

Bainbridge Township, Ohio  
Board of Zoning Appeals  
May 17, 2018

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:07 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Michael Corcoran, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all those who intended to testify. Mr. Lamanna stated that because of two recusals of the board for BZA 2018-23 the applications will be taken out of order to let the board's alternate sit and then leave for the night. He let the record reflect that everyone had been duly sworn in.

Application 2018-23 by Rick Siegfried, RSA Architects for CGII Developers LLC – Attn: Craig Gemmill for property at 9191 Bainbridge Road

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

Mr. Joe Gutoskey and Mr. Todd Lewis recused themselves for this application.

Mr. Michael Corcoran, Alternate sat in on this application. Mr. Lamanna thanked him for taking his time to meet with the board for this one application tonight.

Mr. Rick Siegfried, Architect and Mr. Craig Gemmill, Property Owner were present to represent this application.

Mr. Siegfried testified that the board should have drawings and he has one with him and the property is at 9191 Bainbridge Road. He said it is a 15.94 acre parcel with an existing house on it which sits pretty close to the road, it is 31.7' to the road and Mr. Gemmill has owned the house for a while now and would like to put an addition on the house so the problem is the entire house sits inside the 100' setback so the main bulk of the work is going to be about 83' back but there was a porch that extends along one side which is at 60' so we are looking for a 60' variance on the new part. He said it is a pretty substantial addition but again we are looking at almost 16 acres of property, the existing house sits out front, it is a really nice historic home and we are preserving the nature and character of it almost in its entirety and the new architecture matches it very closely so we think this is a real asset for the community and a big investment in the community. He said at this point he would turn it over to the board for questions. He said one other thing is that if you look at the area that is included inside the setback across the entirety of the property it is 122,278 sq. ft. and including the existing house and the addition, we are occupying 1,961 sq. ft. of that 122,000 sq. ft. which is 1.6% of that area so we feel it is not substantial in its nature and for that reason and the fact that it sits behind the existing house there is not really much else we can do, we don't want to take the existing house down.

Mr. Corcoran asked when the original house was built.

Mr. Gemmill testified the late 1800s.

Mr. Murphy asked what the closest intersection to the east is.

Mr. Gemmill said Bainbridge Road and Snyder Road.

Mr. Siegfried said if you look on cover sheet one there is a little location drawing and it is a pretty good distance to Snyder, it is the northwest corner of Snyder.

Mr. Murphy said it is just down from Stockton Lane.

Mr. Siegfried said yes.

Mr. Murphy asked if it is in an R-3A or R-5A District.

Ms. Karen Endres, Zoning Inspector testified that it is in the R-5A District.

Mr. Lamanna asked if there is common ownership with the other parcel that abuts the freeway.

Mr. Gemmill said no.

Mr. Lamanna said he was looking at the drawing and it shows that lot down there and asked if there are any plans to try to do something with that.

Mr. Gemmill said at this point, no.

Mr. DeWater said the whole addition is to the rear of the existing house except for a portion of the porch.

Mr. Gemmill said right.

Mr. Murphy said so your front elevation is from the west.

Mr. Siegfried said it is looking west, what we are calling the front is looking to the west.

Mr. Murphy said standing in the field looking up hill from Bainbridge.

Mr. Siegfried said the right side elevation is the existing home.

Mr. Murphy said so you are not asking for a variance on the detached garage at all.

Mr. Siegfried said correct.

Mr. Murphy asked about the gas well and if that is on this property.

Mr. Gemmill said no, it is across the street.

Mr. Murphy asked if that underground gas line goes through the property.

Mr. Gemmill said yes.

Mr. Murphy said the square footage on this, if you were to chop off five acres and put this new house on the five acres, do we have any problems with that.

Ms. Endres said she didn't do that analysis but he is not close to his lot coverage.

Mr. Murphy said there is a lot of acreage there though and maybe there were future plans but he thinks it is a beautiful house and beautiful addition to the old house. He said we will have to hear what the neighbors say.

Mr. Siegfried said there is about 4,300 sq. ft. of lot coverage with the house so he thinks it would fit on a five acre lot but it is a different question for a different day if it ever comes up at all.

Mr. Lamanna said you have 20,000 sq. ft. of lot coverage available on a five acre lot.

Ms. Endres said if they had to do a lot split in the future they could create a bigger lot to conform.

Mr. Kevin Eichelberger of 9157 Bainbridge Road testified that he has the adjacent lot, they have been great neighbors but the only question he has is just on the leach field for the septic system, is that going to be front to back or general.

Mr. Gemmill said the preliminary plans are to keep that field, it would be in the back only.

Mr. Lamanna asked Mr. Eichelberger if his house is set back quite a way from the road.

Mr. Eichelberger said yes.

Mr. Murphy said the house is beautiful but you are going to be looking at the garage. He asked if they are going to use the same materials and what exactly are they going to be looking at.

Mr. Siegfried said there is an existing garage on the property and if it works out they will be looking at the same garage in a new location, it is kind of like a barn, an outbuilding, it is not intended to have that same level of detail and ornateness but it is going to be solid.

Mr. Murphy said they used to put more money in their barns than their houses. He said there was not a lot of information on the garage.

Mr. Siegfried said it is a fairly simple structure. He said they are going to try to move it, if not they will build a new structure, it is pretty well built but kind of big and old.

Mr. Lamanna said what we have here is an existing structure so we have a small slice of expansion of a non-conforming use between the existing structure and that part of the new structure that is beyond the 100' setback line but all of the expansion is at the back end, it doesn't increase the nonconformity, the non-conformity already exists, this will all be behind the existing house and given the improvement of the structure and the ability to retain the existing century house that this variance is not really going to substantially change what is going on on the property and he doesn't see how it is going to affect any of the neighbors adversely or change the character of the neighborhood. He said the house is already sitting close to the road and it is also on a stretch of the road where on that side the houses are all spaced out pretty far even if at some point in time they decide to subdivide this you are still going to have 200' to 300' between the houses.

Mr. Murphy said he doesn't see any problems with it.

Mr. Lamanna asked Ms. Endres if there are any other issues.

Ms. Endres said she has no problem with it.

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

#### Motion BZA 2018-23 – 9191 Bainbridge Road

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing an addition and modernization of an existing structure.

1. A variance to maintain the existing 31.7' front yard setback for the existing structure and to also expand that structure to the rear of the existing property back to the 100' setback requirement.
2. The board notes that this will further extend beyond the 100' setback line but that portion of it would be conforming so the only variance needed is actually the expansion of the nonconformity between the rear of the existing house and the 100' setback line.

Motion BZA 2018-23 – 9191 Bainbridge Road - Continued

Based on the following findings of fact:

1. A practical difficulty exists because this is an existing structure.
2. Although this is an extension of a nonconforming building the extension is all to the rear of the building so it will not be creating a building any closer to the road right-of-way.
3. The spacing of the houses is significant along here.
4. This one house has existed since the 1800s so it is not going to change the character of the neighborhood.
5. It is consistent with the neighborhood and will not adversely affect any of the neighboring properties.

Mr. DeWater seconded the motion.

Vote: Mr. Corcoran, aye; Mr. DeWater, aye; Mr. Lamanna, aye; Mr. Murphy, aye.

Mr. Gutoskey and Mr. Lewis returned to the meeting.

Mr. Corcoran departed the meeting.

Application 2018-8 by Kyle Witczak for property at 18070 Harvest Drive - Continuance

The applicant is requesting area variance(s) for the purpose of installing a driveway extension, parking pad and deck. The property is located in a R-5A District.

Motion BZA 2018-8 – 18070 Harvest Drive - Continuance

Mr. Lamanna moved to continue this application to the next regularly scheduled meeting to be held June 21, 2018 at the request of the applicant.

Mr. Gutoskey seconded the motion.

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

Application 2018-9 by Jim and Kathy Ptak for property at 9080 Old Meadow Drive -  
Continuance

The applicant is requesting area variance(s) for the purpose of constructing an accessory building. The property is located in a R-5A District.

Mr. and Mrs. Jim Ptak were present to represent this application.

Mrs. Kathy Ptak testified that she is here with her husband Jim and they live at 9080 Old Meadow Drive, we were here last month requesting a variance to build a lovely accessory building in the back to the left of their property. She said at that time the board brought up from the Health Department aspect of where a secondary field would go for the septic if it were to fail so it was suggested to them to go to the Geauga County Health Department and bring to the board what they provided to them as far as what they have on record and we did that, we dropped it off with Ms. Endres so basically the first diagram shows pre-built and it was explained to them that that was done with where they were preliminarily going to put the septic field when they built it so the second, they are really some rough diagrams that was after it was built and it showed that it did not go behind the property from the left to the right or right to the left, it is actually on an angle which is where it is at right now. She said basically that is what the county provided to us and she thinks what it shows too is that replacement field could still be to the right and behind the existing field and actually by putting the barn structure to the left of the property the replacement field would not interfere with the barn or a proposed driveway which would be to the left. She said this diagram that Ms. Endres has up right now is basically upside down because she believes the little square is supposed to be their house because the field is actually on the opposite side and instead of how they actually signed off on it, it actually goes this way.

Mr. Lamanna said at the top.

Mr. Gutoskey said the well is in the front of the house.

Mrs. Ptak said yes.

Mr. Gutoskey said the question still is, is there room for a replacement field.

Mrs. Ptak said they were instructed to go to the Health Department and they got the documentation showing where there would be a replacement field and that is basically what we brought. She said to get another soil survey and get somebody out to give them that.

