

Bainbridge Township, Ohio
Board of Zoning Appeals
May 16, 2013

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:19 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. Ms. Karen Endres, Zoning Inspector was present.

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

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

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

Ms. Eva Porter was present to represent this application.

Ms. Porter testified that she is here representing the owner. She said she is the owner of the carwash and they purchased it in 2005 and she believes they were granted an extension in 2007 or 2008 and she is here today to respectfully request another extension. She said she was on the agenda last time but fell ill so she requested an extension and she here is today and she is respectfully requesting an extension to the conditional use permit to be extended for another five years.

Mr. Lamanna stated it is up to five years and he understands from the zoning inspector that there are no outstanding issues.

Ms. Karen Endres, Zoning Inspector testified that she has never had any complaints about this business.

Mr. Lamanna asked if they are in compliance with all of the typical conditions.

Ms. Porter said they would like to continue to operate the car wash there.

Mr. Lamanna asked Ms. Porter if they are currently doing a U-Haul rental business from this facility.

Ms. Porter said what they are doing is they have signed on with U-Haul, U-Haul approached them if they could, they are in a preliminary state right now because they don't know yet if this is going to be a viable business arrangement for U-Haul or for them and they have not done a lot yet but they were thinking that the business will pick up in the summertime.

Mr. Lamanna said there are some restrictions on conditional uses that might come into play.

Ms. Porter said if it becomes a permanent situation she would come here. She said they used to offer a lube center out of that location and they have not made a decision yet as to what to do with that space and that is why they are currently thinking of either leasing it or using it as a leasing office for a U-Haul or leasing it out to another automotive related business but it has not been decided yet because they don't know yet if the U-Haul is actually a viable business solution for this location.

Mr. Gutoskey asked if there is another sign on the side of the building advertising U-Haul right now.

Ms. Porter said no, the only way U-Haul advertises is through their vehicles itself.

Mr. Gutoskey said so there is no sign on the side of the building.

Ms. Porter said no.

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

Motion BZA 2013-8 – 8327 E. Washington Street (TDI Terraplan Development Inc.)

Mr. Lamanna made a motion to renew the conditional use permit for five years from today's date (May 16, 2013) without any change.

Mr. Lewis seconded the motion.

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

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

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

Mr. Dale Markowitz of Thrasher, Dinsmore and Dolan, Mr. Leonardo Sferra, Project Engineer from GPD, Mr. Richard Snoddy of Manor Care and Ms. Erin Pfenning were present to represent this application.

Mr. Markowitz testified that he is here on behalf of HCR Manor Care and he was here about 17 years ago on behalf of Manor Care. He said he initiated a zoning amendment to create a conditional use for the facility such as the Arden Courts and they also did some other facilities in the township and the property was built in 1999 and at the time they had 56 units and now they are seeking to expand. He introduced Mr. Leonardo Sferra of GPD who has the site plan with him, Mr. Richard Snoddy who is with Manor Care who does a lot of their new real estate zoning projects and expansions and Ms. Erin Pfenning, the resident manager. He said there are two requests and one is they are seeking to expand with eight beds in the facility so they need to modify their conditional use permit. He said when they started to do the design work Mr. Sferra called him one day and said the parking lot is actually slightly into the setback so they decided to come in and seek a variance. He said they have 1.62' of the asphalt sticking out into the 100' setback for 16 of their parking spaces and because of the way they angled the roadwork, not all of the spaces in the front violate the setback and going from east to west there are 16 spaces slightly into the setback so they wanted to stay honest and straight so they thought that would be the best thing to do. He said since they submitted the site plan for the eight units, they had to make a change because the county building department required ADA requirement so they had to add a little bit of square footage which added less than 0.1% to the lot coverage which is miniscule. He said when they rounded it up to 1/100th of a percent it didn't change the percentage of lot coverage so they rounded it to .01%. He said he has the revised site plan and the only real difference is as they knocked out the additional units going to the east and west there is a slight addition to the building footprint but they reduced the amount of sidewalk around it so the amount of hard surface that was added was inconsequential. He said they are not adding any staff as a result of the eight beds if they are approved tonight so you are not going to see much of an increase in any traffic there and it is on a main artery anyway on E. Washington there. He said they have no intention to add anymore light poles so the lighting plan will stay the same and the landscape plan will not be affected either because they are not impacting any other buffer that is there now, they have both a tree buffer of great significance to the east and to the north and to the west, he discovered that the Wembley neighborhood association asked for approval from Manor Care to allow them to put the landscaping there so they have a buffer that the township did not even require. He said they have all of the fencing around the facility now and they are staying within the 100' setback according to the conditional use and they are staying within their fence line. He said they meet all of the zoning criteria for the expansion and the new parking spaces will meet the 100' setback. He said they found a need in the community for more beds for the facility and to serve the community they thought it was the right time to do this and also on Monday night they are going to Westlake to do the exact same thing, they are adding eight beds to a very similar facility, a similar looking facility, although the landscaping is nicer here. He said the materials that will go on the expansion will match what is existing now. He said they also have one other point, when they made this new application, they made it the same of the current name. He explained the sale of the property and then leased it back so at the time they filed their original approval the property was owned by Manor Care and since then they have entered into this master lease with Elite and then they lease back each of their facilities.

Mr. Markowitz continued by saying the last time he presented they held the largest number of nursing beds in the country and still do, he is told, so it is a very large outfit and very well run and he has been representing them for about 18 years and they have never had a problem. He said they have a request that the permit as modified be issued in the name of *Arden Courts – Bainbridge of Chagrin Falls OH, LLC* because that is the legal entity that signed the sublease and the tenant of the property is a subsidiary of Manor Care which is the umbrella company and the owner of the property is HCP Properties LP which was a Delaware Limited Partnership that which converted themselves into a limited partnership. He said that is the essential proposal and Mr. Sferra will take a couple of minutes to review the site plan with the board and show the differences on the two plans, we will answer any questions and Mr. Snoddy and Ms. Pfenning are also here to answer any questions for the board.

Mr. Leonardo Sferra testified by referring to the site plan and said these two wings are actually staying the same, we bumped these wings by three feet, the width is still going to be at 38' in order to accommodate the ADA accessibility inside the wing so by doing so they took a little of the walk that went up to the old wing and took all that out and shortened up the walk so in terms of percentage of impervious areas it was almost negligible plus you are looking at a ten acre site with a marginal footprint so it does leave much of an impact to the impervious area. He said they are going to do a little bit of storm work on the side just because there are some storm lines there now and this is where they are going to have to do a little bit regarding there and accommodate that as well as picking up a little bit of storm from the parking lot.

Mr. Lamanna asked if there is any landscaping in front of the existing parking.

Mr. Markowitz said he went there tonight again to check on it and there is landscaping around the retention basin and behind it there is a mound area and a landscaping area and to the right, in front of the parking to the right side of the driveway, there are maybe 30 trees planted there.

Mr. Olivier asked if they are small hardwood.

Mr. Markowitz said they are.

Mr. Sferra said you can see them in their plan and they are labeled as two inch.

Mr. Markowitz said where the additional parking is going to go, if you look at the aerial where the additional landscaping is, for the most part it is buffered by the existing tree line next door and in front of it there are some trees that were planted and some are naturally there.

Mr. Lamanna said there is a line of stuff that is shown on the plan in front of the existing parking.

Ms. Pfenning testified that that is a row of shrubs.

Mr. Lamanna asked if they will be continued along the parking.

Mr. Markowitz said he talked with Mr. Snoddy about that tonight and he said absolutely, they would be happy to do that. He continued to say it is not a substantial variance and it will have no effect on governmental services or have any adverse effect on the neighborhood or the community.

Mr. Murphy asked if the woods right behind it is part of the green zone for Wembley or is that a building lot and possibly a future home.

Mr. Markowitz said no that is green space, they are done developing it, it is part of their green space and he thinks it is in the name of their association.

Mr. Lamanna asked if there is anyone else that is interested in this application.

Mr. Markowitz asked that the conditional use permit be put in the name of Arden Courts – Bainbridge of Chagrin Falls OH LLC. He asked if the 30 days could be waived so that they can get started.

Mr. Lamanna replied okay.

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

Motion BZA 2013-11 – 8100 East Washington Street (HCR) Manor Care Properties

Mr. Lamanna made a motion to grant the following:

1. The transfer of the conditional use permit to Arden Courts – Bainbridge of Chagrin Falls OH, LLC.
2. To modify the existing conditional use to permit construction of eight additional beds and an additional parking area as shown in the drawings and plans submitted by the applicant with the application.
3. A variance with respect to a part of the existing parking lot which encroaches on the front setback by 1.62’.

With the following condition:

1. An additional condition applies to this and that is the shrubbery line in front of the existing parking lot will be continued in a like manner on the south side facing E. Washington on the additional parking granted.

Motion BZA 2013-11 – 8100 East Washington Street (HCR) Manor Care Properties - Continued

Based on the following findings of fact:

1. The reason for granting the transfer is that essentially the same operator will be operating this facility.
2. There are no changes, there have been no complaints or violations of the existing conditional use.
3. The approval of the change is consistent with the current use of the facility.
4. It is a small and minor expansion which will have no material effect on the operations of the facility or upon the adjacent property owners or upon the township and therefore it is consistent.
5. It will not violate any of the provisions of Chapter 117.13 of the Bainbridge Township Zoning Resolution with respect to conditional uses.
6. With respect to the variance, it is a de minimis variance, it appears to have been a small error in the original construction and will not have any effect on any of the adjacent property owners or affect the character of the neighborhood.
7. The board notes that except what was specifically modified herein all of the existing conditions will continue to apply as well as all of the standard conditions generally applicable under the zoning code for conditional uses and that this conditional use shall be for a period of five years commencing with today's date (May 16, 2013).

Mr. Lewis seconded the motion.

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

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

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

Ms. Aldo Dure was present to represent this application.

Ms. Dure testified that she is somewhat of a disadvantage because the gentleman that was supposed to accompany her, unfortunately ended up in the emergency room due to an accident on a baseball field. She stated that she recently moved from 9380 E. Washington Street to 8574 E. Washington Street, a location that was vacant for the last 2-1/2 years.

Ms. Dure continued by saying the proposed sign exceeds 48” and the Chagrin Saddlery portion of the sign has already been loaded and the sign guy was supposed to have everything prepared for the board. She said what they are seeking the variance for is the top of the sign which is the logo and the dimensions on it are 40” x 53” and if you are familiar with where they are located which is where Cowboys is, all of the signs in that plaza are either oval shaped or they are like the Bella Design sign which is exactly identical to her sign. She said the design created was intended to be almost duplicating another sign that is in the plaza so all of the signs in the plaza are either oval shaped or exactly like her sign. She said the reason that her sign is a little larger is the archway in her particular site is very large and this sign fortunately fits into the plaza, it is almost identical to another sign that is in the plaza and it will allow the plaza to be beautified as a result of it. She said she respectfully asks that the board grants the variance.

The board reviewed the application.

Ms. Dure said they are also an existing business within Chagrin Falls and literally went from 1,500 sq. ft. to 5,000 sq. ft. so it is truly the support of this community to allow them to grow.

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

Mr. Lewis asked if this is another sign.

