

Bainbridge Township, Ohio  
Board of Zoning Appeals  
May 20, 2004

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:40 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs. The following matters were then heard:

Mr. Lamanna swore in all persons who intended to testify.

Application 2003-56 by Heritage Development Company for property at PP# 02-420598 Aurora Road - Continuance

The applicant is requesting a conditional use permit with area variances for the purpose of building a commercial retail center. The property is located in a CR District.

Motion BZA 2003-56 – Heritage Development Company – PP#02-420598

Mr. Lamanna made a motion to table this application until the applicants give the board notice that they have completed their discussions with the township trustees and are ready to proceed.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2004-13 by Boyer Signs & Graphics, Inc. for Ruby Tuesday Restaurant for property at 7135 Aurora Road

The applicant is requesting area variances for the purpose of installing signage. The property is located in a CR District.

Mr. Bob Casto of Boyer Signs was present to represent this application.

Mr. Lamanna asked Mr. Casto if there was anyone present to represent the Ruby Tuesday Restaurant or if he had a letter from them giving him authorization to represent them.

Mr. Casto replied no.

Mr. Lamanna said that the application will have to be postponed until such authorization is given.

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

Motion BZA 2004-13 – 7135 Aurora Road

Mr. Lamanna made a motion to table this application until the next regularly scheduled meeting to be held June 17, 2004.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2004-2 by Thomas C. Bauer for property at 17350 Tall Tree Trail - Continuance

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

Mr. Lamanna stated that this application is a continuance from the March 18, 2004 meeting and in the interim, the zoning inspector and a board member had a chance to look at the property.

Mr. Takacs stated that after the last meeting it was decided that the shed could be moved 10' to 12' off the rear property line without affecting trees or the surrounding environment and added that he and Mr. McIntyre looked at the property. He said that the applicant has agreed to move the shed but has to find someone to move it.

Mr. Lamanna asked Mr. Bauer if he agrees with that.

Mr. Bauer testified by saying yes, it can be moved at a diagonal and it saves him from cutting trees.

Mr. Takacs said it puts the shed up to the edge of where the grass starts which is somewhere between 10' – 12' off the property line angled out. He explained the location to the board members per the photos submitted.

Mr. Lewis asked Mr. Bauer if he had somebody to help him.

Mr. Bauer said he needed to find someone and will take suggestions.

Mr. Olivier asked if any additional screening is needed.

Mr. Takacs said no, it is pretty dense and where it will be sitting will have no effect on the neighbors.

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

Motion – BZA 2004-2 - 17350 Tall Tree Trail

Mr. Lamanna made a motion to grant the applicant a variance from the required rear yard setback of 50' to a minimum of 10' off the property line for a variance of 40' for the purposes of maintaining a shed.

Based on the following findings of fact:

1. The applicant is going to move the shed forward to a line of two existing trees that are now between the shed and its residence which should clear that portion to move it to a sufficient distance to meet the setback requirement.
2. The applicant will have 60 days in which to complete the movement of the shed.
3. The board finds that due to the substantial amount of wooded area behind the applicant's lot, before the next adjacent lot, that no additional screening will be required.
4. The position of the shed, where it will be re-located, will not adversely affect the neighbors on either side or to the rear.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2004-7 by Arnold Leeb for property at 17787 Chillicothe Road

The applicant is requesting a use variance and area variances for the purpose of constructing an animal hospital. The property is located in a R-3A District.

The zoning inspector's letter dated May 13, 2004 was read and photos of the site were submitted.

Dr. Arnold Leeb, Mr. David Hartt, Mr. Roger Weiss and Mr. Jeff Markley were present to represent this application.

Mr. Weiss testified that he is a 27 year resident of Bainbridge Township and lives on Country Lane and is the attorney representing Dr. Andy Leeb. He stated that the application has been denied by the zoning inspector so they are here requesting an appeal and a use variance. He said the parcel is .6 acres and is in a R-3A district, and is a single family residence on a non-conforming lot of record. He said his client proposes to take down the existing structure and it cannot be saved because it is not a safe structure. He continued by saying that they are asking for side yard and front yard setback variances under Chapter 139 of the current zoning code. He continued by saying that the corridor of Rt. 306 and Rt. 422 was at some time designated as a commercially developed area and that anything built on these properties would require variances.

