

Bainbridge Township, Ohio
Board of Zoning Appeals
May 19, 2011

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:07 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

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

Application 2011-9 by Robert F. Redmond for Suzanne Y. Woodward for property at 16832 and 16850 Chillicothe Road - Continuance

The applicant is requesting area variance(s) for the purpose of installing a real estate for-sale sign. The property is located in a R-3A District.

Mr. Robert Redmond and Ms. Suzanne Woodward were present to represent this application.

Mr. Redmond testified that at the March 17th meeting they made their presentation and they had six or seven points or rationales as to why they were requesting to enable them to keep the 4' x 8' or reinstall the 4' x 8' sign and the Nelsons, the next door neighbors came and as you remember they were in favor of it and it would help to sell the property more quickly and you have a heavy agenda tonight and they waived off in April because there wasn't a full board. He said Ms. Woodward and he have talked and they are sure that the board has had a chance to confirm and if there are no further questions for them, the board should probably take a vote.

Mr. Lamanna asked if there are any further questions and stated that there is a report from the zoning inspector because he has taken a look at various sign situations. He asked Mr. Wrench to summarize what he has found.

Mr. Redmond said those particular signs that were mentioned before have been taken down.

Mr. Shane Wrench, Zoning Inspector testified he contacted the Kingdom Hall neighbor and he moved his, he never found one on Snyder across from the athletic club but he did see a Smythe Cramer sign for that property.

Mr. Redmond said the Howard Hanna/Smythe Cramer signs have been removed but all other signs other than 3' x 6' were up until before March 17th they actually had two hanging signs, they had one on Bainbridge and one on Snyder but those panels have been removed and the only one that is remaining is the 3' x 6' hanging sign. He said he brought a picture of it last time, it is a 3' x 3' at the other end of Snyder and it is still there.

Mr. Wrench said he will talk to them.

Mr. Redmond said their point was for six or seven years, signs have been permitted to exist in non-conformity in Bainbridge Township so why now.

Mr. Wrench said whether they are permitted or happening are two different things.

Mr. Lamanna said there is only one zoning inspector and if he happens to see something or someone makes a complaint, most situations are initiated by a complaint by someone.

Mr. Horn told Mr. Redmond that the board appreciates him bringing those to the board's attention. He said just to summarize, permitted under the zoning is one 4 sq. ft. sign and the size of the sign they requested to put in is 32 sq. ft.

Mr. Redmond said from what he understands, the size of the sign could be increased because there are two parcels but he doesn't know how that is interpreted.

Mr. Lamanna said there could be one on each parcel.

Mr. Redmond asked the board to guide them to know what they can do legally so whatever the board would be happy with, they would try to live with.

Mr. Joe Oberle of 8197 Tulip Lane testified that he represents the Dalebrook Association and these two lots are part of the Dalebrook Association. He said he talked to Mr. Redmond in January and the other people that represent the association to discuss his intention with the two properties. He said that Mr. Redmond asked that the deed restrictions be changed that are placed on all of the homes in the association to conform not with residential but to a different standard, something like commercial.

Mr. Redmond said professional office.

Mr. Oberle said it is obvious his intention is to change the two lots in the future with the zoning commission to commercial lots and the sign in question is typical of a commercial sale, it is not typical of residential property so for himself as a resident in that association and a resident in Bainbridge and he knows he speaks for the entire association because they had a meeting on this at the request of Mr. Redmond where they met and they had a unanimous vote with the exception of Mr. Nelson who is next door to these properties who voted in favor of changing the deed restrictions to commercial/office so we would be against the change to a larger sign.

Mr. Olivier said he wasn't at the March 17th meeting but asked Mr. Redmond if they have gone to the zoning commission to approach to change the zoning from residential to professional office.

Mr. Redmond said no and just for everyone's knowledge, he has represented a buyer who did want to build a small professional office building and he had contacted Ms. Woodward and they ended up initiating a contract that was executed by both parties contingent upon zoning approval to change the zoning for those two parcels to professional office and they hired Mr. Dale Markowitz to meet with them to advise them about the possibility of potential and possible cost to do that and in that meeting he had done additional homework and he said before they can even go to the zoning commission to get a zoning request they need to deal with the deed restrictions that are in existence and that is a very costly process and his client who had the contract to purchase the properties, he is a professional currently operating in Bainbridge Township and he does not want to be having his name in the newspapers because he is causing problems in the township because his living is here so by virtue of an out in the contract, he cancelled the purchase agreement with Ms. Woodward and he is in the process of acquiring another piece of property for him right now. He said subsequent to that he and Ms. Woodward have spoken and since she liked the way he did business asked if he would list the property for sale and in that process he told her he didn't want to put a sign up until he had an informal meeting with the people in Dalebrook because he wanted to take the high road and not the low road so he called Mr. Oberle and he and his management team were nice enough to have him over for coffee and pastries one Saturday morning and they had this informal meeting, he made his presentation and rather than have the property sold contingent upon some deed restriction removal, he wanted to know the temperature of the homeowners attitude so he (Mr. Oberle) was very nice about it and it took a couple of months to get everybody together and have a meeting but they did send him a letter in December or early January noting that they had a meeting and there was a pretty large consensus that they would not support that approach so he and Ms. Woodward understand that, she wants to sell the property, he has had an inquiry from a funeral director who wants to put a funeral home there, he spoke with Mr. Wrench about it and he said that funeral homes are only permitted in convenience business so if this funeral director won't buy this property and make an issue, we will be back in these halls again probably with counsel. He said it is a piece of real estate that they are trying to sell and whoever buys it if somebody wants to buy it and tear down the existing buildings on it and build a nice new home he is sure Ms. Woodward would be happy about it. He said their job is to just get rid of the property and pay the back taxes so that is why the hardship request was made to enable them to re-install the sign.

Ms. Woodward testified that when you drive past there you can't see a little sign, the area is congested, they are pulling in and out of Dunkin Donuts and there is no way that if you just have a property sign here and one over here that people are going to catch it. She said maybe because they are stopped to make a left turn they might see it but they are not going to see it any other way.

Mr. Oberle said this is addressing the change in the lots to a commercial lot but there are two homes behind this that have little children and that would be a big issue with the neighborhood and if that does happen in the future, he assures the board that they will fill this room with the residents and association to tell the board what they think about that. He said as far as that corner goes, the congestion there is already so bad and he agrees that it is a big problem and Dunkin Donuts uses Dalebrook as a turn-around because people can't turn left, they turn right and come down to Dalebrook and it is causing a nuisance and a problem there already. He said any change that this board makes sets a precedent and if it allows people to put 4' x 8' signs up, he will be in here next week when he wants to sell his house and put a 4' x 8' sign up.

Ms. Woodward asked if there is only a certain amount of sign that can go in certain areas and that is why they are here and they are asking the board to make an exception to the rule and if it is in a residential neighborhood like Tulip Lane they have to have a residential sign and they would have to come to this board if they wanted a bigger sign.

Mr. Lamanna replied yes.

Ms. Woodward said she just wanted to clarify that.

Mr. Lewis said this is a residential property as such and it needs to conform to what is permitted on a residential property. He said the sign size needs to be consistent with what is allowed with every other residential property in our community. He said every property that is put up for sale, to him, represents a hardship, health, empty nesting, wanting to go to Florida, there is always a hardship in some manner or people are not willing to sell. He said you sir, Mr. Redmond, are a realtor, you've (Ms. Woodward) have engaged this man and his job is to market your property which right now doesn't seem to be in his observation being presented to the market as it is, a residential piece of property, with multiple listings, print ads and all of the other vehicles that we see all of the other realty companies who are working for their commission marketing properties, there are tools to bring your property to market. He said there is no question, this gentleman is a commercial property specialist, we can all kind of see the direction and the intent and even the type of client that is being courted for this property that it is not zoned for as it stands today. He said right now each property is entitled to a 4 sq. ft. sign, you have a wonderful advantage, you might have three to ten thousand cars driving by a week versus a person who is at the back end of a culdesac. He asked what is the same with the properties, they are both residential properties and they need to be advertised in the same manner including signage so this is currently representing about an 800% variance, it is hugely substantial and he has no inclination to start setting exception standards for one residential property in our community over another, he believes that that effort needs to be put forth through the realty company and selecting the one that most can do the job for you so he thinks everyone probably knows where he stands and that is the end of his comments.

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

Motion BZA 2011-9 – 16832 and 16850 Chillicothe Road

Mr. Lamanna made a motion to approve granting a variance for the purpose of installing a 32 sq. ft. for-sale sign on a residential property.

Mr. Horn seconded the motion.

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

The motion failed four to one.

Based on the following findings of fact:

1. The applicant has not established a practical difficulty in that it is a residential property and there appears to be no particular reason for granting a larger sign because of its location.

Mr. Redmond asked given that Ms. Woodward is permitted two 2' x 2' signs and the board alluded to the fact that they could be placed at the property line, could they do a 2' x 4' sign.

The board explained that one 4 sq. ft. is permitted on each parcel so two signs can be installed, one on each parcel and there are no restrictions on where on the parcel in reference to its property lines it can be placed.

Mr. Redmond thanked the board for its time.

Application 2011-11 by Riser Foods Company for GetGo Partners South for property at 17675 Chillicothe Road - Continuance

The applicant is requesting a conditional use permit with area variances for the purpose of redeveloping the existing GetGo fuel station property. The property is located in a CB District.

The zoning inspector's letter dated May 19, 2011 was read.

Mr. Pasquale Avolio of Giant Eagle was present to represent this application.

Mr. Avolio testified that he is the director of real estate development and construction for Giant Eagle/Riser Foods Company who is the lessee of the property and who is on the application and is the holding subsidiary of Giant Eagle Inc. and Getgo Partners South is an affiliated real estate holding company. He said he is here with respect to this application and is here seeking four area variances and a conditional use permit for the property that currently encompasses an existing GetGo gas station which they applied for back in 2007 which was a former Marathan Service station operated by them and since that time they have an approximately 1,486 sq. ft. building and utilize less than 1/3 of that building for convenience sales and public access and the service bays are not really utilized because there are some structural walls within the building that precluded remodeling it and they looked at trying to utilize it at one point in time. He said this property is existing and non-conforming with respect to zoning with the front yard setback and also the existing dispenser islands, two of them are within the 30' setback from the right-of-way itself but what they are here proposing is the redevelopment and reconstruction of the existing GetGo building to a 1,942 sq. ft. building and it will be set further back and encroaches on the 50' rear setback line. He said they will build six dispenser islands instead of the four that are there to increase the spacing and circulation which currently there are only two dispenser islands and with parking along the side it is more conducive to a service station and more of an out of date use of the property. He said they are here seeking a variance and one of them is from the 50' rear setback, the other variance is to install an access drive to connect to the shopping center and which they are still in negotiations with Mr. Richard Katz and Mr. Mark Schwartz which will take some time. He said additionally the third variance is to permit outdoor sales and the other variance is to allow an increase in lot coverage to 58.8% versus 40% permitted although that will be less conforming than what it currently is so with respect to that, they will be improving the situation a little bit. He said those are the four variances and then they are also seeking the conditional use permit which will need to be updated for the current imposed configuration of the lot. He said they have 15 parking spaces and that is less than what is currently there and they are oriented conveniently in front of the convenience store so you can actually go into the convenience store without going to the fuel pumps or walking through that area. He said the increase in spaces was mentioned for the canopy and the architecture for the building will be dramatically improved to be compatible with the supermarket and the shopping center that was recently upgraded. He said the fueling canopy will be a consistent solid color blue versus what was previously presented and the blue goes with their corporate brand image for GetGo with red and blue which is the Giant Eagle affiliation.