Ms. Dure said there is a sign that is already there, the Chagrin Saddlery portion of the sign was granted, the top of the sign which is their logo is what they are seeking to add to it. She said you can see the archway and it is a really larger archway, it is the largest one in the plaza but it is virtually identical to another sign that is in the plaza as well so all of the signs will have symmetry. She said she is comparing this to the Bella Design sign which is the right of her sign which is on the corner and when they moved into the plaza they thought that sign was gorgeous and thought if they were going to have signage it would be nice to have a sign like that. She said the colors of the sign are very, very tasteful and are similar to that one and it is a very tasteful sign. She said Chagrin Falls has horse related sports and that is the kind of company we operate.

Mr. Lewis asked what part of the sign will be illuminated.

Ms. Dure said the inside of the sign is illuminated so the logo stands out but during the day obviously it is not on but at night the inside of the sign is illuminated, she believes. She said all of the letters of the existing sign are individually lit and it definitely is not an inexpensive sign, they spent a long time designing it. She said but they did it virtually to match the Bella Design sign which was already granted, it is a very tasteful sign, it is very understated. She said they wanted to make sure the sign was pleasing to the plaza, matched and was a very tastefully built sign.

Mr. Murphy said the same issues that are all over in commercial districts are at 3:00 in the morning most people leave their lights glaring and asked if there is any way of dimming those LEDs from 11:00 PM to 5:00 AM. He said he understands the need for the people who are pulling into Cowboys that know that the business is there but for that sign to be at full 100% illumination at 3:00 in the morning can be something that can be easily done on a timer.

Ms. Dure said she respects that.

Mr. Murphy said the people in Bainbridge will see that glowing corner up there as the high ground and it would be nice if each of us can try to do a little bit more.

Ms. Dure said she would be happy to do that.

Mr. Murphy said it would be real easy to do.

Ms. Dure said when they had the sign installed she asked if it worked because they light it themselves so they didn't even know when they installed it if it worked so they (landlord) set the time to terms of when the time it is lit. She said it is not a sign intended to be neon.

Mr. Murphy said it is a big white background and asked Ms. Dure to talk to the landlord about after hours, so it is still visible so people can read what it says but it doesn't have to light up the corner.

Ms. Dure said they would be really happy to do that.

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

Motion BZA 2013-12 – 8574 East Washington Street – Chagrin Saddlery

Mr. Lamanna made a motion to grant the applicant the following variance.

1. A variance on the permitted 4' vertical height of the marquee sign to 7' 6" in height.

Based on the following findings of fact:

1. This sign is located in an atypical architectural feature being a large arch and because of that the higher, greater height, fits comfortably within the arch and is a materially different situation than normally affiliated with marquee signs along the building.
2. It does not extend beyond the fascia of the architectural feature and therefore granting this variance is not inconsistent with the purpose and intent of this particular part of the signage regulation.
3. The applicant has also agreed to dim the lighting of the sign after hours, period, to reduce the amount of extra light in this area.

Mr. Lewis seconded the motion.

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

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

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

Mr. Allen Leach, Mr. Arthur Wu and Mr. Kevin Bouyer were present to represent this application.

Mr. Allen Leach testified that he has been a member of this church for more than seven years and they are here to respond to some questions from the last session. He said the first question was the driveway that came up at the last meeting and the board should have a diagram. He said they have met with the fire department and one of the things they know is they need to widen the driveway to 24' from the road and to the house. He said along the way on the diagram, there are about six trees that are going to be removed and at least three of those trees are dead today and will be removed.

Mr. Leach continued by saying there is a wooded area in either side of the drive in front of the house and in addition in the oval part of the driveway in front of the house, that will need to be widened and he was working with Mr. Bill Lovell at the fire department on the final specifications on exactly what they are going to do there and that needs to be widened as well and the driveway is 8" deep is what they requested. He said the whole driveway is 24' all the way back.

Mr. Lewis asked if he is talking about the driveway in front of the house is 24'.

Mr. Leach said and all the way to the parking lot.

Mr. Lewis said from the rear parking, it is 24'.

Mr. Bouyer said from the apron to the house including the circle will be 24'.

The board reviewed the site plan.

Mr. Lewis said when you say you are working with the fire department, is part of that in trying to get the overall diameter of the oval so that they can get equipment through.

Mr. Bouyer said the fire department requested the driveway from the apron to the circle so the topo was prepared showing the existing driveway.

Ms. Karen Endres, Zoning Inspector testified that she has an email from Asst. Fire Chief Bill Lovell detailing the need for it and that came in today and did not have time to get it to the board, but it summarizes the need.

Mr. Olivier read the email from Assist. Fire Chief Bill Lovell which states: "Improve the drive from the road to meet the 24' fire lane with a base that would accommodate heavy apparatus like fire trucks and ambulances. This would also enable these emergency vehicles to pass any other vehicle that may be in the drive at the time of an emergency. The design should be approved by the department prior to making these improvements. On the turn-around, improve the turn-around in the front of the structure to accommodate at least a 100' x 100' circumference and an appropriate base." He said those are the specifics on the driveway.

Mr. Gutoskey asked what the other issues are and if they have to do with ingress and egress for the building.

Mr. Olivier read: “The structure will be considered a place of worship once converted therefore giving the fire department jurisdiction. We typically rely on the architect to determine maximum occupancy, egress and associated items. They have represented that their intention was to hold less than 100 people. The requirements would be to allow 7 sq. ft. per person for movable chairs, fixed chairs would be 15 sq. ft. per person. We reviewed plans for egress and the sort, however and made the following recommendations.

1. Convert sliding doors to be French style doors that open outward in two different areas of the rear of the structure for use for emergency egress.
These doors would not be locked during times of operation and panic hardware installed if their desire was to prevent people from entering from the outside.
2. Install exit signs and emergency lighting by electricians to clearly mark egress passages.
3. Incorporate fire related devices with a security system ie. smoke detectors to be monitored with a security alarm.
4. Construct a fire escape with steps instead of ladders to allow easy means of egress from the second floor in the event the primary interior stairs are inaccessible.
5. and 6. are the driveway improvements that were recommended. There are pressurized fire hydrants already on Country Lane based on the amount of occupants, size of the structure and frequency of use. Meeting these recommendations would provide better fire and safety coverage than what is required by fire code while still remaining practical. The Geauga County Building Department would be involved with all conversions and construction and the Bainbridge Township Fire Department would be involved in testing and approval of fire safety related concerns including a final occupancy inspection. Thank you for your assistance. Please contact me with any other questions or concerns.”

Mr. Leach stated that, number #2, in terms of the American Disabilities Act there is a requirement for three handicapped parking spaces which they would comply with that in the front entry area. He said there are also requirements for entry doors, toilet, ramps in terms of the American Disabilities Act which they would comply with as well and that was one of the questions at the last meeting, what was it that we need to comply with.

Mr. Lewis said on the three ADA spots, he is looking at the overlay of the traffic circle in front. He asked where they are proposing to put these because it kind of overlaps the square on the drawing and if they had any thoughts yet.

Mr. Bouyer referred to the site plan and explained to the board where the existing garage is.

Mr. Leach said number #3, he believes that most of these issues were covered in the letter from the fire department but they will need to comply with the modifications of the existing doors, he believes there is an exhibit that shows the exits that are going to be built for the children’s services room and there is also one for the worship center as well, those exits would be built, emergency exit signs with batteries on all exit doors, smoke detectors that he believes were covered with the requirements of the fire department.

Mr. Lamanna asked if they plan to add a monitored security system on the building.

Mr. Bouyer said yes.

Mr. Arthur Wu testified that a security company will be the service.

Mr. Bouyer said also on the doors, the doors will be custom made so they will exactly match the existing doors and two of them are 6 x 8 sliders and they will open out and referred to a small double door that will be 6 x 6 that will open to the outside.

Mr. Leach referred to item #4 and said the last time they talked about the septic, they will comply with EPA requirements and right now they are working with Mr. Tim Frank and he believes that there was a letter in here that said there were a few things that we needed to correct so we will take care of those repairs and we are also working with Hess and Associates, we are doing soil samples and we are going to be working with the EPA in determining exactly if what we have today is sufficient or not and if not what we will need to do to replace the septic system. He said they have an exhibit from Hess and Associates as well.

Mr. Murphy said you say that the septic tank is 1,300 gallons and you have a letter from the EPA saying what their requirement is for a tank size. He said he is not sure what the EPA has to do with Geauga residential septic systems.

Mr. Gutoskey said once it gets out of residential it has to go to the EPA and it would be under EPA requirements.

Mr. Arthur Wu showed the board a letter from the EPA.

The board discussed the letter from the Ohio EPA.

Mr. Gutoskey said the EPA is saying the design flow would be on Sundays 240 gallons per day and a normal four bedroom house is 480, design, gallons per day. He said it looks like when they reviewed it they were unsure about what the system was, the board has information on what the existing system is but what the EPA is saying that the system would have to be updated to current standards based on the use and they are suggesting flow equalization because Sunday it is going to be the most use.

Mr. Murphy said and there is a letter from Hess and Associates.

Mr. Gutoskey said the problem is since you are going from a residential system to what they consider commercial there will have to be upgrades to it.

Mr. Murphy said the letter from Hess and Associates is basically their proposal to become the engineer for the site. He asked if there is any reason why they called the project a winery. He referred to Item 3 of the letter that suggests intended uses such as winery etc.

Mr. Leach said there are no intentions to have a winery.

Mr. Olivier asked the applicant to speak to the changes in the parking from the prior diagram that was submitted.

Mr. Leach said there is a diagram here that speaks to that. He said the pictures that you see that are attached are pictures from that parking lot, he thinks it is east, west and south and it shows the trees that are around the parking lot.

Mr. Olivier said last month there were a smaller number of spaces.

Mr. Bouyer said yes, when they presented it to the board originally they had spoken to him, he is the general contractor and he just told them that and what they presented earlier only had 34 spaces, they exceed that already so he just suggested that since they have the room they added more spaces.

Mr. Gutoskey said our code requires 9 x 20 with a 24' drive and the problem with the way this is laid out is basically you are at a dead-end, the spots are at the end, there is no way to get in and out of it.

Mr. Bouyer said they will be tying that into the walkway.

Mr. Gutoskey said what he is getting at is the design of the parking lot isn't per our code requirements.

Mr. Bouyer said he will have a surveyor do that and how many spaces will fit in that space, that is what we will put in.

Mr. Gutoskey said and it may be closer to what you had last time.

Mr. Lamanna asked on the parking lot, how are people going to get from the parking lot to the building, are they going to be walking along the gravel drive or are there plans to put some kind of a dedicated walkway so they aren't walking with the cars.

Mr. Arthur Wu said so far there are no plans for that but we are just walking on the driveways.

Mr. Gutoskey said in the winter it is going to be kind of tough walking there.

Mr. Lamanna said it is not that big of a driveway but with people in cars it is a recipe for something bad happening.

Mr. Lewis asked how wide the rear driveway section is, he just wants to see if he has a clarification on that. He said we covered the 24' wide entrance and the circle in front, now let's talk about the driveway all the way to the parking lot. He asked what the width of that is.

Mr. Bouyer said it is about 14.5'.

Mr. Lewis said so it is one car wide so if you have got 10 cars coming in and somebody is trying to leave, how is that going to work if they all engage the driveway back there, what happens. He is just trying to understand this because there is no way for the cars to get by one another, not at 14' 6". He asked what happens, people come and go not always as a mass group so what happens back there.

Mr. Arthur Wu said we can make it 24' wide.

Mr. Lewis asked if it will be two lanes all the way.

Mr. Arthur Wu said if required.