Mr. Weiss said he has submitted several studies and asked that they be incorporated into the record and are as follows: Bainbridge Township Guide Plan 2000 (1978); Land Use Plan (1991, 1992 & 1994) and Land Use Plan and Zoning Report by D. B. Hartt. He stated that only one of those was adopted by the township in 1978 and he does not believe the other reports were formally adopted but they do reflect the changes that occurred at Rt. 306 and Rt. 422 and said that Rt. 422 has continued to change the character of the neighborhood.

Mr. Lamanna said the board will allow that into the record but cannot speak to what was adopted and what has not been.

Dr. Leeb testified that in January of 1989 he opened the Town & Country Pet Hospital and also works with Rescue Village, the Ohio Greyhound Rescue and the new Police Department dog. He continued by saying that when a survey was done in Bainbridge Township, one of the concerns expressed was bringing a lot of traffic to the area, but he already provides a service to the township. He said he has been patient over the years and a PUD was talked about but he wants to continue serving the residents of Bainbridge Township and he wants to have his own building to practice veterinary medicine for the next 15 years. He added that there is already a sewer connection to the property and that Mr. Murray Fruchter installed it a few years ago.

Mr. Lamanna asked Dr. Leeb if when he bought the property in 1995 that he wanted to have his practice at this location.

Dr. Leeb said that Mr. Fruchter said there would be changes in the area and there have been changes and this business will protect some of the concerns that everyone has.

Mr. Lamanna asked Dr. Leeb if he looked into buying the adjacent property from the township.

Dr. Leeb said he would have loved it if the township would be interested, but he has not discussed it with them.

Mr. Olivier asked what the current use of the property is.

Dr. Leeb said it is not usable because it was found to be structurally unsafe and he has rented it but found it is better to let it sit.

Mr. Olivier asked if the structure is vacant by choice.

Dr. Leeb said it is unreasonable to make repairs to it and it has been vacant for over a year now.

Mr. Jeff Markley testified that he was a member of the Bainbridge Township Zoning Commission from 1997 to 2001 for five years, is an eleven year resident of the township, lives in Lake Lucerne, is a member of the park board and is the project manager for River Road Park. He continued by saying that he is a landscape architect and as a member of the zoning commission he participated in a review and possible update of the Bainbridge Township Land Use Plan and Zoning Resolution. He said in 1996 and 1997 he had concerns with the Inside Story building and had a passion for historic components and in 1996 the Bainbridge Township Board of Trustees authorized the zoning commission to talk to planners and put out RFPs (requests for planners) and they held discussions about the Rt. 306/Rt. 422 corridor and the zoning commission took the charge to look at the area and commissioned D. B. Hartt and the objects were to develop the Rt. 306 corridor “in a sensible, defensible, environmentally sound and publicly acceptable manner. Attention should be focused on major intersections, the need for traffic control, and the desire to preserve or add character.” He said that a “sense of place” could be developed for this area and that is why he got involved and added that the township at that time had not owned property along there. He referred to the town hall, fire department, the nursery just to the left of the township property and the subject property and said it is directly across from the diner. A historic district was proposed for this area because this is an area that has the most potential for development and no one will build a house on this parcel.

Mr. Lamanna asked Mr. Markley where he was going with this because this is somewhat hearsay because the D. B. Hartt report was never adopted.

Mr. Markley said there was enough correspondence back and forth to document this.

Mr. Weiss said that Mr. Markley is trying to demonstrate what their use for the property is even though it is not zoned for that it is believed that the 1978 plan does discuss commercial development of that corridor.

Mr. Markley said specific to the actions of the zoning commission and the CAC this was to be a Historic District and Town Center but the township trustees did not want the area put into a historic district.

Mr. Takacs asked how this affects the use variance and what is being presented now.

Mr. Markley said the proposed historic district would have allowed compatible uses that have low intensity.

Mr. Takacs said that Dr. Leeb let this building deteriorate.

Mr. Markley said it will not be used as a residential structure and in 1999 an effort was made to create a historic district with an amendment (Z99-6) that would allow certain uses and one was a vet clinic.

Mr. Weiss said the applicant sees relevancy because a change in the zoning has been sought on a number cases and we think this cries out for a change in the zoning.

Mr. Lamanna said that change was for a broader area.