Mr. Jim Ptak testified that it is in their opinion that they have very sufficient room to do the septic field in the area that they are suggesting. He said in order to provide definitive proof signed off would be basically somewhat of a financial as well as a time hardship, nobody is going to sign off and give us to give to you a valid copy of anything saying that its definitive that is the location of a septic field. He said when this was laid out the original location was in the back rear and he thinks a comment was made that with a property of one acre in size we can put a secondary field, someone made that comment, he is not exactly sure, we would have to go back into the notes. He said it doesn't talk about exact location but it is their opinion that the property will sustain a secondary field in the area indicated. He said they just do not have for the board today definitive signed off proof to that indication and that was their understanding of what you wanted, we were instructed to go pull the information from the Health Department and present it to you folks. He said at that time he kind of felt that the information may be somewhat lacking and whether it is or is not it is for the board to decide but still when he is looking at this it is clear to him that a replacement field was intended to be in the back right of the property and there seems to be ample room seeing as how they are placing the barn structure to the far left as well as the driveway to the far left.

Mr. Lewis asked if the Geauga County Health Department approved this specific location and of course with that they need to determine the soil samples and the amount of area available that that location will in fact support a secondary system. He said he is looking at the drawings but he doesn't have anything that says to him that Geauga Health Department has said and it is really vague so his thought would be if there is a presumed location it is not in fact an approved location so we are sort of still back to right where we left off.

Mrs. Ptak said they are and the reason for that is this is what Geauga Health Department has provided to us, anything above and beyond is going to be, we had a soil sample done, that was too long ago.

Mr. Lewis said you are the folks that are in front of us because you want to build a structure and sometimes part of the project and funding are also other things that need to be done to make that happen. He said he has no validation here that you can even put it there.

Mrs. Ptak said we asked them to sign this because that is all they have and had them actually sign it so the board would realize that that is where we got it from.

Mr. Lewis said he is okay that you got it.

Mr. Gutoskey said he doesn't think there is anything that tells us that it is approved by the Health Department that there is room and an area on the lot where the replacement area can go and it won't be impacted by building the driveway and the shed. He said if it was a three or five acre lot it wouldn't be an issue but your lot is small and for him he wouldn't want to approve a drive and a garage, the outbuilding that you are proposing in an area that may mess up putting a septic system in.

Mr. Ptak said he used to be a design engineer so he is very familiar with where you are coming from but the bottom line is when we left here we were instructed to go and pull the information from the Health District showing the replacement field and that is what we have done, we have provided that and now we are taking a look at the drawings that were once acceptable and saying we can't understand because they are laughable and they were done probably on the back of a sheet of toilet paper and it is quite humorous, he finds it humorous himself and he tried to get additional information from them but in order to give you what you need or want to see in plain English we have to hire a design firm to come out and analyze the entire site to determine where the replacement could go, would go and before they do that they were told, we had a soil sample done by Jim Finchum and it cost us about \$700.00, they submitted that to Ms. Endres and we were told by the Health Department that the soil had not changed but the technical method of which they specified the soil samples is no longer to the Health Department standard so he is just trying to highlight what it is that we as a homeowner have to go through so we need soils and after that we can get a designer to design the field which we don't need and after that then the Health Department will come out and help verify the staking of the field and only then will they approve or disapprove of the exact location of which the septic designer is intending to put it and then at that point somebody would have to make a drawing convincing all of this so he can bring it to you to show you what he believes this particular drawing already says and with all of that is again, time and money which we view as a hardship and he guesses he is just a little bit at a loss as far as what exactly you need but if that is what you need he guesses we have a lot of work to do and a lot of money. He said he feels a little bit bad that we did not have that clear marching instruction and as a matter of fact they were just told to go up there and pull the documents and yes they have them up there and they have what you need. He said he tried to impress upon the board last time that the Health Department's records are not what they should be.

Mr. Murphy said from what he sees is this is a nice drawing of what somebody said where the septic should go with the replacement field well demarcated in the back but this is obviously an installer's as built with no dimensions whatsoever so he doesn't have a problem with this other than we don't know how far it is off the back of the house or how far that angled system goes into what is shown here as the replacement so he doesn't have a drawing up here that has that.

Mr. Ptak said he did not give Ms. Endres this exact one but it is very similar.

Mr. Lamanna said give it to her and make sure it gets back into the record.

Ms. Endres said she will make copies for everyone.

Mr. Gutoskey said he is asking us to approve it and we could mess up the septic system.



Mr. Lamanna said the Health Department doesn't have a rule that says if you want to build a garage you have to get their approval before you build it and he doesn't think the zoning has a requirement, if it did it would say you have to comply with county Health Department requirements but if there are no requirements, there are no requirements. He said for us to look at the applicant and say have you considered this fact and look at what your records show as your replacement field and if you mess that up, you understand if you mess that up you could be in a lot of trouble and don't come blaming Bainbridge Township Board of Zoning Appeals for approving this, we obviously don't want somebody coming back and saying you guys approved me putting this in here and it wrecked my field now I want some kind of compensation from the township because you didn't tell me not to do this. He said they want an as-built drawing but they don't show on the as-built where the secondary field is and in this case they actually built the primary field across where they had the secondary field showing.

Mr. Ptak said he doesn't think they gave them very much information.

Mr. Lamanna said it seems the Health Department has been operating on a wing and a prayer at this time.

Mr. Ptak said he thinks that somewhat now they are much more strict because of EPA guidelines, etc.

Mr. Murphy said this is a beautiful drawing and it looks like square footage wise your area and the replacement field probably has enough room, just looking if you have to replace that lower section up into the top section you might have to change it.

Mr. Ptak said he is thinking so.

Mr. Murphy said if we do approve it and you go then and apply for a regular septic system field expansion five years from now because your system failed you may not pass that and you may end up putting in a more expensive septic system. He have for small lots drip systems and all kinds of things you can do with much less square footage than a traditional leach field so it is kind of like if we don't have anything beyond that we would say buyer beware.

Mr. Lamanna said he thinks it is appropriate to ask the question but at the end of the day when he comes in and says the information he has is different, they approved the location and then they built it differently so at the time, he doesn't know what they would do today but at least at the time they didn't require you to then identify a new replacement field if you built into the area where you have the new one.

Mr. Ptak said it is probably because that potential problem that we are discussing now is being scheduled for 30 – 50 years out and it was not an immediate concern but now these properties are getting older and we are more aware of dysfunction.

Mr. Lamanna said the idea is to make sure there is enough room on the property for a system and a replacement system.

Mr. Gutoskey said he thinks that is why they went up to three and five acre lots too.

Mr. Lewis said so because the applicant is looking for a rear yard setback variance and the side yard setback variance is the basis for these variance requests to accommodate a replacement field.

Mr. Ptak said no, it became a two-fold problem. He said their intention was to place the barn or structure in the back left part of the property, the exact location has not been identified and that is why we have it at a minimum and maximum. He said they have taken down some trees in that area and they are trying to optimize exactly where it would go so obviously before it is completed or after it is completed they will give those exact dimensions obviously.

Mr. Lamanna asked does it need to go back so far, why does it need to be within 9' to 90', what is there about the property that says you can't be 90' away, you have a 384' deep lot and 200' back from your house no matter what.

Mr. Ptak said they wanted to have it in a nice wooded location, it is kind of like in the woods right now, they wanted to retain that location, most of the backyards are open so to speak, nobody has a structure or anything, you can walk out in our backyard and look to the left and look to the right and it is open grass lawn. He said they didn't want to obstruct that view by having the barn obstruct that so they wanted to place it back in the woods.

Mr. Lewis asked obstructing whose view, yours out your back window or your neighbor's.

Mr. Ptak used a laser pointer to show the board on the aerial view and said if you are wanting to get a better idea of where this barn really is, above and beyond the drawing he provided, it is probably back almost in this clump.

Mrs. Ptak referred to the trees and identified which ones they had gotten rid of and said you can see the wooded area.

Mr. Lewis said the first 50' behind your house is there and what we are talking about doing is having you move this up 30' from your rear property line to be 90' which still puts it in all of your clump of trees and doesn't change the left or right view if your neighbor wants to stand in his backyard and look at the other guy's house three lots down.

Mrs. Ptak said there is also nobody behind them, behind them is that long strip of property that someone owns on Haskins, it is a narrow strip that they can't build on and then beyond that is 422.

Mr. Ptak referred to the aerial view and said here is our house, our deck, here is the initial line of trees and as we come out there is all of this open area going all the way back, we did not want to have anything real close to the house so we chose a spot that is actually right about here, the primary wood line is as this red dot follows and then the barn actually begins maybe 30' in.

Mr. Lewis said your property line is almost at the top of the screen so you are asking for 60' off of it so you are just a little ways down from it, it is way up in that end.

Mr. Ptak said he said 60' to 80'.

Mr. Lewis referred to the application and said you are asking for 60'.

Mr. Ptak said he thinks he provided an amended application that correlates to a minimum and maximum to that updated drawing so you may have an old application or an un-amended application.

Mr. Gutoskey asked if this is the one here.

Mr. Ptak said there should be in the application verbiage that refers to the setback.

Mr. Gutoskey said this says greater than 25' on the side and greater than 60'.