Mr. Lewis asked what the proposed height of the canopy is.

Mr. Avolio said the proposed top of the canopy is 21' 6" and the bottom is 17' 6" above the floor but the overall granting of the variance will allow the redevelopment of the property and they are adding a variance that doesn't exist but they are eliminating two non-conforming situations with respect to improving the lot coverage ratio by reducing it from 59.5% to 58.8% eliminating what would be non-conforming with respect to the location of the dispenser island being 30' off of the right-of-way itself.

Mr. Lewis said he has a question on the lot coverage calculation. He asked does the percentage and the amount being proposed tonight include or not include this future access drive in the rear.

Mr. Avolio said it does include that future access drive and added the conditional use permit is to allow a variance to permit that so they would have that ultimately at some point in time to avoid people heading out onto Bainbridge Road or circulating onto Rt. 306 and go back into the shopping center. He said a lot of the percentage of their traffic that utilize the station are customers that usually make a combined trip either before or after the grocery store. He said the property is surrounded by similar convenience business district zoning such as the BP gas station immediately to the west, there is a convenience store there so they are compatible with that and again commercial uses surrounding the area. He said additionally the variance as indicated will be for the setback area and the modification for the conditional use is fairly self-explanatory, it will be a similar use, they are increasing the square footage of the building from 1,486 sq. ft to 1,942 sq. ft. so it is an approximately 500 sq. ft. increase in the square footage of the building. He said overall he thinks this will allow an update to this station compared to how the store was, the supermarket, to how it is today to allow a similar improvement to the GetGo convenience store. He said they also have an application that he could read verbatim but he believes it was already entered into the record via submission so if there are any questions or comments he will address them.

Mr. Horn said he appreciates the revision because they were some of the concerns the board had at the last meeting and one of the questions he has is regarding outdoor sales and what sort of outdoor sales will be involved.

Mr. Avolio said typically they would have the sale of propane and propane can't be sold within the structure itself, it has to be exterior and would be in a locked cage and someone in the store would have to come and unlock it. He said they are also proposing a Red Box video rental machine and they have been adding those there and that is a convenience if somebody wants a one-night rental and additionally they would have an outside fully enclosed merchandiser that would be lockable and closable and would have oil and/or windshield washer fluid and additionally an ice machine and an ice chest so those would be the type of outdoor merchandise.

Mr. Murphy said there is already a Red Box on the sidewalk at Giant Eagle.

Mr. Avolio said they would like to have two because traditionally they have been permitted to have two and would like the opportunity to not have to come back for that.

Mr. Lewis asked what the store hours of operation are based on the gas station.

Mr. Avolio said currently they are 5:00 AM to 11:00 PM and typically that is what their hours are currently and they would not be open 24 hours unless there was some market or demand for it.

Mr. Lewis said his thought is you have an outdoor Red Box at the grocery store, you have an indoor place of business here with store hours from 5:00 AM – 11:00 PM and that is when the store is attended, you certainly can't be leaning towards the desire to have people hitting this closed piece of business at 3:00 AM to hit the video rental Red Box, right.

Mr. Avolio said you could actually be able to do that.

Mr. Lewis asked if they want people on their property on their off hours.

Mr. Avolio said they wouldn't oppose that per say, they do take certain security measures so the outdoor areas and their facilities are monitored.

Mr. Lewis said if the access road is in the back and the Red Box is indoors, you could certainly put a sign on your door that says Red Box at the Giant Eagle front door, 200 ft. away.

Mr. Avolio said it is conceivable to do that.

Mr. Lewis said he is inclined to see these things indoors.

Mr. Murphy asked if they are proposing the propone and the Red Box on the west side of the building on a wider sidewalk.

Mr. Avolio said correct, along the wider sidewalk.

Mr. Horn asked about the north side so it is not in front of the store.

Mr. Avolio said they could look at doing that but one of the reasons they are narrower on the walk itself is to try to maintain and reduce the area because when they widen the walk they create more impervious areas.

Mr. Lamanna said shrink the walk in the front and make it wide on the side.

Mr. Avolio said the walk is wider for accessibility requirements so you need to have a path in front of anything. He said currently the walk on the north side is 5' so you would have to expand the walkway for accessibility aspects.

Mr. Lamanna said right but shrink the walk in the front because there won't be any obstructions.

Mr. Avolio said then the walk would extend further to the south.

Mr. Lamanna asked what the total footprint will be of these machines.

Mr. Avolio said he doesn't have the numbers off the top of his head but they are probably under 100 sq. ft. and that is 10' x 10' or 20' x 5' so they definitely will be under that number.

Mr. Horn said the current structure complies with the rear yard setback, correct.

Mr. Avolio explained the location of the current structure per the site plan and said the front yard setback clips the front of it and the two dispenser islands are within 30' of the right-of-way so by eliminating those two, they are creating one additional.

Mr. Horn said and the proposal is 20' off of the rear.

Mr. Avolio said yes, 20' off of the rear area which is relatively consistent with the property adjacent to the north and that would be considered a side yard versus one side and one rear even though they have two frontages. He referred to the site plan and said if it was considered that the side yard be right in here, then it would be compliant.

Mr. Horn said he sees in terms of the southern exit on Rt. 306 that it is a right turn only based upon signs being placed there and marked correctly. He said there is something indicated between the two lanes and asked if there is going to be an island or something.

Mr. Avolio said there will be double yellow line striping to be consistent with the manual uniform traffic control devices and ODOT standards to create a separation between opposing traffic. He said this will be subject to dealing with ODOT because they control the access to Rt. 306 and the property is at an angle and at some point in the past it was acquired by ODOT.

Mr. Horn asked what they are going to do with the carwashes.

Mr. Avolio said they are moving the paving back but the large green area at the corner now will close to double in size and moved back approximately 40' from the angle parking here to the back area (he referred to a site plan).

Mr. Lamanna asked if they had any problems putting up a sign at the other exit that says if you are exiting to Rt. 306 south, please use the back exit to direct people back there rather than having them trying to come out and make a left hand turn so the people, when they get there, if they aren't familiar with it will be directed to go out the back to reach Rt. 306 south.

Mr. Avolio explained that they could have a couple of signs to help direct the people.

Mr. Lamanna said yes, for people exiting onto Rt. 306 south, direct them back to the Bainbridge Road exit.

Mr. Avolio said they have done that in the past.

Mr. Lamanna said the people who are really familiar with the area know to do that but those who are the people behind them will sit and sit.

Mr. Olivier asked if the storage fuel tanks will stay in the same place they are now.

Mr. Avolio said they are showing replacement of those tanks but are investigating and verifying whether the tanks that exist can be reutilized.

Mr. Olivier said so there are no plans on moving them.

Mr. Avolio said no.

Mr. Murphy asked about the fence.

Mr. Avolio said instead of actual wood it will be like a tress-board with compatible material so over-time it will not rot and it will be little maintenance and better aesthetics over the long-term.

Mr. Murphy asked if there is anyone else here who would like to comment.

Mr. Joe Oberle asked if they are increasing the number of pumps.

Mr. Avolio said they are adding two additional dispensers and actually increasing the space in-between them so if you are stuck behind one person, you can actually pull out in-between.

Mr. Oberle said that intersection is just about impossible to get through right now because there are so many convenience stores now such as the BP station, McDonalds and Giant Eagle right in that area and asked if a traffic survey has been done to take a look at what additional pumps and more traffic through the store will do to that intersection and the residents of Bainbridge.

Mr. Avolio said typically for each fueling dispenser going in the peak in and peak out, your ITE, you have approximately 14.5 peak hour trips so if you look at that for each side, 14.5, 29, 58 trips during peak hour and they haven't done a traffic study on that but if you are looking at that you are probably dealing with 2,000 vehicles on Rt. 306, especially at the interchange area itself, so from his overall perspective that 60 over 30 over 1,000 is under a 3% increase or adjustment to it and that is one of the reasons they keep seeking and working with their landlord is to really take the trips off Rt. 306 for Bainbridge and this is relatively convenient to go back that way, to go back and forth so the other aspect of it is that those are raw trips that are generated, they aren't considered by-pass trips and the majority of the trips are internal capture trips so they are not net new trips to the highway or roadway structure itself, those are what actually go into the station itself so what you have is you are not necessarily adding more trips onto the road but you have captured a greater percentage of the trips, if that makes sense.

Mr. Avolio continued by saying the gas station is usually not a destination it is more of a convenience, you are driving by and need gas and going to the supermarket and capturing that. He said their studies are internal for stations that are located within the same shopping center and typically the total number of trips are 16% that are new destination that are going solely there, 44% are going to the supermarket and 40% are already on the road so it is captured.

Mr. Horn said the height of the building is going to be 15' and asked if the canopy is going to be 21'.

Mr. Avolio said the top of the canopy is 21' 6".

Mr. Horn asked what the canopy is across the street at BP.

Mr. Shane Wrench, Zoning Inspector testified that it is 19'.

Mr. Murphy said the canopy itself is 4' of blue.

Mr. Avolio said there is a 4' band and the structural steel to support the canopy itself is approximately 36" – 38" in height from the deck pan up to the top of that so that 4' gives them a little bit of additional coverage.

Mr. Murphy said so conceivably without exposing any of the structure you could reduce that 4' to maybe 3' from 21' 6" down to 20' 6" without any kind of hardship.

Mr. Avolio said they would probably want to reduce this height slightly to about 16' 6", that would be the easier route to do it because it gives them the 16' clearance they want.

Mr. Murphy asked if the BP is a 14' clearance.

Mr. Lewis said right and 19' to the top of the canopy.

Mr. Lewis said you can understand where the board is going, we have two adjacent and it would be nice if the overall heights to the canopies were fairly consistent with the ones across the street. He asked when the truck comes in to load fuel does he have to go underneath the canopy at all.

Mr. Avolio said part of it does to circulate underneath especially as you turn around.