Mr. Lewis said it goes now under a commercial building, it has got a different classification so you have got one lane access into a parking lot and that is a problem to him.

Mr. Gutoskey said because of the use any roadways should be to our code.

Mr. Lewis said right because they get reclassified to assembly hall with a 20' aisle.

Mr. Gutoskey said a typical parking lot is 64', 20' space and 24' drive, 20' stall. He said they could look at doing angle parking or one-way drives in the parking lot. He said they will probably have to do some kind of storm retention because of the addition of the pavement and that you will have to work it out with Geauga County Soil and Water because you are going to be adding some pervious areas to the site so that would be another thing you will have to look at.

Mr. Leach said so it is 24' from behind the house to the parking lot.

Mr. Gutoskey said per our code and then the other thing you have to look at is the setback from the property line.

Mr. Lewis said we haven't gotten that far yet.

Mr. Bouyer said the setback is 16' and we made it 26'.

Mr. Lewis asked if we stopped at item #4 which was septic systems.

Mr. Leach said yes.

Mr. Lewis said we starting talking about parking and we started talking about the driveway from the front of the house going past the side of the house to the rear of the house to the parking lot and what the standard for it would be on that driveway size.

Mr. Leach referred to item #5 and said based on their calculations from what the fire department said is that it should be 7 sq. ft. per person if chairs are used and 15 sq. ft. per person if both tables and chairs are used so you can see our calculation below number five and also there is a diagram and he believes it is exhibit 3 that shows the two main worship rooms as well and based upon those calculations we are requesting a maximum amount of 152.

Mr. Lewis said he thinks in the previous minutes you had thought that the maximum in the worship rooms might hit 100.

Mr. Leach said this is for the whole facility based on the service rooms and exhibit and the children's services.

Mr. Lewis said you will serve 100 people regardless of what room you relegated to or what category, it was 100 people so the request has gone from a maximum of 100 to a maximum of 152. He asked what has changed.

Mr. Arthur Wu said the calculation is the capacity of the rooms but we don't currently have 152, we have 100, and in this meeting we request for 152 maximum.

Mr. Lewis said and you are increasing your size based on how many parking spots you thought you could put in or your room sizes.

Mr. Arthur Wu said room size.

Mr. Bouyer said that increase in the capacity is based on the fire department formula.

The board reviewed the information presented and the parking regulations in Chapter 169.

Mr. Olivier asked based on the revised number of parishioners how many parking spots they need.

Mr. Murphy said one for each six seats plus one for each two employees plus one per each 500 sq. ft. of usable floor area not used for seating.

Mr. Leach said there will be between 25 and 30.

Mr. Lewis said it has to be reverse engineered rather trying to take how many you want in your congregation and then figuring out how many parking spots you are going to need. He asked if these parking spots can get resized, can the whole parking lot get resized to meet code, they are not going to get in as many spots in here.

Mr. Gutoskey said they don't need as many spots based on those numbers.

Mr. Lewis said they have got 51 spots and they need one for six.

Mr. Gutoskey said 25 – 30 spaces.

Mr. Olivier said plus a couple for employees.

Mr. Lewis asked about ADA and if it is one for one.

Mr. Gutoskey said no, ADA is a function of a number of parking spaces and they have more than enough.

Mr. Leach said they have one employee and typically what you see is one family come in and maybe they will have their parents from China with them, it is not one or two people, it is usually more than that.

Mr. Lamanna asked about the maximum number of people. He noted that the board has a list here that had a theoretical maximum of 152 people but in the real world what is the likelihood that we are going to be using all of these things at the same time.

Mr. Leach said today we have less than 100 people attend.

Mr. Lewis asked what does "less than 100" mean, is that fiftyish or is that 97.

Mr. Arthur Wu said usually they have 60 – 80 but occasionally it is near 90.

Mr. Lamanna said basically the worship areas you have got room for 97 people. He asked if there are plans to video into the other rooms if you have more people.

Mr. Arthur Wu said yes, we actually plan to do that and referred to the site plan and explained to the board where the TV will be located.

Mr. Lamanna said so those are the two main rooms.

Mr. Arthur Wu said yes.

Mr. Lamanna said so those are the two areas you are going to be using.

Mr. Arthur Wu said yes for the worship and explained where the seats will be.

Mr. Lamanna asked if the children will go off separately.

Mr. Arthur Wu said yes.

Mr. Lamanna said then basically you are looking at a maximum capacity of 152 people.

Mr. Leach said correct.

Mr. Lewis said and the children don't drive so we don't need parking for them.

Mr. Leach replied no.

Mr. Gutoskey asked how many children they typically have.

Mr. Arthur Wu said they have 26 children from infant to teenagers, high school.

Mr. Gutoskey asked if the 26 children are counted in the 80 – 90 people.

Mr. Arthur Wu said 80 – 90, yes.

Mr. Lewis said that helps out a little bit, so you may have sixtyish typical adults, four or five maybe in a car and feels a whole lot more comfortable with the area regarding the parking, based on those ratios because if 25 or 30 people are not driving adults, they are children, we don't need to make parking arrangements for them in the headcount but yet they weigh in. He said parking spots are restricted to not less than 25' and asked if that also includes the access drive to those parking spaces or can that encroach the 25', rear parking lot, side yard driveway. He said our standards are asking that parking does not come closer than 25' to the side yards.

Ms. Karen Endres said typically in residential you are allowed to have it 2' off the side lines.

Mr. Don Sheehy of 7825 Country Lane testified that this is a structure and it is 50'. He said if you go to the definition of structures, a parking lot is referred to as a structure.

Ms. Endres said there are special setbacks per Chapter 161 of the zoning resolution.

Mr. Olivier said this parking lot is over 100'.

Mr. Lamanna said considering this parking lot is over 100 spaces, you can be within 25' of a residential lot.

The board reviewed the definition of structure.

Ms. Endres said there is a special provision for driveways in Chapter 161.12.

Mr. Olivier said a drive is to be not less 2' from any side yard per Chapter 161.11.11.

Mr. Gutoskey said it was adopted in 1996 and 1997.

Mr. Lamanna said a pavement is a structure and basically there is a 2' rule on a structure.

Mr. Sheehy said not on a parking lot.

Mr. Lamanna said it says modular, porous and solid pavements, it doesn't specify what the pavement is used for.

Mr. Sheehy said if you look at the definition of structure it says parking lot.

Mr. Lamanna said right but then if you go to permitted obstructions it says modular, porous and solid pavements, it does say what the use is for, it says pavements, it doesn't say because there is probably a third of the houses in Bainbridge, the parking area in front of their garage is probably within the setback.

Mr. Sheehy said it is a driveway, it is not a structure, this is a parking lot, parking lots are structures, we have a 50' side yard setback. He said he is not talking about the driveway to the parking lot.

Mr. Lamanna said a driveway is also a structure and what happens is, there is another section of the code that says with respect to these types of structures it is a 2' setback and it says modular, porous and solid pavements.

Mr. Sheehy said that is for a driveway. It specifically has language for a parking lot. He said the parking lot is a structure.

Mr. Lamanna said a driveway is a structure too.

Mr. Sheehy said and so is your mailbox but it doesn't really fly.

The board reviewed parking lots and driveway setbacks per the zoning code.

Mr. Gutoskey said when you go into the parking lot section it says 25' for residential.

Mr. Lamanna said that is probably why it is a conditional use.

Mr. Olivier asked the applicants if they have the distance to where the proposed parking lot is from the side yard.

Mr. Bouyer said the only part that would be in question is 26' to 28'.

Mr. Olivier asked if that is the upper left corner that is closest to the property line is 26'.

Mr. Bouyer said right.

Mr. Gutoskey asked which corner.

Mr. Bouyer said upper right.

Mr. Gutoskey said he is scaling about 20' there, the lower left is about 42.5', the upper left is 30', upper right is about 20', and the lower right is about 50'.

Mr. Bouyer asked about the parking spaces.

Mr. Gutoskey said the code is 9' x 20' and the lane is 24' per the code.

Mr. Lamanna said the board can look at variances to that too, it is a parking lot, it is not Heinars, people are not coming in day and night.

Mr. Bouyer said since they already figured out the capacity and the number of spaces we will re-configure the parking lot because we won't need the amount of spaces allowed, we will give you the setbacks that you want, we will change that, the driveway will be 24' from the apron to the parking lot and added that they will not need the spaces.

The board was in agreement regarding the 50' setback for the sidelines for the parking lot.

Mr. Bouyer said they will have 50' on each side line.

Mr. Lamanna asked about the total number of spaces.

Mr. Bouyer said he will figure that out.

Mr. Lamanna said as far as maximum capacity goes, you have 152 maximum, you may like to hold it to 90% of that so that it would be around 135 or something like that.

Mr. Bouyer said so if we do 34 spaces in the back and another three in the front it would be 35 spaces or 35 – 36 spaces we would be happy with that.

Mr. Lamanna said with a 50' setback.

Mr. Gutoskey said with 135 you need 23 spaces plus a few for employees so with that amount of spaces it would satisfy the code and 50' off for the parking lot.

Mr. Lewis said he is much more comfortable with that, reduce the parking spots, we have plenty to satisfy code, let's get this off the property lines.

Mr. Lamanna said he thinks he would be inclined to reduce the width of the drive.

Mr. Gutoskey said 23' on the drive and 18' on the spaces.

Mr. Lamanna said yes why make the footprint any bigger, it is not a high use parking lot.

Mr. Lewis said as long as two cars can pass by.

Mr. Gutoskey told the applicants that they need a little better layout.

Mr. Lamanna said with those kinds of lanes and spaces he thinks it would be okay for this application.

Mr. Gutoskey said he would be comfortable with 22' lanes and the spaces that are along the edges, he would be comfortable with going down to 18' because of the bumper overhang into the lawn area.

Mr. Lewis said 18' x 9'.

Mr. Gutoskey said yes with a 22' aisle and that will cut down the mass of the parking lot and that is comfortable to get cars in and out.

Mr. Lewis said with 50' off the sides. He said #6 leads you right into #7.

Mr. Leach said in pictures from the parking lot, he believes in the last session, it was talked about that they need to have a buffer, he thinks on the east, west, and south side and it was the recommendation to plant trees and we will bring that issue back to the board.

Mr. Olivier said he was out there today standing in the proposed parking lot and he could not see one house, there are a couple of houses in the rear but no clear views in this season and he thinks when the leaves are down, the rear would be an issue, he is not sure about the side yards, he saw roofs to the rear.

Mr. Lewis said these photos are with trees not leafed out and asked the applicant to explain what he is looking at.

Mr. Arthur Wu said these photos were taken at the end of April and today there are much more leaves.

Mr. Gutoskey said an alternative of what they could do is they are going to have to scrape all of the topsoil out so he is looking at having them do mounding with the topsoil around the parking lot and put some shrubbery on the mounding and that would hide the parking lot.

Mr. Bouyer said he didn't hear that.

Mr. Gutoskey said you are going to have to strip the topsoil to put the parking lot in so he would suggest using that for mounding around the parking lot and then shrubbery on the mounding for screening a couple of feet.

Mr. Lamanna said two to three feet.

Ms. Endres asked if that is just on the south side or all the way around.

Mr. Gutoskey said he would like to see it all the way around but he doesn't know how the rest of the board feels.

Mr. Lewis asked if you are talking about between the parking lot and the house.

Mr. Gutoskey said no, on the outside.

Mr. Lewis asked how they would get into the parking lot.