Mr. Ptak said they are requesting a minimum of no closer than 60' and no farther than 80' so just for discussion purposes 70' and rather than try to identify the exact location because we are not prepared to do that just yet we ask for a range knowing that it is going to be a variance nonetheless. He said there is nobody behind us at all except there is some property all the way from Haskins all the way down, the guy owns maybe 20 acres so there is nobody behind us, nobody can build behind us, he cannot subdivide his 20 acre lot into anything else, his house is all the way, 1,500' up at the corner of the street and he owns the lot all through here. He referred to the aerial and said this is the property and this guy owns all this stuff right here and then there is another property that is all of this and then 422 so there is really nobody behind us, we are just trying to accommodate the trees and to site the barn in such a location that it is attractive to that it more or less disappears, we are not going to use it as a cabin or a living structure, it is going to be real nice. He said they discussed it with all of their neighbors and everyone seems to have no objections in any way, shape or form and it is going to be a real nice structure. He said he knows that they have this driveway, we put that in because we want to have that in the plans to do but there is a possibility that we won't have a driveway but we are requesting one anyway, probably a gravel driveway to match our existing driveway that we currently have and we didn't want to have it come any closer to our home, we thought it was the most attractive and provides the least amount of tree removal and it is just the best visual aesthetic.

Mr. Lamanna said when you look at the lot it looks like once you go back to a certain point it is nothing but trees.

Mr. Ptak said that is true, that is exactly what this is, of course we got it cleared out where this barn is going to go but yes, it is basically trees.

Mr. Lamanna asked if they have an area cleared now.

Mr. Ptak replied yes.

Mr. Lamanna asked if he knows how far that is.

Mr. Ptak said yes he does.

Mr. Lamanna said from an administrative standpoint when you come in and ask for a variance we are here to grant a variance we are not here to say it can be somewhere between here and here, if we grant a variance we are going to base it upon a distance so if you tell the board where you need it to be or it might be 60' off then we have to evaluate your application based on the 60' off. He said if you get a variance it gets more complicated because if this is just one variance, not a side and a rear, and if we decide you can put it 60' off and you decide to put it 70' off that would be fine but in this case this is a side variance and the two work together so it makes a difference where you actually put that so it gives us a problem if you don't have a precise location.

Mr. Ptak said he can probably get that for the board tomorrow, he didn't realize.

Mr. Lamanna said it would be great if you can get it to us tomorrow but we don't meet again until June. He said he is not trying to be difficult, he is just trying to say we have to administer, we have to do things according to legal rules.

Mr. Ptak said he understands that but he did try to address that if that is a questionable issue at the last meeting but basically we didn't want to comment on that, we couldn't get past the replacement field location problem back then and so had he known that the board needed an exact location he would have spent more effort to provide that but he was not aware and he was kind of hoping that the 20' or leeway left and right or front and back would not really be an issue.

Mrs. Ptak said there are a lot of woods to the left of where the barn is going to be, the neighbor has some woods and the area that has kind of been cleared out, we have had trees fall because they have been hit by lightning etc., we have cleared out a lot of that kind of stuff so periodically we go in the back and we take some measurements, we have outlined the little rectangle and we've measured that but whether or not it is exactly 70' and that is why we put the range in there because we had done this for the last meeting.

Mr. Ptak said they have the location mapped out it is just plus or minus 10' from that location and 35' off the side line plus or minus 10' and 70' off the back plus or minus 10'.

Mr. Lamanna said the board can't give you a variance plus or minus 10', we have to give you a variance to a spot.

Mr. Lewis said he has seen no demonstration of any practical difficulty having to do with placing this which is why he asked in the first place was your place based on making room for the replacement field and you said no.

Mr. Ptak said no it wasn't.

Mr. Lewis said so here is where he is at, you are saying for side yard you are good anywhere from 25' to 45'.

Mr. Ptak said yes.

Mr. Lewis said which is saying you will take 45' but our code is 50', he is not inclined to grant a 5' variance because we are very close to what is already acceptable to you anyway, the same in the backyard, you are good all the way up to 80' but our code is 90' and once again we are very close and you haven't demonstrated a practical difficulty having to do with the location and we have people coming in all of the time that want a structure and sometimes they have to make the compromise, if they want the structure and they have to cut down a couple of trees, that is their decision. He said right now he thinks we are past the septic thing because that is on you and he is sure our chair will make that very clear in our motion but there is no basis.

Mr. Lamanna said when he said practical difficulty with respect to an area variance what that means is there is something about the property which would prevent you from complying with the zoning, not just because I would like it to be closer to the side line or I like the line of site, it is better here, if there is something in the way, there is a ravine, a replacement septic field, there is some other topological feature that prevents you from putting it there or if the only way you can get a driveway back there is through this spot or you need to be in this location otherwise we couldn't get a drive back there, something like that, something physical about the property that says we can't put it here.

Mrs. Ptak said she thinks if the board would see, that is what makes it difficult to try to describe it, we thought about moving it over because of the variances but we have trees and that is where the driveway could go for the opening of the garage, it could be centered with these trees, if you move it now you have kind of created a thing where you have to go like this and go like this to get into the garage.

Mr. Ptak said the way the layout is right now we chose that highest and driest location of the property, that is another reason why we put it in the back, because there is a lot of natural swales and low lying areas where water comes in from the other property. He said the location of the barn, one of our justifications is, this is the highest and driest part of the wooded location meaning that there is not enough or not a lot of water.

Mr. Lewis said we are talking about a 10' shift forward and a 5' shift inward on your requested maximums, we are moving it 5' or 10' back in the deep wooded part of your lot.

Mr. Ptak said you are going with the maximums.

Mr. Lewis said that is what you stated, you stated those were acceptable.

Mr. Ptak said he is looking at the medium is the ideal meaning off the side roughly 35' which is a 15' variance.

Mr. Lewis asked why this was submitted then.

Mrs. Ptak said she thinks part of it too is the fear that what if you are 5' wrong.

Mr. Ptak said they will have it surveyed, it is not going to be wrong and the bottom line is when we were doing this, we didn't have the exact location strung out but now we can string it out, we are going to actually do that, these are preliminary measurements based upon the trees that we removed and we cleared the area and what we are trying to do is just get this thing done and we are asking for and he can change that drawing right now to reflect what he is looking for.

Mr. Lewis said we have three drawings.

Mr. Ptak said he is trying to get something approved here and not cause him to come back with other dimensions and the board makes decisions about those dimensions that are either too far or too close.

Mr. Lewis said you haven't demonstrated a practical difficulty to earn you a variance, the chairman just reviewed the criteria, other than your preference but the land, the property doesn't qualify for anything.

Mrs. Ptak said and the further they go to the right the further they are going to go to this replacement field which became an issue.

Mr. Lewis said it was stated clearly on here that you are willing to go 45' so if you go the extra 5' you don't need a variance because 5' isn't going to impact the placement of your replacement field.

Mr. Ptak said with all due respect, he disagrees with that point of view, it is what it is but the bottom line is he is targeting the medium not the upper limit of the distance.

Mrs. Ptak asked if they can go with the medium, that is probably where they are at.

Mr. Lewis said you are trying to look for a compromise and you have not established a practical difficulty so please establish the criteria that it takes to even be granted a variance long before we get into measurements, there is nothing about the land that says you can't put it within code.

Mrs. Ptak said it will change where the garage door will go because they will have to enter the sides to go to the garage, they won't be able to pull straight on.

Mr. Lewis said it will be a decision.

Mr. Gutoskey said let's talk about the square footage and the height. He said personally based on the amount of buildings we have seen in this subdivision he doesn't have a problem with the size or the height because there are bigger ones so he doesn't see that as being a problem because it would fit in with that neighborhood.

Mr. Lamanna said frankly looking at it he is probably better off if he keeps it to the left because it does increase the room he would have in the area for where his replacement field is going to have to go, but also by the same token the farther back he goes also becomes potentially limiting so if you stay 90' off you leave yourself more room if you have to put another slanting field in there to fit into the space. He said without any pictures or anything else that would show us what this looks like, it would be helpful if you had pictures.

Mr. Ptak said he is not exactly sure what you exactly need, the only thing he has to offer you is our preference for those dimensions but the barn is going to actually disappear into the wooded setting, it is going to be a nice looking structure whether it is technically 15' on one side or another he doesn't think it really impacts anyone in any way shape or form other than the technicalities as far as the dimensions and the fact that we haven't demonstrated a justifiable request and again his opinion is or his request is the medium dimension that he has listed with some leeway but he can commit to a dimension today if that is going to make everyone happy but he is respectfully asking for that we don't uphold those dimensions meaning the zoning dimensions and say you haven't justified your position because of whatever and the fact that you like it in a certain location is just plain not good enough.

Mr. DeWater said the board is bound by guidelines and preference of location and aesthetics do not meet the criteria, those are just two simple criteria but they are the main criteria and if you can't meet those.

Mr. Ptak said not to go down this road but he thinks the original zoning for that development was considerably different than what is being proposed currently. He said when they bought their house and he understands the current set of zoning rules are in play but when they built the house there was an entirely secondary set of zoning and he is not sure exactly what those requirements are, there are a lot of houses or structures in the development that do not meet the current code because they were built before.

Mr. Lamanna said the board takes that into account and you have a substandard lot but the lot is almost 400' deep. He said there are places yes where people have lots that are 120' deep or 180' deep so that 90' setback could be a real problem on a lot like that, the lot is 400' deep so a 90' setback shouldn't be that big of a problem. He said lot width, 175', that is something the board might consider just from the standpoint of the lot width, the lot width normally might be a little bit more than that.

Mr. Ptak said we are going to live with whatever you give us but we are respectfully asking for a lower asking point, we think that is going to be the best situation for that particular barn and that is all he has to offer in addition to the water problem that the current location identified is the highest and driest location, to move it forward substantially is a problem.

Mr. DeWater said moving it 10' forward wouldn't be a substantial move though.

Mr. Lewis said 100' would be a substantial move.

Mrs. Ptak said the location that we are talking about there are these swales and it is just such a spot that makes sense, it makes sense from a lot of different aspects and some that we never even thought of until we got here today which would be the highest and the driest location, the location that actually pulls straight into the garage door that will be there and if it were to impede on the neighbors in the back or the neighbor on the side but we really don't know if it would do that at all.