Mr. Lewis asked if anybody is familiar with the truck height clearances.

Mr. Avolio said they could reduce it to 16' and that maintains the truck height with enough leeway that from a factor of safety for a bucket truck etc. and it would be 16' from the bottom and keep the band so it would put it at 20'.

Mr. Murphy said 16' is still actually higher than the building at 15' so the canopy will not block the structure. He asked if there will be signage on the front of the GetGo station as well.

Mr. Avolio said he is not seeking signs at this time because they are having a relocation of the monument sign and once they do a code review and a visibility study, the current sign actually faces south toward Bainbridge and when they do a visibility study they may want to relocate it so they are not really seeking an improvement for the signage this evening.

Mr. Olivier asked if they don't come to terms with the landlord on the rear drive other than you would have more green space and less lot coverage.

Mr. Avolio said they are seeking approval and they feel that it would really help and they are confident that they will ultimately reach an agreement with their landlord.

Mr. Murphy asked if the big blue stripe is lit up on the canopy or illuminated.

Mr. Avolio said he will verify that and there was a request not to illuminate it because BP does not but if it were to be permitted they would love it.

Mr. Lewis said you will be illuminating the pumps and he does not see the valance of the canopy as being a portion of an advertising campaign, he sees the canopy as a way to protect your customers so if it is raining or snowing, they are encouraged to come to a pump that is under cover.

Mr. Avolio said he understands.

Mr. Murphy asked if the building lighting will be addressed, will there be wall packs etc.

Mr. Avolio said they didn't prepare the details but they will comply, they don't have all of those details prepared at this time.

Mr. Lewis asked what the final decision is on the canopy height.

Mr. Murphy said 16' to the bottom and 20' to the top.

Mr. Lewis asked if everybody is okay with the outdoor stuff and its location.

Mr. Horn said he is okay with the outdoor sales as long as it is on the north side of the building, not in front of the building on the west side. He said back when two previous owners wanted to do that and that was back in the nineties, that was one of the conditions to get rid of the outside sales of propane which never happened, you need to get it away from the front of the structure.

Mr. Olivier asked just the propane or everything.

Mr. Murphy said ice and the Red Box.

Mr. Lewis said there was also a conversation about an outdoor cage of oil and fluids.

Mr. Horn said we need to characterize outdoor sales rather than particularize what can or cannot be, he just thinks it is easier to do it that way.

Mr. Olivier asked Mr. Wrench what has been allowed in the past and what has been sold at BP and the Shell station.

Mr. Wrench stated that mulch and topsoil have been allowed because it is an agricultural product and typically if it is sold inside, they can have an outdoor display that is sold inside. He said ice etc. is ancillary if they are selling drinks etc., they all have the propane tanks but if it is placed on the north side and not in view in the front of the building.

Mr. Olivier said if you put it on the north side and you widen that sidewalk are those spaces deep enough to allow a slightly wider sidewalk.

Mr. Avolio said they will have to shift the building slightly to the south about 5'.

Mr. Murphy asked could you scoot it west as well and to get the extra sidewalk can you shrink the front sidewalk.

Mr. Avolio said they typically want that walk wider for an accessible route.

Mr. Murphy said the north side has absolutely no windows and all of the stuff on that side of the building isn't seen by your employees, the only windows are in the center section.

Mr. Horn said windows can be put in.

Mr. Murphy said it is a convenience business and he likes to be able to pull right up to the propane tanks when he drops them off. He said if they put it on the north side they can restrict it by how much sidewalk is there, it has to fit on the sidewalk.

Mr. Lamanna said right and that was what he was saying, how much square footage can be occupied by that.

Mr. Murphy said the building is 35' so it would be 140 sq. ft. max if you add 4' more to that north sidewalk.

Mr. Lamanna said it will be in a locked structure so there won't be pallets of stuff.

Mr. Lewis said the ice cabinet is locked, the oil and fluids are in a locked cage, the propane is in a locked cage, you pay and the attendant goes out and opens it up and helps the customer take the appropriate amount.

Mr. Avolio said typically the oil and fluids are unlocked during the day.

Mr. Lamanna said but it is in some kind of a cabinet or structure, not piled up on the ground or sitting on a pallet. He said if it is on pallets sitting out there, it is what we try to avoid and they are usually in some sort of display structure, either an ice machine or a propane tank cage or some kind of display unit you can close up.

Mr. Avolio said correct or otherwise the product will disappear.

Mr. Lewis said he thinks that covers everything regarding outdoor sales on the north side and asked if the Red Box discussion has been satisfied.

Mr. Lamanna said as long as it fits within that area, they have 100 sq. ft. of area there.

Mr. Murphy asked if they are adding 100 sq. ft. to the lot coverage by doing that by widening the sidewalk.

Mr. Lamanna said he said 2.5 ft.

Mr. Avolio said an extra half foot would be helpful.

The board discussed the lot coverage.

Mr. Avolio said it would still be below.

Mr. Lewis said it is showing an improvement.

Mr. Murphy said he doesn't think this will add any new traffic, in fact it may alleviate traffic and there are times where at both gas stations people are backed up.

Mr. Lamanna said 1% of the lot coverage is 420 sq. ft. so it is increased to 59%.

Mr. Horn said it is still a little bit less.

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

Motion BZA 2011-11- 17675 Chillicothe Road (GetGo Partners)

Mr. Lamanna made a motion to grant the applicant a revision to the conditional use currently applicable to this property for operating a gas station to modify it to reflect the changes to the gas station and the destruction and relocation of the existing building to be used for convenient sales all as shown on the plans submitted by the applicant with the application.

In addition the following variances for this modification to the property were granted.

1. A variance for a 20' setback on the east side of the property for the building which adjoins the adjacent shopping center parking lot.
2. A variance to allow a common drive between the gas station and the adjacent parking lot internal connection if in fact the applicant is able to negotiate such a driveway with the owner of the shopping center.
3. A variance to the lot coverage to 59% which represents an actual reduction from the previous of 59.5%.
4. A variance to allow outdoor sales on the north side of the building. These outdoor sales will be limited to sales conducted from a fixed structure such as a propane tank cage, ice machine, closable display case for vending type machine. The items will occupy a footprint of no more than 100 sq. ft. along that north side of the building and will consist of ice, propane, video rentals or products ancillary to automotive use such as oil, windshield washer fluid and similar things.

With the following conditions:

1. The southern most exit onto Chillicothe Road will be right-hand turn only.
2. The canopy will be 16' clearance underneath with 4' above that for a maximum total height of 20'.
3. The applicant will provide directional signage on the property to direct customers desiring to exit to Chillicothe Road south to use the Bainbridge Road exit from the filling station for that purpose.

Motion BZA 2011-11- 17675 Chillicothe Road (GetGo Partners) - Continued

Based on the following findings of fact:

1. The reason for granting this modification to the conditional use is that this will improve the overall flow and management of this property.
2. It will move the active area farther away from the road right-of-way.
3. It will eliminate a currently existing variance on the front of the dispensing units.
4. The actual lot coverage will be decreased slightly from the current lot coverage.
5. The variance with respect to the rear yard setback is consistent with that in commercial areas between commercial properties and in this case it is an adjoining parking lot and would be an acceptable side yard setback in the location so there will be no adverse effect on the adjacent property owners and will be generally invisible to the public at large.

Mr. Lewis seconded the motion.

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

Application 2011-12 by Tri-County Electric for Marc Vasil for property at 18015 Lost Trail

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

The zoning inspector's letter dated May 19, 2011 was read.

Mr. Rick Loconti and Mr. Marc Vasil were present to represent this application.

Mr. Rick Loconti testified that he is from Tri-County Electric and Mr. Marc Vasil is the property owner and they are looking to put an addition on his house, a sun porch and a family room addition and the issue for them is you allow 10% lot coverage and with the addition it is at 11% of the property so it is a 1% variance.

Mr. Horn asked why the board should give them a variance.

Mr. Loconti said why not.

Mr. Lewis said actually it is a 2.64% variance, you are at 12.64%.

Mr. Marc Vasil testified that that is before the removal of the porch.

Mr. Murphy asked if that is before the deck comes off.

Mr. Vasil said correct and then the deck is removed.

Mr. Shane Wrench, Zoning Inspector testified that that is including the removal of the deck and once the driveway calculations were put in, it jacked it up a little more.

Mr. Olivier asked what is the existing and is it 10%.

Mr. Wrench said with the addition it would be 12.6%.

Mr. Lamanna said it is a one acre lot.

Mr. Horn said he appreciates that they are trying to improve the property and put an addition on but unfortunately we have limitations and the zoning says 10%, so there has got to be some reason why a variance should be given otherwise next month somebody could come in and say they want to add 15%, 20% or 25%.

Mr. Loconti said they spent some time with the architect trying to design it for Mr. Vasil to want to stay in his house and put improvements into his house, it was either that or he is maybe going to sell his house and build a house. He said he lives in the neighborhood and he was excited about the fact that he was going to put money into his house and this is the design they came up with. He said there is a sun porch on the back, he thinks it is the northeast corner and the family room addition will be on the southeast corner.

Mr. Lamanna said it is going no closer to the side lines and there is a 154' rear yard.

Mr. Vasil said if you look at the other structures in the neighborhood that have had additions on them they are going to be within the norms of the other houses in the development so it is a variance with the township, and even the house directly next door, they put an addition on the back side of that house and it changed its coverage area but 10% is not a very big percentage when you have a 150' setback for the driveway so there is no real way for them to allow driveways because on their side of the development, they were required to be set further back at the time versus the house immediately behind them, they are only 75' off the road so all of that driveway is lost for coverage purposes so part of the reason for the variance is they are so far set off the road that their driveway alone eats up a big portion of the lot.

Mr. Lamanna said you have the setback required on a three acre lot even though you only have a one acre lot so if it were a three acre lot you would be well under the lot coverage.

Mr. Vasil said right.

Mr. Horn asked what the size of the lot is.

Mr. Lamanna said it is one acre and a little over.

Mr. Vasil said it is 1.01 acres but if you go immediately adjacent to them there is an addition that puts it in line square footage with what they are building but the houses that were built later in the development are on that shorter 75' driveway line so most of his overage is in driveway and sidewalk because of the depth added that his house is consistent with any house that is where the older end of the neighborhood is if they put anything on in the past, they are going to be over the 10% as well.

Mr. Olivier said it is a better reason.

Mr. Lamanna said the board has typically allowed variances to lot coverage on smaller lots because of practical difficulty.

Mr. Wrench said there is 3,000 sq. ft of driveway.

Mr. Horn said they are not requesting any rear yard or side yard variances.