Mr. Lamanna said obviously you would have to have an opening.

Mr. Gutoskey said on three sides and the section towards the house, leave that.

Mr. Lamanna said yes leave that alone.

Mr. Bouyer said we are talking about 1,000 feet from the street.

Mr. Gutoskey said you are going to have a lot of topsoil to get rid of and like he said it could go around the east, west and south side, not on the north side by the house.

Mr. Bouyer said they have 400'.

Mr. Olivier said it is a thin row of trees at the south end that he thinks if you buffer the lot, you mound and put evergreens there.

Mr. Gutoskey said what we are looking at too is in the winter and fall you are not going to have any leaves on the trees so he thinks to be a good neighbor it would be a good idea to put in the mounding and put some shrubbery around there to screen the parking lot.

Mr. Leach referred to item #8, the lights, and said there are two issues on the lights and one is there are going to be two pole lights in the parking area, 6' to 8' tall that will be controlled from inside and then there will be lights along the lane that goes out to the road about 20 of them similar to what is in the neighborhood today on other drives.

Mr. Murphy said he doesn't know what those lights look like at 7754 Country Lane, similar meaning.

Mr. Leach said the number of lights.

Mr. Arthur Wu said they have lights about 6' to 8', he is not sure of the height but at nighttime when you go through, the lights are all on but we are not trying to do that, no, that is strong, we have a more weaker light, like an old fashion light.

Mr. Lamanna asked about the wattage.

Mr. Arthur Wu said he believes the light can cover about 10' around so 20' to 30' and at intervals they will put one light and from the street 400' all the way to the house would be about 15' - 20'.

Mr. Gutoskey said what he would recommend is if that is the case to work with a lighting consultant because they can take a fixture and figure out what the coverage is in illumination and you might be able to get away with less.

Mr. Lamanna said it also depends on what kind of light level reach.

Mr. Gutoskey said what is the light leveling going to reach.

Mr. Lamanna said yes that is the question.

Mr. Murphy said if your church service is from noon to 3:00 PM and you are not there after 6:00 PM, the lights go off so if you are not there Monday, Tuesday, Wednesday, Thursday, the lights don't come at all.

Mr. Arthur Wu said that is correct but occasionally they will have a Wednesday night meeting but those will end by 9:00 or 9:30 PM.

Mr. Gutoskey said you could put a timer on the lights and turn them off then.

Mr. Arthur Wu said we can turn them off.

Mr. Lamanna said the lighting you are putting in your driveway is not to see everything.

Mr. Gutoskey said it is better to have low voltage.

Mr. Lamanna said yes or something small so people can see where the driveway is.

Mr. Murphy said if they have a 9:00 meeting on a Wednesday night, they have to see to walk back to the parking lot and find their car in the parking lot.

The board discussed the proposed lighting for the drive and parking lot.

Mr. Murphy said he is talking about 400' of lighting on 6' to 8' poles in the middle of the woods on Country Lane and that is a serious issue.

Mr. Arthur Wu said what they could use is 3' high lighting but because they saw neighbors having this kind of light and to provide more light.

Mr. Lamanna said probably the neighbor has a few of those but to end up with 20 or 30, it is whole lot different.

Mr. Lewis said he has some on his street on the driveways with 200' setbacks and there are two, one 15' off the road and one half way, they are 6' to 8' tall standard little lamp posts with a few 25 watt bulbs in it and when it is dark a little bit of light goes a really, really long way. He said he knows there is enough illumination to be able to read a book.

Mr. Lamanna said a lower height, landscape style, low voltage lighting would provide better illumination for walking and a lot less pollution because he is amazed, he has a 60 watt bulb in his post lamp and when you come down the street at night and you look you see a bright light and you are eight houses away and it is a 60 watt light so one light can appear awfully annoying and if you have 20 of these, he thinks it is over-kill and most of the light is wasted, it is not going to be efficient use and there are fixtures out there that are cheaper to run and cheaper to put in that provides massive lighting.

Mr. Leach said so the board's recommendation is a low voltage landscaping light along the lane. He asked what the board would recommend for the parking lot.

Mr. Lewis said once the board sees the new parking lot layout rather going to the four corners you may be able to create a center island with one of the spaces right in the middle of it and put one and you will find that its perimeter carry could give you plenty of illumination because what you want is for your worshipers and children to be able to get safely to and from the cars in the dark.

Mr. Leach said along the lane from the house to the road, you recommend that we do have some kind of light and is that what he is hearing.

Mr. Lamanna asked from the house to the road itself.

Mr. Leach said yes.

Mr. Lamanna said again, he would recommend just some kind of low voltage landscape lighting so that people can see where the driveway is and they have got their car lights to see things on the driveway, you just want something so if somebody is driving on the driveway they see where the path is and those things are such a low level.

Mr. Leach said they could be put on a timer.

Mr. Lamanna said there is no use running the lights when there is nobody there.

Mr. Bouyer said back to the parking area, there are 135 people with 39 spaces.

Mr. Gutoskey said it is going to be a gravel lot and not striped.

Mr. Lewis said three of the spaces are ADA so there are three right off the bat which to him downsizes the overall footprint of the parking lot because you have transferred three to the front yard.

The board discussed the proposed parking spaces.

Mr. Gutoskey said 135 people divided by 39 spaces is about 3.5 persons per car.

Mr. Lewis said while we compressed the sides, he really doesn't want it to creep from the barn all the way up to the back porch.

Mr. Lamanna asked with 39 spaces, what size area that would be total.

Mr. Bouyer said 135' x 98'.

Mr. Gutoskey said the scale on the lot now is about 90' wide by about 160' long.

Mr. Lewis said but out of the 39, three are out front so you build 36 spaces.

Mr. Bouyer said 39 in the back and three in the front.

Mr. Lewis said so you are looking at 42 spots.

Mr. Arthur Wu said for the lighting from the last meeting, with the original proposal, we proposed using the low voltage so we can go back to the first meeting.

Mr. Lewis said so it doesn't bleed to the neighbors and we localize it to the specific area that you want to illuminate, not three houses down.

Mr. Murphy said he is not sure this is any better, we could have 90 lights in here or up to 60 lights at 25 watts apiece and we don't have any sort of lighting plan either.

Mr. Arthur Wu said it is just proposed, we don't have any details yet.

Mr. Murphy said the possibility of having 60 with 25 watt bulbs is a lot of light.

Mr. Lamanna said the board will need a specific lighting plan. He opened up the floor for comments from the audience.

Ms. Jane Mazak of 17301 Red Fox Trail testified that their house backs up and their parking lot will literally be in their backyard so she had a landscaper come out and he walked it and he said they would need at least 60 nine foot pines mounded at \$650 apiece to block that from their house. She said the next door house would have to be done too because our houses back up to it.

Mr. Lamanna said this is a gravel parking lot by the way.

Ms. Mazak said if the cars are there at 3:00 on a Sunday and we are having a party.

Mr. Lamanna asked how far it is from the back of her house to her rear property line.

Ms. Mazak said probably from here to (she pointed to her back).

Mr. Lamanna asked how far it is from the rear property line to where that parking lot is going to be.

Ms. Mazak said probably from you to the desk. She said it goes to the back of the lot.

Mr. Lamanna referred to the GIS aerial and said see that building right there, the parking lot will be on the other side of that.

Ms. Mazak said there used to be horses there, it is all connected.

Mr. Olivier said the parking lot is where that open track is.

Mr. Bouyer said it will be 135' x 90', the parking spaces are 18' x 9' with 22' between the parking spaces.

Ms. Mazak said when there is 6' of snow how will the people get from that parking lot to that house.

Mr. Bouyer said there will be a walkway, the driveway is going to be a finished 24' wide from the apron, around the circle and back to the parking lot, it is a road.

Ms. Mazak said you know that you are going to have more people so the people are going to be parking up and down Country Lane.

Mr. Bouyer said they are not allowed to do that, the fire department won't allow them to park on the street, that is not going to be allowed.

Mr. Robert Sickling of 7774 Country Lane testified by saying earlier tonight when Arden Court was here you gave a 1-1/2' variance because their parking lot was within 100' of the property line and you approved that then why when they build a parking that would be within 20'.

Mr. Lamanna said it is a different zoning district and different requirements.

Mr. Sickling said he does not understand.

Mr. Lamanna said it is a different situation, it is a different use in a different district. He said for that particular use at that location there is a 100' setback requirement.

Mr. Sickling said and there is not a 100' setback requirement for this conditional use.

Mr. Lamanna said it is a different conditional use.

Mr. Sickling said in their proposal they talked about the 100' setback that they are asking for a 45' variance from.

Mr. Lamanna said right, the building.

Mr. Sickling said he still doesn't see the difference. He said we are talking about the requirement for a conditional use with a 100' setback and this has become an assembly hall, it is no longer residential property, correct.

The board reviewed the parking requirements.

Ms. Endres explained that she was not here when Manor Care started so she suggested that they submit a documentation packet to represent the parking lot as being 100' from the road right-of-way and when they performed the survey it didn't comply to the approved site plan.

Mr. Lamanna said that is the front yard too, Manor Care is a 100' setback from the road, E. Washington Street is their front yard.

Mr. Sickling asked how is building a parking lot different from building a building.

Mr. Lamanna said the rule is there is a requirement for a 100' setback on a building, not on a parking lot, not a structure, a building.

Mr. Sickling asked if a conditional use doesn't require a 100' setback from the side line.

Mr. Lamanna said there is a 100' setback on buildings.

Mr. Sickling said yes and that is not 100' from the property line, it is 55' per their application.

Mr. Lamanna said that is correct and they requested a variance from that provision and it has not been approved yet.

Mr. Sickling said this is a massive variance correct, this is not 1-1/2' like you did for Arden Courts, you are talking about almost 50%.

Mr. Lamanna said yes but we are also talking about a structure that looks exactly like a residential building.

Mr. Sickling said it might look like one but if this is approved it is no longer a residential building it is an assembly hall.

Mr. Lamanna said it is what it looks like on the outside.

Mr. Sickling said following their logic you eliminate that because if he wanted to build a church on his vacant lot he would build the building first and then come to you for a conditional use and that way he could put it however he wanted as long as it is within the confines of the residential requirements.

Mr. Lamanna said if you built a residential building to start with.

Mr. Sickling said he would have a residential building that would be very much like a church so you essentially negate that whole 100' setback.

Mr. Lamanna said you wouldn't negate the 100' setback, you would have to look at the 100' setback in the consideration and reasons that it is there. He said one of the main reasons that there is a 100' setback is because typically for the conditional use the items that are conditionally permitted in a residential district, they represent structures that are not typical residential looking structures and you can have tennis clubs, churches, adult homes, and certain other types of nursing home facilities which don't look like residential structures and the idea is to make sure that they were an extra distance away from adjacent structures so they would not be a burden on those structures.

Mr. Sickling said his point is you could build whatever structure that you want, there is no architectural review here so you could build a structure as long as it was a house that somebody was going to live in and it could look like anything, this particular house is not a beautiful house for this area, it is a California design.

Mr. Lamanna said somebody could come in and build a 35' x 100' x 100' cement block house and there wouldn't be a darn thing you could do about it as long as they met their setback requirements.

Mr. Sickling said but if they want a conditional use they couldn't do that unless you give them a variance and you are saying you are going to give this huge variance.

Mr. Lamanna said in that case we might not give them a variance, it is a different situation.

