

Bainbridge Township, Ohio  
Board of Zoning Appeals  
May 19, 2016

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

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

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

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

Mr. Phillip Siegal was present to represent this property.

Mr. Lamanna stated that this is a continuance and it is back to see what progress has been made since the last meeting.

Mr. Siegel testified he thinks that everything on the property has been brought into compliance except for the seating which he was permitted to extend to this meeting. He said he fixed the erosion issues and he contacted the Army Corps of Engineers and they told him because the erosion occurred at the outlet of the culvert it is covered under a Nationwide Permit and through the repair he was also able to have room for plantings now if necessary so he can do a green buffer along that line. He referred to the photos and said as you can see there is already fence posts put in there in expectation of a future fence and while they were doing the excavating they put them in. He said he had the telephone poles that he used as a curb-stop for any cars that may pull over that way. He said there was an issue with the fence and when they fixed the erosion they pulled the fence out of the creek.

Mr. DeWater said right now all you have is the fence posts in.

Mr. Siegel said just along the area where they excavated he thought he would have them put in right now rather than have them dig there twice.

Mr. Murphy said the first image we saw of the concrete barriers or bank, that is new work, that is what you had done.

Mr. Siegel said yes.

Mr. Murphy said the outflow pipe to prevent further erosion under the parking lot.

Mr. Siegel replied yes and it seems to work very well also, you see there are some additional drainage pipes that go through there which also helps drain the area. He said they found some buried pipes that they assume were some sort of storm drain.

Mr. Murphy said so their recommendation was to do some plantings up on top of that bank that is behind the big barrier.

Mr. Siegel said yes and he intends to do something along those lines and something will definitely be planted, he doesn't know what depending on the fencing that goes in etc. but in general he is going to do some landscape improvements if everything works out properly here. He said he has siding scheduled to go on the house that is next to the property and basically he plans on putting thousands of dollars into the property and he has already put new roofs on.

Mr. DeWater asked Mr. Siegel if he is not 100% in doing the fence.

Mr. Siegel said he is and he talked to the neighbor behind him and they talked about it so he has the quote and did what he was required.

Mr. Lewis said the question on the fence is not if just when.

Mr. Siegel said if the township says it is a requirement that he put the fence up he will take that into consideration and he would have to put it up.

Mr. Lewis said right now there is no barricade to keep a car from rolling into the creek and a fence is the only deterrent there is. He said there was some plantings suggested by Chagrin River Watershed and asked if that is also an if or is that a when.

Mr. Siegel said most of the stuff from the Chagrin Watershed, they said it may be covered under the Nationwide Permit from the Army Corps of Engineers to do the repair he needed to do there and as it turns out it was so and it was a culvert repair and he repaired it and a lot of that didn't directly apply to his repair but he does plan on putting some plants in the area there.

Mr. DeWater said back to the fence, as he remembers at our last meeting a lot of the concern of the neighbors was to have that fence there as a buffer so people didn't wander onto their property and we talked about the outside seating.

Mr. Siegel said if the seating is approved he will put the fence up.

Mr. DeWater said he remembers Mr. Lamanna making a statement and maybe even Mr. Lewis that we don't want to use that as an ultimatum for us that we approve that for the fence and he thinks at that point you were really gearing towards the fence.

Mr. Siegel said he is gearing toward doing a significant improvement on the property in general and this is all going to come into play with his decision and one of his intentions eventually is to sell the property and he is going to improve the appearance and improve everything about it so the property will be encumbered to a new buyer and if the fence is an issue obviously it is something that is intended in the general plan.

Mr. Lewis said he would think that was a major issue and a major criteria of considering some of the relief you wanted on some of your other areas and the original bartering chip was to secure that area and the fact that you had to do some bank improvements and the Army Corps supported that was one element but from this board's point of view partitioning off your business from the adjacent residential property as well as keeping any potential catastrophe of a car or somebody falling or rolling into that stream was one of our major conditions to be considered.

Mr. Siegel said he did get the quote for putting in fencing and as you can see from the picture there is fencing to the end of the culvert already and there is actually fencing on the other side of the culvert that was pre-existing fencing. He said he would be happy to put in the fencing to make a simple statement.

Mr. Lewis said this is a chain link fence, 48" high.

Mr. Siegel said yes.

Ms. Karen Endres, Zoning Inspector testified that she would like to point out to the board also that that area is officially a riparian area so he would need a variance from the riparian setbacks to put the fence there but since it is going in the parking lot she thinks it is a formality.

Mr. Gutoskey said it is there so he is replacing it.

Ms. Endres said there was no permit on file for the fencing.

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

Ms. Debbie Goldhammer of 7176 Chagrin Road testified that she missed the first meeting because she was out of town and she is more about the outdoor seating that might be occurring and the noise levels.

Mr. Lamanna said the board will get to that.

Mr. Siegel said he wanted to add something about the fencing and that is the quote he has it is not just for fencing along where the creek runs, it is actually an L-shape fence that will go across the back of the property also so it is not just a short piece of fence, it is an extensive fence. He referred to the aerial photo and explained the area where the fence will go.

Mr. Murphy said there is nothing on this proposal for the fence that actually gives a length.

Mr. Lamanna said regarding the plantings along there it might be a good idea to plant some kind of bank stabilization because you already have got an area that has been subject to erosion so it seems like it might be wise to plant something that is designed for the purpose of helping hold that bank.

Mr. Siegel said that is what he will do, he was told Dogwoods have strong roots and that is kind of what he intended and he thinks they flower too so they will look nice.

Mr. Gutoskey said the one thing that was discussed at the last meeting was putting together some kind of striping plan for the parking lot and getting the parking lot spaces marked so there is kind of a little more order as to how things end up in there.

Mr. Siegel said he talked about it in the past and the parking lot is an unusual layout and he was told it would be hard to stripe it properly and a lot of people park around the outside and then at night a lot of times his employees will stack the cars up behind the bar.

Mr. Gutoskey said the problem he looks at is it is more about safety so that you don't have cars parked that will inhibit a fire truck getting in or an ambulance.

Mr. Siegel said people tend to park only in the areas where you generally would park or not park and he thinks striping the lot is a reasonable request but it is an unusually shaped parking lot and every time we would walk it out we always came up with problems with the way the spaces were and it can tend to be a little fluid at times.

Mr. Gutoskey said the only thing is if it is striped you can probably get your most efficient parking of cars there.

Mr. Siegel said he would consider striping the lot, he is not against the idea, he actually tried to do it in the past and it hasn't been easily workable but he will look at it again because obviously he likes people to park carefully and neatly in the parking lot.

Mr. Lewis said they tend to park randomly for a safety point of view it is tough and randomly doesn't give you the parking density as defined spots would so actually it should be better for your business if you have actual places for people to park and driveways between the parking spots.

Mr. Lamanna asked if there is an issue on the total number of parking spaces that are required here.

Ms. Endres said she did not do an analysis because it is pre-existing non-conforming but she could.

Mr. Siegel said it used to be a gravel lot and he paved it fairly recently.

Mr. Lamanna said the alternative is if you don't stripe the lot then you may have to at least mark off some area for a fire lane so there is a clear egress.

Mr. Siegel said he will contact a striping company and have them look at it.

Mr. Lamanna said it may come down to that the best thing to do is maybe not try to define all of the parking but to try to define the roadway part where you can't park, as long as people don't park their cars in the fire lane or access lane if that is a better way to utilize the space but we need at least at minimum an area that is clearly for ingress and egress and access for emergency vehicles.

Mr. Gutoskey said especially since you can't loop around the building.

Mr. Siegel said it will make the property look nicer anyway so he is not against it, his goal right now is improving the property.