Mr. Vasil said no and added that both of his side neighbors have signed off on it and the architectural committee, both guys from Pilgrim Village Lake Colony have signed off on it, the President of the Lake Colony Board has approved it and he didn't ask the guy who is directly in front of him because he is sitting next to him, he is going to do the construction, to sign off on it.

Mr. Lewis asked Mr. Vasil if he had a copy of it.

Mr. Vasil explained per the site plan the direct neighbors and said everyone has had an opportunity to review it and this time last year they were building a new house behind them and there were a whole bunch of people here and fortunately no one from his neighborhood is here to complain. He said he would reduce his driveway if he could and added that he doesn't have a copy it.

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

Motion BZA 2011-12 – 18015 Lost Trail

Mr. Lamanna made a motion to grant the applicant a variance to the total lot coverage to 12.64% for the purpose of constructing two proposed additions on his house.

Based on the following findings of fact:

1. A practical difficulty exists because the lot is only approximately one acre therefore the 10% lot coverage is very restrictive on this.
2. The applicant also has more than a 100' setback requirement existing and a 100' setback which means a substantial driveway that increases the lot coverage.
3. This variance is consistent with the development in the area and will not adversely affect the neighboring properties.
4. The board does note that nothing in this approval affects the obligation of the applicant to obtain any approvals from Pilgrim Village or any other applicable entities that may restrict development on this lot.

Mr. Lewis seconded the motion.

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

Application 2011-13 by Eric Lofquist (300 MPH Acres, LLC) for property at 16533 Chillicothe Road

The applicant is seeking to obtain a modification to a previously granted home occupation permit or a use variance for the purpose of conducting light commercial – office space with restrooms. The property is located in a R-5A District.

The zoning inspector's letter dated May 19, 2011 was read.

Mr. Eric Lofquist, owner and Mr. Jim Repas, architect were present to represent this application.

Mr. Jim Repas testified that he is here representing Mr. Eric Lofquist, the owner of the property, and wants to explain to the board what they would like to use as a home office. He said this is a site plan of the property, it is about seven acres, and there are a couple of different buildings on the property including a residence and a large barn structure. He said what they are looking at doing is this is a unique structure here, it is an old barn and timber framed, it is a post and beam structure and it is actually a bank barn so it has a ramp going up the front of it and then the second floor is all exposed with the timber and basically what they would like to do is use that for a home office up there. He referred to the site plan and said they are going to do some remodeling in it and just fixing it up and dressing up the outside of the building.

Mr. Repas continued by saying as far as all of the lots they are about 20%. He showed photos to the board and said this is the inside of the barn and you can see how it looks and you can see all of the timber construction inside and that is what they want to expose and have it become part of the office inside. He referred to a photo and said this is basically the front of the building, the part that you see from the street and this is the upper part they are looking to use for the office. He showed another view of the ramp coming up and said what is going to happen is this ramp is going to be removed and they are going to remove the siding and dress it up and make it look more like an authentic barn. He showed the board a site plan and said this is the basic look of what they are doing, the second floor is where they will create some office space and stairways and kind of a foyer off the front and they are going to put some stone and siding and such. He said right now it is a cinder block foundation with a poured concrete floor and the owner before used it for refurbishing automobiles/cars to sell and he used that second floor space to work on the vehicles there but what they are looking at is just going to be some office space.

Mr. Eric Lofquist testified that he lives in Canyon Lakes and his partner lives in Hunting Valley and they are interested in working out of the barn and they have a plant in Painesville and one in Warren so they would like to have a central place to hang their hats so there would be two of them and a secretary.

Mr. Horn asked who lives at the property.

Mr. Lofquist said right now none of us. He said he lives in Canyon Lakes, he is putting his house up for sale and moving part-time to Florida and part-time here, potentially in the front house.

Mr. Lamanna said so there is a residence on the property that is not currently being used and asked if it is being rented.

Mr. Lofquist said it is being rented it is 2,500 sq. ft., it is a century home right on Rt. 306 and he thinks it was built around 1850, the same as the barn and it is sided and they want to take the siding off and make it look original again and give it more of a look. He said they would park indoors around back because a structure was added, he does not know how many years ago, but the guy at the time had a fire truck in there and an 18-wheeler so it is a big garage in the back. He said he thinks they used to build go-carts there because there is an old go-kart track in the back but they don't use it.

Mr. David Barnhizer of 8580 E. Craig Drive testified that it is just a couple of years old, about three years old.

Mr. Olivier asked if it was used.

Mr. Barnhizer said yes and it makes a lot of noise with a go-kart track.

Mr. Olivier asked if it is still going on today.

Mr. Barnhizer said they use it periodically, somebody's kids use it.

Mr. Lofquist said that go-kart track hasn't been used in years.

Ms. Wendi Callam of 8569 Eaglewood Trail testified that she lives on Eaglewood Trail.

Mr. Lofquist said it was built in 2000 and he bought the property three or four years ago.

Ms. Callam said when James lived there and rented.

Mr. Lofquist said he evicted him.

Ms. Callam said that was the gentleman that had the go-kart track and it wasn't too long ago that he was evicted because their horses were in the pasture being spooked regularly by the motorbikes.

Mr. Lofquist said he was sorry, he didn't know but it was over a year ago that he was evicted.

Ms. Callam said it was still being used for motorbikes.

Mr. Lofquist said he doesn't want any go-karts and asked if can have horses.

Ms. Callam asked Mr. Lofquist if he is interested in having horses.

Mr. Lofquist said yes.

Mr. Lamanna said if you are running a competitive go-kart track, that is another situation but he doesn't know if the township can control somebody if they decide they were going to run their off-road vehicle around their back yard unfortunately.

Mr. Lofquist said he thinks the guy that was there also from time to time was running snowmobiles without his approval.

Ms. Sue Barnhizer of 8580 E. Craig Drive asked if he is asking for the designation for office.

Mr. Lofquist said he and his partner would like to have their office there.

Ms. Barnhizer said instead of home occupation you are asking for an office.

Mr. Lofquist said it would be a home office for two of them.

Ms. Callam said but you won't be living on the property.

Mr. Lofquist said he doesn't know, he has to sell his house in Canyon Lakes first but he doesn't know if it would be this year or next year but he would like to move in the front house.

Ms. Barnhizer testified that it is five acre residential.

Mr. Lofquist said he thinks it is seven acres.

Ms. Barnhizer said office designation is different than home occupation.

Mr. Lofquist said he is not looking for a commercial office.

Ms. Barnhizer said but it is still office designation.

Mr. Lofquist said he is not looking for a commercial office and he is not looking for a zoning change.

Mr. Barnhizer said they (the Callams) own the property north of this property and he and his wife own the property immediately behind the go-kart trail and also on E. Craig Drive. He said they read this application and still didn't know exactly what was going on, it said light commercial, it said office space, this is residential property and in looking at this and it is supposed to be like an old barn and it looks like corporate headquarters to him, very nicely done but he hasn't seen any 1850s barns that quite look like that. He said it is clearly not a residential use in terms of partners that have been using it, it is an asset, they are using it as an income generation and their concern is, this is really sort of a bootstrap or a mission creep kind of situation where people who have a financial interest in selling a property ultimately set something up where there are no alternatives but to sell it as some non-residential property because it takes on characteristics that clearly would not be solely residential including a very significantly expanded office space whether you call it home occupation or light commercial or home office, this is two people who say they have plants in two locations who want to have their central office in this one place and the application says three people working there plus two secretaries and that is not, to him, a home occupation use of the facility particularly when you talk about the asset nature of it and potential down the road sale of it. He said he is a lawyer and he not only thinks about what is being asked for now but he has to think about the implications down the line on how this can be interpreted and how somebody can then claim a hardship if a lot of resources go into a non-residential use on a residential property, you can easily see somebody coming in at some point when the partnership decides to separate or sell it for a different purpose and say it is a hardship, nobody will pay the price that we put into this for residential property. He said it is residential property with a significant amount of non-residential investment going into it and that is his point of view on it and it is a very dangerous potential can of worms that you would be opening if you want to do this.

Ms. Callam said they moved here in 2006 purchasing the acreage to the left over on Eaglewood and when they purchased that property it was all wooded except for the home site and they invested over \$150,000 to clear the land, put up a barn, put up fencing, they put in 50 evergreen trees along Rt. 306 to block the noise and give them privacy there and they put in an outdoor riding arena last year which abuts up to the corner of their property. She said her concern is they have three horses and two children and two children that like to ride the three horses and horses by nature like to spook which is exactly why they didn't like the motorbikes there because they could not ride their horses with the motorbikes but there was not a lot they could do about that. She said she is concerned about increased traffic coming into that area, she is concerned with employees because James the previous tenant, would come over and feed their horses, we have a horse that is subjected to founder which is a condition where he cannot have any sweet treats and James and his wife, trying to be nice, would feed our horses so it concerns her who is going to be coming in and out of that property, not to mention they just had their home reappraised, they bought the home for \$395,000, they put \$150,000 into it and they just had it reappraised for \$395,000. She said she is concerned if this property becomes light commercial, what is that going to do to the value of their home if they did have to resell it.

Mr. Repas said in this case, the structure that is there now, the aluminum siding is going off and it is going to be fixed up much better, there will not be an increase in traffic, you are not going to have go-karts, you are not going to have snowmobiles.

Ms. Callam asked how about the three employees and the two secretaries because that is what the application said.

Ms. Barnhizer said the application said four in one spot and five in another.

Ms. Callam said and as far as the parking goes you would be parking inside.

Mr. Lofquist yes.

Ms. Callam said she is concerned about how the driveway goes right by their riding arena and if people are coming and going frequently what will that do if her kids are in the riding arena and doors are slamming and she does not know how much traffic will increase.

Mr. Lofquist said he thinks it will actually go down because there is a family in the front.

Ms. Callam said they have no problems with the families in the front and side house.

Mr. Lofquist said what Mr. Repas was going to do is have doors on both sides and simply drive through.

Ms. Callam asked if it is on the left side where it looks like there is a garage door now.

Mr. Lofquist said yes and it is pretty quiet.

Ms. Callam said her other concerns are as it stands now with just having you (Mr. Lofquist) and his partner there, she does not have a problem with that, it would be status quo on how things are right now but her concern is once the door is opened to this area, are you going to be coming back in a year or two and ask for light commercial.

Mr. Lofquist said he could do that now but he has no interest in that.

Ms. Callam said she thinks once the door is open to this, it will open the door to that and their intention was to never move over here and invest all of this money into this mini-farm to have offices next to them and she knows she would never be able to resell their house if this is re-zoned.

Mr. Lofquist said he understands and the previous owner was very noisy, he had issues with the renters but they are gone and he thinks they have been pretty quiet for the last year since he has been gone and anticipates to certainly help the property values because it will be a plus, they are investing some money to make it look nice.

Mr. Repas said they are talking about putting a pond in the front.