Mr. Dave Mazak of 17301 Red Fox Trail testified that this would set a similar precedent for something like this.

Mr. Olivier asked what the setback is for the first Holy Angels church right next to Bainbrook and that structure is still here and it is residential.

The board reviewed the GIS aerial photos of the aforementioned property and the setbacks.

Mr. Lewis said that was a purpose built structure so the 100' applies.

Ms. Endres said it sits on 5.88 acres.

Mr. Lamanna said there is a separate lot with a house on it that was owned by the church and added that that church is probably triple the size of this house.

Mr. Allen Segedy asked if those are 100' setbacks.

Mr. Lamanna said yes.

Mr. Segedy asked about the church on the other side of the street, the parking lot is in the front.

Mr. Sickling said so there was no variance given for that church as far as setbacks.

Mr. Lamanna said that church was built in 1987 which was way before anybody's time here.

Mr. Neil Cawsey of 16908 Catsden Road testified that he took note of one of the board's recommendations and that was the variance that was granted to Arden Courts and he thinks the board said conditioned that there would be no impact on the neighbors and to have this zoning right now not to have an impact on the entire neighborhood is crazy. This is the most quiet rural street and he actually owns five acres on Catsden Road and a 2.5 acre meadow that could probably be used for 100 parking spaces and he asks the board how they would like 150 people moving in next door to them every weekend celebrating on Saturday and Sunday. He said the variances are not on par for this particular street, this street is small, rural, quiet and country, this is not Rt. 306, this is not Washington Street, this is unique and the variance should be granted based on the fact that it has no impact on the neighbors but this is a huge impact on his neighborhood and every single one of us could turn our property into a church.

There was an applause from the audience.

Mrs. Kathryn Sickling of 7774 Country Lane testified that they live right across the street from the location and just the widening of the driveway in the front, it would take down much more than six trees and the driveway is maybe 10' wide at most. She said she had her horses over on that property for years and years, ever since they moved here from Chicago. She said like the gentleman here was saying, it is a unique area and we moved here because it was quiet, it was where you didn't have your neighbors where they were right on top of you, where you had privacy. She said they moved from Chicago where they actually lived next to a church but the big difference was when they bought the house, they knew it was a church, it looked like a church and it was handled that way and they knew it when they bought the house. She said this house they bought knowing that it was always going to a quiet neighborhood, they knew that they had five acre minimums, they had their five acres, they couldn't put another house on that five acres, they even asked, no we couldn't put another house on there so they are thinking this is wonderful but now Rob (her husband) and she are getting older, they are going to be retiring and they are going to want to sell their house at some point, is the board going to reduce all of our taxes for what it is going to take down in property value by putting something like this in. She said when this driveway gets out there it is going to be a major road, it is not going to be little driveway any more.

Mrs. Sickling continued by saying right now it is nice because you don't see the house over there unless in the winter time when the leaves drop but you are going to see everything when they have to put this road in that they have to put in in order to get back there and then when they try to get by the house there is hardly any room out here at all, it is less on the right side so you are going to have people getting their feet soaked walking on that walkway or the road they are talking about, there is no room between it and the neighbor going towards Segedy's place, the water runs through there unbelievable ruining everything on the side next to there, how are they going to handle the drainage. She said there is no topsoil in that area that they are talking about putting the parking lot because that is an arena, it is not an area where there are plants, it is a natural riding arena in that location so they are not going to have topsoil that can be moved like the board is suggesting. She said the whole area, the traffic on the road will be heavily impacted, there are a lot of children that live on that street, it would be dangerous more so than it even is now. She said they can't get them to reduce their speed limit on the road and now we are going to have another 30, 40 or 50 cars coming on it every week. She said it is not fair to the residents and her big question is, if you do pass this and let these people move a church in there, are you going to reduce our taxes because our actual house value is going to go down significantly so she wants to know that and she wants to have it in writing because she wants it to start right away, thank you.

Ms. Eva Porter testified that she cannot see how this could be passed without a community impact study first.

There was an applause from the audience.

Mr. Lamanna said unfortunately there are no sections in our code that require either of those things nor do we have the ability to regulate them as a matter of state law anyway.

Mr. Fred Wendel of 17148 Catsden Road testified that he hopes to be loud enough for everyone to hear him because he wants to be heard. He said as he sat here the thing that came to mind was this is a Cinderella story with the ugly stepsisters trying to put their foot into a glass slipper. He said this piece of property looks to him and as he heard tonight is a project on steroids and you all know that we have gone from a driveway of 14' in the front to 24' and we are a road of 24', we know that Rt. 306 is 24' wide as per state requirements so we now have a road off of Country Lane and we went from an occupancy as he heard coming into this of 100 to 152, we went from parking spaces of 30 something to 51 and now the question is going to be where are we going from here. He said pull Google maps back a little farther than that, he thinks today, take a look around and see if there is anything, anything remotely resembling a parking lot this large in the area. He said people bought, and why are there so many people here tonight, people bought in this area for one reason, privacy and the streets they live on.

Mr. Wendel continued by saying he is proud to live on Catsden, people know where we live, the same thing with Country Lane so this is getting out of hand or trying to fit it, it is unfortunate that they have picked this type of an area to get it in but we talked earlier about the maximum occupancy of 152 but then when there was some push-back from the board members here, all of a sudden you started hearing that they are not that big yet but let's face it, not a single one of you, when you got married and you bought your first house you bought something small expecting to live there forever. He said he dare says you bought that standard and that is what will happen here, this is where it stands, once you get the foothold in it is no longer going to be the community that we purchased and he agrees with this young lady over here, he can guarantee that your taxes will go down because the property values will go down and everybody else's property value will go down so you can talk about the low impact statement but it is an effect on the neighborhood and one thing that he actually came here most to talk about was the issue that hasn't been brought up a lot but if he may quote you sir, I wrote down, there is a recipe for - something bad happening. He said you were talking about the driveway and how thin it was and people getting hurt trying to get to the parking lot, he is going to tell you that because he lives on Catsden he sees the people who go up and down, running, biking with kids, with animals and he looks around here and they do it. He said if you know the area and he suggests that before you do anything to take a look at the area. He said you have an obligation too to the safety of the residents of this community, it is probably the worst area that he knows of in Bainbridge for curves, hills and narrowness of the road. He said he lives on Catsden and you can take a look at how you get to this place, there are two ways, Country Lane and Catsden and as this young lady said, the speed limits are too fast, he can't drive them in his good conscience that is too fast but we can't change it, we tried and we can't, we have got to live with it so take a look around and he dare says, anytime you go up and down this street there is going to be somebody walking, running, strolling their babies, walking their dogs in dangerous spots already, it is only going to be worse. He said he does not know where the membership of this proposed church lives but he doubts it is in Bainbridge so he could be wrong and he would love to be corrected if he is wrong but there are plenty of other places, unfortunately they have a financial investment because they bought the house, they have got to protect it now but we bought our places in advance of this and we paid a premium because this is rural because when he looks next door to his neighbors he has got two people on one side, he has one on another and he pities the Sheehy's, he pities them, they just built a house two doors down and they're going to have 152 neighbors possibly in the future. He said if he had 152 people coming for a party at his place, the police would show up so what are we really doing here, you have the ability to say this doesn't work, the fact that we have this many people here is a showing of what this really means to all of us, financially and emotionally, this is the house. He said he worries about his wife, she is one of those people he was talking about who walks and runs every day and every time she leaves the house now, he worries that she is not going to come back. He said add 50 some odd cars to that mix on a Saturday and Sunday and someone is on the road who is not familiar with that road going 35 miles or more and he is going to freak out. He said Joni Mitchell said it best a long time ago with a song, "They paved paradise, you put up a parking lot" and that is what they are going to do if you grant this variance and thank you for listening.

There was an applause from the audience.

Mr. Lamanna said various people made a statement that they think this will affect their property values and if you wish to pursue that the board would need expert testimony that would indicate that that was based upon somebody looking at it and studying that and who is qualified as an expert who could come in and demonstrate to us that that is so. He said if there is somebody who wants to do that, the board will continue this to the next meeting and you can bring in an expert if you wish to do so.

Mr. Wendel said as a trial lawyer, and he knows he is probably not a popular person here, you can take judicial notice of things like that, it doesn't take an expert. He said you wouldn't buy my house for the same money he could get if this goes in. He said they will get somebody to come in.

Mr. Lamanna said he will give him (Mr. Wendel) the opportunity to do that if he would like to do so.

Ms. Rozanne Oriella of 17135 Penny Lane testified that she is a realtor with Remax Traditions. She said that she is an expert, she has had this house listed and many years ago she also sold the church on Rt. 306. She said all of the home values will be affected, this is a rural area and she can almost bet that Country Lane is not 24' wide.

Mr. Sheehy said it is 20' wide.

Ms. Oriella said it is 20' wide and there is not a stripe down the center, there are no sidewalks and there are ditches on either side and if you are going to allow them to build whatever 50 parking spaces and their congregation grows, those cars are going to be parked on Country Lane and some are going to be in the ditches, if not her car will be in the ditch trying to pass them, you are going to have to widen the road and you are going to have to put a stripe down the center, you are going to have to put guardrails up and you might want to add sidewalks too and she hopes that is all in the budget for this area. She said it is a residential area, they never planned on this happening and everyone, she really feels sorry for the residents on Red Fox Trail, she drove down there yesterday and you see all of the houses for sale, it is devastating. She said you can sell to these guys when they are ready to expand and they can blow out Canyon Lakes and have a mega church between Canyon Lakes and Country Lane.

There was an applause from the audience.

Mr. Don Sheehy of 7825 Country Lane testified that the prior application from the other company on E. Washington provided the board with very detailed site plans, they had drainage information on there, where the detention basin was, specific measurements and dimensions. He asked when the board got this drawing, when was the first you saw this drawing. He said at 1:00 today and the board is pretty good at looking at these things but he expects a bunch of residents to be able to get this information and be able to digest it and evaluate and it literally hit your desk today. He said this is not just a little tiny proposal, you were at 34 parking spaces, now you are at 51. He said the letter sent to the EPA said they are going to have a total of 95 people in the house, that was how they were basing on what the flow is going to be. He said their revised application that got submitted last week stated that they are going to have a maximum of 152 people and he doesn't know why the board doesn't try to talk them down from that, see their application and then turn them down. He referred to the EPA, they are going to have to make it a huge septic system to have 152 people, at 240 gallons per day and they have a 1,300 gallon tank, guess what, a single family residential home needs a 2,000 gallon tank by today's standards so their flows are way different and at least double a single family residential, it is governed by the EPA, it is not the Geauga County guys coming out to see how this one works, they need business. He said he talked to Laura from the EPA today and she told him that this site has some real problems, the existing system has got sewage coming out over the rocks in big ring patches and in early April raw sewage was coming out of the existing system. He said the existing system is in bad shape and her letter says, the board has probably read it but "At minimum, this office may recommend new septic tanks, a mounded subsurface and sand filter after the septic tanks, and prior to the tile field. Unless found otherwise, a new tile field would need to be sought". He said need to be sought, they need another site to do this, this site is all rock, there is no place to put in another septic field. He said this thing is the cart before the horse, they got themselves into these issues, they don't know how many trees they are going to have to cut down to put in the new septic system, they don't know they need a permit and they are here for a variance, do they need 34 cars, 51 cars or will they have 100 people or 152 people, we are all sitting here wondering what is going on and you guys (board) are supposed to make a judgment tonight and he thinks it is crazy we are even talking, this thing should have been tabled when the people walked in the door, we just got this stuff today, go home, we have all been waiting and waiting and it is a waste of everybody's time.