Mr. Markley stated that in 2003 he met with Mr. David Dietrich of the Geauga County Planning Commission regarding PUD (Planned Unit Development) zoning. He said PUD zoning would give the township authority for more control, so myself, Dr. Leeb and Mr. Weiss presented the concept to the zoning commission. He said the ORC requires enabling legislation that could work, but the bottom line is the zoning commission did not want to be the first one in Geauga County to pursue PUD zoning. He said this applicant made an attempt to go the PUD zoning route and added that he has been trying to pursue historic district or PUD zoning for this area so that it does not all deteriorate.

Mr. Lamanna asked how this property is any different from the lot next door and lots that make up the Cipiti nursery from a use standpoint.

Mr. Markley said there is not much difference because the proposed Historic District line cuts across the front of the Cipiti property and there could still be a nursery and Settlers Park back there. He showed per the site plan, the front section (proposed Historic District) and the area behind and said it is somewhat removed.

Mr. Lamanna asked if anyone has obtained approval of re-zoning in any area on the east side of Rt. 306.

Mr. Markley said a legal description was prepared for the proposed Historic District (they drew a straight line down) that included the cemetery, church, Inside Story book store building, the Burns-Lindow Building, and the Burns house but did not include the shopping center on the west side. He said the boundary lines were in the front. He said he met with the church leaders and they were a little nervous about the proposed district at first but we were just trying to establish a standard because one resident wants to have an art gallery and that was the mind-set and no drive-thru beverage stores or liquor stores would have been permitted. He said a veterinary clinic or animal husbandry is more compatible.

Mr. Lamanna said once a different use is established, and it cannot be used as a vet hospital forever, if it is a CB use, that becomes a CB use.

Mr. Weiss said the property would still be zoned R-3A.

Mr. Lamanna said once the board grants a variance it is there, it follows the land.

Mr. David Hartt testified that the way use variances are used is so a community can control the use.

Mr. Lamanna said the use variance is created to allow somebody the use on their land and it is not a substitute for zoning.

Mr. Hartt said if the vet clinic would go out, someone else would have to come in with a vet clinic.

Mr. Lamanna said he disagrees because the variance runs with the land and there is nothing to say they have to come back to the board and added that the board will get advice from its legal counsel.

Mr. Weiss said someone else would take the old structure down.

Mr. Lamanna said once a use variance is granted, it runs with the land.

Mr. Weiss said it is a .6 acre site.

Mr. Hartt said there could be a level of intensity of the use variance.

Mr. Lamanna said he is not sure the board has the authority to do that and the use variance runs with the land and the next person can do with it what they want.

Mr. Weiss said if the property were re-zoned, the township would have more control.

Mr. Lamanna said it is a specialized use variance and maybe the township will re-zone it to a Professional Office District.

Mr. Weiss said a POD would work.

Mr. Markley said it is vague under POD but the code says medical offices and clinics are permitted.

Mr. Lamanna said as all use variances, if one wants a use variance you have to proceed through the hierarchy.

Mr. Weiss said if the board approves this, the board would approve a specialized use for a veterinary use.

Mr. Lamanna said the board has to see what that implies.

Mr. Weiss asked what if Dr. Leeb sells to a beverage store.

Mr. Lamanna said if the use is over, the first one would be the next least intensive use such as POD.

Mr. Markley said if the property is re-zoned to POD it will be sandwiched between two residential properties and he always wanted something along there that looks residential and someone will make the case that the only viable use is a Taco Bell. He said he wants a vet clinic there, not a CB use.

Mr. Lamanna said the board could have a problem with the next guy that comes along.

Mr. Takacs asked what is south of the Cipiti, Franks and old Gardiner properties.

Mr. Markley said the Montessori School owns the next house. He said he wanted the board to know why he has been involved from the beginning and they can do a vet clinic under the mind-set of a Historic District. He referred to the site plan and the existing house and said the lot is only 80' wide the and vet clinic will actually be behind the existing front porch. He said they will keep the clinic up front and put the parking out back and that is part of his design.

Mr. Olivier asked about the zoning commission creating PUD zoning.

Mr. Markley said PUD zoning cannot be created without creating enabling legislature first and once that would be approved they could have gone with a historic district and added that they were trying to create a small scale residential look.

Mr. Olivier asked if the applicant could still apply.

Mr. Markley said the zoning commission will not entertain a PUD which is the most viable.

Mr. Lamanna said the zoning commission would not re-zone one lot to POD, it could take the adjacent properties and re-zone them.

Mr. Markley said the zoning commission does not have the interest to go in that direction and he has already been proactive and always had this on the plate before things fall down or get demolished.

Mr. Weiss stated that he submitted D. B. Hartt's qualifications also.

