said it first must be resolved whether there is or is not a place to discharge so if somebody can definitively say this is an acceptable place to discharge it then this whole discussion is moot. He said the second possibility is if it turns out there really isn't a facility where you can discharge it and you will have to discharge it to the surface of the property, in that case, the board would want somebody to look at the contours and come back with a grading plan combined with a downspout plan so that it is clear that the water coming off your downspouts from this extension is not going to go onto her property.

Ms. Schulman said her neighbors, two doors upstream, the Widman's, when they put their addition on about ten years ago they were so concerned about the water and she is not suggesting this should be done but they buried a tank in their backyard to catch the water because they have a finished basement.

Mr. Lewis said he looks at the water coming down Cedar Street for a very long way on the road itself with no ditches and it is all shedding off into everybody's yard along the way and he is looking at another 100 sq. ft. of roof, it is such a small amount of water that is affecting this area, put your efforts into directing that water into a way to dispose of it that is pre-existing infrastructure on the street or manage it on your own property and he thinks that is all these folks want to see done. He said they recognize that every time it rains, with or without with their little bit of extra roof, you are going to flood anyway.

Ms. Schulman said she is just concerned.

Mr. Lewis said he thinks that is what needs to be demonstrated and it can be done on that property because the lot is deep enough and the property seems to be going from road to rear with a front to back slope so the odds of sending it forward unless you can put it into a storm sewer and get the elevation right for drainage, either way you are going to have a sump pump right.

Mrs. Walter said yes.

Mr. Lewis said you are going to be collecting water and have a chance to send it somewhere.

Mr. Murphy said they should find out where the storm sewer is on Franklin, maybe it could be improved from downstream and he would look into where those two catch basins go, where they flow in and flow out.

Ms. Schulman said she thought it might go under the road and then go back down.

Mr. Murphy said it is a mess and people have looked at it for a long time but have abandoned the residents. He said the applicants can provide grading plans that tells exactly where the downspouts are going, the lot elevations, the architect should be able to do that.

Mr. Gutoskey said they will need the surveyor to do a topo, if there isn't one already and if it is as flat as it is using the GIS isn't going to be accurate enough.

Ms. Endres said she doesn't know when the contours were last updated.

Mr. Gutoskey said if it hasn't been graded they haven't changed but if you get to something this flat a 2 ft. contour interval is not going to do any good to look at because you need to look more at the micro level, it may be that they have to get some elevations next door.

Mr. Pierson said just to be clear that they are only increasing their footprint by 9%, that is not a lot of coverage.

Mr. Murphy said it is not going to change anything.

Mr. Kaufman said it all moves towards Ms. Schulman's and talking about the new 9% which is all in that setback area towards her house.

Mr. Lewis said anything coming off that side, those downspouts can be tied into what is coming off the rear part of the addition and taken away and that is why we need to come up with the appropriate strategy and even on his home not a single one of his downspouts are discharging onto his lawn everything is going down very low along the foundation and is being discharged in a different manner. He said what is coming off his gutters is nothing compared to what is coming down the street.

Mr. Kaufman said he agrees and it is a manageable problem.

Mr. Lamanna said his thought is the board can approve this with the requirement that prior to getting their zoning certificate they will have to put together, either confirm a place where they can discharge the water and convince the zoning inspector that it is okay otherwise we will require a grading plan from the architect that shows that water coming off of the downspouts is not going to flow into the neighbor's property and that it is going to be diverted to another location. He said the plan should be submitted to the zoning inspector and if it accomplishes that purpose then they can go ahead without coming back to the board.

Mr. Kaufman said and also where you located the downspouts.

Mr. Lamanna said he assumes when somebody looks at this if they decide that some contouring needs to be done may also look at the downspouts and where they discharge. The applicants need to get a plan drawn up and work with the zoning inspector and the board's objective is to not let it drain onto the neighbor's property.

Ms. Meitz said they talked about additional space going up and asked how much shade we can expect on the other side of the street from the additional construction up in the air, is it going to get a lot of shade or not so much shade.

Mr. Murphy said the chimney is existing, the new roof to the right is the new addition so it is 5' higher.

Mr. Walter said he doesn't know if it would change the way it casts a shadow across the street.

Mr. Lamanna said it wouldn't affect to the front of the house, only the rear.