Mr. Lamanna said if you maximum the parking spaces then you reduce the need for people to spill off and park along the street or where ever else because they can't find a place to park and you could lose 25% or 30% of your spots because people aren't efficiently using the space so it helps with that issue too.

Ms. Endres said for the board information it would be one parking space for every four seats but she doesn't know how many seats there are.

Mr. Siegel said he has two to three picnic tables.

Mr. Lewis said it is a standup club.

Mr. Lewis asked about the door sign.

Mr. Siegel said he found a suitable sticker and put it on both sides of the window. He said it has generally been working and he has not seen anybody holding the door open since the sign has gone up.

Mr. Lamanna said the next thing is a sign that says this door is required to be kept closed by law which usually gets people's attention.

Mr. Siegel said it has a commercial closer on it too.

Mr. Lamanna asked Mr. Siegel what he wants to put out there.

Mr. Siegel referred to the aerial photo and said that is what it looks like now and that is what it has looked like for years, it is really just a rail and a couple of metal seats and as of now he has no plans of making any changes with the seating and if he does put a table and some chairs out there if anything it will quiet things down because there is less room for people but he really does not have any intentions on doing much of anything except keeping it the way it is. He said he has people who don't like to stand and prefer to sit when smoking a cigarette etc. and also in the future if the bar is sold to somebody who is more interested in selling food they would have the option of seating and service for the benefit of three or four tables they could possibly put out there.

Mr. Lewis asked if we are talking about permitting this seating and possibly a table or two but we are not talking about wait service and bar service out there.

Mr. Siegel said he never intended, he would just like it permitted for the future if he sells it so it is not an issue with whoever he sells the property to. He said the way that bar is set up he does not have wait service in the bar, he has bar service only and the only bar is inside so the only place for service in the bar is in the bar. He said it is not a very large patio, whatever you do on it, other than leaving it wide open, is going to significantly reduce the number of people you could even fit out there.

Mr. Lamanna asked if there is an occupancy limit posted on that.

Mr. Siegel said not for the patio, no. He said he had the fire department inspect it when he put the patio in and they said everything is in compliance.

Mr. Lewis asked if it is 20' x 20'.

Mr. Siegel said he thinks it is 23' x 23', it is like a small two-car garage so he took two parking spaces to make it.

Mr. Lewis said the walls are tall and solid so it keeps people out of the parking lot. The smokers, they can go out there, they are not dashing around your property and the wall is strong enough to contain a lot of the noise from there.

Mr. Siegel said yes that is one of the reasons why they made the walls concrete block instead of just putting up a wood fence.

Mr. DeWater asked how many people are estimated to be out there at one time smoking.

Mr. Siegel said it varies, sometimes when the band takes a break people go out there and have a cigarette so you may have 20 people.

Mr. Lamanna said 20 people doesn't seem too bad.

Mr. Lewis said he doesn't recall putting a restriction on time out there, it was regular bar hours until closing.

Mr. Lamanna said maybe there should be something that says occupancy limit of 20 people.

Mr. Siegel said that will be real hard to enforce.

Mr. Lamanna said it is not so much that we expect somebody to be out there counting heads but people should have some idea or if it starts to get really crowded. He said from your (Mr. Siegel's) standpoint, there should be no more than so many out here just from the standpoint if something happens and you have 35 people out there.

Mr. Gutoskey said there is no exit from there except jumping the wall.

Mr. Siegel said he has an alarmed door from the patio.

Mr. Lamanna said if you get too many people in a confined area bad things can happen in an emergency.

Mr. Siegel said it is the same thing inside a building.

Mr. Lamanna said that is why they have occupancy limits in rooms and buildings for just that reason so you don't get so many people in that the exits can't handle the exiting if need be.

Mr. Gutoskey said he doesn't see it being an issue having seats out there for smokers as long as there is no bar service.

Mr. DeWater said and the band is not out there.

Mr. Lamanna said he thinks the issue is keeping the door closed.

Mr. Gutoskey said he would think if he does sell it if somebody is going to run it as a restaurant they would still have to come here and ask for permission to have service out there.

Ms. Endres said if the property were to sell they would need to get the zoning permit in their name and she would say it would be a substitution of a non-conforming use, just like on Washington Street and Snyder over the years the tenants rotating out.

Mr. Lewis said they would be here either way and it would have to be equal to or less intensive.

Mr. Murphy asked if there are any neighbors.

Ms. Goldhammer asked about the signs that were just put up if that door was opening a lot at night because the band at night is really loud so if that door is going to keep the noise down thank you very much but is there anyone doing carding.

Mr. Siegel said he does have a doorman at the front door and what he will do is discuss with his employees about stepping up their efforts to keep the doors closed a little more including the front door.

Ms. Goldhammer said you really hear a difference when that door is open, at 11:00 at night she can be in her bedroom and it is just boom, boom, boom.

Mr. Siegel said the problem might be not necessarily the patio door but the front door.

Ms. Goldhammer said that is what she meant, the front door.

Mr. Siegel said he will discuss with his employees about keeping that closed.

Ms. Goldhammer said that would be helpful but she knows in the summer it is going to get hot in there.

Mr. Siegel said one of things he did when he bought the bar to quiet it down is he put in air conditioning so if they have the door open and the air conditioning is on it is counter-productive anyway because it will waste a lot of electricity.

Mr. Murphy asked Ms. Goldhammer if she is on Chagrin Road.

Ms. Goldhammer replied yes, she is right across the street.

Mr. Siegel said he was thinking of figuring out some sort of baffle to put over the large vent that is the size of a window and louvered and it might produce a lot of sound.

Mr. Lamanna said a huge amount of sound could come out of a small opening.



Mr. Siegel said he was thinking of some sound barrier material to cover it. He said it is all part of what he has been working on and after hearing his neighbors he has put some effort in finding some time to make sure that the bar has the attention it needs and it is cleaned up. He said he has the siding ready to go in, they are going to reside the total house, he already put a new roof on it and he is going to redo the landscaping and is probably going to cut down some trees in front of the building that are starting to cause some problems because they are growing a little too close to the building. He said he has put \$10,000 into the building in the last two to three months and he is planning on putting \$10,000 - \$20,000 more into improvements.

Ms. Goldhammer said so on the back patio you have no intentions of speakers or music out there.

Mr. Siegel said no.

Mr. Lamanna said that he can't do that and that is why he has to keep the doors closed. He asked if anyone has an issue with the seating out there.

Mr. DeWater said no as long as he keeps it around 20 people with some standing and seats combined, that is not really a factor if you are going to police it when it gets more crowded.

Mr. Siegel said just by nature people are there more to see the music so when the band takes a break you have your 10% smokers go outside and have a cigarette so there is plenty of room out there at any given weekend night.

Mr. DeWater said part of the last discussion was the patrons loitering in the parking lot too, if there has been an effort made to control that too.

Mr. Siegel said he does what he can and one of the things that we do is, it is kind of a balancing act, if we call the Bainbridge Police we end up in the blotter which he does not like to do so we call them and ask them to drive through the parking lot, if there are a lot of people hanging around outside, he asks the police to talk to them and he tries to keep things reasonable and he has also added a couple of lights in the parking lot by the request of the Police Chief and that has been done that cost him \$2,000 on that too, they are real low so there is no light that spreads but it does keep people from loitering in any dark areas, there are no dark areas anymore.

Mr. Lewis said he doesn't have any issues with more seating out there.

Mr. Lamanna said no loitering signs may not hurt either because especially when the police come around and there are signs that say no loitering then people will realize they shouldn't be hanging around there when they see the police come through.

Mr. DeWater said to hang one on the fence when it goes up.