Mr. Hartt submitted two site plans and testified by stating his qualifications. He referred to a portion of the township regarding the subject site and stated that the township does have more control on use variances and any conditions applied to that use. He said the use variance is minimal and proves to be an economic relief for the use of this property and there is no reason to expect this property will be used for residential. He said Dr. Leeb did some investigations and it is not economically feasible to use this property as residential. He continued by saying that the proposed building will be 2,700 sq. ft. with 11 parking spaces, six employees with a maximum of four on the premises at one time and up to 20 customers per day and only two or three at any given time.



Mr. Hartt said there will be 30 – 40 trips per day on the high side. He referred to the three acre single family zoning for this parcel and said they talked about the surrounding characteristics and said when the township purchased the adjacent property, they further confirmed that the area is not to be used as a residential parcel because this parcel does not abut any residential use. He referred to the area at E. Washington Street and Rt. 306 and Rt. 306 and Rt. 422 and said those were supposed to be reserved as the commercial corridor of the community and in 1978 the township acknowledged that those areas should be expanded and what that is saying is that the township recognizes that this property is not suitable for residential.

Mr. Lamanna asked if any study shows that this parcel should be commercial.

Mr. Hartt referred to the site plan submitted and showed the retail on the east side and the church on one side and the township on the other and said that prevents this property from being used as residential. He said a use variance does give the township control that is the minimum relief and cannot think of a business use that has less intensity than a vet clinic and added that you don't get the same results if the property is re-zoned, it could be a bigger building with more parking. He referred to the requested area variance and said the lot coverage is at 36% which is under 40% and the parking is in the rear, the setbacks are minimal and there will be no effect on the adjacent property owners, no adverse effect on governmental services and there is nothing to obviate the owner's circumstances. He said the township would have more control and the property owner is granted relief.

Mr. Lamanna asked how this is different to the lot next to it.

Mr. Hartt said it is private.

Mr. Lamanna asked about the Cipiti property.

Mr. Hartt said we are here to discuss this property.

Mr. Weiss said if there are no further questions, he would like to summarize the relief they are looking for. He said the applicant is proposing a use variance to build a veterinary clinic of 2,700 sq. ft. and they are requesting a front yard setback from the 50' required to 32' 2" and a side yard setback variance from 50' to 18' 9" and 25'. He said the maximum coverage is 10% and they are requesting 37% that includes the exercise pen which will be below 40%.

Mr. Lamanna asked what the exercise pen is.

Mr. Weiss said it is on the site plan.

Mr. Takacs asked where it is on the site plan.

Mr. Markley said it is the 10' x 40' area.

Dr. Leeb said it will be a chain link fence that will give the animals an opportunity to get more exercise after surgery etc.

Mr. Weiss showed the board a larger copy of the site plan and said the pen goes along side of the building.

Dr. Leeb said it is 400 sq. ft.

Mr. Takacs referred to the site plan and said the Burns property is in the same situation being next to township owned property.

Mr. Weiss said that is not the same because that property is zoned commercial.

The board discussed the site plan and the variances requested.

Mr. Lamanna said the exercise pen is technically a structure and asked what the distance is to the rear property line from the rear of the parking.

Mr. McIntyre said it is 131'.

Mr. Lamanna asked if there is any reason why the structure cannot be moved back.

Mr. Weiss said it does not make a lot of sense to move it back because people could miss the building.

Mr. Markley said the existing setback is the same as the old Hamlet community, up close to the street.

Dr. Leeb said he wants to re-create a building in the same setback.

Mr. Lamanna said this building could be made more conforming to the setbacks.

Mr. Weiss asked where the building would be placed.

Mr. Hartt said every time you move a building back, the drive gets longer and then there are lot coverage issues.

Mr. Weiss said he does not consider the fenced in area as a structure.

Mr. Lewis asked if there are any other existing structures that are 25' off the property line and added that maybe they existed 50 years ago but not today.

Mr. Markley said if you look south past Cipitis, other structures are close to the front also.

Mr. Hartt said the church is not that far off the front setback and so is the commercial property across the street.

Mr. Markley said the Burns house and the Burns-Lindow Building are up against the road.

Mr. Takacs said they are going to tear this down.

The board discussed the township property next door.

Mrs. Stanton stated that the house was burned down and just the double garage is standing.

Dr. Leeb showed the board a rendering of what the proposed building will look like.