Mr. Lamanna said that is one consideration that we would have.

Mr. Ptak said he would like to initiate the me too clause and basically again he goes back and he is not trying to use this as justification because he doesn't think it is justification but he would like to state it nonetheless there are all kinds of, in their development, barns, shelters that are a lot worse, a lot closer to the property line than his is, they are all over the place and he is not trying to use that as justification but he is saying what we are asking for is considerably better than most of them. He said as a matter of fact his next door neighbor has a shed and that probably is not even on your zoning map, it is right on the boundary, what is that doing there. He said again he is not trying to cite that.

Mr. Lamanna said other non-compliances are no argument for zoning, especially something that might be illegally built, if something was built without getting proper approvals, that is one thing, if you've got other things built in the neighborhood that goes to character of the neighborhood, if everybody has a monstrous barn and somebody else wants to put something you can't argue against it based on the fact that it is not consistent with the character of the neighborhood if there has already been ten of them approved but that is a separate issue so that doesn't get past the question of what is the practical difficulty for this variance.

Mr. Ptak said outside of citing the fact that it is not to code.



Mr. Lamanna said he still doesn't quite understand the driveway problem, you show a straight driveway heading into this barn so if you moved it forward it is still a straight driveway, are there other obstructions here.

Mr. Ptak said right now it is nicely located in the woods, the farther you move it closer to meet the rear zoning requirements it is kind of like starting to and referred to the trees.

Mr. Lamanna said the only way we are going to resolve this is would you please figure out exactly where this barn is going to go, give us the measurements, accurately based on it, take some pictures of the area where it is going to go, show the board where it is, what the topography looks like, where the trees are so that we can see what the situation is because otherwise we are flying blind here. He said he hates to do this to you but he thinks we are going to have to put this off until next month so we can get some more information about the exact placement. He said you see what the issues are so you can be prepared to address them when you come back, bring us some pictures, bring us some drawings, show us what the ground looks like, show where the trees are and figure out a number that says this is where you think you want it, this is what you need, you need this much off the side, you need this much off the rear to the place where you want to put it. He said with that information then we can deal with it, we are just arguing hypotheticals and spinning our wheels. He said we are not trying to be difficult.

Mr. Ptak said he just kind of feels that every time we come it is a different set of circumstances.

Mr. Lamanna said that sometimes happens and one of the most difficult things to do is when we send people away.

Mr. Ptak said he hates to ask but after he satisfies that then he worries what else the board is going ask him for.

Mr. Gutoskey said it depends on what you bring us, something else may come up.

Mr. Lamanna said if he could think of something else right now he would bring it up and when we do these things we generally try, if we send somebody away for further information we do look ahead at the other things and we try to say oh by the way we also ought to address this, we don't want people having to come back again and again because we didn't think about something or we tried to look at it the best we can based on the information we have so you would only have to make one return trip but sometimes it works out and sometimes it doesn't but in this case his guess is if you bring back what we are talking about we are not going to have any other issues, we will be able to decide based upon what you bring us.

Mr. Ptak said if we are holding the line that says he hasn't demonstrated a good cause then what are our pictures going to do for you.

Mr. Lamanna said that is the point of the pictures because we can look at the pictures and say okay now we can confirm that this is an appropriate spot on the property because of the elevation etc. and we can see if you try to move it here you would have to weave it around a bunch of big trees to get into the garage and then we can see those things and have a basis on which to make our decision. He said we would like to pin down where you would like to put this, we can't work on that basis, that is not the way we work, the problem for us administratively creates issues in the future if we do things like that, it is really not an appropriate way for the board to conduct business, occasionally we do account for small dimensions where there is an uncertainty in where a foot might make a difference but we are talking small dimensions where that would matter but we really want to pin down where it is going to go. He said we don't like to put these things off because the next month we end up with agendas like this.

Mr. Gutoskey asked if that is a row of Pine trees along your back line.

Mr. Ptak said yes. He asked when he brings some photos would it help if he takes a shot of this, he is not sure what floats your boat exactly what you need.

Mr. Lamanna said one of the things to understand that the property lines on this are approximate.

Mr. Ptak said it is probably as good as you are going to get.

Mr. Lamanna said they can be as much as five feet to eight feet off.

Mr. Ptak said we will come back next month.

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

#### Motion BZA 2018-9 – 9080 Old Meadow Drive – Continuance

Mr. Lamanna moved to table this application to the next regularly scheduled meeting to be held June 21, 2018.

Mr. Lewis seconded the motion.

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

Application 2018-17 by Randy Eging for property at 17457 Traymore Drive

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

Mr. Randy Eging was present to represent this application.

Mr. Lamanna asked Mr. Eging to give the board a brief description of what he would like to do.

Mr. Eging testified that he is steering around two major things with this variance so the number one is, when Ms. Endres gets back and is able to pull up the topographical you will see this drops as you guys know down into Lake Lucerne from Twilea where our development is so the further north he goes with this or the further away from his south lot line he goes the more he is into the wetter zones in his yard. He said his most northern neighbor has a driveway there that contains that water run-off so he wants to steer away from that as much as possible so that is number one, number two is we have already taken out six to eight monster trees out of the back and he understands cutting trees is not the big thing but the ones that are left are Maples and he would rather leave those, those being the largest of the three that are there, where it would be where it would want it to be or where the numbers would put it so those are the two main issues for the variance. He said the shed itself will be the same color as the house, it is nice, it has got the big double swinging doors with the windows and the planters etc., this is not a utility looking type building, it is nice.

Mr. Gutoskey asked if the rear yard shed lining up with the front of that shed, it looks pretty close.

Mr. Eging said maybe, he doesn't know depending on the angle.

Mr. Gutoskey said it is pretty close, the shed on the lot to the north.

Mr. Eging said as you see on the drawing what he attempted to do was drop it right at the top of that next drop down based on the elevation would put it down another 18" to 24" from right there because that all slopes toward the north.

Mr. Lamanna asked if there is anyone else who wishes to speak on this variance.

Mr. Kevin Bock of 8483 Trillium Drive testified that he is the president of the Twilea Homeowners Association and he just wants to say that the placement of this building right now does not conflict with any by-laws of the Twilea Homeowner's Association, 50' from the back of the house is the minimum requirement for accessory buildings, 20' from the back line is the minimum location for accessory buildings and he is well within that, we have no definitions for side lines.

Mr. Thomas Vokas of 17477 Trillium Drive testified that he walked over there today and he can see where he has his placement, Mr. Eging is a great neighbor but it is a little close to the lot line based on the size of the structure, he was unaware of how big the structure was going to be. He said he doesn't have a copy of the subdivision homeowner's association rules and he knows because of the two different frontages and on his own particular property he has three frontages. He said he understands the topography and he knows he has some trees there and he knows he did lose some trees to the Ash borer and he is trying to save some trees but he is a little concerned about the side yard setback from his backyard because as you can see his home is very close and he doesn't know back when they put the subdivision in how accurate the placement of the homes were so he doesn't know if it can be moved over a little bit or if he can live with it but he is just raising the questions.

Mr. Lamanna asked how tall the proposed structure is.

Mr. Eging said it is 11' or 12'.

Mr. Lamanna said it is not a really tall building and everything is going downhill too. He said so you (Mr. Eging) think that moving it farther you are going to get it to a point where the grade starts to change, you looked at that issue.

Mr. Eging said yes the distance from the south, from Mr. Vokas' house north so as you move north it is probably a 3' or 4' difference between his south line and his north line and that is his guesstimate based on the new lines, but if he moved it to the next spot down or to the 50' mark it puts it down about another 2' from where it is so he is trying to get it on the highest ground possible so it is not feasible to build a 2' foundation. He said if he can point out and he doesn't want to adjust his numbers here but if it helps anybody, he doesn't know how much further back it could be but certainly moving backwards could be an option if that meets satisfaction anymore with anybody here. He said he is finding that being right here, he referred to the aerial photo, that some of the issues lie with the trees and that and if he can stay on this higher elevation and be further back that would be fine too, he doesn't know if it helps Mr. Vokas.

Mr. Vokas said he doesn't have any objection to him moving it closer to Rt. 306, moving it to the east.

Mr. Lamanna asked if that would help.

Mr. Vokas said that would help because you can see the angle of his home how it is on his lot.

Mr. Lamanna asked about landscaping along that side of the building, it is not a very tall building.

Mr. Eging said yes, certainly.

Mr. Lamanna said put in some evergreens.

Mr. Vokas said there is a fence between our yards, it is a board fence but his home sits up a little bit so he is kind of looking down on it a little bit.

Mr. Lamanna said it is not a very tall building so if he can put a few bushes there it will help that, a little landscaping always helps that way it breaks it up just looking at 24' of the building, put in a few evergreens, shrubs maybe four or five.

Mr. Lewis said so you are thinking of moving it back or leave it where it is and screen it or move it back and screen it both.

Mr. Lamanna asked how far it can be moved back.

Mr. Lewis asked Mr. Eging if he can go another 10'.

Mr. Eging said yes.

Mr. Vokas said in reality summer is not a problem, it is the winter.

Mr. Lewis said we are supposed to be at 90', you are asking for a variance but as far as HOA bylaws they are good at 50'.

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

#### Motion BZA 2018-17 – 17457 Traymore Drive

Mr. Lamanna moved to grant the applicant the following variances for the purpose of constructing a 24' x 16' x approximately 12' high accessory building.