Mr. Lofquist said yes a pond in the front.

Ms. Callam asked where they would put the horses.

Mr. Lofquist said there are three stables underneath and the original barn stables are still there and they were renting space above there with two horses and they sold them a couple of years ago before he bought the farm but they would like to be able to get back to having horses again.

Ms. Callam asked if they can have commercial and residential.

Mr. Lofquist said they are not looking for commercial, they are looking for a variance from home office, they are not looking for a commercial permit here.

Mr. Olivier asked if they will not be selling anything, they will be simply conducting their office business.

Mr. Repas said there will be no selling and no trucks coming in and they will not be delivering anything, it will just be the cars of whoever is in the office.

Mr. Lofquist said he has offices at each of his plants and his partner just moved from Avon to Hunting Valley, he lives in Canyon Lakes and they live between and it would be nice to be able to have a place to meet up rather than driving to their Painesville plant or to Warren.

Mr. Christopher Ernst testified that he is also an attorney and he represents the Woods of Wembley Homeowners Association and he thinks there are a couple of issues here he is finding to be troubling. He said one is the concept that according to the agenda and the application is for commercial but the applicant is saying he doesn't want commercial so that in and of itself would be reason for the board to deny the request. He said the applicant is also using terminology of home office and a home office implies that it is a home, it implies that he is an office user at home and this is not what we have got here.

Mr. Lamanna said it can be in an accessory structure as well.

Mr. Ernst said as much window dressing is being put on here, you can call it a silk purse but it is still going to be a sow's ear. He said you will also have issues with commercial creep coming down from Washington and Rt. 306 and you have heard a lot of testimony about residential effects that this will have and basically if you continue to allow commercial creep down from Washington, you are almost at the township line and that whole area could be commercially affected. He said there is one other thing that is very disturbing to which is based upon research and it appears that the applicant has had a history of problems maintaining environmental codes, maintaining compliance with city regulations, state regulations, was sued by the State of Ohio, environmental department from the Ohio Attorney General's office seeking to shut down his nuisance from his factory looking for fines at \$25,000 per day.

Mr. Horn asked if that is at this property.

Mr. Ernst said not at this property but in the City of Cleveland and these are things for the board to consider as it makes its decision. He said if you go to Ohio's Citizen Action website you will see a listing of times when they were cited or found to be in violation of codes and regulations by the Northeast Ohio Regional Sewer District, the Ohio EPA, the Cleveland Department of Public Health, the Cleveland Fire Department, the Cleveland Building and Housing Department in addition to explosions that they had on the property and these are the things that the board needs to consider when it makes its decision for the home office that is not a home for a commercial permit that is not a commercial permit and things are not lining up here, things are not making sense and he thinks there is a history on the applicant who will basically do what he wants to do regardless of what the governmental authorities tell him he should be doing and therefore causing a lot of problems and he questions it, is that something that we really want in this community.

Mr. Barnhizer said he would like to second Mr. Ernst and he heard the applicant say that he may move to Florida but he lives in Canyon Lakes and he may live in the front house, is he complying or satisfying for the residential home occupancy issue and it is also vague, the whole thing strikes him as so vague and almost hypothetical where it could be manipulated into almost anything the person wants and then if you put almost a couple of hundred thousand dollars into remodeling to have a home occupation, it just doesn't make any sense.

Mr. Ernst said basically the situation is where the person will do what the person wants to do as long as he can until somebody probably stops him and the easiest way to prevent that is to never let it happen in the first place. He said that has been the talk about what happens in a couple of years when they want to change it or expand what is in there because right now he just wants to have his office, his partner's office and his secretary's station but yet it is creep from E. Washington Street, it is a slippery slope and these are the facts that the board has to take into consideration when they take their vote and vote in good conscience for what is best for the community.

Mr. Lofquist asked if the allegations are relevant.

Mr. Lamanna said he is not sure if they are really relevant to the discussion at hand here, we are not talking about a factory here.

Mr. Ernst said today.

Mr. Lofquist said there is a reason and if they haven't sold in Canyon Lakes they can't commit, he is not going to say something and not do it so he can't commit to living there if he hasn't sold the house in Canyon Lakes, they have purchased a house in Florida, they just closed on it a month ago but they still have one left in high school at Kenston so they are not leaving yet but they plan on spending more time away from the rain and the cold.

Mr. Ernst said which then reduces the need for having a home office.

Ms. Callam said the original variance on March 27, 1990, it was a home occupation permit and asked if it is still a home occupation permit right now.

Mr. Horn said that was what the property was granted.

Ms. Callam said it was before she bought her house.

Mr. Lamanna said the guy was running an auto repair business out of there basically as what it used to be.

Mr. Barnhizer asked if the home occupation permit is still valid.

Mr. Lamanna said it is still valid, he does not think they go away.

Mr. Wrench said it was for crafts, sales, stained glass, etc. so sales were permitted at the time of the home occupation.

Mr. Barnhizer asked if there is still a home occupation permit for the property right now or is that no longer legally existing.

Mr. Wrench said it would stay with the property and not the owner.

Mr. Barnhizer said that is another reason we are trying to figure this out.

Mr. Wrench said what he wants is a modification.

Mr. Horn said once he gets variances from what is permitted in the zoning, there is one employee permitted and he indicated that there may be more than one employee and he needs a variance from what is mandated by the zoning resolution.

Mr. Ernst said to expand commercial.

Mr. Horn said to respond to the tenants about the commercial creep up Rt. 306, purposely the township boards have been mindful of that in terms of Montefiore and the property across the street where limitations were put on to the extent to which they cannot all move forward going north because the board is very well aware of that but with regard to this application if you look in the zoning resolution a home occupation is merely to be an accessory use to the main purpose of residential property. He said "The purpose of the home occupation section of this resolution is to provide the opportunity for the use of the dwelling unit for limited business purposes subject to regulations designed to maintain the residential character of the dwelling unit, the lot and the neighborhood; minimize the conflict of the home occupation use with surrounding residential uses, and to protect residential property values." He said it seems that this is considerably different than what is generally before the board as a home occupation permit request.

Ms. Callam asked wouldn't a home occupation mean that he would have to live in the home.

Mr. Lewis said he is glad Ms. Callam brought this up because there are a couple of points that have been festering him and it clearly states a home occupation shall be owned and operated by the person or his immediate family living and working within the dwelling unit or an accessory building, that is one point and so far the applicant has not declared any permanent residence there so as far as a home occupation request, that element has not been satisfied and that seems to be the corner stone of all criteria. He said secondly no more than one person shall be present and working at the home occupation at one time other than the residents of the dwelling unit, this includes people who have entered into contract to provide services to the home occupation so we don't have anybody living there, we are up to four people, we have multiple offices, four bathrooms and so far as far as the home office criteria the corner stone elements are not even close regardless of how you filled your application out whether it is light commercial or residential or any confusion the applicant may have on definitions, this is zoned residential. He said you (Mr. Lofquist) are not living there full-time so therefore without that criteria, how can we begin to have a home office conversation. He said you haven't met the entry level criteria to really be having this conversation yet and that is just his point of view.

Mr. Lofquist said there was an existing permit and the fellow who owned it before didn't live there so he thought there was some reason that it was okay for him to have a business there but not live there.

Mr. Lewis said somebody else's non-compliance.

Mr. Lofquist said he didn't know if it was compliant or non-compliant.

Mr. Lewis said right.

Mr. Barnhizer said he believes he started out living there and had the granddaughter living there, there was a shift and he thinks he was there originally, the guy who had the car business.

Mr. Lewis said and with a split residency in Florida and selling a home in Canyon Lakes and you (Mr. Lofquist) probably have some considerations to attend to because that would still be sending a student to Kenston School District without a permanent residency in the district.

Mr. Lofquist said he would either live in Canyon Lakes or at the farm.

Mr. Lewis said then you would be living full-time at this farm.

Mr. Lofquist said correct.

Mr. Lewis said you haven't said that yet.

Mr. Lofquist said he hasn't sold the house yet though.

Mr. Olivier asked about the total number of people that is anticipated in this structure.

Mr. Lofquist said himself and two others.

Mr. Murphy said on the application that there could be five employees to share the office space. He said there is also a point on the home occupation that says no external alterations, construction or reconstruction of the dwelling unit on the lot to accommodate the home occupation shall be permitted. He said in other words written into the Bainbridge code it says that you are not really allowed to fix up that barn even for the business itself.

Mr. Murphy continued by saying he can appreciate that this is a beautiful old structure and in his book it is worth every penny to try to figure out some way to use it and take it into the 23rd century if at all possible and that is really tough if you just cannot run cattle in there and the neighbors may not want a pig farm next to them either and so then what do we do to do these kinds of things and so he has mixed feelings about that, there are some beautiful homes in Geauga County and gorgeous homes where they have figured out ways to salvage and keep a barn and not upset the neighbors and not turn it into a Wendy's and he doesn't think what he is proposing at this point other than the fact that he doesn't live in the building right now is the worst possible thing you could be looking at on that property including the go-kart track that you have already seen.

Mr. Barnhizer said he would respond by saying if he moves into the house he has some standings to then raise what he does for himself, not for his partner from Painesville or wherever he is, or Hunting Valley, but for himself he has a legitimate situation where he can say he wants to raise horses or bring horses there, that is something that has a function in the barn, he is going to tear up the go-kart track so right now as suggested it doesn't qualify for the very thing he is asking for, wait until he sells his house and wait until he in fact moves into this property as a primary residence and then if he comes in and says he wants to do this in a month for himself then it is a different issue, then it is another discussion, but this discussion right now just seems outside the operable offer. He said he doesn't think anybody cares whether the real residence of the property has an office that he uses with perhaps a secretary or something out of his ancillary building or his house, the question is what is really going on here and what impact can it have down the line, what are the kind of investments that are going to be made that may paint this out of the scope of a real residential property, a real resident doing real resident business out of his house and the zoning code as you have already made a point simply doesn't apply in this particular situation.

Mr. Lofquist said he didn't know what the deed restrictions would be but he is open to any suggestions and the intention is not to do anything other than exactly what he is saying, there is no additional down the road and if he was going to do that he would start that process now. He said he basically has three choices, he can do something like what he is proposing now, he can sell the property but he is not going to move in up there in the hopes that he can do this so there is a little bit of a catch twenty-two.

Ms. Callam said she thinks if you (Mr. Lofquist) live on the property the neighbors would have more confidence that you would just stop with this but you are not there, it is like you don't have as much of a vested interest and you don't know the neighbors, you don't live there so it is a concern what is going to happen down the line and if you lived on that property and you truly just wanted to put in offices for you and your partner but you lived there full time, she gets that and totally understands that, but you live in Canyon Lakes, you don't even live next to them so that is where her concern lies, without living there do you truly have a vested interest to see it is just a home office with your partner and secretary.