Mr. Kenneth Moss testified that he lives at Timber Trail and Rt. 306 and he is a member of the Bainbridge Community Church and wants to express a concern about the facility and dog kennel being close to the parking lot of the church but the way the property is now, it would be better to have this.

Dr. Leeb said it is not a kennel, he will not be boarding dogs.

Mr. Moss said the church is concerned about how close the facility will be.

Mr. Markley said it will be 18' 9".

Mr. Olivier said the pen makes it closer.

Dr. Leeb said the pen will be just for exercise purposes and the dogs will not be left out, it will be for therapeutic purposes only, for a short period time during the day, only during business hours.

Mrs. Grace Heun of 8114 Bainbridge Road testified that she thinks this is a good idea.

Mr. Bob Zaletel of 7450 Jackson Road testified that he thinks this is a good idea as long as it is not a Wendy's or a Burger King.

Dr. Leeb said the building will conform to Western Reserve architecture.

Mr. Lamanna told Dr. Leeb that the board cannot make him build that kind of building.

Dr. Leeb said it will look similar to the old building that is there now.

Mr. Weiss told the board members that he does not have to tell them what the zoning code says, but they have the power to grant the variance and referred to the standards for granting variances in Chapter 117.10 of the Bainbridge Township Zoning Resolution. He continued by referring to the Bainbridge Township Guide Plan 2000, page 91 and said the study talks about commercial development and read the following “Commercial: land usage recommendations recognize the need for providing areas to service specific, though limited, retail and personal services needs of the Township’s populace.” He said the applicant is not bringing in people from Shaker Heights or Rocky River, he will be serving Bainbridge Township residents. He added that the Guide Plan recognizes the growth potential of both commercial areas on Route 306 and Tanglewood Mall areas. He referred to page 92 of the Guide Plan and stated it was the recommendation of the Guide Plan “that the Northern Core and Tanglewood Core commercial areas remain the commercial activity centers of the Township. These areas should be encouraged and strengthened over the time-span of the Guide Plan.....”.

Mr. Weiss continued by referring to page 94 of the Guide Plan and read the following: “Centralization is achieved by concentrating the existing commercial development of McFarland’s Corners and Tanglewood-Bainbridge Township office areas with adequate expansion space.” He referred to page 95 of the Guide Plan and stated the following: “This centralization of land use from the fringe of the township to its interior is responsive to the anticipated pressures for commercial land resulting from the realignment of Route 422.” He added that this is the best use for this property at this time.

Mr. Lamanna said that the board cannot rule on this tonight because this situation affects a number of properties under this circumstance and if it is appropriate to seek re-zoning of this area and suggested that this application be tabled pending the re-zoning of the property.

Mr. Weiss stated that the applicant wants the board to grant it or deny it.

Mr. Lamanna said there are fundamental issues of what the board does and it does not want to usurp the zoning commission’s authority and the board needs to have a clear understanding of what legal course can be taken and the board will explore it.

Mr. Lamanna instructed the secretary to number and mark the following exhibits that were submitted by the applicant:

Exhibit #1 – Color aerial map of surrounding areas including subject property (Leeb Property), dated May 20, 2004 - Exhibit for Requested Variances.

Exhibit #2 – Black and white aerial map of surrounding areas including subject property (Leeb Property), dated May 20, 2004 – Exhibit for Zoning Districts.

Exhibit #3 – Summary of Planning and Zoning Services by D. B. Hartt, Inc., dated April 2004.

Exhibit #4 – Bainbridge Township Land Use and Zoning Report by D. B. Hartt, dated January 13, 2001.

Exhibit #5 – Copy of memo from Jeff Markley to Roger J. Weiss, Weiss & Freedman, LLP Attorneys at Law, dated May 20, 2004. RE: Proposed Veterinary Clinic – Opinion Report Prepared by LANDesign, LLC – Jeff Markley, Principal, for property at P.P. #02-124800, 17787 Chillicothe Road, Chagrin Falls, Ohio 44023.

Exhibit #6 – Copy of memo to the Bainbridge Township Board of Trustees from Mary Fisher, Zoning Commission Chairman, dated December 19, 1996. RE: Guide Plan Update.

Exhibit #7 – Request for Proposal by the Bainbridge Township Selection Committee, dated May 1997. RE: Proposed reviewed and/or update of the Bainbridge Township Land Use Plan.