1. A variance from the minimum front yard setback requirements, this is at the rear of the lot, the rear of the house, because it fronts to Chillicothe Road, from 100' to 73' for a variance of 27'.
2. A variance from the minimum side yard setback requirements, from the south side, from 50' to 31' for a variance of 19'.
3. A variance from the maximum 300 sq. ft. building size on a pre-existing nonconforming lot of record to 384 sq. ft. for a variance of 84 sq. ft.

Based on the following findings of fact:

1. A practical difficulty exists because this is a through lot from the back side of it from Chillicothe Road.

Motion BZA 2018-17 – 17457 Traymore Drive - Continued

2. There are no houses on either side that are actually on Chillicothe Road so 73' is a more than adequate distance setback with respect to the neighborhood and does not impose an adverse impact on traveling on Chillicothe Road.
3. This is only a 1-1/2 acre lot and also due to the slope of the lot, south downward to the north, this is the most suitable position on the lot to place this.
4. In addition, the applicant has agreed to place some shrubbery, including evergreens, along the side of the structure to provide some additional screening and beautification for the structure to make it less intrusive to the neighboring property.

Mr. Gutoskey seconded the motion.

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

Application 2018-18 by Riser Foods Company for GetGo Partners South for property at 17675 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of an existing GetGo fuel station and convenience store. The property is located in a CB District.

Motion BZA 2018-18 – 17675 Chillicothe Road - (GetGo) - Postponed

Mr. Lamanna moved to table this application to the next regularly scheduled meeting to be held June 21, 2018 at the request of the applicant.

Mr. Murphy seconded the motion.

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

Application 2018-19 by David Olson for property at 17142 Eastview Drive

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

Mr. Steve Ciciretto, Architect and Mr. David Olson, Property Owner were present to represent this application.

Mr. Ciciretto testified that you see that there is an existing two-car garage on the house right now and it is attached to that breezeway and what we are looking at is a minor modification to the front of the house and that is the first variance, that 50', we are set at 58' and Lake Lucerne regulations are 50' and of course the township's setback is 75' and Ms. Endres asked us to get that in variance form. He said the two-car garage that you see shaded is basically a replacement for the existing garage so the existing garage built on footers is spreading out and thawing after all these years and there is a small 10' shed building that is attached to the architecture so that we don't have an independent shed in the backyard so it is about 19' but that doesn't require a variance, Ms. Endres evaluated that in terms of Lake Lucerne standards at 10'. He said the odd thing about it is the lot coverage is consistent with Lake Lucerne, it is just under 20% lot coverage where Lake Lucerne authorizes 40%. He said he did bring for the record a copy of the Lake Lucerne approvals for this project and submitted them to the board. He said the third variance that Ms. Endres asked us to address, this is actually two separate parcels, 75' each and back in 2005 we did one of the several additions on the building and it encompassed those properties at the time but at this point he is a little confused about this variance because it is a variance for the centerline and he thinks that if that is the centerline and they can impose that 10' setback this work doesn't really encroach in any variance so the problem is that the existing house straddles the common property line and they are not consolidated lots, we prefer not to, not for any other reason than costs especially since these specific additions don't impact that setback, the goal is not to consolidate.

Mr. Lamanna said it is still a house straddling two lots and we have been trying to clean up these situations so we don't have lots like this. He said also we have had issues from time to time with people who try to game the system and do things they shouldn't do.

Mr. Ciciretto said that is why he wanted to remind the board that this house has had a few additions.

Mr. Lamanna said we have allowed people to file Affidavits of Fact with respect to the lots and we have a form for that.

Mr. Ciciretto said we would approach that.

Mr. Lamanna said basically it is an acknowledgement that these two lots are being treated as a single lot. It is called an Affidavit of Fact and it is filed with the county recorder and it goes on the permanent title record of the property that basically acknowledges that this is being treated as a single lot.

Mr. Ciciretto said that is a great approach.

Mr. Lamanna said we have done that in the past and that way people have basically consented and what we are doing is that we are creating a situation that effectively this becomes one lot without going through all of the formalities of creating a new single legal description so if anybody buys in the future they are on notice that this is a single lot, you can't come back later and decide you want to make it two lots. He said if the house burns down no one can sell the lots separately.

Mr. Lewis said it is a nice housekeeping thing because right now you have something built on two lots.

Mr. Lamanna said there used to be a rule about that and it is one of those things that people are trying to be accommodating and it ends up being a source of abuse is what happens.

Mr. Ciciretto said they can run through the Duncan regulations if the board wants but he thinks that since this is so consistent with what has happened in the neighborhood and the Lake Lucerne Architectural Review Board has approved it.

Mr. Lamanna asked if a survey was done.

Mr. Gutoskey said it is a mortgage survey.

Mr. Ciciretto said if it was closer he would have recommended that but we are 17' to 18' off of that line even with the addition.

Mr. Lamanna asked if this garage is pretty much the same size.

Mr. Ciciretto said yes, the garage is about the same.

Mr. Lamanna said it is still under 20% so that is pretty good.

Mr. Ciciretto said there is a little housekeeping taken into effect there because there is a patio on the back that was also included in their lot coverage at some point built.

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

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



Motion BZA 2018-19 – 17142 Eastview Drive

Mr. Lamanna moved to grant the applicant the following variances for the purpose of demolishing an existing garage and reconstructing a new attached garage with an additional storage area to the side and also covering an existing 1,060 sq. ft. uncovered patio.

1. A variance with respect to the front yard setback to 58' for the new addition which the board notes is behind the frontage of the existing house which is about at 50'.
2. A variance with respect to the side yard setback to 19'.
3. A variance to the maximum lot coverage to 19.15% total.
4. Any variances necessary with respect to the fact that there is an interior lot line because this house straddles two lots on the basis that the applicant will file an Affidavit of Fact with respect to these two lots on a form provided by the zoning inspector which indicates that these lots are being treated for zoning purposes as a single lot and therefore since they are being considered as a single lot that lot line will be ignored for the purposes of determining compliance.

Based on the following findings of fact:

1. A practical difficulty exists.
2. The lot coverage is consistent given the size of this small lot in Lake Lucerne.
3. The front yard is already at 50' which is again consistent with others in Lake Lucerne.
4. The side yard of 19' is greater than the typical 10' side yard setback in Lake Lucerne.
5. On this basis none of these changes will adversely affect the character of the neighborhood nor will they adversely affect the neighboring property owners.

Mr. DeWater seconded the motion.

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

Application 2018-16 by Valley Presbyterian Church for property at 17560 Chillicothe Road

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of conducting worship, a preschool and adding a resale store. The property is located in a R-3A District.

The Reverend John Wahl was present to represent this application.

Mr. Lamanna swore in Pastor Wahl.

Mr. Lamanna said there is really nothing changing, this is a continuation of your existing operation.

Pastor Wahl testified by saying the only changes are in the back barn building, we have a resale store that is open one week of the month rather than having rummage sales a couple of times a year where we set everything up and tear it all down, we just use the same space and have sales once a month but it is all not for profit, all proceeds go to missions.

Mr. Lamanna said it is fundraising for the church basically.

Pastor Wahl said right, for the missions of the church and for none of the uses of the church.

Ms. Karen Endres, Zoning Inspector testified that she has had no complaints about the church either.

Mr. Gutoskey asked Ms. Endres if there are any issues with the signs because she made a comment about the signs.

Ms. Endres said she can't find permits for some of the signs that are on the church property. She said this one has a permit and she thinks this is a temporary sign that comes up and down and those are a problem for her because there is no provision for them in the zoning so she doesn't know what to do with them. She referred to another sign and said this is up against the church and you can't really see it from the road.

Pastor Wahl said it is just to mark the entrance.

Mr. Gutoskey asked if it is a directional sign.

Ms. Endres referred to another sign and said she can't find any reference to this sign anywhere.

Pastor Wahl said his understanding before, he got there ten years ago and there was a conditional permit for that second sign but he doesn't have the paperwork.

Mr. Gutoskey said the one sign complies with zoning but it just doesn't have a permit or what.

Mr. Lamanna said the board would like you to file the application for a permit just so the records are complete for the one in the upper right hand corner there.

The board discussed temporary signs that are being used in the township.

Ms. Endres said there is nothing in the zoning resolution for temporary signs. She said the sign resolution that was adopted in 2011 doesn't really address temporary signs except in residential zoning districts.

Mr. Lamanna said you can put up a changeable sign and then put the messages on that way.

Ms. Endres said and you have got political signs and freedom of speech issues.

Mr. Lamanna said now since you can have changeable signs the need for temporary signs is going to fade away.

Ms. Endres said prices are coming down on those LED signs and as prices go down more and more people are buying them.

Mr. Lamanna said they are going to appear everywhere. He asked Pastor Wahl how often the church uses that sign.

Pastor Wahl said the one at the bottom left is only a couple of days a month.

Mr. Lamanna said he thinks it is one of those things that if it is out there every now and then and it doesn't become a permanent appendage he doesn't think anybody is going to make a big deal out of it. He said frankly at some point in time if you wanted to get to a point where you wanted to have a regular special event sign he would suggest either getting an electronic sign or you could have a spot on your fixed ground sign that you could actually put in that kind of information.

Ms. Endres said a lot of those businesses will do that, have a normal brick or board sign and then have a portion of it as digital.

Mr. Lamanna said you could mechanically change the copy too, you don't have to go to electronic, you could reserve a part of your sign to say "speaker tonight".

Ms. Endres said she sees less and less of this because if they are currently alongside the road it is dangerous with people going out and changing the sign, you used to see them at gas stations the guy with this 15' pole trying to change the letters and people are getting away from those styles of signs more and more as the electronic prices are coming down.

Mr. Lamanna asked if there are any special conditions associated with this.