There was an applause from the audience.

Mrs. Rolene Murphy of 7583 Country Lane testified that she was here last month and we were told that there would only be 30 members at a meeting and now all of a sudden they want 55 parking spaces and last month there were a lot of objections to the amount of traffic it would produce on Country Lane. She said that is way too many cars to be traveling on Country Lane and they told us that their church would not grow, we all said what if you get more than 30 members and they said oh there is no chance because there are not that many that would be available to come to church and now all of a sudden they are talking about 150 people, it will be more than 55 cars racing down Country Lane on Sunday morning. She said she has trouble now getting out of her driveway to go to her own church at 10:00 on Sunday morning, there is too much traffic and there will certainly be a lot more added if the church goes in.

There was an applause by the audience.

Ms. Oriella asked if variances are more sought for hardships and isn't that a reason that we have variances. She said there is no shortage of commercial buildings in Solon or anywhere else with parking lots, there is no hardship here, there is plenty of places to locate this church, it doesn't have to be here.

Mr. Lamanna said this hardship is not a standard that is applicable.

Mr. Sheehy said for a variance on a conditional use, he thought the hardship was applicable.

Mr. Lamanna said it is an area variance.

Mr. Sheehy asked not a use variance.

Mr. Lamanna said it is not a use variance, it is a permitted use, it is an area variance off a permitted use.

Mr. Segedy of 7707 Country Lane asked if the GIS aerial can be brought up that shows the topographical lines to find out where the drainage of this water will drain from the property and testified that because he knows where it goes and it tears up his property and also we are talking about putting mounds around which is going to divert the water that is running from the neighbor's next door which then will be killing trees over there and we can't have a maybe with this water retention pond or whatever you want to call it, it should be a definite and let's see what it says about the water that is going to drain off this property. He said there is a culvert somewhere in front of their property going across Country Lane and that is a waterway and there is going to be more water added to it because once they put this gravel parking lot in, next year maybe they will pave it and he doesn't think you need a variance to pave it because it is easier to maintain. He said he is not an engineer but if you put this mound around it it is going to throw water right toward that barn and right toward these people's houses back there.

Mr. Sheehy said the plan doesn't show any drainage, it is really an incomplete application, it doesn't show any retention, any drainage device, any storage, any mounding, there is no landscape plan, it is a totally incomplete submittal.

Mr. Segedy referred to the GIS aerial and said so in other words the water is going to drain before this bar but come here, if you look for waterways there would be blue lines here on this map, the water is going to run down here, tear up this property which he owns, which in April he was back on the tractor and there was 4" to 6" of water flowing through here which you don't see much of and there are trees here too.

Mr. Segedy continued by saying you ought to be more definite about this mounding thing and you ought to be more definite about this retention pond, and if you are talking retention pond, you are talking about what is in front of Heinens so that if we have a flood it holds the water and that is why he recommended last time to have the Army Corps of Engineers take a look at it. He said there are only two or three people that might be senior to him on Country Lane, Rolene Murphy is one and down the road maybe the Barnards. He said he thinks you have to be definite on that water retention.

Ms. Beth Minzter of 17291 Red Fox Trail testified that they moved there because of what the neighborhood represents and she feels that she has to back up this man, and this man. She said they have turned out at the town hall meetings and have heard them and asked why don't you hear us.

Ms. Mazak said please don't allow it.

Mr. Dan Beach of 7706 Country Lane testified that he has to agree with Mr. Don Sheehy as far as the incompleteness of the plan, he doesn't feel anything should be approved until a lot of the issues are taken care of, it is loose as far as wastewater treatment, run-off, it is more or less the plan, it is a nice sketch but there are no details that really prove anything, no dimensions, there is nothing so he doesn't feel that any decision can be made based on that plan that has been submitted.

Mr. Sheehy said he did a traffic count between 8:30 and 9:30 on Sunday morning a couple of weeks ago, he didn't tell anybody about it except his wife, so he didn't stage it, but he did see a lot of his neighbors and there was a total of 24 cars in one hour. He said the highest number of cars in a ten minute period was seven so from 8:30 to 9:30 he is assuming some churches start somewhere and now you have added another 50 cars to that mix and 24 in a ten or twenty minute period where normally you would have 10 or 15 cars, now you will have another 40 to 50 cars so it is a big change. He referred to Mr. Gutoskey and said if one of his new employees put that plan together, he would fire them if they submitted that.

Mr. Lewis said you make an interesting point on traffic, he lives down at Pettibone and Rt. 306, 1,000 feet away from where the mega greenhouse went in, however, it was a permitted use, they put restrictions and conditions on the property but it was a permitted use. He said when Parkside grew times ten and there are 1,000 cars on Pettibone and he can't go to Home Depot ever on a Sunday because he can't get there and he can't get back, regrettably, it is a permitted use and that is also in a residential neighborhood. He said what he is looking at and maybe the difference is that the greenhouse and Parkside were purpose built structures from the get go, they weren't converted structures and redeployed to another application or another use. He said what he is hearing from the audience and maybe you are hearing it from the board and the testimony, this property requires substantial attention to even come close to what conformity or building code requirements would be.

Mr. Lewis continued by saying while the applicant aspires to hit those conditions we are also heavily looking at how that weighs against the impact in the neighborhood and the ultimate dilemma is folks, it is a permitted use whether or not the characteristics of this property could be modified to satisfy by having a place of worship is a substantially big difference. He said he is not sure the board is going to make a decision this evening, he would like personally, there is one gentleman that may be able to produce some expertise or an expert witness on property value appraisals, he for one would like to hear that and there is a long way to go on a site plan but quite frankly before we get too far into the site plan over and over and over again, he is starting to weigh how substantial the whole application is and what it has to do, not an opinion, just the complexity of it so all parties are being heard and we hope that you are appreciating. He asked if there is anybody else that has something to say tonight because this is your time too, that we haven't heard from already.

Ms. Oriella said he (Mr. Lewis) had mentioned that he lives down the street from Parkside and has seen how Parkside has grown, what is to stop them from growing, their membership, who is going to be counting how many people are there.

Mr. Lewis said it is a permitted use in that district.

Ms. Oriella said the fire department does have a limit and they are supposed to be counting the people entering the house, how do you know on Sunday if 170 show up.

Mr. Lewis said he does not know, these are all complexities, it is no different than when a great band plays at Cowboy on Saturday night, have they gotten more people in there than the building is rated for. He said it is the same dilemma with any type of business and worship and religion to him is a type of business so it has got to be governed the best you can.

Mr. Beach asked if it can be permitted with conditions.

Mr. Lamanna said there are various ways we can approach these things, sometimes things are approved subject to a satisfactory plan being submitted where that is appropriate and in this case it is pretty clear that we need to go back and take all of the adjustments and come back with a plan and make sure we get the landscaping addressed, we don't have any drainage plans, we try to decide this in a form that makes some kind of sense, but we have to look at it with here is a set of parameters and we have to reduce it to some real accurate drawings and next time, whatever is going to be submitted, we want it at least a week before our meeting so that everybody has the opportunity to look at it and that goes for if you are going to present expert testimony, that needs to be in at least that far in advance. He said he is sorry, he didn't realize when this was turned in and it wasn't available until today because that really is much too late in the process to be fair to everybody else so we need to have it at least a week before so that any interested party has the opportunity to come in and take a look at what is submitted so they can formulate their questions or concerns on things that they think are not correct with it.

Mr. Lamanna continued by saying the board requires a detailed lighting plan, detailed drainage plan, obviously a revised parking and driveways and the septic. He said they need to go back to the EPA with the revised numbers and ask what it means so the board knows if this is going to require a new septic field somewhere and if so where it is going to be along with the impact. He said the fire plan has already been addressed and we have already asked them for a drainage plan for the site including the retention basins etc.

Mr. Lewis said he would like some clarification on the membership also, we have gone from ninetyish to maybe 150 and Dr. Wu stated on April 18th they have 70 members so he is all over the board with that.

Mr. Lamanna said 150 members is the maximum occupancy per the fire department. He said that is an up and down that the board cannot adjust.

Ms. Minzter said she must have misread the email and maybe she doesn't understand, but she could have sworn the email from the assistant fire chief said 100 people and asked what she is missing. She asked that it be read again.

Mr. Lewis said it is the same dilemma challenge the board is having, we are seeing a lot of these documents today and there is a ton of ambiguities.

Mr. Lamanna said it was their intention to have less than 100 people.

Mr. Wendel said now that we are playing with numbers that they are going to come back to us with that are going to fit the plan that you are talking about, why is their credibility questioned constantly because they have gone with different numbers on everything, they are going to come back to the board and work with the numbers the board requires because that will get them their conditional permit. He said he is sorry but he is just saying that, it is a comment more than a question.

Mr. Olivier said they have to let the board know what their intentions are for the size of this church, they have the 154 based on what the fire department said the number of people could be occupying a house based on the square footage of the rooms so he doesn't know if they understand what they need to do, understood prior to this what they needed to do, they gave that number because it was the maximum. He said the board needs to know what the church size is, what their intentions are and we have discussed we need a much more detailed parking plan and we want them to come to us with their plan in place for the parishioners, the parking, the septic, lighting and drainage. He said they have to investigate if there is a place to build a second field on that property.

Mr. Lamanna said and how many they expect to actually have.

Mr. Sickling said his question is given that there are all these variances that the board has to grant, if you are not inclined to do that why would you put them through bringing back this further information. He said it would seem to him that you could just deny it on the basis of not granting the variances tonight and it would end it rather than have them come back and possibly end up denying the variances after they have gone through all of this additional work.

Mr. Lamanna said there is one variance.

Mr. Sickling said it is a big one.

Mr. Lamanna said there is one variance and until the board has a final and complete application, we can't rule on granting that variance. He said they have to have the opportunity to come up with a final plan that satisfies all of the potential concerns and once the board sees that plan, then we can evaluate what the impact of it is.

Mr. Murphy said he thinks they are also seeing at this point that the next step is to show up here with a, not just with a modified site plan, but an engineered site plan, EPA permission, the EPA soils test, the engineering for the septic system. He said the EPA says another two acres are required for not only a new field because they won't let you use the old one if you are putting a new system in, they will need an acre for a new field and another acre for a replacement field, maybe there is that back there but he doesn't know. He said there is a sizable investment at this point that the gentlemen may or may not want to make at that point too. He said the next step for the applicants is a sizeable investment that may or may not turn out to what they want it to be.

Mr. Peter Alves of 17291 Red Fox Trail testified that they have been asked to come back again with the proper paperwork but what if they don't and it is again shoddy, how many times do we go through this process of anxiety and emotion and tension.

Mr. Lewis said we have to give the applicant every reasonable opportunity to satisfy the criteria that the board needs to make a fair and impartial decision so we are patient.

Mr. Lamanna said all of these things that are complicated are works in process, people are trying to feel their way about what is going to work, it is the way business gets conducted here, people get an opportunity to come in and if the board feels it is not working, they will have to go back and retool it to something different because the way they are heading isn't going to work.

Mr. Alves said it also gives them specific places to go.

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

Mr. Alves said if they go to these places and it still isn't right, then what, do you say let's try this again.