Exhibit #8 – Copy of Memo to Roger J. Weiss from David B. Hartt, dated May 20, 2004. RE: Arnold Leeb/Veterinary Clinic, Bainbridge Township – Evaluation of the Proposed Use and Area Variances.

Exhibit #9 – Letter from Joyce L. Goldsmith, Broker Associate – Realty One Real Living. RE: 17787 Chillicothe Road.

Exhibit #10 – Bainbridge Township Guide Plan 2000, dated 1978.

Exhibit #11 – Bainbridge Township Guide Plan Update, dated 1991, 1992, 1994.

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

Motion BZA 2004-7 – 17787 Chillicothe Road

Mr. Lamanna made a motion to continue this application until the next regularly scheduled meeting to be held June 17, 2004.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2004-9 by Bernarda and Anton Veselic for property at 8102 Bainbridge Road

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

The zoning inspector's letter dated May 13, 2004 was read and photos of the site were submitted.

Mr. Robert Zaletel and Mr. Anton Veselic were present to represent this application.

Mr. Zaletel testified that he lives at 7450 Jackson Road and is representing his father-in-law. He said the existing home on the property will be torn down and that his in-laws purchased the property in December in order to build a new home because he and his wife want to bring them closer to where they live on Jackson Road. He added that they would like to use the existing home on the property, while the new one is being built, to store tools etc.

Mr. Lamanna asked if anyone is living in the house now.

Mr. Zalalet replied no and said it will be torn down prior to occupancy of the new home. He said that Mr. and Mrs. Heun, neighbors, are both here and added that the existing home is sitting right on the property line and they will use the existing driveway and place the house dead center on the lot.

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

Motion BZA 2004-9 – 8102 Bainbridge Road

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

1. A side yard setback variance from the required 50' to 39' on each side for a variance of 11'.
2. In addition, this property has an existing dwelling on the premises. That dwelling would constitute a second dwelling on the premises and a front yard obstruction. The board will grant a temporary variance during the period of construction of the new dwelling and in no event exceed 60 days after occupancy of the new dwelling.

Motion BZA 2004-9 – 8102 Bainbridge Road - Continued

With the following conditions:

1. Where this structure will remain, it will not however be used as an actual residence.
2. The existing dwelling will only be used for storage after which time it will be demolished.

Based on the following findings of fact:

1. A practical difficulty exists because of the 145' lot width and in looking at the proposed position of the house, approximately 280' set back from the road, and at that location it would not adversely affect either of the neighboring properties.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2004-10 by Brett Weber for property at 8140 Bainbridge Road

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

The zoning inspector's letter dated May 13, 2004 was read and photos of the site were submitted.

Mr. and Mrs. Brett Weber were present to represent this application.

Mr. Weber testified that he grew up in Bainbridge Township and this parcel actually belonged to his parents. He said they want to live in the current house while the new house is being built and added that the parcel is almost eight acres. He said that he had an affidavit drawn up stating that the house will be torn down after the construction of the new one and added that the eastern lot will remain vacant.

The board reviewed the site plan and the location of the existing house.

Mr. Weber said that the two parcels will be combined.

Mr. Takacs asked where the room is that they want to preserve.

Mr. Weber said he wants to take it down at his convenience and save the brick and build behind the current house on the property and he wants to save the brick for sentimental reasons and it is not a high priority. He said he wants to join the west and center parcels and keep the eastern lot vacant.

Mr. Olivier asked about the existing pole building on the property.

Mr. Weber said he has not completed the pole building yet, he has to finish the trim and add gutters and shrubbery.

The board reviewed the photos of the site plan submitted.

Mr. Takacs asked what the 40' x 64' building will be used for.

Mr. Weber said it will be used to store older vehicles and for his hobbies.

Mr. Takacs asked about the affidavit saying the existing house will be torn down in 90 days after completion of new one.

Mr. Weber said yes it will be torn down.

The board reviewed the affidavit stating the old house will be torn down in 90 days.

Mr. Takacs asked if there is a drive to the 40' x 60' structure.

Mr. Weber said there are two drives, one for the 40' x 60' structure and one to the new house location and added that they will use the current drive for the new house.

The board discussed the variances requested.

Mr. Weber said they just had a survey done.

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



Motion BZA 2004-10 – 8140 Bainbridge Road

Mr. Lamanna made a motion to grant the applicants the following:

1. A temporary variance for the purposes of maintaining a second dwelling on the property while a new dwelling is constructed behind the old dwelling.
2. The applicant has an existing pole barn and it is some 280' from the road. The new dwelling will be somewhat behind that, therefore that pole barn will be considered a front yard obstruction, and therefore the board grants a variance to Chapter 161.11 to allow maintenance of this pole barn as it currently exists.