Ms. Endres said there is something on the preschool about enrollment.

Mr. Lamanna said the existing conditions will continue on and the board also points out that there are a set of standard conditions with respect to conditional uses in the zoning code and we just point out to people that those also continue to apply unless you get a variance from them, those general conditions apply to all conditional uses and any special conditions here, whatever they are will continue and then the conditional use permit will be for a maximum period of five years.

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

Motion BZA 2018-16 – 17560 Chillicothe Road – (Valley Presbyterian Church)

Mr. Lamanna moved to grant the applicant a conditional use permit for a period of five years from the date the board's decision becomes final on this application.

1. The board notes that there have not been any complaints with respect to this application at this location as a conditional use.
2. The applicant has been noted that there is a sign on the property for which there are no permits on file and they will move to bring it back into compliance.
3. The board has also observed that they have a "welcoming sign" by the front door but due to its location and content of the sign the board is not considering that sign subject to the sign regulations.

Mr. Lewis seconded the motion.

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

Application 2018-20 by Birmingham Associates for the Tanglewood Lake Association for property at 8745 Tanglewood Trail

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of a public golf course, clubhouse/banquet center and ground sign. The property is located in a R-3A District.

Mr. Warren Wolfson was present to represent this application.

Mr. Wolfson testified that he is a co-owner with Mr. Mark Tiefel and the reason the homeowners are on there is because they own the grounds.

Mr. Lewis said there is a notation about a fence needing repair.

Ms. Karen Endres, Zoning Inspector testified that she had a complaint a few months ago about the condition of the fence and the property manager fixed the fence but then with the recent storms we have had the fence again fell into disrepair so when she was out there checking the condition of the other property she took a look at the sign on Rt. 306 across from Lake Lucerne and then she circled back and looked at the condition of the fence by the maintenance yard and it looked pretty rotten and they are trying to just replace the existing fence panels, fixing posts within the panels. The board viewed photos of the fence.

Mr. Lewis said the notes said that the fencing would be repaired prior to the BZA hearing.

Ms. Endres said she heard from the property manager that some of the panels were repaired. She said this was the original complaint back in 2016 and when she went out and investigated the complaint at that time, they did fix the fencing so this would be from the original complaint which was corrected. She said this was the original fencing when it went in and she believes the fencing was a condition on one of the original approvals and this is the original fencing from the file that is dated 1990. She said these are pictures she took when preparing for this hearing tonight, the clubhouse is in good shape. She said there were conditions about berming, the new sign looks good and she understands they have done some recent repair on the sign and it looks good and there is a condition of the fencing as of May 7, 2018 and it is hard to see in the pictures but there were sections that were falling down.

Mr. Lamanna asked what the purpose is of the giant log pile.

Mr. Wolfson said he does not know.

Mr. Lamanna asked if it is usually like this or is it from storm damage.

Mr. Wolfson said this is from October and they didn't get a settlement from the insurance company until about three weeks ago so these trees are being taken down.

Mr. Lamanna said so that is temporary.

Mr. Wolfson said it is temporary because it will be removed.

Ms. Endres said it appears to be freshly cut.

Mr. Wolfson said there were a lot of dead trees taken down at the same time so the contractor took down the dead trees and the damaged trees.

Mr. Lamanna said he doesn't think we want to be seeing debris accumulations.

Mr. Wolfson said they are still working on it.

Mr. Lamanna said he understands in the course of cutting down or removing trees you cut them down and pile them up and then take them away but certainly this area is not a spot to use as a de facto disposal area for this sort of stuff for a temporary staging area. He asked what is going on with the fence.

Mr. Wolfson said they will fix the fence.

Mr. Lamanna said it is not a very big deal from what he sees, you should be able to get that in order.

Ms. Endres said her suggestion is instead of trying to patch the old panel, replace the panels because some of the boards were in bad shape and she thinks they were putting in new fence slats, that will work for a while but.

Mr. Lamanna said let's do an appropriate repair on it.

Mr. Lewis asked if we would want to set a timeline on that for a completion date.

Mr. Lamanna said three months which would be more than enough time.

Mr. Wolfson said no problem.

Mr. Lamanna said he sees an administrative thing here about the second ground sign, in 2014 and we need to pay attention when we do an expansion or an amendment that we are clear so if we do make an amendment or change to a CUP that we specify when we do that whether that amendment either extends the renewal period or whether it stays on the same renewal. He said normally if the board doesn't say anything and we just amend it that we haven't changed the renewal date so there is one conditional use permit with many parts so in fact if we amended it and didn't say anything he still thinks that if the renewal is next year they would have to come back the next year and renew the whole thing unless we specifically extended the renewal date.

Ms. Endres said what the applicant would like to do is consider renewing the sign tonight also so they won't have to come back again next year.

Mr. Lamanna said there is only one CUP for this property and unless we change the renewal date for the CUP it all comes up for renewal at the same time.

Ms. Endres said she didn't have to mention that the sign is up, it just is up.

Mr. Lamanna said in the future if we amend the CUP we should make sure that we think about the renewal issue because in some cases, depending on how extensive the change is, it is to extend the renewal period at that time anyway. He said if somebody is a year away from renewal and they are doing a significant modification then it makes sense to bump the renewal out and run it from that date, if it is something simple, then no probably not but he thinks we should also make it clear that if we do amend it, just so everybody knows, it is not changing your renewal date, we don't change the renewal date, everything else stays the same.

Mr. Wolfson asked if he has to come back next year.

Mr. Lamanna said no, you have a single CUP with one item on it, it will renew along with everything else.

Mr. Lewis said it is just another component of the entire package and it shares the same anniversary date even if we amend it.

Ms. Endres said we have been working on these conditional uses to try to figure out when everybody is due.

Mr. Lamanna said you are also saying there was a 2012.

Ms. Endres said that is when the golf cart storage building went in and she thinks that is the last one other than the sign.

Mr. Lamanna said that actually happened.

Ms. Endres said that did happen and that is the renewal of that particular one, that expired in January.

Mr. Lamanna said we should treat a conditional use, unless for some reason we separate it out, as long as one thing is going on, that would be one conditional use, he could see if we had possibly two different things going on on the property that were two separate items and they each had their own conditional use but as long as there is a single enterprise operating then we should treat it as one conditional use and have one for everything that is part of that conditional use and if there are changes to it unless we say otherwise because there is an unusual thing, everything else stays the same and all of the conditions continue would mean it is going to renew at whatever the renewal date is for the underlying conditional use unless the board specifically changes the date otherwise. He asked if we do make an amendment is there a time limit in the code that says how long they have to implement that, if we amend a conditional use to add a building, is that good forever or good to the next renewal.

Ms. Endres said variances definitely go with the property and when she issues the permit they have one year to start and two years to finish on the zoning permit.

Mr. Lamanna said if they have a variance, for example, that would go on forever, so they have no time limit to act.

Mr. Lewis asked Mr. Lamanna if he is looking for a performance period on a condition.

Mr. Lamanna said yes, if the board approves some kind of a modification to put a time limit on it. He said if you don't implement whatever the project is within so many years it falls off and you have to come back.

Ms. Endres said with construction type projects she thinks that would happen anyhow, let's say the golf cart building never got built, they would come back to her three years later and say the BZA approved this but we never built it so there would be a new application because the permit she issued expired.

Mr. Lamanna asked what if they never actually obtained it, they got the approval but they never actually came in to get the zoning certificate for it because they never went ahead with it right away.

Ms. Endres said she hasn't had to deal with that yet.

Mr. Lamanna said his point is there is nothing that he remembered that addressed that situation so he is suggesting that the board put a time limit on some of these things in the decision that says you have so many years to do this otherwise you have to come back, it may be fairly perfunctory when you come back but you still have to come back because three years from now circumstances may have changed so the board may want to take another look at it at that point in time. He said with respect to your (Mr. Wolfson) situation everything is one permit so all of those items will be traveled together as sub items on that and will have a single renewal date based upon five years from the date this decision becomes final.

Mr. Murphy asked if there is anybody else interested in this application.

Mr. Scott Rico of 17349 Sugar Hill Trail testified that he has the house right next to the cart barn. He said the management company that is currently running the golf course property has been an excellent neighbor. He said to build the cart barn they had to ask for a variance to go closer than the 100' allowed by zoning and we had worked out a design plan for screening and once the cart barn was finished, actually during the construction, the berming was built. He said they put in screening not exactly to the plan but this year the trees have finally grown up that the screening started to grow in, it is not exactly what we expected but it is good enough. He said what he came to say most of all is that since they started running this property when there is a problem that arises you have a group of people who are willing to hear what the problem is and they act on the best interest and they do try to help alleviate a problem when they arise and they have been an excellent neighbor for the last, since they have owned it, the last nine years. He said he has had some golfers come in his backyard and they usually leave with more balls than they landed in his yard, he has had a couple stop over for barbecue but they have lived in their house for 20 years this May and since the golf course has been run by this management company and since it has gone public they have had better and more behaved golfers in their backyard than when it was private. He said they have had less cursing on the course, they've had less beer bottles thrown in their backyard and in total it has been a very good experience since this management company has taken over and in his opinion as a resident it would be a shame if anything were done to remove the public play because they have taken care of the community's property very well.

Mr. Murphy said you can't buy that.