Mr. Lamanna said the police will have a basis for pulling them in or at least questioning them because they are clearly effectively trespassing at that point in time.

Mr. Murphy said he thinks when the applicant was in here originally for the smoking deck the board said no tables and chairs, are you allowing a table out in the middle of the unit or a couple of tables.

Mr. Lamanna said yes, he doesn't see that as a problem. He said the seating should be restricted to maybe a dozen.

Mr. Murphy said you could put a couple of picnic tables out there and it would still be very comfortable and there is a fire exit essentially from there.

Mr. Siegel said it doesn't make sense to make it too crowded out there for them so we are not going to put too much seating and right now the way it is if he left the seating and just put up seats around the outside occasionally if there is a charity fundraiser etc. he puts a picnic table out in the patio and sets it in the middle and that is all they have is one picnic table.

Mr. Lamanna said you would be hard pressed to get more than a dozen seats there but we still would like to have a number.

Mr. Lewis referred to the high chairs.

Mr. Lamanna said he could put 12 in there if he wanted to but just so we know there is an upper limit and nobody is going to be coming around daily looking at you but if we start having a problem with large quantities of people out there plus you control how many seats there are and he doesn't think there will be room for more than a dozen seats in there.

Mr. Siegel said if you look at the seating there around the edge there are five or six seats per wall is what is there now and if he puts a picnic table in the center and there is still the seating there it is getting a little nit-picky on the number of seats he can have out there, he is not going to make it too crowded, he can't physically make it too crowded out there and if anything the more seats he has the less room there is for people so there will be less people out there.

Mr. Lewis said if they are all sitting out there they are not inside getting a refill at your bar, it is not good for business.

Mr. Siegel said he encourages people to come inside.

Mr. Lewis said he has 18 – 20 of these chairs out there and a picnic table that seats six or eight in the middle so you are sort of capping it at 24 to 28 overall seating.

Mr. Siegel said once again it is the encumbrance of having the number of seats if he sells the property and somebody has a use for it where maybe they can fit four round tables and they take the side rail off and each one of those tables has six chairs, if he sells it he hates to have somebody not have more than this.

Mr. Lamanna said if you are inside you can have only so many people anyway.

Mr. Siegel replied yes.

Mr. Lamanna said if you are inside there would be a fixed limit and the fire department would tell you that you can only have so many people or occupancy anyway. He said he doesn't know if this is covered by the occupancy rule.

Mr. Siegel said he doesn't think it is because he asked.

Mr. Gutoskey said even if you set it at 600 sq. ft. and 2 – 3 sq. ft. per person.

Mr. Murphy said it is 30 people and if everybody wants to have a cigarette at the same time, if 20 – 30 people walk out there to have a cigarette and when they are done with their cigarette they are not going to stand there they are going to go back inside, he doesn't see a problem.

Mr. Tim Mulle testified that it is 7 sq. ft. per person standing room for restaurant and bars and 15 sq. ft. for tables and chairs and the tables and chairs actually reduces the occupancy.

Mr. Murphy said it is a smoking deck and that is the way it has been.

Mr. Siegel said there is a full kitchen there and for him, he is not a restaurant guy.

Mr. Murphy said it has been a bar/restaurant for as long as it has been there, they have lunches and food at night but that is a smoking deck not an outside venue for dinner. He said we allowed it for a smoking deck but if he sells it, even though they have a kitchen, they can serve food inside, that is not exactly an outside patio for food or music.

Mr. Lamanna said there are no restrictions that people can't take their food and drink out there with them.

Ms. Endres said the new owner will be in front of the board and it can be clarified during that hearing.

Mr. Siegel said even when he serves food people will take food out there.

Mr. Lewis said all of the entertainment is indoors.

Mr. Lamanna said if somebody wants to serve food out there he doesn't think it will change the dynamics.

Mr. Murphy said he was making sure that if he sells the property, the board allowed it as a smoking deck.

Mr. Lamanna said the board could do this as a conditional use and say that it can be revisited.

Ms. Endres said it is not defined as a conditional use and it is in a residential district.

Mr. Murphy said he doesn't see it as an issue and is glad he is fixing up the culvert and he thinks the fence has to go up.

Mr. Lamanna said it is a non-conforming commercial use and we can treat this piece of it as somewhat of an extension.

Ms. Endres said it could be an expansion of a non-conforming use and she wrote it up as a request for relief from the conditions that were originally imposed on them.

Mr. Lamanna suggested that if the board allows the service to be out there the condition would be that if you want to start service you have to notify the zoning inspector that you are going to start service out there. He said that starts a clock running and then two years after that the clock starts running then you have got to come back for a renewal of the condition so it gives the board a chance to see whether it creates a problem.

Ms. Goldhammer asked when you say service do you mean alcohol and food or just food.

Mr. Lamanna said either, service where there is a waitress going out there taking orders and bringing them out to customers in that area, either food or drink so if at some point in the future if you (Mr. Siegel) want to do it or the next guy wants to do it you can do it but when you want to start it you have to notify the zoning inspector so that we know that it started and then two years after whatever the start date is then you tell the zoning inspector and you have got to come back here for a renewal just like a renewal for a conditional use.

Mr. Siegel said currently people do take their beer out with them.

Mr. Lamanna said we never restricted people taking it out we are just talking about the table service.

Mr. Siegel said he also allows catering from the bar and he does carry a food service license through Geauga County which is current and it gets inspected so if somebody wants to bring four large pizzas and put them on the patio he doesn't restrict that.

Mr. Lamanna said that is not service, service is you as the owner of the bar sending somebody out there, a waitress, taking an order and then going out and delivering whatever the subject of that order is to the people out there.

Mr. Siegel said he understands but his main goal is if he has an interested buyer of the property he doesn't want to scare him away.

Mr. Lamanna said this is the same kind of thing that other people in commercial districts would have to go through too if they were doing a similar thing so it is hard to say that we have a non-conforming use in a residential district so we are going to let them off the hook with less requirements, no he doesn't think so. He said the board is giving you what you want and if you don't do it it doesn't trigger the requirement to come back here, the requirement only starts when you actually start doing the service but it gives the board a chance if the next guy wants to do the service we can look at it and make sure that we don't have a problem, if people are throwing stuff over the wall, wrappers etc. then we would have a chance to look at it just like any other business like that in the township. He said you are getting what you want and we are maintaining a reasonable moderate amount of control over what is going on there and it is not any different than what we would be asking of somebody who had a similar establishment that was actually in a permitted district.

Mr. Siegel said and this would be for service only.

Mr. Lamanna said yes, service only, only if you are sending a waitress out there taking orders and they are bringing the food.

Mr. Siegel said in reality if he ends up talking to somebody and tells them they have to go to the township in two years he doesn't think anybody would buy it.

Mr. Lamanna said you are just coming back to show that it is working the way it is supposed to be working and not causing a problem.

Mr. Siegel said he just leans toward the side of less rules.

Mr. Gutoskey said he needs a variance for the fence because of the riparian.

Mr. Lewis said the fence goes in in 60 days or less.

Mr. Gutoskey said and the parking lot striped.

Mr. Siegel asked if the riparian issues will delay the installation of the fence.

Mr. Lewis said you already have the people from Chagrin River Watershed.

Mr. Lewis said the last thing was putting a buffer zone of plantings between the fence and the water and added that they made some good suggestions.

Mr. Murphy said the plants are meant to stabilize the bank.

Ms. Endres said she attended the meeting with the Watershed Partners and what Ms. Zndarsic was looking for was some plants that gets in there to stabilize that earth and make sure there was some stabilization around the stream and there are already some rocks there that are going to keep water from washing against that streambank and further eroding under the parking lot but in addition to that they want some vegetation on the streambank.