Mr. Lamanna said it is not limitless, nothing is limitless but if there are consistent failures addressing the issues the board has raised, yes that would be one thing and we would probably take action in that case, but if somebody comes in and they make a good faith effort, here is what we have and they need to consider this and this, go back and do it again, they are entitled fairness.

Mr. Olivier said they made an attempt to address every issue the board raised at the last meeting, they may not have been adequate responses but they made an attempt, they did not leave anything unanswered.

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

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

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held June 20, 2013.

Mr. Lewis seconded the motion.

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

Application 2013-13 by Joyce Building Company for property at 8460 Lakeshore Drive (aka as 8489 Lakeshore Drive)

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

Mr. Joseph Gutoskey recused himself from this application.

Mr. Bill Joyce, of Joyce Building Company was present to represent this application.

Mr. Joyce testified that he is here to request three variances in the Lake Lucerne Subdivision. He said the site as it stands meets the requirements of the subdivision but it does not meet the requirements of Bainbridge. He said it has been through the review process in Lake Lucerne, it is been approved by the architectural review for placement, they have made a couple of suggestions in regard to where he puts the air conditioner but that is about it. He said the three variances that he is requesting, one of them being a 2' side yard from an encroaching driveway.

Mr. Joyce continued by saying the board is familiar with the site, the driveway comes in off of Lakeshore Drive and it runs parallel and runs with two neighbor's driveways and then it comes back to a one plus acre site but the access patch of land is narrow to the point where a 12' driveway doesn't meet the 2' side yard requirements and that is the first variance. He said the second variance is in regard to lot coverage, in Lake Lucerne the lot coverage maximum is 40% but in this case including the drive coverage as well as the foundation and patios is 18.5% so it far exceeds the requirements for Lake Lucerne but Bainbridge he believes is 9% or 10% and that is the second variance. He said the third variance is the rear yard setback, they did place the house where they meet or exceed the side yard requirements of 50' but rear is at 61' because of the way this property line here comes in (he referred to the site plan) we are at 61'. He said those are the three items he is requesting. He added that this lot was approved for a similar foundation six years ago when the Weemhoffs were the present neighbors and the sellers of the lot designed the home to fit. He said they sold his lot to another couple.

Mr. Lewis said he was trying to figure out where he had seen this but the driveway entrance was triggering it.

Mr. Joyce said actually the lot coverage is the same. He added that one of the neighbor's is in attendance but the Weemhoffs are not here. He explained the site plan that this is the lake and river that comes from the golf course and comes around here into the lake.

Mr. Lamanna asked if these two lots have easements.

Mrs. Rosemarie Worstell of 17262 Chillicothe Road testified that her lot has the easement, the old farmhouse.

Mr. Lamanna asked about the recorded easements.

Mr. Joyce said they bought this to build a home, they (Weemhoffs) owned this for about six years and then they sold it.

Mr. Lamanna asked if they have an easement over that piece of the land too, are there recorded easements, specific easements.

Mr. Joyce said he is not aware if there is an easement for the Weemhoffs.

Mr. Olivier said they owned that lot originally.

Mr. Lamanna said it is not a split off, it is not like it was created with a split off, they bought the lot, there were two separate lots, they bought that lot and subsequently sold it.

Mr. Olivier asked if it is a Lake Lucerne lot.

Mr. Lamanna asked if there is a recorded easement when the title search came back.

Ms. Karen Endres, Zoning Inspector testified that the application was submitted as 8460 Lakeshore but the correct address should be 8490 but 8460 came from a former zoning inspector a number of years back on another application.

Mr. Lamanna asked if the permanent parcel number is right.

Ms. Endres said the parcel number is correct.

Mr. Lamanna said the fact that the address might be wrong, it is less important, as long as the parcel number is right.

Ms. Endres said she just wanted to let the board know and will make sure all of the papers have the correct address.

Mr. Joyce said that Mr. Gutoskey did not see an easement.

Mrs. Worstell said she didn't think they needed one because their driveway is the one that is impacted by the new driveway.

Mr. Murphy said the other driveways do have frontage on the street.

Mr. Lamanna said in this case if anything ever falls apart here, each of the other people can easily stick a driveway out there.

Mr. Murphy said they have a driveway almost to the road already anyway.

Mr. Lamanna said it is only the lot behind since it has got a straight shot in, it is 2' from the side line.

Mr. Joyce said it is all the way along here (he referred to the site plan) and said it is 1' and 1'. He explained that there is an existing drive now, it was put in for the Weemhoffs to build.

Mr. Lamanna said you will end up with the apron and driveway flaring out into that other adjacent lot.

Mr. Joyce said actually their apron spreads out onto this lot and the way their driveway is shown, it was drawn with a 12' driveway here, we come straight out and this is at least 18' here (he referred to the site plan) and this is a nice area, you can get two cars with a 10' drive pulling into the garage and then you have a lower drive shown there.

Mr. Lamanna asked if the two adjacent lots have permission to have their driveways running across the property line.

Mr. Joyce said the Worstells have an easement in place, he just doesn't know if the Weemhoffs do because it didn't show up on the title work.

Mr. Lamanna said they not only have to have an easement but also a variance because you are crossing a property line, you need a variance if you run your property across the property line of somebody else's property. Here is the next question, when you get down to the end, what are you going to be paving.

Mr. Joyce said they are not going to pave, they are going to directional bore the sanitary and water so they will do a road opening and close it back up but this pavement area here (he referred to the site plan) is already paved.

Mr. Lamanna said you will tie into the existing pavement.

Mr. Joyce said exactly.

Mr. Lamanna said so we already have an existing driveway that has no variance.

Mr. Joyce said correct.

Mr. Lamanna said so you are going to have a driveway that basically has a zero setback.

Mr. Joyce said the side yard setbacks are going to be reduced by 6' to 1' from the minimum.

Mr. Lamanna said they will be zero in the front because you are going to pave right to the lot line.

Mr. Joyce said because it is existing.

Mr. Lamanna said we might as well make it zero all the way back.

Mr. Joyce said from the flagpole.

Mr. Lamanna said just to keep it simple from the flagpole. He said that covers your lot and the other people will have their own issues eventually as far as zoning goes.

Ms. Endres said the house on Rt. 306 looks like it was here in the 1800s.

Mrs. Worstell said 1836.

Mr. Lamanna asked if the driveway was always there.

Mr. Joyce said the driveway has been there but maybe they moved it when they rearranged it.

Mr. Lamanna said they probably moved the driveway at some point in time. He said his view of the world is that you want these things straightened out so you don't find out if you go to sell your house that the title company looks real close at it and says, by the way we think there might be a zoning violation here and then you are ready to close the sale of your house and you suddenly find out that they say we are not willing to show title because we think you will need a variance and it is two to three months down the line before you do that and it just becomes a potential issue for you. He said unfortunately there is no way we can fix it here tonight, because it is two separate parcels and an application would have had to be made with respect to those parcels to cover that but it does leave a potential issue out there. He said he doesn't know what the recorded easement situation is either, there is some indication that there isn't a recorded easement and somebody might want to check that more carefully to make sure there is a recorded easement.

Mrs. Worstell said there is a recorded easement, we have one, but we don't know about the Weemhoffs.

Mr. Lamanna said in this case he is less concerned because the worst case, you could all put your own driveway in, our problem with multiple driveways is if you just have an easement, an easement is fine if you are going to put a driveway over somebody's property and you are going to use it exclusively but when you go to a multiple use driveway, that really creates a different kettle of fish because now it is a question of who maintains that driveway, what if somebody doesn't maintain your driveway, there are a whole bunch of issues that can affect that and that really should be spelled out by agreement as part of the easement that says this is what we are going to do if the driveway gets deteriorated, is it everybody's responsibility to pay for it and the owner of the property can repave it and everybody can pay their proportional share, that way we don't have a problem with property owners fighting each other and then trying to drag the zoning people in and say why didn't you settle this and the answer is it is not our problem to settle but meanwhile we have got issues. He said in this case everybody can build a driveway on their property, it is physically possible and would not be a prohibited expense because the distance isn't all that great. He said he will make that a zero setback for the entire length of the flag section and the rear lot line would be at 58.42'.

Mr. Joyce said 61.08'.

Mr. Lamanna said it would be to the rear lot line and he thinks it is the one that comes off the flag.

The board discussed the rear lot line with Ms. Endres.

Mr. Joyce said it is 58.42' (rear yard).

Mr. Lamanna asked what the total size of the lot is.

Mr. Joyce said it is 1.1 acre.

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

Motion BZA 2013-13 – 8460 Lakeshore Drive (corrected to 8489 Lakeshore Drive)

Mr. Lamanna made a motion to grant the applicant the following variances.

1. A variance with respect to the driveway to allow a zero setback from the side lot lines on the flag portion of this lot from the street back to the point where the flag ends from 2' to 0'.
2. A variance from the minimum required rear yard setback of 90' to 58.42' for a variance of 31.58'.
3. A variance from the maximum total lot coverage of 10% to 18.5% for a variance of 8.5%.

Based on the following findings of fact:

1. A practical difficulty exists because it is a pre-existing lot of record.
2. Since the width of the flag is not wide enough to allow a driveway which would meet the side lot line and part of which is shared with the neighboring lots therefore this would not have any adverse impact on the adjacent property.
3. With respect to the rear setback, again, it is consistent with the type of setbacks in this area.
4. It is also only a 1.1 acre oddly shaped lot which means there is not room enough on the property to meet the rear setbacks and still be able to practically build a house on it.
5. Due to the 1.1 acre size it is appropriate to allow higher lot coverage which is again consistent with the area and will not adversely affect the character of the neighborhood.

Mr. Lewis seconded the motion,

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

Mr. Gutoskey returned to the meeting.

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

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

Ms. Connie Hecker was present to represent this application.

Ms. Hecker testified that you all know that my property burned down on the 7th of April.

Mr. Lamanna replied yes.

Ms. Hecker said it is bad and really hard and a landscaper took over her husband's space so as soon as she can get this rebuilt with the insurance money is what she wants to do. She said she would like to put up a little bit better building, she does not want to put up another pole barn so she is going for this steel building and she cannot afford to build a masonry building so what she has come up with is just a basic steel building that will tie into the existing office that the fire department did such a fabulous job of saving. She said she just got the survey information back and the reason she needs a variance on the back corner of the concrete pad, she wants it to go on the existing concrete pad and rebuild the exact same size structure and replace what was there. She said she wants to go about 2' taller because of Mr. Mark Fogarty's lifts to have a little more room and she wants to put two doors there and would like to have clerestory windows back there to get some sun from the south side of the building. She said she needs the variance because the corner of this pad is about 6' from the sideline. She said the neighboring property continues to be green space and the buildings are way back here (she referred to a site plan) and there is also (she referred to the GIS aerial map) an area that is all water flow, see all of the trees.

Mr. Lamanna said it is a drainage way.

Ms. Hecker said yes it is a drainage way so there would never be any structures that this would interfere with. She said another thing she would like to do and one of things that the surveyor discovered was that this whole entire sideline on this road, the description that was on the very not so great titles he said, were based upon and something to do when Wren Road was done and put in and so maybe Wren Road wound up being placed a little different than what they expected but low a behold she has 21 less feet of frontage than her legal description and she has been taxed on all of these years. She said she is happy for shorter land than what she owned.

Mr. Lamanna asked if her property line goes to the center of E. Washington.

Ms. Hecker said yes and the location of this line along the road is 21' deeper into her property, there is 21' of land that doesn't exist.