Ms. Meitz said she lives straight across the street.

Mr. Murphy said you will see a little higher roof.

Mrs. Walter said they will bring in a grading plan.

Mr. Walter said they will see if they can tap in.

Mr. Lamanna said or if you have a grading plan to manage the water so it won't go onto the adjacent property.

Mr. Lewis said a motion will be made to that effect shortly.

Mr. Kaufman said that it shows 13'9" from the other property line and that says 11'2".

Ms. Endres said there was a new survey and it came up with different numbers, it came up with 11'2" instead of 13'9".

Mr. Gutoskey asked how close the house is to the right there.

Ms. Endres said 5'6".

Ms. Schulman said that is a deck and she had no idea it was that close, it doesn't look that close.

Mr. Lewis said it is still a structure.

Mr. Lamanna said we have several a year from this area and everybody is encroaching down below the 20'.

Ms. Endres said the original site plan was submitted from the architect and she asked the architect where he came up with his numbers and it was based on title work so she suggested that they do a survey and it resulted in the numbers that you see here so the site plan you are looking at here was compiled by Schwartz Surveying Company and he put the setback from the house rather than the proposed addition so at that point she had to scale where the addition was.

Mr. Gutoskey said he got the same thing.

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

Motion BZA 2016-11 – 7033 Cedar Street

Mr. Lamanna moved to grant the following variances for the purposes of constructing additions totaling 1,526 sq. ft. in conformance with the plans submitted by the applicant. The variances are as follows:

1. A variance on the maximum lot coverage from the approximately existing 19% to 28%.
2. With respect to the front yard the existing setback of the house is 32' and that will be maintained and the addition will be no closer than 32'.
3. On the east side yard, a variance to 11.2' from the required 20'.
4. On the west side yard, a variance of 17.2' from the required 20'.
5. With respect to the rear yard a variance from the required 90' to 68.2'.
6. The board notes that this includes the approval of a future patio as shown on the drawing so this, at a future time, will be covered as well by this variance.

With the following condition:

1. As a condition to this variance and prior to granting the zoning certificate the applicant will resolve the storm water run-off issue with respect to the neighboring property. The applicant will either submit to the zoning inspector proof that the storm water run-off from the house and the gutters can be tied to a functioning storm water run-off system on or adjacent to the property or if that is not the case the applicant will submit a grading/gutter discharge plan that will show that the water will be diverted so as not to move to the upstream property but to head directly downstream from the subject property.

Based on the following findings of fact:

1. There is a practical difficulty because this is a non-conforming lot.
2. It is a very small lot and would be very difficult to add to an existing dwelling.
3. The expansion of this dwelling is consistent with what has occurred in this general area and would not adversely affect the neighboring properties.

Mr. Gutoskey 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 9:30 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 19, 2016

AUDIO RECORDING ON FILE

BZA PH 4/21/2016

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Bainbridge Township, Ohio
Board of Zoning Appeals
April 21, 2016

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:30 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. Lamanna made a motion to adopt the minutes of the March 17, 2016 as written.

Mr. DeWater seconded the motion.

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

Applications for Next Month

Application 2016-2 by S. P. Greenville Land LLC (Phillip Siegal) for property at 7150 Pine Street - Continuance

The applicant is requesting a modification of an existing variance (removal of restrictions for signage and outdoor seating and service). The property is located in a R-3A District.

Application 2016-5 by Tim Roach for property at 7045 N. Aurora Road - Continuance

The applicant is requesting a substitution of a non-conforming use for the purpose of mulch, plant, nursery and outdoor furniture sales. The property is located in the MUP District.

Application 2016-12 by Timothy J. Mulle for property at 8500 Lucerne Drive

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

Application 2016-13 by Small Hands Big Dreams Learning Center for property at 8505 Tanglewood Square

The applicant is requesting a review and renewal of a conditional use permit for an existing child care center. The property is located in a CB District.

Application 2016-14 by Robert J. Bagley for property at 8732 Crackel Road

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

Application 2016-15 by Bainbridge Shopping Center II, LLC for properties at 7135 and 7207 Aurora Road

The applicant is requesting area variance(s) for the purpose of expanding two monument signs. The property is located in the MUP District.

Since there was no further business, the meeting was adjourned at 10:07 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 19, 2016