Mr. Olivier said the purpose of the variance is to limit what goes on there and to address some of the concerns of the neighbors and we had other historical structures within the township where we've allowed a slightly different interpretation of this home occupation to maintain and preserve a historic structure that would otherwise might go by the wayside so he thinks as Mr. Murphy is saying, you have to be aware of what could go in there, what is allowed in there as an agricultural use that may be actually less palatable to all of you than what he is proposing.

Mr. Lamanna said the big difference with an agricultural use is it is totally unregulated, he could put in an agricultural use and run it out of there and the board wouldn't be able to do anything about it. He said the problem the board has here is this is one of those difficult properties, it has been used in the past for things that are not particularly desirable in a residential area and he doesn't think somebody doing an auto repair business and selling cars is exactly what we want in a residential district and that went on there for a long period of time. He said other things have gone on there and you have this huge massive structure associated with a residential property so you have got somebody coming in and saying this, that is one use, but the other problem is, what is the next person going to want and part of the board's goal with these things, with these odd situations is to funnel down the opportunities that people have for using the property and to try to force them into smaller and smaller deviations for residential use so if somebody says we can take this thing from somebody in there fixing up cars and selling them to now maybe it is down to three people working in an office situation with really nobody coming in and out other than for maybe a meeting or something not even clients coming in or out or sales going on or anything like that, is that a better way to go, is it better to narrow the use of the property to that point than to have it open to all kinds of other possibilities. He said that is part of what the board is looking at here and it makes it a little more difficult than the average situation because we are trying to look ahead here and say where are we going with this because we don't want this property coming back to us every two years with somebody coming in wanting to do this with it now and we get properties like that where it is a constant stream of somebody looking for an angle to try to put in something that is not particularly desirable for the neighbors. He said if we can narrow it down to this that is usually a good thing.

Ms. Callam asked if you narrow it down to this variance will it open the door to well now it is an office.

Mr. Lamanna said it is a home occupation and it still has to fit within the home occupation.

Mr. Ernst said but it is not a home.

Mr. Lamanna said it is a home because it is a residential property.

Mr. Ernst said it is not being used as a residential property. He said you have problems right out of the gate and this discussion is very valid and needs to be had several months down the line.

Mr. Lamanna said the board can put conditions on the application and the granting of the variance and then he can decide if he wants to move into the house but he would at least know that if he moves into the house, then he could do x with the barn.

Mr. Barnhizer said but also it has been raised that he bought a house in Florida and he won't be around.

Mr. Lamanna said there is nothing in the home occupation that says you have to be a 100% resident of the home.

Mr. Lofquist said he has a daughter who is a sophomore at Kenston so he will be around for a while but also one of the other things he would consider doing is reducing the size of the structures that are up there, there are a number of buildings on the property that he has no future or intended use for so if that helps at all, they are happy to take that endeavor as well. He said there is an old chicken coup that was made into a house, years ago, and there is a stand-alone garage.

Mr. Lamanna said this is a classic situation of be careful what you wish for.

Mr. Ernst said it cuts both ways.

Mr. Lamanna said that is what he is saying, we don't like this but the next question is, is this one of the best alternatives. He said he likes to look at it as what are the alternatives that we can have and is this one of the better alternatives that we can have and he can take a very good alternative where he pins something down and limits where it can go than try to get the best alternative and still run the risk of getting something far worse and there is a much higher probability of that occurring.

Mr. Barnhizer said one alternative that was raised by the applicant is that he might sell the property and if he sells the property as a residential property you can have an appraisal to see what the value is, it is a nice property, as you say a classic barn on it, it can be used as a pasture abutting his pasture, it has a nice side area that can be used for horses also so it is not like this is the only alternative.

Mr. Murphy said when he sells the house even if we do approve this, when he sells the house two years from now it is still a residential property, nothing changes.

Mr. Barnhizer said he would like to refer to it as corporate headquarters and if a lot of money goes into this it takes it outside the realm of ordinary residential resale property, there is no question about that, you heard Ms. Callam say that they put \$150,000 into their property and got it appraised and it is appraised under the original value of the purchase.

Mr. Murphy said this is the existing barn and here is what he wants the new barn to look like.

Mr. Barnhizer said it doesn't look like a barn, if you are saying it is classic barn, it doesn't look like a barn it looks like a headquarters.

Mr. Ernst said and when he sells the property with a corporate headquarters, what comes in next.

Mr. Murphy said if he has the ability to have a home business in it with himself and two employees and board gets generous and he asks for that variance, that is it, that is all that is changing, he can run a home business there with himself and two other people. He said when there are 20 cars in there everyday 9 – 5, five days a week, then you call Mr. Wrench and he will go and stop that, he is not allowed to have 20 employees. He said if the neighbors see a business where there are 600 cars in and out of the driveway, somebody in Bainbridge is going to ask what they are doing back there so what he is asking for three people and to change the look of the front of the barn and he doesn't have to ask the board to change the look of the front of the barn.

Mr. Ernst said the board has in front of them neighbors that surround him that are saying to the board, please don't do this.

Mr. Murphy said he understands that.

Mr. Ernst said the only one saying please do it is the applicant and anybody who would vote for granting the variance and how does that speak to the community.

Mr. Murphy said we haven't spoken and so far the board has heard two neighbors and the neighborhood association.

Mr. Ernst said his point is it is something the board members need to consider when they cast their vote.

Mr. Horn said with over 10,000 residents in Bainbridge, maybe the other 9,000 whatever aren't here because they agree with the proposal, we don't know that. He said the board listens to what people say and then we look at the zoning resolution and we make a decision based upon what we think should be granted or not.

Ms. Callam said as of right now it is zoned for a home occupation whether he lives there or not.

Mr. Lamanna said anybody can have a home occupation associated with a residential use of the property, it is a permitted use in a residential district and you are entitled to have a home occupation if you want it in any residential area.

Ms. Callam said so with that comes, it says here, under the home occupation that there will be no external alterations, and she thinks it is beautiful what they are proposing, she doesn't have a problem with that but there is a part in that that says any noise, vibrations, smoke, electrical interference, dust, odors, heat, well we have already experienced that with James who he rented the property to last year so her concern is it is written right in here what is allowed and what isn't allowed.

Mr. Lamanna said that is with respect to home occupation but if he had a tenant in there that decided he wanted to ride his motorcycle around the property, he can.

Ms. Callam said he already did.

Mr. Lamanna said he can run a business there and if he decides to take a trail bike and ride it around his property that has nothing to do with his business.

Ms. Callam asked if it has anything to do with the business the renter is doing because the renter fixed up cars and motorbikes and sold them on Rt. 306 and anybody who has driven down Rt. 306 has seen this and that to her is a business so if he is trying out his motorbikes in the back.

Mr. Lamanna said it would be a distinction if he was testing the motorcycles he was going to sell he would be in violation but if he had his own motorcycle and he road it around for enjoyment, the board couldn't control that.

Mr. Lofquist said he is sorry about that and James was the previous owner's nephew who he inherited and he had to throw him and the other guy out with a police escort and he is sorry about it.

Ms. Callam said she understands, it was not good but you have to understand the neighbors and from the standpoint of just living there with the horses, etc.

Mr. Lamanna said if somebody else buys the property and they want to run their ATVs around the property, there is nothing that can be done about it and that is a perfectly legitimate thing for somebody to do, yes it is not very nice if you make a lot of noise and disturb your neighbors.

Ms. Callam said she totally gets that but if they are living there, their other neighbor on Rt. 306 has a snowmobile and a motorbike, we are his neighbors and we go to him and tell him to let us know when he is going to ride so they don't put their horses out, absolutely, and he rides for hours that is fine, but James was a renter, he was not a neighbor so he didn't care about them and that is what she is getting at, if he lived there it would just be different because we know that he would have a vested interest in the property.

Mr. Lamanna said he understands, if you are living there, you have a greater interest in things looking nice, well managed etc.

Mr. Lewis said and part of the criteria for a home business is that the property owner needs to be a resident there, it doesn't say a renter needs to be a resident, it says the property owner which remedies the situation that you are upset with and the applicant has remedied that situation on the property because the renter is no longer there and he is thinking maybe it makes sense to focus on what criteria needs to be met from day forward rather than yesterday, we can't change those and he realizes there is emotion with it but in the interest of trying to come up with some resolution on the application, he thinks the board sort of has a check list of criteria for home occupation in the zoning code that sets up a guideline and if the board does move toward granting anything, he is certain it will be laced with a lot of criteria that must be met that conforms to the code or if the board says this is not appropriate, the board will use the same code as a basis to deny because not enough criteria is being met so we have a guideline.

Mr. Barnhizer said the core criteria is that the person lives on the property, he does not have to live there all of the time but the person is in fact a resident of the property and he does not know how you get around that. He said the board has the authority to do a variance but that is a fundamental element of the zoning law.

Mr. Lewis said of course and that is the criteria of granting a conditional use permit in this case so it would be up to the applicant to conform with it or the applicant would be in violation and then there are other remedies and other bodies that take over at that point.

Mr. Ernst said he has no idea what the applicant's future intentions are but he owns property in Florida which is not unusual for snowbirds to claim residence in Florida for tax situations and then it is back to does he actually live here or in Florida.

Mr. Lewis said you said residency or is that financial planning.

Mr. Ernst said he views it as basically trying to conform with the law.

Ms. Callam said she is the direct neighbor and it sounds like if the board does approve something there will be very strict guidelines and maybe better than if he puts it up for sale, then anybody can go in there because she doesn't want any of the employees feeding her horses.

Mr. Lewis said put up a sign – don't feed my animals.

Mr. Murphy said if he lives there you can knock on the door and ask them to not feed the horses, that is what a neighbor does.

Mr. Lofquist said there are two fences, I have my fence and you have your fence.

Ms. Callam said yes.

Mr. Lofquist asked what he did, jump over the fence to get to your fence and said he is sorry if he did.

Ms. Callam said first his dog, his German Shepard would come over and beat up on her Lab but added that it is not Mr. Lofquist's fault.

Mr. Lewis asked if we can adjourn James and it means it is good we are sensitive to it.