Based on the following findings of fact:

1. The pole barn is 75' from the neighbor's side yard and is also substantially distant from the street so that it is not going to be in view from any of the neighboring houses nor will it impact any of the neighboring property owners and since it is so far off of the street, will not be noticeable as a front yard obstruction, therefore granting this variance would not be inconsistent with the purpose and intent of the zoning ordinance.

With the following condition:

1. Only one of the dwellings will be used at a time for living and once the new dwelling is occupied, the applicant will have 90 days thereafter to demolish the existing dwelling.
2. Prior to the start of construction, the applicant will complete a lot merger between the central and western lot that he owns at this address, the eastern lot will not be joined.
3. The board will enter into the record for this application, the affidavit from the applicant indicating that he will demolish the building as required by the conditions of this variance.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2004-11 by McMillon Construction Inc. for Melanie Stubbs for property at 16755 Bedford Street

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

The applicant was not present.

Motion BZA 2004-11 – 16755 Medina Street

Mr. Lamanna made a motion to table this application until the next regularly scheduled meeting to be held June 17, 2004.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Application 2004-12 by Bistro 306, Inc. for property at 16765 Chillicothe Road

The applicant is requesting a use variance, an area variance and a conditional use permit for the purpose of adding an outdoor dining area for the Fire Fly Restaurant. The property is located in a R-3A District.

The zoning inspector's letter dated May 13, 2004 was read and photos of the site were submitted.

Mr. Cliff Hershman and Mr. Michael Longo were present to represent this application.

Mr. Longo testified that he is the owner of the Fire Fly Restaurant.

Mr. Hershman testified that the board knows the history behind the 50' strip and said Mr. Longo currently has tables on the sidewalk in front of the building. He said they are proposing a 17' 6" x 56' concrete patio on the north side of the building surrounded by evergreens.

Mr. Longo said that traditionally everyone has patios and referred to Legacy Village and he needs it. He said the area is developed already and the Weils is in and there will be no wild music and they will close at 10:30 P.M. on the weekends and added that he wants to compete with Game Keepers, Timberfire etc.

Mr. Takacs asked if the patio will do that much for business.

Mr. Longo said it is a really nice area now but there is only room for four tables which they will be able to take down along with the iron fences in the front. He said that he has two exits, one by the kitchen and one by the bar.

Mr. Lamanna asked what the plans look like.

Mr. Longo said the patio will be concrete, with fencing and plantings.

Mr. Takacs asked what kind of fence.

Mr. Longo said what ever the board feels comfortable with and added that there is a certain height required per liquor control.

Mr. Takacs asked about lighting.

Mr. Longo said the lighting will be simple Coleman lanterns to keep expenses down.

Mr. Takacs asked if the tables will be out from April through October.

Mr. Longo said yes and there will be 15 tables for seating of 60 people and he envisions the outdoor patio with furniture for cocktails.

Mr. Takacs asked if it will be for dining or drinks.

Mr. Longo said the patio will be for dining and drinks.

Mr. Lamanna asked about entertainment.

Mr. Longo said only during dinner hours and it will be piped-in music.

Mrs. Stanton asked if the tables will be eliminated out front.

Mr. Longo said the tables will be totally eliminated out front because they do prevent access for wheelchairs etc.

Mr. Lamanna asked about the hours.

Mr. Longo said they will close at 10:30 P.M., even the bar, and will stop serving at 10:30 P.M. even on the weekends.

Mr. Takacs asked about the entrance to the patio.

Mr. Longo said the customers must come through the restaurant to get to the patio.

Mr. Lewis asked if there is an issue with the deed restriction on the 50' parcel.

Mr. Hershman said if the board grants this, he will call Mr. John Tremsyn, Geauga County Prosecutor's Office.

Mr. Lamanna asked about the current setback.

Mr. McIntyre said it is 0' to the zoning district line and 50' to the property line to the north.

Mr. Lewis asked if it is in a R-3A District.

Mr. Lamanna said the patio will actually be in a R-3A District. He explained that the township did not want creeping commercialism but the residential care facility is there now.

Mr. Takacs asked if the variance is 32' 6".

Mr. Hershman said the patio is 17' 6".

Mr. McIntyre said the location is 32' from the north property line.