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

Motion BZA 2018-20 – 8745 Tanglewood Trail (Tanglewood Country Club & Golf Course)

Mr. Lamanna moved to renew the conditional use zoning certificates, including all parts of them, as follows:

1. Because there is a single conditional use permit that has several parts and all of those including the second sign and the golf cart storage building will all be treated the same and expire on a single date and this will be renewed for five years and expire five years from the date he board's decision on this renewal takes place.
2. The applicant has agreed that certain fencing around the maintenance building will be repaired and that will be done within three months because that would otherwise constitute a violation of the conditional use permit.
3. The board will continue to regulate the golf course pursuant to the conditional use permit.
4. All of the previous conditions associated with this use will continue to apply as well as general conditions applicable at the time this conditional use permit was granted.
5. The board also notes that the applicant has represented that the logs around the maintenance building is a temporary situation in the course of removing and disposing of trees that those will eventually in the short term be removed and will not become a long term disposal area for this type of debris.

Mr. Gutoskey seconded the motion.

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

Application 2018-21 by Matthew A. Boehnlein for property at 8325 Tulip Lane

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

Mr. Matthew Boehnlein was present to represent this application.

Mr. Boehnlein referred to the existing site plan and testified that his house was constructed in 2015 and finished in November and you see marked out in red, there was a proposed garage that was on the original site plan that he and Ms. Endres discussed and he doesn't think it was approved at the time.

Ms. Karen Endres, Zoning Inspector testified by saying yes.

Mr. Boehnlein said he would like to put the outbuilding just to the left of that which is quite close to the property line, it is actually 10-1/2' from the line. He said his driveway is to the left of his house and the proposed garage was at 30' and the reason he would like to have it there is so he can pull a vehicle into the garage if he so chooses and with the concrete driveway there he was hoping to be able to use that as an existing placement. He said he would like to keep the view open to the backyard as he comes down the driveway and allow him to get a lawn mower through. He said if he were to be granted this variance he thinks he would be able to get what he needs to the backyard and put the garden basically where that proposed area was. He said the structure is designed to be the same finishes as the house and referred to a picture of it, 15' from grade, a single car garage door and a man-door as well.

Mr. Lewis asked, the area in red, that proposed garage, does not exist.

Mr. Boehnlein said it does not exist.

Mr. Lewis said it begs to question, why don't you just put your accessory structure in that location and not ask for 10' off of the property line when you don't have a garage there anyway.

Mr. Boehnlein said certainly.

Mr. Lewis said you knew we were going to ask.

Mr. Boehnlein said absolutely, he more or less wanted to have it open so it doesn't look like it is another addition to the house and just cluttering up the area, he wanted to open up the view so that was purely aesthetic to be absolutely honest with the board.

Mr. Gutoskey said if you put the garage where you are proposing it, just looking at the way it is on the typographic survey here would be in the middle of a swale coming down the property line.

Mr. Boehnlein said he would have to put some fill in there.

Mr. Lamanna said filling in the swale is not a good idea, you could end up with water problems and your neighbor could get very unhappy with you if your water goes somewhere else from where it is supposed to go.

Mr. Gutoskey said it probably is going to go into that backyard if you look at where it is going.

Mr. Lamanna said their house is pretty close too it looks like.

Mr. Gutoskey said the adjoining house is 37' from the property line.

Mr. Boehnlein said the lot is 1.6 acres.

Mr. Lamanna said we already have a house that is only 37' off the property line on that side so to put something 10' off on this side now we don't have any gap between the buildings so he doesn't know why it is 37' or maybe because the width of that lot or the positioning of the house made it necessary but it is a lot harder for the board and this is why we are careful about granting these things in the first place because once that is created it does impact the next property owner when they come in and say they want to move their building this close and we will say no, sorry. He said there may be perfect logical reasons for why the house is where it is, maybe a drop off there and they turned out that it is pretty much centered on the property it is just the size of the house and everything else causes it to be that far off the line.

Mr. Boehnlein said he can't speak to when the neighbor's house was built, when his was built though they hit sandstone at about 4' so the structure underneath may have determined the location of the house.

Mr. Murphy asked how far is the neighbor's shed in the back off the property line.

Ms. Endres said she doesn't know if that one is permitted.

Mr. Gutoskey said it is about 22' give or take and it is close to the rear too.

Mr. Boehnlein said to be quite honest if you told me that where the proposed garage location is where you would allow him to have it he probably would be walking out happy.

Mr. Lamanna said it makes a lot more sense.

Mr. Lewis said it makes it easy, you can get access off of your driveway pad if you have to move a lawnmower or anything into it. He said it is no closer to the side line than what the driveway already exists at, it is kind of a continuation of it but the proposed before was 30' to the proposed garage.

Mr. Gutoskey said then you don't have a problem in the back.

Mr. Lewis said and if you drive down your driveway and you get to see it a little bit, if the structure is nice and it is kept up well.

Mr. Boehnlein said sure, absolutely.

Mr. Lamanna said we are going to re-align this so it is at the end of the driveway, 30' from the property line and you will need to submit a revised plan to Ms. Endres showing that.

Mr. Boehnlein said okay.

Mr. Lewis said he doesn't think we have lot coverage or size.

Mr. Lamanna said no it is below.

Mr. Lewis said and we don't have height.

Mr. Gutoskey said and we don't have a problem with the rear yard.

Mr. Lewis said no, so it is just side yard from 50' to 30'.

Mr. Lamanna asked if there is anybody else here for this application.

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

Motion BZA 2018-21– 8325 Tulip Lane

Mr. Lamanna moved to grant the applicant the following variance for the purposes of constructing a 16' 6" x 17' 8" accessory building as shown on the applicant's proposal with respect to the building.

1. A variance from the minimum side yard setback of 50' to 30' for a variance of 20' on the east side property line.

Based on the following findings of fact:

1. The building instead will be located at the end of the existing driveway and will be 30' from the side property line.
2. The applicant will submit a revised site plan showing the location of the building as described in this variance to the zoning inspector for approval.

Mr. Gutoskey seconded the motion.

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

Application 2018-22 by Matthew & Rachel Cerminara for property at 17365 Woodacre Trail

The applicant is requesting area variance(s) for the purpose of constructing an accessory building. The property is located in a R-5A District.

Mr. Matthew Cerminara was present to represent this application.

Mr. Cerminara testified that he wants to replace a shed from what they have there, it is falling down and it is junk and he wants to put it back on the property line because there is a house back there, he backs up to Auburn Township, and the house behind him has these two huge windows and they just stare into his backyard and his wife mostly wants it because of that reason and he needs somewhere to store his stuff, he has a garage right now that is full of tractors and his yard equipment, his cars are outside and he already lost one van to that storm that happened that was parked outside and his truck had damage.

The board discussed the recent wind damage through the area.

Mr. Lamanna said the big issue is the rear yard.

Mr. Lewis said your shed apparently had no permits taken from the previous owner.

Mr. Cerminara said he believes that.

Mr. Lewis said we have something that is not necessarily grandfathered because it wouldn't have been. He said you selected that location to block your neighbor's view of your backyard.

Mr. Cerminara said generally yes and he had that building there and anywhere else you can get it to go, on the other side of the property is wet and there is a swing set there anyway.

Mr. Lamanna said there are a lot of big trees but not much on the ground. He asked what kind of structure is going in here.

Mr. Cerminara said it is going to match his house, the siding and roof will be the same.

Mr. Lamanna asked if it is going to be stick built, not a pre-fabricated.

Mr. Cerminara said yes, stick built.

Mr. Gutoskey said it looks like a pole barn.

Mr. Lamanna said it is not a very deep lot here given where the house is located.

Mr. Gutoskey said the house is jammed to one side probably because of the topography.

Mr. Lamanna said the house is 40' off of the property line.

Mr. Lewis said he wonders if we can get that shed within the shoulders of the house, 40' rather than 30'.

Mr. Lamanna said the board would like to move it over to 40' off the property line.

Mr. Cerminara said the problem he has with that though is one of the main issues is privacy.

Mr. Gutoskey said you could plant a few Pine trees.

Mr. Cerminara said but why when he is paying almost \$20,000 for a structure that could do it for him. He said he understands what the board is saying but moving it there it is not going to do anything for him, either way you can't see that structure, you are not going to see it from the driveway, if you see it from the road you are going to have to be looking for it, no one is going to see it. He said it is going to match his house and be a nice structure.

Mr. Lamanna asked Mr. Cerminara how he determined that that was the location.

Mr. Cerminara said that structure was there and his wife said when we do this she wants to put it right in front of those windows because these windows are the size of their walls and he has four kids and he doesn't need people staring back in is yard especially when he can't see what they are doing inside.

Mr. Lamanna asked if we have anything that locates that existing building.

Mr. Cerminara said not really.

Mr. Gutoskey said if you look on the aerial it looks like it is located at the property line, it doesn't look square to the property line.

Mr. Lamanna said it looks like it is at an angle.

Mr. Gutoskey said it actually almost looks like it is behind the house.

The board viewed the aerial photo of this property.

Mr. Gutoskey said if anything it looks like if you project the line of the house it is hitting the shed in the middle. He said these dimensions are probably off and it looks like he has this drawn up lining up with the house but the house is 40' off the line so we were wondering if it could be lined up with the house and it almost is where it is shown on the site plan.

Mr. Cerminara said he understands what the board is saying from a drawing perspective, he is talking real life, when he is here their windows are here staring into his backyard, he didn't draw this, he is just telling you real life, he wants to put it right here and referred to the site plan. He said trees fell down from that storm too, there were trees that were probably there.

Mr. Gutoskey asked where the windows are on this house.

Mr. Cerminara said right on the back side, there are two windows the size of that gable.

Mr. Lewis said he might recommend that you plant some evergreens back there.

Mr. Lamanna said from this picture that shed looks as far over as the house is.

Mr. Murphy said that blue line doesn't parallel his driveway.

Mr. Gutoskey said he is just looking relative to the edge of the house.