Mr. Siegel said he will use something off of their list.

Mr. Lewis asked when that will happen, maybe just before the fence goes in and asked if there will be a gate.

Mr. Siegel said he thinks with the quote he did not put a gate in and the neighbor who lives in the house behind the Greenville helps maintain the lawn so he was going to put in a gate because he can walk through and won't have to go around.

Ms. Endres said the fence is going to be chain link and asked if there is going to be any privacy slats that go in.

Mr. Siegel said he does have some questions regarding the fencing and he didn't want to bring it up but the minimum requirement is chain link and he was thinking about doing something a little better but he didn't want to be held to it because he needs to get pricing on it so his intention and discussion with his neighbor behind him was something a little bit more private but he needs to see what it entails and he wanted to make sure he had the chain link approved and it was moving forward and then he could work on something else.

Mr. Murphy said a 6' plank fence would be really nice in there.

Mr. Siegel said he needs to get prices on that and he wants to comply with what has been asked of him initially.

Mr. Lewis said he doesn't know if he is so concerned about the materials as he is that it goes up, the span, the height and the timeline and if he is trying to improve his property and the end reason is to sell it, the nicer you make it we all benefit and it benefits you on sale day.

Mr. Siegel said he agrees and he is not a big fan of chain link fences but if that is what needs to go in there, that is what he would put in there.

Mr. Murphy said he was surprised to hear that it was supposed to be a 4' chain link.

Mr. Siegel said that is pre-existing, that was what is there.

Mr. Murphy stated that any fence that is put in they recommend that the lower portion of the fence be designed to allow for water to flow underneath it because you are in a floodplain and when you have got a foot of water coming across that parking lot on top you don't want wood slats right to the ground, just make sure there are 8" to 10" under the fence for the water to be deferred for those 100 year floods every two years.

Mr. Siegel said that is what caused his problem in the first place.

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

Motion BZA 2016-2 – 7150 Pine Street (Greenville Inn)

Mr. Lamanna moved to modify the existing variance with respect to the outdoor patio area and the board will convert at least part of it into a conditional use.

1. The modification is that the board will allow the possibility of having service in this outdoor area. If service is planned to be initiated the owner at that time must notify the zoning inspector and the commencement of having service means basically that there will be wait service where orders will be taken and food and drink actually delivered to patrons in those areas. It does not cover a situation where patrons bring food or drink from inside to the outside area. That notice will commence a two year period and the actual date of commencement of that service will start a two year period at which the end of that two period the conditional use for the service will be required to be renewed in accordance with the procedures and rules associated with conditional uses.

With the following conditions:

1. The overall seating will be limited to 30 patrons in the outdoor area.
2. The applicant has agreed, and further condition and modification, to complete the erection of a fence at least 48" high, chain link, that the applicant provided to the board as part of his application but he is free to do a more private fence if he determines that is more desirable. The applicant will have 60 days from the day this becomes final to complete that.

Motion BZA 2016-2 – 7150 Pine Street (Greenville Inn) - Continued

3. With respect to the installation of that fence the board also grants a variance to the riparian setback requirements so that the fence can be installed in the location that has been shown in the pictures and where temporary fence posts have already been erected to that riparian.
4. The applicant will also provide some reasonable plantings in the area along the riparian for decorative as well as bank stabilization purposes and will use plants from the list provided by the Chagrin River Watershed Partners.
5. As another condition the applicant will look into coming up with a striping plan for the parking lot with 120 days to do this. The board would prefer that he stripe the entire parking lot but if that does not seem to be feasible there will at least need to be identified open ingress and egress of fire lanes so that there will be clear “no parking areas” that will allow access of emergency vehicles to the structure should that be necessary.
6. The applicant must place a few “no loitering” signs along the fence as well to discourage people from staying in the parking lot.

Mr. DeWater seconded the motion.

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

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

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

Mr. Tim Roach, Jr. and Mr. Tim Roach, Sr. were present to represent this application.

Mr. Lewis said he wants to know where Ms. Lisa Paradise Harry is because she was requested to be here and she is the property owner and the board has been trying to get her here for three meetings because you are the tenant and not the landlord or the property owner and along with that there are some requirements with the survey some really other detailed things. He said he doesn't understand why the property owner refuses to show up.

Ms. Karen Endres, Zoning Inspector testified that she can't explain it either.

Mr. Lewis said it makes it hard to move forward on things when the property owner is not here.



Ms. Endres said she knows that she receives notice and she doesn't believe anything came back undelivered.

Mr. Lewis said he doesn't think we have approved variances for your business in any way, shape or form yet but you are operating your business, that is a problem too. He asked if there is a new detailed site plan with lot coverage and everything calculated.

Ms. Endres said not the lot coverage, she put the plan in the board packets and all she had was a site plan and the area where the storage bins are located is in the area that would be designated as green space but you can't have storage materials designated for green space and if you've got mulch and gravel you need to be aware that people will drive cars up to it for loading and unloading so then that becomes even less of a greenspace when you are using it for a driveway area so she doesn't think that this site plan is going to serve the purpose that we intend the site plan to serve.

Mr. Tim Roach, Sr. testified that she asked us to move the blocks away from the property line so we pushed them all up in the middle there. He explained what he cleared in the area and up to the telephone pole was graded and that is all gone and then behind it water is there but he got rid of about 10 – 15 concrete bins and he took the signs down in the front and has the front looking pretty good but it has taken time because they had too much stuff in there. He said they had do put drainage in there because the water from the right-of-way is coming in and going through their place so they had to run a drainage ditch all the way down and the state came over and said they need to put two more drains in because one is full and all of the gravel from the road comes in, they have it all cleaned up but when it rains it will come back again. He said all of the water is running their way.

Ms. Endres said her thought was that the location of the bins were approved for the Kurtz Brothers but if there are drainage problems it is probably something that needs to be addressed then but in her opinion it doesn't work to put the storage bins in the greenspace.

Mr. Gutoskey said you still need access to and from.

Mr. Lewis said right now he has no idea what his lot coverage is.

Ms. Endres said she doesn't know either.

Mr. Lewis said with or without the storage bins and the fact that there is missing information to even get to the storage bins no matter where they are located on the property.

Mr. Lamanna said the storage bins are structures.

Mr. Roach, Sr. said he moved them down this way from the main road going in where she had it asphalted going around so he moved the storage bins down that way.

Mr. Roach, Jr. explained to the board the location of the bins.

Mr. Lewis asked how deep the bins are.

Mr. Roach, Jr. said they 18' deep, each one and they have to bring them mulch every couple of days because they can't stock enough.

Mr. Lewis said wherever they are located, you have an area about like this that all has to be driveway so you can have trucks into each bay to unload or to load but is not on the drawing and that is more lot coverage and we are looking for how much lot coverage you have before we get into the accessory buildings.

Ms. Endres said in her last letter, dated May 12, 2016 she tried to summarize all of the issues.

Mr. Lamanna said we are still looking for an accurate site plan.

Mr. Lewis said there were seven elements to that letter that still needs to be satisfied. He said it was sent to the applicant and also to Ms. Lisa Paradise Harry, dated May 12, 2016.

Mr. Murphy said the second item is "materials may not be stored in the greenspace area" but yet your entire bin structure appears without having a real defined site plan, your bins are not allowed to be in the greenspace, you have to keep one-half of your property greenspace which is not asphalt, driveway etc.

Mr. Roach, Sr. said when they had them there before they had them in the back and all the way out to the front, it was all asphalt grindings and she didn't want them against the property line so he pulled them out and now it is almost ready and he still has a few more things to do back there where the whole back side, may be 30' or 40' could be all green all the way through and then it goes all the way around there and attach it to the other stuff that is already green then the only thing he would worry about is in front of it.