Mr. Repas said having been brought into this recently on the architectural end Mr. Lofquist showed him this barn on this property and for the last two years he has taken barns just like this and converted them and turned them into some really neat structures because he likes to preserve those old barns with post and beam construction and it worked out really well and he thought this was a great opportunity to do something with this structure instead of just sitting there. He said he has used it as a temporary office, he has another office up north, this summer he could do some work down here and not turn it into a corporate headquarters. He said he looked at it as a perfect opportunity to take this property and have a chance to fix it up, it could look fabulous from the street, it is a neat structure, it does need a lot of work and if someone wants to put some work into it, the ramp is falling apart and all kinds of stuff and you could take that off and put a little thing in the front and make it look nice with a couple of steps going up so that the space can be used because essentially you have a lot of square footage in a really neat space and putting in some windows and skylights, we can make that a neat space and essentially if we don't use that as an office and basically we don't use it as agriculture, what can we use it for but basically just animals so what do you do with the structure except store things there so it kind of seemed like it would be a really neat use for somebody and having him use that space and that kind of locks it in for the neighborhood too because someone is using an office there, there is not someone putting cattle there, there is not someone using it for storage for some things that aren't necessarily biologically right to have them there.

Mr. Barnhizer said we have horses and we are not offended by the fact if someone has horses.

Mr. Repas said but someone down the road is going to want to do something with the structure.

Mr. Barnhizer said we are trying to make sure that doesn't happen in terms of commercial expansion here.

Mr. Repas said they are not going to expand it, they are just looking to fix it up for one and two it is going to have some very minimal use, it is not the corporate headquarters.

Mr. Barnhizer asked about price for the proposed three or four bathrooms and the really nice remodel.

Mr. Repas said all they did was put a bathroom up on that floor.

Mr. Barnhizer said you are the architect, you must have come up with some price.

Mr. Repas said they haven't gotten into the price yet, we have no idea.

Mr. Barnhizer asked if it is \$50,000, \$100,000, \$200,000.

Mr. Repas said it depends on how far we go with it.

Mr. Barnhizer asked if they are just going to use it casually as a home occupancy office.

Mr. Repas said there is going to be a couple of people working out of there but there are no trucks coming in, there is no retail, there are no cars coming in and out like across the street.

Mr. Barnhizer said this is not a home occupancy office the way you are describing it.

Mr. Repas said it could be sold and who knows what it could be turned into or tried to be turned into. He said it already has been used illegally with automobiles and selling motorcycles out of it and that is not going to happen.

Mr. Ernst said that is an argument that if we don't do this today, the boogiemanager is going to come and get you.

Mr. Repas said the use is not going to be detrimental to the neighborhood and the board can put restrictions on it.

Mr. Ernst asked Mr. Repas if he has been given a budget for this project.

Mr. Repas said no we have not assessed a budget and we are trying to come up with some concept plans or ideas of what we can do with the space and one of the problems we are having right now, for only a couple of people it is a big space, they don't need a big space but they can't really break it up without hurting the integrity of the whole thing, like how do you run a wall to the ceiling in the middle of this structure with all of the timbers so they will just build a couple of small walls to kind of define some office space and just leave it all open just to enjoy the uniqueness of it and that is one of the things right there, they don't need all of the space but it is there so they have been exploring some options on how to insulate it, leaving the beams exposed and leaving the outside to look more authentic instead of having aluminum siding on it which was just thrown over the old barn siding so there are some problems with it and it is going to start having some problems with rotting etc. so it is a unique opportunity to take this structure and do something with it.

Mr. Barnhizer said if you go ½ mile up Rt. 306 you see a restaurant and the same arguments were made over time and now you've got something sitting there that you can't do anything with.

Mr. Lamanna said the restaurant was not a residence.

Mr. Barnhizer said it was originally before Hixsons. He said the thing is, this is a residential property and it can be priced at a decent amount of money right now, it is a legitimate property, it is a saleable property and if you add \$250,000 to \$350,000 in remodeling this thing, it is way beyond in terms of being able to resell or if a person wants to resell he will say he can't sell the property anymore because he has so much in it, he can't recover his investment and so he has to have a hardship and you have to allow him to expand it into commercial or light commercial use, that is the thing, that is the trap.

Mr. Ernst said there is that slippery slope.

Mr. Barnhizer said and that is your slippery slope and this is just totally something that if he were a sneaky slippery lawyer that is what he would do because he knows he would have to sell it as an asset down the line and he will now have a visible hardship that you guys allowed because you approved it knowing that it was going to involve that kind of equation and you created the situation and how can you deny a hardship that you helped create. He said if you do this it is no longer a residential property because this is not an ordinary home office or home occupation situation, flat out, it is clear. He said he understands the good intentions and the board wanting a good resolution but that is the answer to that, you create it and walk right in with your eyes open into a trap.

Mr. Lofquist said if he wanted to do that, he would do that now, he would make the investment but he has no interest in that, he would pursue a change and he would spend the money to do it but he has no interest.

Mr. Ernst said he has a history of doing what he wants to do irrespective of what the law may be.

Ms. Callam said as things are right now, if the board approves this will there be more guidelines in place as there are now as to what can and cannot be done.

Mr. Lamanna said yes, whatever home occupation is permitted would be limited to very specific parameters as to the number of people and what can and can't be done.

Mr. Lewis said and the hours of operation.

Mr. Olivier said the number of vehicles parking, exterior because you can put a limit on how many vehicles can be put in a driveway.

Ms. Callam said she is just trying to understand it if he sold it tomorrow and someone came in there and rented each structure out, there are two houses, the chicken coop was turned into a house and then the barn.

Mr. Lamanna said you can't have more residences on one property.

Ms. Callam said but he could rent that space out right.

Mr. Repas said there are seven acres there.

Mr. Olivier said it could be a Lowe's, it could be agricultural, that type of activity could go on there.

Ms. Karen Climaco of 8485 Woodberry Boulevard testified that she lives across from the Blue Chimney restaurant and she had to call the police numerous times because there are kids riding motorcycles in the parking lot and then there have been twenty political signs and it has become just a total desolate, ignored property right across the street from people who have spent \$500,000 to one million dollars for their properties and that is why they are all concerned because they are directly impacted by a property that has become unsuccessful, undesirable and an eyesore to the community.

Mr. Lewis asked Ms. Climaco if she understands the untimely and unfortunate tragic demise of that property owner.

Ms. Climaco said she does and even today it could happen to anyone but it happened and as a result we are all looking at it.

Mr. Olivier said the board's intent there was to narrow the scope and actually decrease the footprint of the retail and what was going on there, they attempted to lessen the impact and obviously with the demise of the owner it has created a worse situation as opposed to a better one.

Ms. Climaco referred to the rusty light poles that went up that was discarded from a highway.

Mr. Lewis said he has seen an opportunity that a group of you should get together and buy the property and do something wonderful.

Ms. Climaco said her husband owns a restaurant and she feels for that gentleman, it was a horrible thing, it was his livelihood, life and dream but we are looking at a nightmare. She said it is not that she doesn't appreciate everyone's intentions.

Mr. John Sowers of 8480 Woodberry Boulevard testified that this looks like it could be an improvement but he is against it strictly because of his fear of commercialization moving up Rt. 306 further and further and that is a serious concern to us.

Ms. Callam asked if they can open a vegetable stand or something because that would increase traffic.

Mr. Murphy said part of the whole thing is he doesn't live there and in his eyes it seems to be the one most important thing to have a home occupation is it has got to be your home and he doesn't know how the board can get around that.

Mr. Lewis said it says the primary declared residence regardless of other properties you may own elsewhere.

Mr. Lamanna said it just says that you have to live there.

Mr. Lewis said he is setting criteria which is what he is driving towards and he is having a real tough time with the applicant asking for a request when they don't live on the property currently so the whole basis of entertaining this is not established. He said his thought would be to have the applicant come back at such time when they can prove residency and then he can start talking about a home occupation because it is then their home.

Mr. Horn said he agrees because at this point it doesn't qualify.

Mr. Lewis said and we have been hearing that from Mr. Murphy also.

Mr. Murphy replied yes.

The board discussed the application.

Mr. Barnhizer said in terms of what the board is concerned about he thinks it would be setting an enormous precedent to approve something for a non-resident for home occupancy and he thinks it would open it up to a whole lot of people saying if he can do it, why can't we do it.

Mr. Lamanna said if somebody is looking to buy a house and they want to be assured that when they buy it they can conduct their law business out of this house and they come in and say they want to get a home occupation permit for the purposes of doing this before he buys it just like when people come in and want to get something rezoned.

Mr. Barnhizer said it is not the same thing, he already owns the house.

Mr. Lamanna said he owns it in this case yes.

Mr. Barnhizer said this issue is, is he going to move into the house so it is not a hypothetical option can I do this, once he moves in then as Mr. Lewis said, come back, we have gone through the issues the same things he said that you can apply the standards to and limiting the conditional criteria.

Mr. Lamanna said what if he says he wants to move in but if he does it he is going to remodel the existing house and before he goes ahead and does that he wants to be sure he can have this home occupation.

Mr. Barnhizer said let's get clear on whether he is going to live there.

Mr. Lamanna said yes there should be some clear statement that yes he will live there if he gets this home occupation permit.

Mr. Barnhizer said there is no reason for the board not to grant with a condition to hold off on the home occupancy permit, as you said anybody can get one so that isn't the issue.

Mr. Lamanna said anybody can get one but he may want a particular aspect of it. He said home occupation is designed for places that range for lot sizes of ¼ acre so understand that the home occupation is designed for the most densely part of the township and when you look at what they are trying to create, it is a lot different when you are on a seven acre lot than if you are on a ¼ acre lot just on the impact of the neighbors etc.

Ms. Barnhizer said she doesn't see that.

Mr. Barnhizer said the neighbors disagree with that.

Mr. Lamanna said they are free to disagree.

Mr. Barnhizer said they are concerned about some very serious issues in that corridor but he doesn't understand what the problem is if you have a situation where a man says he may live there or he will live there then what you are saying, sell your house and tell us for sure that you are going to live there and then we can get to the specifics of this proposal but until you do that it is just all hypothetical. He asked how can you get down to the nitty gritty until you know that he qualifies by living there that he is entitled to whatever you are ultimately going to condition for the home occupancy permit.

Ms. Callam asked Mr. Lofquist if he wants to live there full-time, moving from Canyon Lakes into that small farmhouse, would he want to do that.

Mr. Lofquist said yes and no, yes we want to live there, no we don't want to live there full-time and we would be in Florida part of the time too. He said he can't go anywhere except for vacation at least for the next couple of years but he does not intend on living there 12 months of the year, he doesn't know if it is 10 or 8.

Ms. Callam said but you would find another residence in Bainbridge.

Mr. Lofquist said no but he has no idea when the house in Canyon Lakes will sell. He said they did put the farm up for sale last year or the year before and they didn't have any interest even though someone thinks it has a high value, the public didn't because we didn't get one offer. He said it is a difficult piece of property to find someone who has an interest, spending that kind of money on something that is hard to do something with so he is trying to find something to do with it that doesn't hurt anybody and is not a problem and doesn't cause any grief for anyone but it would be a convenience for him.