Mr. Lamanna asked if that is all along Wren Road.

Mr. Gutoskey asked her if she is short 21' along E. Washington.

Ms. Hecker said yes she is short 21' of frontage, she is short a half acre of land because this line, according to the legal description it is not there.

Mr. Lamanna referred to the site plan and asked about this line over here.

Ms. Hecker said this line here is exactly where this line goes and this piece of road that was proposed at the time and originally described.

Mr. Lamanna said this had to be fixed here (he referred to the site plan).

Ms. Hecker said this is right now and when they wrote up the original description of the land we thought there was more land than there is, that doesn't really affect her except that now this is her total lot coverage. She said .53 acres more is what she has been paying taxes on but at that point her lot coverage is about half and half so he figured all of the gravel area and he figured in all of the pavement area and she is about 50% lot coverage and 50% green so what she would like to do is to try to get it a little closer, they do not need this parking area (she referred to the site plan) and they do not need this driveway in through here so they can take this whole section and go green. She said they would consider shutting this off (she referred to the site plan) and she still may have more parking than she needs but she does have areas she can work with and her landscaper is in the process of upgrading everything. She said she understands that the main reason she needs the variance is she needs it to rebuild what was previously built.

Mr. Lewis said exactly and there are some other elements too.

Ms. Hecker said that Mr. Fogarty is the mechanic and he uses most of it.

Mr. Lewis said you (Mr. Fogarty) would need a conditional use permit and a variance from the 3,000' distance between other like businesses.

Ms. Endres testified that there are no applications right now for the other businesses. She said when she was researching Ms. Hecker's application she found that there were no permits for the tenants on file so they need to get permits and explained that the conditional use doesn't go with the property, it goes with the tenant.

Ms. Hecker said her husband's business and Mr. Fogarty's business were never the same business. She said there was an auto body which is what you had and this is Mark Fogarty's business and for a while they shared the office so people got the impression that they were somehow in business together but they were separate businesses. She asked since Mr. Fogarty is not operating the business there now, does he need to get the permit now or when the building is built.

Ms. Endres said it is a good idea to get going.

Mr. Lamanna said obviously there is not a rush to do it because you are not going to be able to open up for a while anyway. He said this is now a strip center because it has three tenants.

Ms. Endres said that includes the orthodontist.

Ms. Hecker explained that they are both her parcels, they are two separate legal parcels but they treat them as one and would rather sell them separately especially now that there is less land.

Mr. Lamanna said with the other parcel you probably would not have the lot coverage problem.

Ms. Hecker said probably not. She said the landscaper talked to her before the fire happened with Mr. Fogarty and they talked about the sign that is there and they wanted to not change the amount of signage whatsoever and asked if they need a permit to improve the sign but not to change the size of the sign.

Ms. Endres said if you change out the old sign and basically put up a new one you will need a permit.

Mr. Lamanna asked what the signage is for the other building that is on its own lot there.

Ms. Hecker said that is the signage for this parcel (she referred to the GIS aerial photo). She said this has two posts and a frame.

Mr. Fogarty testified that there will be stonework built on the sides.

Mr. Lewis said as long as it doesn't go above the height requirements and asked if it is 10'.

Ms. Endres said yes.

Mr. Lewis said we will deal with your side yard variances, your tenants all need to basically go through the zoning occupancy permits and use permits.

Ms. Hecker asked if we have one for the orthodontist.

Ms. Endres said she couldn't find one for anybody.

Ms. Hecker said she will have to talk to him about that.

Mr. Lewis said so it doesn't put anybody's business compromised.

Ms. Endres said the car repair would be a conditional use and the landscaping would be a use variance.

Mr. Lamanna asked if anything was issued for the common driveways between these two parcels even though they are owned by the same person.

Ms. Endres said there are supposed to be setback areas within the lot lines. She said she met with Ms. Hecker a few weeks ago and one of things they talked about was a lot split but now she is hearing that that is not going to be practical and she doesn't even know about consolidating these lots.

Ms. Hecker said if she has to go to the county now would be the appropriate time to do it.

Ms. Endres said the survey work is already done but the only issue she can see at all is that you can only have one ground sign per lot.

Ms. Hecker asked how she would surmount that if it becomes at the point where they would have two and asked if it would be grandfathered.

Ms. Endres said if you consolidate then two signs will be there just because of a non-conforming situation then at some time you want to take the sign down and put up another one at that point you would go to the Board of Zoning Appeals for a variance.

Ms. Hecker explained the location of the signs. She said these figures that we did, we did based upon the two together so we are still over on the lot coverage.

Mr. Lamanna said you are a lot over on the one parcel which is probably up to 60%.

Ms. Hecker asked about the process for consolidation, is it just an application with the county.

Mr. Gutoskey said you basically have the surveyor do the survey with a new legal description, the engineering department will approve that and then it is basically just re-filing a deed, conveying it from you to you and whatever the recording fee is.

Ms. Endres said it is usually about \$28.00.

Mr. Gutoskey said you would just be recording one legal for the two parcels.

Ms. Endres said it depends on the number of pages.

Mr. Murphy asked why that benefits her.

Mr. Lamanna said for one thing it reduces the lot coverage.

Ms. Hecker asked, don't you have to consider these separate parcels.

Mr. Gutoskey said the one would have a lot of green space and the other one would have hardly any.

The board discussed the lot coverage on each parcel.

Mr. Lamanna said it would be blended down to about 50%.

Ms. Endres said he calculated the two lots together.

Mr. Gutoskey said the lot coverage would be 51.1.268910%.

Mr. Lamanna said they are going to get rid of some of the paving anyway.

Ms. Hecker said she wants this place to look better and good for everybody.

Mr. Lamanna said and the other issue is the setback variance. He said if they consolidate to 50% lot coverage and a 20' setback and then the zoning certificates are separate issues and there is a conditional use permit for a strip shopping center. He explained the criteria for strip shopping centers and asked what the other conditions are other than the standard conditions.

Mr. Murphy asked if this is a possible future use with the additional building.

Ms. Hecker said her husband had a lot of different ideas.

The board discussed parking requirements.

Mr. Gutoskey explained that parking plans are based on square footage.

Ms. Hecker asked if the parking plan is based on the usage of the building.

Mr. Gutoskey replied yes.

Mr. Lamanna said the board is just trying to figure out what applies and what zoning might be implicated so that when you (Ms. Hecker) walk out of here tonight, the board is not going to say oops.

Ms. Endres said that Ms. Hecker brought the site plan in today so when she wrote the letter she didn't have the criteria for the calculations.

Mr. Lamanna asked about the parking setback.

The board discussed the parking requirements and the proposed variances.

Ms. Endres said she doesn't meet the definition for strip mall but it is a shopping strip center. She referred to Chapter 177, page five has the provision about the setback from the intersection. She said she didn't cite that though because that driveway has been there for years and she didn't know if it would be appropriate to start with something that has been there for so long.

Ms. Hecker said she has pictures of the drive from before Wren Road.

Ms. Endres said she has the old site plans and minutes from the archives that might be useful.

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

Motion BZA 2013-14 – 8300 E. Washington Street

Mr. Lamanna made a motion to grant the applicant a Conditional Use Permit for a shopping strip center and the following variances.

1. In connection with the Conditional Use Permit the board also grants variances to the specific conditional use requirements on buildings located at least 20' from the property line with respect to all of the existing buildings on this parcel, as well as the adjacent parcel that will be consolidated.
2. A variance to the 200' requirement for entrance and exit drives from the intersections of two streets. This is a corner lot on Wren Road. With respect to the existing driveway east of Wren Road and the existing driveway north of E. Washington Street a variance is granted from that 200' requirement to their currently existing position.
3. A variance with respect to the parking on E. Washington Street from 70' to 35' to the existing location of the parking lot.
4. A variance with respect to parking and driveway access as it currently exists on Wren Road as a maximum with subject to adjustment in terms of the final site plan as shown.
5. A variance with respect to the reconstruction of the building at the rear of the property to its currently existing 6' setback for a variance of 44' from the required 50' rear yard setback.
6. A variance of 50% lot coverage from 40% with a note that this is based upon the consolidation of this lot and the adjacent lot owned by the same property owner.

Motion BZA 2013-14 – 8300 E. Washington Street - Continued

Based on the following findings of fact:

1. The reason for granting these area variances to this property is that it is an existing property and has been in use for a substantial period of time. This is a pre-existing developed lot where all of these buildings have previously existed and through the changes creating the strip center, it now comes under a different regulatory scheme so these variances would be necessary to continue to maintain these buildings.
2. The board finds that these variances are reasonable in consideration of the scheme with respect to the regulations of strip centers and will not adversely affect the character of the neighborhood or the adjacent property owners.
3. The rear building is being reconstructed on its original foundation and that is the reason for granting the setback variance there.
4. The board notes that because of the location of the drainage area and existing development of the property to the north that this will not adversely affect that property, it will still provide ample separation between the buildings on the two properties, nor will it be inconsistent with the neighborhood where there are a substantial number of buildings located very close to the property line.

With the following conditions:

1. Regarding the variance permitting 50% lot coverage, the board will make a condition that the property owner obtain the consolidation within three months from the date of this meeting (May 16, 2013).
2. The board further notes that since this is a conditional use any other improvements will have to come back for an approval from the board.
3. No new lighting will be installed on the properties without coming back for further approval of the board.
4. The board also notes that this deal is only with the actual physical buildings on the properties and does not deal with the uses of those buildings and any issues with respect to those uses have to be addressed through separate applications and/or a hearing by the board that may be required by the zoning ordinance.
5. All of the other standard requirements for the conditional use will otherwise apply.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 11:22 P.M.

Respectfully submitted,

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

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

Date: June 20, 2013

AUDIO RECORDING ON FILE

BZA PH 5/16/2013

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Bainbridge Township, Ohio
Board of Zoning Appeals
May 16, 2013

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 11:22 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. Ms. Karen Endres, Zoning Inspector was present.

Mr. Allen Segedy of 7707 Country Lane met with the board to discuss BZA application 2013- 9 for property at 17257 Catsden Road.

Minutes

Mr. Lamanna noted for the record regarding BZA Application 2013-9 for property at 17257 Catsden Road: Members of the board, ex parte claiming that he had title or an interest in the property which was subject to application 2013-9. Mr. Segedy was present during the board's hearing and at the time did not present any evidence that he had such an interest in the property and that being the case at this point there is insufficient cause to not act upon this application. If Mr. Segedy has information that he believes is relevant he can submit it to the zoning inspector and it will be forwarded on and reviewed as appropriate to see whether any further action should be taken by the board based on whatever allegations he may have, therefore:

Mr. Lamanna made a motion to adopt the minutes of the April 18, 2013 meeting as written.

Mr. Lewis seconded the motion.

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

Applications for June 20, 2013

Application 2013-15 by Joyce R. and Stephen M. Kainec for property at 8273 Chagrin Road

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

Application 2013-16 by Thomas E. Quinn for property at 17155 Penny Lane

The applicant is requesting area variance(s) for the purpose of extending a deck and incorporating an exercise pool and hot tub. The property is located in a R-5A District.

Application 2013-17 by A & E Real Estate for property at 17800 Chillicothe Road

The applicant is requesting a modification to a conditional use permit with variance(s) for the purpose of allowing an outdoor dog play area for Camp Bow Wow. The property is located in a CB District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for June 20, 2013 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 11:37 P.M.

Respectfully submitted,

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

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

Date: June 20, 2013