Mr. Lewis said we appreciate your efforts but to approve any variance and actually let you guys be doing this which you are not approved to do at this juncture, we really have to have this thing detailed down where everything is exact, the location of things exactly and what your lot coverage is and making sure we have enough driveway or access and everything is taken into account. He said we are not trying to be hard on you but we have been asking for three months.

Mr. Roach, Jr. said the total square footage of the property is 46,000 sq. ft., the greenspace is 23,960 sq. ft. and his lot coverage is 22,040 sq. ft.

Mr. Lewis asked if the board has that information.

Mr. Roach, Jr. said no, it is right here.

Mr. Lewis said but we don't have that.

Mr. Lamanna asked Mr. Roach, Jr. if he can get all of this in within the lot coverage.

Mr. Roach, Jr. said yes and added this is actually a little bigger, the area for the mulch and this is bigger than what we actually use, we don't really use the back but the way Kurtz Brothers had it set up is this was all greenspace, this whole back area and that was approved before so that is why they put the bins in that area and now we use it obviously but it was approved before by them.

Mr. Lewis said so you have accounted for the bins with your dimensioning or they are not in there.

Mr. Roach, Jr. said yes he just has 4,800 sq. ft. for the entire area.

Mr. Lewis asked where it connects to the parking lot and driveway.

Mr. Roach, Jr. said it is really difficult trying to make this work for a place that sells stuff outside and you can only use 50% of it.

Mr. Lewis said the criteria was in place when you signed your lease.

Mr. Lamanna asked if the bins were moved from where they were originally.

Mr. Roach, Jr. said yes.

Ms. Endres said they were actually encroaching on the neighbor's property, they have moved the bins but they weren't moved to where they were approved for Kurtz Brothers and when they were in we addressed the outside storage issue, outside storage is permitted but the bins were to be located behind the building so that they were hidden from view. She said when she was on site with the tenant, her understanding was when he wanted to move the bins closer to the building there was some kind of drainage issue.

Mr. Roach, Sr. said the well or all of the water is back there in the middle of it and you can't drive down the middle of it and we found the pipe there where the water goes to the building.

Mr. Lamanna said there are some issues we have to address here and it appears that it is not possible to meet that condition.

Mr. Roach, Jr. said he was trying to put more grass in but it was kind of hard because they must have dumped ten semis of concrete.

Mr. Lamanna said there is a question on whether or not we have an issue with moving the bins over from where they were originally.

Mr. Lewis said they were at the rear lot line. He asked Mr. Roach, Jr. how far off the rear lot line he thinks they were moved.

Mr. Roach, Jr. said at least 30' forward and he took about one-third of them out of there because they went across the entire back of the property, they took one-third of them out and moved them forward because that is what they were asked to do and it is not an easy task to move these bins and now they are already stocked up so to simply move them is not really an option.

Mr. Lewis said he doesn't know if we have an issue about where they are located, just have to get the driveway access drawn so we can figure out the square footage of the extra coverage and see that you haven't gone beyond 50% on the total lot coverage.

Mr. Murphy said you may need another variance on it but whatever you drew it is not official and every time you come in it is a little different and every time you come in there is a new structure on the property, you are putting up sheds and tents, you are putting up structures on the property.

Mr. Roach, Jr. said there are no tents there, there is a greenhouse. He said there was an existing greenhouse prior.

Mr. Murphy said he appreciates that but we are not looking at what was existing before we are trying to make sure you have all of your ducks in a row for your property so we need a drawing so we can see what you are building and if you want to put more in you have to come back because you are only going to be allowed so much coverage which is structures and buildings. He said the bins are structures and this letter of May 12<sup>th</sup>, it is all on here. He said everything you have to do is in this letter, do that and come back and we're good. He said you have to find a way to get 50% greenspace and that doesn't mean someplace that you are not going to be driving the semis over and not going to be parking the tractors and trailers and you are not going to set up greenhouses every other month and that is the way the zoning is set up and it is all in this letter and he thinks Ms. Lisa Paradise Harry should be here next month with her site plan but right now, you are here tonight but didn't answer any of this letter. He added that this is his personal opinion.

Mr. Roach, Sr. said where the bins are now, he is trying to make greenspace but it is taking him a little while because they have a lot stuff there.

Mr. Lamanna asked how many bins they have now.

Mr. Roach, Jr. said they five bins.

Mr. Lamanna said that makes a big difference.

Mr. Roach, Sr. explained where the bins are located.

Mr. Lewis said there is no approved site plan and they should not be doing a lot to this property until there is an approved site plan because the possibility is you are not going to conform to what the requirements are or you are going to have do-overs and none of those are going to satisfy the township and it is going to cost your business money to keep redoing things over and over. He said the board needs an accurate real site plan.

Mr. Gutoskey said similar to the one that was included in the May 12<sup>th</sup> letter because the problem is the parcel is so irregularly shaped compared to where the building sits on it and without surveying it there is really no way to know how everything fits in there. He said when you look at the aerial there the bins were over the property line, they are using the driveway next door for ingress/egress, you look to the south it looks like it went over into there and it is just a strange shaped piece of property and we just can't look at the building and even if you look at the very front and even on the side you can see there were some bins or something there on the aerial and even on the other side.

Mr. Roach, Sr. said there were a lot of four by fours stuck in the ground sticking up and we got all of those out.

Mr. Roach, Jr. asked if anybody has actually seen it at all lately.

Mr. Lewis replied yes and you are improving the look of it a lot.

Mr. Roach, Jr. said it was a used car dealership.

Mr. Murphy asked who owns the back of the property.

Mr. Roach, Jr. said Verizon.

Mr. Murphy asked if there is a structure on that.

Mr. Roach, Jr. said there is a big cellphone tower back there.

Ms. Endres said there are a number of collocations on that tower.

Mr. Murphy said the back lot is all greenspace and you are trying to put a commercial business in the front and you are taking a bigger footprint than is allowed by the zoning. He said the whole surround in the back is for the Verizon tower and it will never be built on.

Mr. Roach, Jr. said this is the busiest season for him so they are booking patios and jobs for next year, that is how busy they are personally and he knows the board wants what it wants and they didn't know what they wanted to do with the property and it is difficult, when people pull in it is insane so it is so busy it is ridiculous. He said he gets four or five people that walk in everyday that want jobs from us, either retaining walls or they want their lawn cut so his business has probably tripled since he has been there and he has been trying to keep up with it, there is a lot going on and they have to maintain the place because it was such a disaster so they are still trying to figure the bin placement and exactly how they are going to operate out of there, what is the best way for a truck to come in and out and today he was stuck in the back for 20 minutes because so many people pulled in the front, he couldn't get out of there, customers, so they are trying to figure the most logical way to do it so to give an exact site plan prior was difficult.

Mr. Gutoskey said if you get an accurate survey, somebody, an engineer, surveyor, architect can sit down and help you lay it out where you can get your traffic flow through, the bins placed where you want to, to make it the most efficient for you instead of keep moving things around.

Mr. Roach, Jr. said it is an awkward lot, you can only put the bins in a certain place, you can't put them behind the building, there is no other place for them, he can't bring them closer to the property, forward. He said mulch is stopping in about eight weeks and they won't have mulch after that.

Mr. Lewis said you are busy and we are into three months with this and here is our dilemma. He said we don't have a site plan so there is absolutely nothing we can do to proceed to approve anything. He said going back to our zoning inspector's letter to you on April 8<sup>th</sup> it says "I cannot issue the business permit until I have an accurate and complete site plan and Blackstone may not legally conduct business until the zoning certificate for the business permit is issued."