Mr. Lamanna said at this point in time you (Mr. Lofquist) need to decide whether or not you are really going to move onto this property or not and you really need to come to the board and say yes it is my plan to move onto this property because even if we granted something, you would be in a position where you wouldn't be able to use it until you actually became a resident of the property so if you went ahead with renovations etc. you would not have the right to use them until you actually became a resident of the property but the board may want more at some point in time, to yes this is my plan, I have a contract for my house now so I am going to actually move to this property so I want to get approval so I can go ahead and start conducting the renovations and then the board can entertain looking at that and you would meet the qualifications as the owner and the board can look at the issues regarding the number of employees. He said the board will still have to look at each thing but it will have to look at it in context, what kind of activity is being conducted etc.

Mr. Lamanna continued by saying with a two person activity with people coming in and out all of the time is a lot bigger impact on the neighbors than if you have four people who come in in the morning and stay there all day and leave at the end of the day with one or two people coming in all day so the board would have to look carefully at what is going to be going on here and frankly if you invest in this property you are investing in it knowing full well that the limitation is that this can be used for a home occupation only and it would be no different than if you built yourself the TajMahal to live in and then decide to move and somebody found out there wasn't a whole lot of market for TajMahals in Cleveland, then you would take a big loss on it and that is the risk you take.

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

Motion BZA 2011-13 – 16533 Chillicothe Road

Mr. Lamanna made a motion to table this application until the applicant is ready to come in with a firm plan to become an actual resident of the property and then the board can look at what kind of home occupation would be appropriate.

Mr. Lewis seconded the motion.

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

Application 2011-14 by Joseph Stever for property at 8261 Stoneybrook Drive

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

The zoning inspector's letter dated May 19, 2011 was read.

Mr. Joseph Stever was present to represent this application.

Mr. Joseph Stever testified that the current setback is 50' from the side and 90' from the back so the only place to put his shed is on top of his house. He said the shed and the playhouse will be used for additional storage for lawn mowers, a motorcycle, golf cart and building materials as he renovates the house. He said his garage has a stack piled high and it has overflowed into the property and is unsightly and it has not been complained about but it is not what he wants the property to look like and the shed and playhouse that he has proposed are both aesthetically pleasing and a miniature version of the house itself. He said the siding and everything will be identical to what he has put on the house itself all the way down to the garage door and windows and the sliding doors on the back will be nice.

Mr. Stever continued by saying it has been approved by the Laurel Springs board and the board should have a copy of the email in the packet so all of the homeowners adjacent to the property have been notified of the request for a variance and he has requested a 15' and 15' setback and his assumption, logically thinking, was the 50' and 90' setback on properties was not considered for landlocked properties but the spirit of the setback for the landlocked woods back there would probably be waived because it is all landlocked woods within the development and there is no way to develop any of those wooded areas unless something dramatically happens.

Mr. Lamanna asked who owns that property.

Mr. Stever said all of Bainbrook and Laurel Springs.

Mr. Horn said that is community property and added that his parents in the late seventies and early eighties lived next door to this property.

Mr. Stever said he put a lot of time and energy in these professional drawings made with a ruler and pen. He said he is having the trusses made because he wants them load tested for county purposes but the walls and foundation, he will build himself. He said he renovated the entire house almost by himself and landscaped and everything else.

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

Mr. Wrench testified that is about 90'.

Mr. Lewis asked what is between the back of the house and this.

Mr. Stever said there is a swale that goes down to the creek making it impossible to build there otherwise he would move it closer.

Mr. Lewis asked if that is a flat spot closer to the rear of the lot.

Mr. Stever said yes it comes up into the high flat spot so it will not interfere with any drainage or anything going back towards the creek.

Mr. Murphy asked Mr. Stever to show the board on the GIS aerial photo.

Mr. Stever referred to the GIS aerial photo and said when you walk on the side of the house it swales down here to the creek which runs right here so all of the water drains down here so it is proposed for the high flat spot and the trees have been cleared out of there as well.

Mr. Olivier asked Mr. Wrench if he can put the contours on there.

Mr. Lamanna asked if that is the reason it is closer to the one side rather than being in the middle.

Mr. Stever said yes, this whole thing swales down and if he could he would but this is the only logical place to put it, otherwise it is right here (he referred to the GIS aerial photo). He said if he could buy the property here he would.

Mr. Murphy said one of the things that is in the Bainbridge Township zoning is if your house is 20' or 27' off of the property line, the board tends to not want any structures back behind the house closer to the line and asked what that distance is in the corner.

Mr. Stever said it is 12' to 13' maybe.

Mr. Lewis said we would like you to be within the shoulders of the house.

Mr. Stever said it is actually further in, the poles are on the integrity of the line of the property.

Mr. Murphy asked about the neighborhood association.

Mr. Stever said they approved the design and all of the adjacent property owners have been notified by certified letter.

Mr. Bill Bullock testified that he lives a couple houses up and asked if the variance is for a lot line variance and if that is correct.

Mr. Lamanna said it is a setback variance.

Mr. Olivier said from the rear lot line.

Mr. Bullock asked what the variance is that is being applied for and how far is it supposed to be off.

Mr. Horn explained that it is supposed to be 90' from the rear lot line and he is proposing 15' and the side is supposed to be 50' and again he is proposing to put it 15' off.

Mr. Stever said it used to be 15' and 50' and then it was changed many years ago.

Mr. Bullock said his concern would be is that the view from the house, and he doesn't live in the house next door, is going to get blocked by something that is sitting on the back of the lot.

Mr. Stever said like Hlousek's property.

Mr. Bullock said right.

Mr. Stever said he talked to the neighbor and showed him the design the other day.

Mr. Bullock asked if there is electricity back there.

Mr. Stever said there is not right now.

Mr. Bullock asked will there be.

Mr. Stever said that is not what the request is for and the county would have to approve that.

Mr. Bullock said so it doesn't require a variance to build the building it only requires a variance for the property line.

Mr. Lamanna said you can have an accessory structure and it is an accessory structure, it is not another dwelling.

Mr. Stever said it won't be heated, it won't be air conditioned, it won't be insulated, there may be electricity because he is thinking about putting in an automatic garage door.

Mr. Lamanna said people have accessory structures that have electricity run out to them. He asked what the maximum height is on this.

Mr. Stever said the side walls are 10' and a 5/12 pitch on the roof puts it about 13' high.

Mr. Murphy said the problem with this lot is that it is pie-shaped and the back is only 75' across.

Mr. Lamanna said there is no way you could put anything back there.

Mr. Murphy said he would have to get a variance no matter where he puts it in the backyard.

Mr. Lamanna said the side yard setbacks are based on three acre lots so obviously this is a lot smaller, a little less than half of an acre.

Mr. Stever said he was fortunate when he did the measurements on the property to even have 15' and that is what he originally thought it was but if he goes 20' to 25' off the back he would be going down into the swale.

Mr. Murphy asked if the board has a color photo of the existing house.

Mr. Stever said he took some pictures on his phone before he got here and showed the board. He said it is a classic colonial with white siding and black shutters, double hung windows and red door. He showed the board a photo from the back and noted where the shed will be placed. He noted the swing set and said he will be moving all of that.

Mr. Lewis asked if he will be removing any trees.

Mr. Stever said there is one tree he is going to remove.

Mr. Olivier asked Mr. Wrench if the common space has any connection to a road.

Mr. Stever said it is all internal with no access to it.

Mr. Olivier said then the association couldn't decide to build on it.

Mr. Stever said you would have to remove a house.

Mr. Lamanna said he doesn't think the association could develop it anyway.

Mr. Murphy asked how far the house is from the back line now.

Mr. Stever said he thinks 70'. He said the maximum height will be 13' tall plus or minus a couple of inches based on the foundation.

Mr. Horn asked Mr. Stever if he is going to put any shrubbery around it.

Mr. Stever said his plan ultimately is to make the front of it look exactly like the front of the house so he will have shrubbery and mulch and he would like to make it look identical but that will just take some time because he wants it to look identical and he wants it to look real cool.

Mr. Horn asked if he could put some shrubbery around it.

Mr. Lamanna said a couple of strategically placed fir trees to screen it a little.

Mr. Stever said if that is what it takes okay and added that he will ask the neighbor.

Mr. Lamanna said it looks like there is enough natural stuff there already.

Mr. Stever said the neighbors have no side windows so they aren't going to look out the side but in the back they have a mini garden type window and there are six or seven tall older trees there and in the spring and summer they will have leaves.

Mr. Lamanna said it will be a little bit more dressed up than your average shed.

Mr. Stever said it won't look like a barn, it will look like a little mini house.

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

Motion BZA 2011-14 – 8261 Stoneybrook Drive

Mr. Lamanna made a motion to grant the applicant the following area variances for the purposes of constructing a shed/playhouse which will be in accordance with the plans submitted with the application by the applicant which will be finished to match the existing house on the exterior.

1. A variance from the minimum required rear yard setback of 90' to 15' for a variance of 75'.
2. A variance from the minimum required side yard setback of 50' to 15' for a variance of 35'.

Based on the following findings of fact:

1. The rear is only 75' wide therefore there is no place to put anything that would comply with the ordinance.
2. This structure is located farther from the side lot line than the house is so that it will be within the shoulders of the house as you go back parallel to the lot line.
3. With respect to the rear setback, the property behind the house is substantially wooded and is common property so no structures can be built back there which would be adversely affected.
4. Placing the accessory structure farther forward on the property is not practical because of the large swale between where this would be located and the existing house makes it impractical to put it in that area.

Mr. Lewis seconded the motion.

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

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

Respectfully submitted,

Christopher Horn
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

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

Date: June 16, 2011

AUDIO RECORDING ON FILE

BZA PH 5/19/2011

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Bainbridge Township, Ohio
Board of Zoning Appeals
May 19, 2011

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the April 21, 2011 meeting as written.

Mr. Murphy seconded the motion.

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

Applications for June 16, 2011

Application 2011-15 by Rick Loconti for property at 16495 S. Franklin Street

The applicant is requesting area variances for the purpose of constructing an addition and a shed. The property is located in a R-3A District.

Application 2011-16 by Timothy and Rhonda Savage – Savage Homes, Inc. for property at 17209 Eastview Drive

The applicants are requesting area variances for the purpose of constructing a new dwelling. The property is located in a R-3A District.

Application 2011-17 by Parkside Church for property at 7100 Pettibone Road

The applicant is requesting a modification of a previously granted conditional use permit for the purpose of installing a new access drive. The property is located in a R-5A District.

Application 2011-18 by Mark E. McVicker for property at 8441 Summit Drive

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

Application 2011-19 by Bronwyn Beard for property at 8095 Darby's Run

The applicant is requesting area variance(s) for the purpose of constructing a deck. 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 16, 2011 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 10:20 P.M.

Respectfully submitted,

Christopher Horn
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

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

Date: June 16, 2011