Mr. Hershman replied yes.

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

Motion BZA 2004-12 – 16765 Chillicothe Road

Mr. Lamanna made a motion to grant the following variances for purposes of maintaining an outdoor patio of 17' 6" by 56' with respect to operations of the adjacent restaurant only and that is the sole extent to which this variance is granted for this use in a residential district.

1. A variance of 17' 6" in the 50' side yard setback requirement resulting in a setback for the patio only of 32' 6" for its entire length.
2. A modification of the previously granted variance on lot coverage by .344% to a total of 46.65%.
3. A modification of the previous condition with respect to a deed restriction on the 50' strip of land that is located in the R-3A District with respect to application BZA 92-28 so that the restriction would allow the use of this patio area within that restriction.

With the following conditions that apply to the patio:

1. There will be no excessively loud outdoor entertainment that could disturb any of the residential neighbors.
2. The usage will be over by 11:00 P.M. on Sunday through Thursday and 12:00 Midnight on Friday and Saturday.
3. The fencing and landscaping will be consistent with the Western Reserve look of the existing construction.
4. Any lighting that is used on the outdoor patio will be designed to confine it to the patio area and not shine outwards in a way that it could disturb any neighboring residential properties.
5. The applicant will also remove the existing patio area in front of the building.
6. The board will give the applicant 30 days from this date to record the deed restriction on the adjacent 50' strip of property.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant's property is located right up against the existing zoning area.
2. The original 50' strip was established to protect the adjacent residential properties but the adjacent residential property has now been developed as a residential care facility so that the small encroachment into this area would not adversely affect that residential care facility so that the small encroachment into this area would not adversely affect that residential care facility.
3. This variance is granted solely for use with the restaurant as an open patio area and shall not be covered or turned into a permanent building area or used for any other purpose other than an outdoor patio in conjunction with the operation of the restaurant in the adjacent building.

Mr. Takacs seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Since there was no further testimony, the public hearing was closed at 10:21 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Olivier  
Ellen Stanton  
Donald Takacs

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

Date: June 17, 2004

Bainbridge Township, Ohio  
Board of Zoning Appeals  
May 20, 2004

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:21 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Olivier, Mrs. Ellen Stanton and Mr. Donald Takacs.

Minutes

Mr. Takacs made a motion to adopt the minutes of the April 15, 2004 meeting as written.

Mr. Lamanna seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Olivier, aye; Mrs. Stanton, aye; Mr. Takacs, aye.

Applications for next meeting

Application 2003-21 by Hemlock Landscapes, Inc. c/o Dennis Barriball for The Federated Church Family Life Center for property at 16349 Chillicothe Road

The applicant is requesting a modification to an existing conditional use permit for the purpose of installing walking paths, labyrinth, landscaping and gardens and establishing recreational facilities. The property is located in a R-5A District.

Application 2004-7 by Arnold Leeb for property at 17787 Chillicothe Road - Continuance

The applicant is requesting a use variance and area variances for the purpose of constructing an animal hospital. The property is located in a R-3A District.

Application 2004-11 by McMillon Construction Inc. for Melanie Stubbs for property at 16755 Bedford Street - Continuance

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

Application 2004-13 by Boyer Signs & Graphics, Inc. for Ruby Tuesday Restaurant for property at 7135 Aurora Road - Continuance

The applicant is requesting area variances for the purpose of installing signage. The property is located in a CR District.

Application 2004-14 by John H. Cunningham for property at 16823 Savage Road

The applicant is requesting area variances for the purpose of maintaining a storage shed. The property is located in a R-3A District.

Application 2004-15 by Jeremy S. and Tristan C. Moor for property at 9550 E. Washington Street

The applicants are requesting area variances for the purpose of constructing a detached garage. The property is located in a R-5A District.

Application 2004-16 by Geauga Habitat for Humanity for property at 7103 Rocker Street

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

Application 2004-17 by Geauga Habitat for Humanity for property at 17688 Huron Street

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

Application 2004-18 by Karen Bartlett for property at 18591 Geauga Lake Road

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

Application 2004-19 by Bainbridge Associates, Ltd. for property at 8465 E. Washington Street

The applicant is requesting area variances for the purpose of installing signage. The property is located in a CB District.

Since there was no further business, the meeting was adjourned at 10:40 P.M.

Respectfully submitted,

Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Olivier  
Ellen Stanton  
Donald Takacs

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

Date: June 17, 2004