Mr. Roach, Jr. stated that he sent one in, the one that was approved by Kurtz Brothers and then Ms. Endres said that one will not work.

Mr. Lewis said we need a plan for your site, the way your building is and you are the applicant, sort of. He asked Mr. Roach, Jr. if he has the affidavit to represent the owner.

Mr. Roach, Jr. said he has no idea.

Mr. Lewis asked if we have something on file from Ms. Lisa Paradise Harry allowing them to make application.

Ms. Endres said we have the lease agreement.

Mr. Lewis asked if that is permission to accept terms and conditions on the property for the property owner.

Ms. Endres said she talked to Mrs. Harry also.

Mr. Lewis said he understands but right now we have a business operating without a permit from the township, we don't have a site plan, we are three months and you are busy and asked how many extensions are we doing or are we saying you have 30 more days to get your stuff in otherwise we are going to have to formally shut it down because you haven't complied.

Mr. Lamanna said maybe 10 more days. He asked if there was a problem relocating the bins from where they were and it was contrary to our original decision and we want to make sure that at this point in time we understand that we are revising the plans slightly and revising the parameters on which you must produce the plan slightly so what we are saying here is we are not going to limit where those bins are, they don't have to be behind the building, they can be where you have moved them to.

Mr. Roach, Jr. said he thought we already went over a lot of this stuff.

Mr. Lewis said the open items were sent to you on May 12<sup>th</sup>.

Mr. Roach, Jr. said the board said we could have the bins behind the building, we went over a lot of this stuff.

Mr. Lewis asked if there is a sign up now.

Mr. Roach, Jr. said he has a sign right in front of the building, it is two feet from his building and he knows originally it was supposed to go on top of the building.

Ms. Endres said there is not supposed to be a sign until you get a business permit.

Mr. Roach said he will take the sign down and park his truck in front of it.

Ms. Endres said her biggest issue is figuring out the lot coverage and she didn't impose the conditions, the board of zoning appeals granted an extra 10% in lot coverage because of the conditions on the lot and she is in the position of verifying that the lot coverage is actually 50%, if it is more than that, she can't give a variance on that, that is not what the zoning inspector can do, she can only enforce what the board of zoning appeals has approved already in your hearing or previous hearings and the conditions that were approved in previous hearings with 50% lot coverage and what she needs is a site plan showing her with numbers and setbacks.

Mr. Lamanna said normally we wouldn't have even acted on this, we gave you a break by acting on this application and basically saying we will approve the substituted use within these parameters but you have to give us a site plan that shows specifically that yes in fact these parameters have been met. He said normally we would have said thanks guys and when you have your site plan ready, come back and talk to us so we have already given you a huge amount of leeway here.

Mr. Roach, Jr. said we used the original site plan and sent that in because you guys approved that that was greenspace, that whole back dirt/mulch area that Kurtz Brothers had.

Mr. Lamanna said he doesn't know if that ever got far enough.

Ms. Endres said he never implemented it.

Mr. Lamanna said it was never implemented.

Mr. Roach, Jr. said they were under the impression and Ms. Endres said that this is what was approved by Kurtz Brothers.

Ms. Endres said they approved a site plan for Kurtz Brothers but Kurtz Brothers never cleaned up the lot to meet that site plan, they opened, they never complied with the site plan so the site plan they produced would have shown 50% greenspace and 50% lot coverage but it was never implemented.

Mr. Roach, Jr. said he thinks we are just wasting each other's time.

Mr. Lamanna said you put the detailed site plan together, we will modify the location.

Ms. Endres said she is asking if they even meet the 50% lot coverage with the bins and the parking or truck access to the bins.

Mr. Lamanna said we can't deal with that until we have a site plan.

Mr. Roach, Jr. said he will get an exact detailed site plan and he will come back and you want it in 10 days.

Mr. Lamanna said you may have to carve something off temporarily if you can't meet the 50% and come back and revisit it.

Mr. Lewis said this lot was extended to 50% so there has already been a 20% increase in lot coverage offered, it is going to be real important to not exceed that. He said we have already stretched to our limit because peculiarities of the site and trying to accommodate this type of business.



Ms. Endres said one of the neighbors is here.

Mr. Lewis said we are tabling this and are asking for a site plan in 10 days.

Mr. Lamanna said the board will change the location of the bins and asked what the issue is with the temporary building.

Ms. Endres said normally there really is no such thing as a temporary building, buildings need permits and they count as lot coverage. She said something else she would like to see is when it is time for her to go and do an evaluation of the lot if she doesn't know where the lot lines are she can't do it.

Mr. Roach, Jr. said there are pins there.

Ms. Endres asked if they are on the four corners.

Mr. Roach, Jr. said they are on the two back ones.

Ms. Endres said what she needs is something marked every 20 ft. or so along the sides.

Mr. Roach, Jr. said it is swampland, it is pretty wet over there.

Ms. Endres said it is not realistic to try to site down these lines and try to figure out everything that is supposed to be, she is not going to be able to see the pins at the same time.

Mr. Lamanna asked if new structures were added beyond what was originally contemplated.

Ms. Endres said there is a hoop building with plastic on it and it appears there are plants and firewood being sold out of that.

Mr. Roach, Jr. said no, just plants.

Ms. Endres said there is a temporary building behind.

Mr. Roach, Jr. said for topsoil.

Mr. DeWater said the board told him he could cover the topsoil.

Mr. Lamanna said if it is just a cover over something that is in a bin already.

Mr. Roach, Jr. said the only thing they never discussed was the greenhouse that we have right next to the building.

Mr. DeWater asked how long the greenhouse is up, just in the Spring, does it come down after a month.

Mr. Roach, Jr. said it is easier to keep it up, we could take the plastic off but the poles would be there during the winter so it just looks better to leave it up. He said they dressed up the front of it from wood from a barn from the 1800s so it looks really good.

Ms. Endres said she doesn't think it looks bad but one of the things she considers is that it is safely serving the public, the general public actually goes in this building so the building department should be doing inspections, they should get permits and the building department would be checking the building to make sure it is properly secured and safe for people to go into to do retail shopping.

Mr. Lamanna said if all you have is a cover for the bin, that is okay but if you have a building that is being used as a sales thing and asked if people are going in it.

Mr. Roach, Jr. said yes they walk through it.

Mr. Roach, Sr. said it is a hoop house.

Mr. Roach, Jr. said it is agriculture.

Mr. Lamanna said then he doesn't want to get into that right now so that is sitting there as a potential non-compliance. He said between now and our next meeting you can contact the building department and have them come out and look at it and tell you what you have got to do.

Mr. Roach, Jr. said okay.

Mr. Lamanna said whether or not it has to be approved by them and then next month when you get your site plan in in 10 days and we know what is going on here we will look at the question of a temporary building and whether we will modify the plans to allow a temporary building or not or whatever we call this structure, whatever the building department decides it is then we will address it from a zoning standpoint.

Mr. Roach, Jr. replied okay.

Mr. Lamanna said he will make no predictions on what the outcome of that would be. He said the three things we are doing is we are changing the location of bins, you have 10 days to get that site plan in and you have to contact the building department and have them come out and tell you what their requirements are with respect to this type of structure and we will deal with the zoning at our next meeting.

Mr. Gutoskey said our expectations of a site plan is this example prepared by a surveyor.

Mr. Lamanna said exactly enough to satisfy the zoning inspector.

Mr. DeWater said if you don't have time, hire somebody.

Mr. Roach, Jr. said he can't afford to spend his money on a survey.