Mr. Lamanna asked Ms. Endres to measure from the house to the side line.

Mr. Gutoskey said it is 41' and they have 40' on the survey.

Mr. Lamanna asked Ms. Endres to measure the distance of the shed to the property line.

Ms. Karen Endres, Zoning Inspector testified that it is a different angle.

Mr. Lamanna said they are just trying to get an idea here.

Mr. Cerminara said he understands what the board is saying about moving it to the center and he understands regulations, the variances, he gets all of that but he doesn't see how him putting this on the back corner affects anybody but him. He said the neighbor is not building there, his house has been built for three years.

Mr. Lewis said you can screen no matter what, he would recommend doing that anyway, put some evergreens back there.

Mr. Cerminara said so he plants some evergreens and in 10 to 15 years he will have some decent privacy.

Mr. Lewis said start with bigger ones but he is just talking about suggestions.

Mr. Gutoskey asked if there is anyone in the audience who would like to say anything.

Mr. Emeil Soryal of 17360 Wood Acre Trail testified that he lives on the street and didn't know there was a shed back there and added he has a big shed.

Mr. Lamanna said he is very far back.

Mr. Gutoskey said because of the topography.

Mr. Lewis asked if that is a flat lot or does it go downhill.

Mr. Gutoskey said it goes left to right, towards Washington Street.

Mr. Lamanna said the board's general practice is we like to keep where the house is closer to the side line, we like to keep sheds behind the edge of the house if we are going to encroach on the side yard setback just as a matter of practice so what we are trying to determine is we understand what you are trying to accomplish here and assuming he drew a line from the edge of their window to the edge of your deck on the one side and from the edge of the other window to the other side of the edge of your deck, you might want it a little wider than that. He asked where would that line be when you get to the property line, how far over would it be, it is hard to tell by this and right now it looks like the existing shed is almost 40' over.

Mr. Murphy said so if you put a straight line between their windows and your house wherever on your house you wanted to block the closer you bring that to your house, you have to move it over off of a side lot line so you don't really have a difficulty that you have to put it back there at 20' off of the property line either, you could bring it forward more and as you bring it forward more you could bring it off of the side line and he is talking closer to the road, Wood Acre Trail. He said you (Mr. Cerminara) are asking for a huge variance to slam it up against the backyard and you realize those people aren't in Bainbridge, they are in Auburn but the guy that lives in that house with those windows, he doesn't know what your new building looks like.

Mr. Cerminara said he understands that but honestly, they weren't concerned about him when they built it not even close for what the variance is for Chagrin, not even close, what are they 40'.

Mr. Gutoskey said it is Auburn Township.

Mr. Cerminara said he understands but if he starts moving it the kids can't play ball, it is already a very limited yard.

Mr. Lamanna said and maybe it is back a little farther because of the topography in the front.

Mr. Soryal asked if the board is okay with the side, it is just the back now.

Mr. Lewis said we are 90' and 50' and the applicant wants 30' and 20' which are substantial so while we have a potential privacy issue he is not concerned with the fact that some of his property is in Bainbridge and some of it is in Auburn and Auburn zoning laws are not our concern and it sort of goes back to if you choose to buy or build something you have to look at what is around you before you spend your money and build your house, are you going to be satisfied with it. He said whatever is built back there would have never got past this board for any reason, windows or no windows back there



Mr. Gutoskey said there is a little shadow on the shed so you can see the roof of the house, it is almost like if you projected that garage back it will hit the front corner of the left side of the shed and then the back little triangle would be past it.

Mr. Lamanna said he would put a little tripod out there and have somebody walk out there and hold up a stick and stand on a corner and then go left until they are lined up with the window on the one side and then go on the other side of the deck and have them come back the other way until it lined up and then he would have the two points that he wanted to block off and that is where he would put his shed.

Mr. Murphy said but those two points could move closer to the house or further away from the house. He said the closer you bring the shed to the back of your house the more you block the whole window and the neighbor's house.

Mr. Lamanna said it depends on which is wider, whether their windows are wider, if they are the same size they are roughly parallel lines so it doesn't matter which way you put it.

Mr. Murphy said he thinks we have always tried to make sure that sheds are within the line of the side of the house.

Mr. Cerminara said if that is what you guys have to do, that is what you have to do, there are more important things, obviously standing as close to the back as you will let me have it because it is a very small backyard.

Mr. Gutoskey said he doesn't have a problem with that because if you look at the mortgage survey, the house is 121' to the front and the house is 30' deep so you are at 151' to the back of the house and the lot is 288' so you have 130' to 140' in the back. He said if you literally put it at the 90' you would be basically on top of the house. He said another thing there is not that much usable yard due to the topography. He said he doesn't have a problem with it being 20' on the back.

Mr. Lewis said with some screening.

Mr. Lamanna referred to the site plan and said to Mr. Cerminara if this is the height of their windows here and you want to try to block that off when you draw the lines you can see where you want to put your shed, you want to put it somewhere in-between these two lines to get maximum coverage and then you can see by the time that you get here you may want to be over almost that far so he would suggest that you do a line of site here and here and have somebody stand here and have them move back and forth until they are right in line and then you get your two points and put it in-between those, put your shed right in the middle of it and you may find that you are probably going to be over farther than you think you are going to be over but that is the way you should do it to get the maximum coverage.

Mr. Gutoskey said plus your shed is wider than your barn that is there.

Mr. Lewis asked how wide is the existing.

Mr. Cerminara said he is not really sure and he heard they used to keep some horses in there but he doesn't know.

Mr. Lamanna said it looks like it could be 24' wide.

Mr. Gutoskey said it maybe is 24' wide x 12'.

Mr. Lewis said he sees what he is trying to do.

Mr. Lamanna said we could give him 35' but he thinks you (Mr. Cerminara) should try the exercise and figure out the optimum points.

Mr. Cerminara said right.

Mr. Murphy asked if the shed is going to be placed at an angle.

Mr. Cerminara said no it is going to be straight, the same as the house.

Mr. Murphy said 35' off the side and 20' off the back.

Mr. Gutoskey said he is okay with 20' because the house sits back so far.

Mr. Lewis asked if the septic leach fields are in the front or back.

Mr. Cerminara said it is actually on the lower part of the screen here and it is a pretty new septic system so there will not be anything for awhile, it is good for a couple of days at least.

Mr. Lamanna said we will do 35' and 20' and we would like you to plant some evergreens and maybe some other bushes so they are not looking at a solid 24' blank wall.

Mr. Lewis said he thinks it was mentioned that the back wall wasn't going to have any windows.

Mr. Cerminara said right.

Mr. Lewis said so they won't be looking at a 24' long wall.

Mr. Lamanna told Mr. Cerminara to go through the exercise of optimizing the location because you may be surprised with the line of site where the best spot is for it to be, it may be farther over than you think.

Mr. Gutoskey said he is okay with the size, it is a 1-1/2 acre lot.

Mr. Lewis said he is good with that.

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

Motion BZA 2018-22 – 17365 Woodacre Trail

Mr. Lamanna moved to grant the following variances for the purposes of constructing a 24' x 24' x 13'6" high accessory building.

1. A variance from the minimum rear yard setback of 90' to 20' for a variance of 70'.
2. A variance from the minimum side yard setback (on the north side) of 50' to 35' for a variance of 15'.
3. A variance, for a non-conforming lot, from the permitted building size of 300 sq. ft. to 576 sq. ft. for a variance of 276 sq. ft.

Based on the following findings of fact:

1. A practical difficulty exists.
2. With respect to the building size it is a 1.5 acre lot so a 576 sq. ft. accessory building is not unreasonable.
3. With respect to the side yard setback, because of the positioning of the house, this is a more practical location for it and the house is only 40' off of that property line.
4. The backyard is very small because of the shape of the lot and the distance the existing house is built from the street.
5. If the building was moved closer it would make the backyard unreasonably small.
6. The applicant has also agreed, as a condition, to plant some shrubs and evergreens behind the structure to provide screening for the adjacent property in Auburn Township.

Mr. Murphy seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 10:20 P.M.

Respectfully submitted,

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

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

Date: June 21, 2018

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio  
Board of Zoning Appeals  
May 17, 2018

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:20 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. DeWater moved to adopt the minutes of the April 19, 2018 meeting as written.

Mr. Gutoskey seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2018-8 by Kyle Witczak for property at 18070 Harvest Drive - Continuance

The applicant is requesting area variance(s) for the purpose of installing a driveway extension, parking pad and deck. The property is located in a R-5A District.

Application 2018-9 by Jim and Kathy Ptak for property at 9080 Old Meadow Drive - Continuance

The applicant is requesting area variance(s) for the purpose of constructing an accessory building. The property is located in a R-5A District.

Application 2018-18 by Riser Foods Company for GetGo Partners South for property at 17675 Chillicothe Road - Continuance

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of an existing GetGo fuel station and convenience store. The property is located in a CB District.

Application 2018-24 by Jeremy and Erin Kearns for property at the NW Corner Lot of Parcel #02-160200 (SE Corner of Geauga Lake Road and Pettibone Road)

The applicants are requesting area variance(s) for the purpose of a lot split to create a buildable lot. The property is located in a R-5A District.

Application 2018-25 by James and Jennifer Heiman for property at 17106 Sunset Drive

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

Application 2018-26 by Parkside Church for property at 7100 Pettibone Road

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

Application 2018-27 by Carol Medhurst for property at 7395 Chagrin Road

The applicant is requesting a substitution of a non-conforming use for the purpose of allowing a personal art studio for painting. The property is located in a R-3A District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for June 21, 2018 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:47 P.M.

Respectfully submitted,

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

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

Date: June 21, 2018