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

Motion BZA 2016-5 – 7045 N. Aurora Road

Mr. Lamanna moved to continue this application to the next regularly scheduled meeting to be held June 16, 2016 and to grant a modification to allow the relocation of the bins to an area that is not behind the building because it is not feasible to put them there because of issues with existing utilities. Also the applicant will contact the Geauga County Building Department and have them come out and look at the hoop structure that they are using to store plants in to determine what the requirements are from a building department standpoint and once that is determined and once the board sees the site plan we will address at the next meeting any zoning issues with respect to that building at that time.

Mr. DeWater seconded the motion.

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

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

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

Mr. Timothy Mulle was present to represent this application.

Mr. Mulle testified that his house was built in the mid-fifties and as you can see when you look at the site plan the house is pushed up into the southwest corner of the property which is basically because of the terrain, there is very little space available to build on and this property, the one directly next door to it, which we were talking about earlier were both in the same kind of situation so the architect who built this house Mr. Jack Curtis built both of these two houses and responded to the terrain by locating the house up in the front corner and as a result the house is very close to the road and as you all know Lake Lucerne has its own setback dimensions that differ from the rest of Bainbridge Township and the front yard setback in Lake Lucerne is 50' but this house is less than that. He said the setback currently to the front of the existing house is 29' and the proposed addition is a room addition, it is about 250 sq. ft. projecting out the west side and the intention is to push the front of that addition farther forward by about 6' for several reasons.

Mr. Mulle continued by saying one is, as part of the design solution to break up the façade of the house which is kind of long and low with almost a flat roof, the other is there is a sizable Oak tree that actually comes up through the deck next to the house which is about 3' in diameter, the trunk, and so he doesn't want to get too close to that tree to damage the roots and he is also trying to preserve as much of the usable deck space on the side of the house as possible.

Mr. Lamanna asked if the deck is there already.

Mr. Mulle said yes the deck is there, it exists.

Mr. Gutoskey asked if the addition is going over where the deck is or just over part of the deck.

Mr. Mulle said just part of the deck.

Mr. Gutoskey asked if the deck just comes straight out from the house.

Mr. Mulle said yes the deck lines up with the front wall of the house currently and it projects about 20' west of the house to the side. He said there is an existing stone wall that basically is an extension of the stone wall that is the front wall of the house that extends west that is about 3' high that defines the front edge of the deck currently and that wall has been gradually trying to collapse because of old tree roots and things and there are also some drainage issues at the front of the house because all the water that comes off the roof basically drops in front of the house and that is what started this is wanting to address the stone wall and the drainage issues and it ended up turning into building a room addition, that is how sometimes these things happen.

Mr. Lamanna asked if the addition is going beyond the deck edge.

Mr. Mulle said the new addition will be on part of it and it is 11' from the side line which in Lake Lucerne the side yard setback is 10'.

Mr. Gutoskey said the next house is way far away.

Mr. Mulle said the next house is on the other side of a pretty deep ravine.

Mr. Lewis asked if there is Lake Lucerne ARB approval.

Mr. Mulle replied yes.

Mr. Lewis said the house is 21' off of the right-of-way.

Mr. Mulle said you can see when you look at the house next door, that corner of the house is the closest point to the property line and the 21' measurement was actually farther over so that corner of the house is actually closer than that but what the ARB wanted to ensure was that this addition would not be closer to the road than the house next door.

Mr. Murphy said and having seen that they approved it.

Mr. Mulle replied yes.

Mr. Murphy asked if there is anybody here interested in this application, neighbors etc.

The board discussed the requested front yard setback.

Mr. Mulle stated that it is 23'. He said there is a revised plan, the original site plan was based on work that was done several years back and it was updated just a couple of weeks ago.

Ms. Endres asked if the site plan was based on a survey.

Mr. Mulle said they were both based on surveys, the one had been done several years back and not specifically for this purpose and when Ms. Endres questioned it that is when he called a surveyor and had him come back out a couple of weeks ago and reshoot the property so these numbers that are on this revised plan in red are the updated numbers.

Ms. Endres said the revised plan is the most accurate.

Mr. Gutoskey asked Ms. Endres about the rear setback.

Ms. Endres said she doesn't think there is an issue with rear setback.

Mr. Mulle said the rear setback is in excess of 70' and in Lake Lucerne their setback is only 10'.

Mr. Lamanna said it is technically what it is now but typically in previously done subdivisions we allow it to revert to what the original zoning was for those subdivisions when they were done so that would be 30' but it looks like it is over 90'.

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

Motion BZA 2016-12 – 8500 Lucerne Drive

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing an addition with the location as shown in the plans submitted with the application.

1. A variance from the minimum front yard setback nominal 100' required and the former 75' to 23'.
2. A variance from the minimum side yard setback nominal 50' required to 11'.

Based on the following findings of fact:

1. With respect to the side yard it is consistent with the former 10' side yard setback in Lake Lucerne.
2. With respect to the front yard the existing house is only setback 29' because of the topography of the lot and the slope down to McFarland Creek.
3. The 6' moving forward will not substantially impact the appearance of the house.
4. There is an adjacent house that is slightly closer than that anyway and therefore this would not adversely affect the character of the neighborhood or the adjacent property.

Mr. Lewis seconded the motion.

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

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

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

Mr. Joe Gutoskey recused himself from this application.

Mr. Brian Sprafka of Small Hands Big Dreams and Mr. Roger Corsaro, property owner were present to represent this application.

Mr. Sprafka testified that they have a conditional use permit for Small Hands and it has to be reviewed every so many years so that is the primary reason and in addition, as you can see on the drawing, our playground that is on the north side there actually goes off the professional building property onto the regular Tanglewood property so as a result we need to reconfigure the playground to get it on the property.

Ms. Endres said it is not because of zoning it has to do with banks and refinancing.

Mr. Sprafka said it is unrelated to zoning.

Mr. Corsaro testified that we have to cut that off so we are not encroaching anymore.

Mr. Lamanna said that is throwing everybody off and if every time somebody is doing a calculation based on the fact that the mall's property is not being used by that. He asked if they are going to adjust that.

Mr. Corsaro said yes, we are just going to move it to the one side on his property. He said they are just cutting this back off and moving it to the side 18' x 10' to get the same area and added that he needs to maintain a certain amount of space.

Mr. Lamanna said so whatever you are cutting off on one side you are adding on the other side.

Mr. Corsaro replied yes and he owns that property but he doesn't own this little back piece we are cutting off.

Mr. Lamanna said we assume that this was on the property anyway.

Mr. Corsaro said right.

Mr. Lamanna said it is not changing the lot coverage because we always assumed that it was on the property.

Mr. Corsaro said yes.

Mr. Lewis said we did.

The board discussed the location of the playground.

Mr. Corsaro said at one time he owned both pieces but now he doesn't own that piece so he is just cutting it off.

Mr. Murphy asked if the kids still have to be walked across the driveway to get to the fenced in area (playground).

Mr. Sprafka replied yes.

Mr. Lewis asked if there are any violations.

Ms. Endres said she has had no violations, signage sometimes is a little dicey, every once in a while a banner goes up but she has not had any complaints.

Mr. Lewis said the fact that not much has our attention so you guys have been doing a pretty good job.

Mr. Sprafka said he hopes so.

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

Motion BZA 2016-13 – 8505 Tanglewood Square – Small Hands Big Dreams Learning Center

Mr. Lamanna moved to extend the conditional zoning certificate for the day care center at this location for a period of five years from the date this becomes final.

Based on the following findings of fact:

1. All of the existing conditions will continue to remain in effect.
2. The board does note that the applicant will make one change and it is to modify the playground area shown on the submittal in order to bring the playground completely onto the parcel and remove an encroachment on the adjacent parcel of which they were unaware at the time the original approval was made.

Mr. Murphy seconded the motion.

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

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

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

Mr. Robert Bagley was present to represent this application.

Mr. Bagley testified that he wants to be able to put his garden tractor and lawn mower in there and he wants to be honest, he built this five years ago and had no idea he needed to have a permit but he just wants the variance so he can leave it where it is, it is less than 50' from the property line but his next door neighbor doesn't have a problem with it, he thinks it is 22' from the property line.

Ms. Karen Endres, Zoning Inspector testified that it is 34'. She said this property abuts township property and she didn't require a survey on this because the township had surveyed the western line (Centerville Mills Park) and knew where the pins were so he was able then to measure across and establish accurately where the eastern lot line is.

Mr. Lamanna asked if there is an aerial on this.



Ms. Endres replied yes. She said she recently issued a permit for an accessory building that complies with zoning but in her meetings regarding the issue she found out there was a non-permitted building so he is in the process of getting the non-permitted building permitted.

The board reviewed the aerial photo.

Ms. Endres said the building is already there.

Mr. Murphy asked if the garage doors face the street.

Mr. Bagley replied yes.

Mr. Lamanna asked if it is 10' tall.

Mr. Bagley said 9-1/2' and where that property line shows it is further to the east than what that shows. He said his driveway is 11' from the property line and that shows the property line going down his driveway.

Mr. Murphy said if you send an email to Geauga County they will actually fix that for you.

Ms. Endres she thinks they need a recorded survey to fix it.

Mr. Lamanna said it is 50' down to 34' and the existing house is at 46' according to this drawing.

Mr. Bagley said the township is my neighbor.

Ms. Endres said the township did surveys of all of their properties so we know where those lot lines are.

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

Motion BZA 2016-14 – 8732 Crackel Road

Mr. Lamanna moved to grant the applicant the following variance for the purposes of maintaining an existing storage shed that is 16' x 10' x 9'4" tall.

1. A variance from the minimum required side yard setback from 50' to 34' for a variance of 16'.

Based on the following findings of fact:

1. This is a reasonable location for the storage structure.
2. The adjacent property owner's house is a significant distance away from the property line and because of the orientation and location of this building it is off of a 45° angle from the corner of the other structure so it should have limited visibility and impact on that.
3. The existing house is only 46' off of the property line to start with and this positioning will not adversely affect that neighbor nor adversely affect the character of this neighborhood.

Mr. Lewis seconded the motion.

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

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

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

Mr. Matt McGill of McGill Property Group was present to represent this application.

Mr. Lamanna asked Mr. McGill if he is looking at replacing the existing signs.

Mr. McGill testified that it is in addition to the existing signs.

Mr. Lamanna said both signs, each at the two entrances.

Mr. McGill said that is correct.

Mr. Lamanna asked if the reason for this is because there are more stores.

Mr. McGill said yes it is a combination of more stores and last time he was up here we did a signage variance that covered all of the building signage and he explained at that point that just in general retailers are getting smaller, for example, Famous Footwear, they were 10,000 sq. ft. and now they are 6,500 sq. ft., they can sell the same amount of shoes out of less space and they pay the landlord less so what that equates to is he still has the same amount of building square footage but more stores and in addition to that they have constructed Gordmans and Party City and Kirkland's which they are using existing signage in front of Kay Jewelers and the Samurai to put those stores on but unfortunately those signs are a lot smaller so it doesn't really justify the tenant, Gordmans 50,000 sq. ft. to have a tiny little sign that used to belong to Mattress Matters, it just doesn't work very well so what this does it allows for Gordmans to have an anchor signage position right under Dick's Sporting Goods and then it also gives space for the Circuit City, Kirkland's, Party City and then one additional retail over there when they construct that between TNT Tanning and Party City of which you are probably aware, we do not own that land, it is the other property owner there. He said as part of that they are going to be removing some of the tenants signage on the side by Kohls, they are currently on the sign that is closest to AT & T so Maurices is on that sign and we are going to move them over to the monument sign that currently Walmart is on and all of the names are shown on there as unknowns just showing retail.

Mr. Murphy referred to drawings 1, 2, 3 and 4.

Mr. McGill said this drawing is showing directional signs, the two monument signs in question, one is there and one is there (he referred to the site plan).

Mr. Murphy said the additional square footage is going towards the back of the property.

Mr. McGill said that is correct and they looked at an option of going up and back and it seemed to make more sense, financially and from aesthetics standpoint to go back and not increase the height of the sign.

Mr. Murphy said the aesthetics is very nice.

Mr. McGill said currently the signs are still two feet lower than the three signs on the north side so they are going to keep them lower and he thinks it works out better.

Mr. Lamanna said there is 198 sq. ft. of new signage and asked if that is the bottom line here.

Mr. McGill said it is 49.5 sq. ft. per sign face so when you have a total of four faces, yes that would be correct.

Mr. Lamanna said it seems reasonable with the number of stores.

Ms. Endres said she is not opposed to it she just does not have the authority to approve it.

Mr. Lamanna said they have done a nice job and it is consistent with the number of tenants in the area, you need the signage because of the size of the shopping center.

Mr. McGill said the recordable agreement was signed with the adjacent property owner resolving all of the issues there which included us getting this variance and getting the signage done so it puts it all to bed and hopefully going forward we have happy property owners.

Ms. Endres said she would like the ability to discount these directory signs when it comes to calculating permitted signage for the various buildings, it is so convoluted there when looking at the total aggregate.

Mr. Lamanna said the total aggregate thing is, at least for the purposes of this center, not treat these ground monument signs as part of the aggregate for the individual stores. He said it makes more sense and it will be a separate calculation.

Ms. Endres said she has been taking the liberty of looking at their frontage, Walmart, and wall sign, when she approved a modified sign package. She said for the Kohls strip she was just looking at the wall signs when that issue was addressed about two years ago or so.

Mr. Lamanna said there are so many businesses on these signs we will just do that as part of this and it can be documented to rely back on.

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

Motion BZA 2016-15 – 7135 and 7207 Aurora Road (Bainbridge Shopping Center II, LLC)

Mr. Lamanna moved to grant the applicant a variance for the extension of the existing ground signs by 198 sq. ft. of signage comprising for the size of 49.5 sq. ft. at the location of two entrances. These will be lateral extensions as shown on the plans.

Based on the following findings of fact:

1. Due to the increased number of retail stores as the center expands and subdivides there is a need for additional signage to identify the occupants which is needed because all of these stores are far off the road and directory signs are needed to advise people coming in as to the location and the presence of these stores.
2. In the future with respect to the center, because of the large number of tenants on these signs, the existing ground signs will be considered as a separate entity and allowed at their present size plus this additional 198 sq. ft. and that signage will not be considered as part of the signage of any other business located at the site for the purposes of determining the individual signage that they can have with respect to the individual business location.

Mr. DeWater seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:29 P.M.

Respectfully submitted,

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

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

Date: June 16, 2016

AUDIO RECORDING ON FILE

BZA PH 5/19/2016

-38-

Bainbridge Township, Ohio  
Board of Zoning Appeals  
May 19, 2016

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:29 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Minutes

Mr. Gutoskey made a motion to adopt the minutes of the April 21, 2016 as written.

Mr. Murphy seconded the motion.

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

Applications for Next Month

Application 2016-16 by Timothy M. Morgan for property at 7440 Faraway Trail

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

Application 2016-17 by Dorothy Blaschak for property at 18378 Chillicothe Road

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

Application 2016-18 by Lori C. Bieber for property at 7395 Chagrin Road

The applicant is requesting a change of use/substitution of a non-conforming use for the purpose of establishing a veterinary hospital. The property is located in a R-3A District.

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

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

Since there was no further business, the meeting was adjourned at 9:40 P.M.

Respectfully submitted,

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

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

Date: June 16, 2016