

Bainbridge Township, Ohio
Board of Zoning Appeals
May 21, 2009

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:04 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

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.

The following matters were then heard:

Application 2009-5 by Jozef Kofol (Northwoods Grille) for property at 16381 Chillicothe Road - Continuance

The applicant is requesting an expansion of a non-conforming use by the addition of two lighted arch structures. The property is located in a R-5A District.

The zoning inspector's letter dated February 19, 2009 was read.

Mr. Bob Ryan, Manager and Chef of the Northwoods Grille was present to represent this application.

Ms. Sass asked Mr. Ryan what has happened since he was last here.

Mr. Ryan testified that Mr. Kofol changed the light but he is not happy with the light he put in and he has a contractor coming in this Monday and he is going to put in the final lighting, he has painting lined up with the weather but the painting on the poles has not been done.

Mr. Lamanna stated that the board has a letter from the Building Department that says no permit was applied for and no inspection was done and based on their review, they are not likely to approve it in its current condition.

Mr. Murphy asked Mr. Ryan if he has seen the letter.

Ms. Sass said he is not the applicant.

Mr. Lewis said he thought the board was really clear on that two months ago that the applicant needs to be here.

Mr. Ryan said he brought him the last time.

Mr. Lewis said he (Mr. Kofol) is the property owner.

Mr. Lamanna asked Mr. Ryan if he has a letter of authorization to speak on behalf of the owner.

Ms. Sass said the letter the board has, went to Mr. Wrench, Assistant Zoning Inspector and she is not sure it went to the property owner at all so they may not have any familiarity with it.

Mr. Lamanna said based on the initial look from the Building Department, it would not have been approved based on what they see.

Mr. Olivier asked if the board should pass along the letter and continue it.

Mr. Lewis said the thing is so badly out of compliance from a building standpoint.

Mr. Lamanna said they won't approve it based on what they see.

The board discussed putting a light fixture there that complies with all building code requirements and regulations.

Mr. Lamanna asked about the height of the lights.

Mr. Ryan said they are 27' and added it is under 30'.

Mr. Lamanna said he does not know if it is appropriate for this location but the height does not bother him so it can be kept at 27' and it has got to be full cut-off.

Mr. Murphy said the Building Department is not going to give a building permit unless there is a zoning permit that allows it if he needs it and if there is nothing in the request for the light fixture that goes against any of the zoning, the applicant does not have to be here in front of the Board of Zoning Appeals.

Mr. Shane Wrench, Assistant Zoning Inspector said originally the issue came about because he put the light up without a permit.

Ms. Sass said right, he needed to have a permit.

Mr. Lewis read the notice of the zoning violation which stated "illegal structure on premises" per Chapters 109 and 117.

Mr. Murphy said a light post is not a structure and the board has gone all through that.

Mr. Lamanna said he has a non-conforming use.

Mr. Murphy said but right now it is in violation of the Geauga County Building code and the board got a letter from them that says you have to have a permit.

Ms. Sass said there was an issue with the brightness of the light and Mr. Kofol indicated that he would change the light and added that the board had a discussion that this really doesn't fall within the purview of a zoning issue that the board originally thought it did.

Mr. Murphy said except that there are lighting issues and he has several lights on the property that are not cut-off fixtures so the owner has problems beyond the fact that the neighbors dislike it.

Mr. Lamanna said these would be permitted in a residential district anyway.

The board discussed the information from the Building Department and was in agreement that no variance is required but a building permit is.

Mr. Murphy said the board had asked Mr. Wrench to send a letter to the Building Department and their response was there are a lot of things that may be an issue.

The board advised Mr. Ryan to contact the Geauga County Building Department for information regarding permits for the lighting.

Mr. Lamanna told Mr. Ryan that he is going to have to apply for a zoning certificate for the existing light based on the revisions the board talked about because based on those revisions, a variance is no longer required and at the same time he should apply for a zoning certificate for the second light if he is going to put the second light up so what the board is saying, if he puts up a complying structure, he will not need a variance just to put up a light, so as long as the light complies with all of the requirements of the zoning code, then he will not have to come back here for a variance but he does have to apply for a zoning certificate so an application has to be made for a zoning certificate for each of the lights and he will have to comply with the Building Department requirements because that is a separate organization that does not have anything to do with the township other than they require a zoning certificate before they issue a building permit. He added that this must be done or the matter will be referred to the County Prosecutor because this is in violation technically because it was done without a zoning certificate and the Building Department has separate enforcement actions. He asked Mr. Ryan if he understands that.

Mr. Ryan replied yes.

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

Motion BZA 2009-5 – 16381 Chillicothe Road (Northwoods Grille)

Mr. Lamanna made a motion to dismiss this application as moot.

Based on the following findings of fact:

1. The board has determined that it does not require a variance to install lighting at the entrances to the property so long as that lighting is in strict conformance with the requirements of the township zoning resolution.
2. The applicant now understands that he must come back and properly apply for a zoning certificate for the existing light and for the additional light.
3. The applicant has also been advised that he is not in conformity with the Building Department requirements and must meet those requirements as well.

Mr. Lewis seconded the motion.

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

Application 2009-9 by Brian W. or Jennifer L. Meyer for property at 18093 Millstone Drive

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

The zoning inspector's letter dated May 21, 2009 was read.

Mr. Brian Meyer was present to represent this application.

Mr. Meyer testified that the shed is supposed to be 90' from the rear property line but to do that it would put it dead center in the back of the yard and we use it for ball.

Ms. Sass and Mr. Lamanna said that is not the right answer.

Ms. Sass told Mr. Meyer to tell the board why he can't put it there.

Mr. Meyer said down the street there are other sheds that are about the same distance from the rear of the property, about 50' from the rear as well so it would be for the consistency of the existing sheds along the street.

Mr. Lewis said the board does not get to apply that standard and it has to conform to current setbacks.

Ms. Sass told Mr. Meyer he has to tell the board why he has a practical difficulty that would prohibit him from complying with the zoning resolution such as is the septic field in the middle.

Mr. Meyer replied no.

Mr. Lamanna asked if there are any ravines etc.

Mr. Meyer said it is a football field in the back yard and if he had the shed right in the middle of the yard it would affect that.

Ms. Sass asked how deep the yard is.

Mr. Lewis said it is 297' deep by 150' wide.

The board discussed that this property is in Pilgrim Village.

Mr. Meyer said it is heavily wooded so it would be up against a wooded line.

Mr. Murphy said it would appear that your neighbor has it sitting maybe on his neighbor's property because it is right on the line.

Mr. Meyer said it is pretty close.

The board discussed the size of the lot.

Mr. Lamanna said it is 144' to his house from the back of the shed.

Ms. Sass asked Mr. Meyer what the shed will be used for.

Mr. Meyer said it will be used for mowers and general storage. He added that he has a hard time coming up with a real hardship and none of his neighbors mind.

Mr. Lewis told Mr. Meyer if he is looking to preserve his football field then his suggestion is to move it much, much closer to the house and then he can have a really long football field there.

Mr. Murphy asked if it can be brought up to the deck somehow.

Mr. Meyer said he did not want it so close to the house.

Ms. Sass asked about the size of the proposed shed.

Mr. Meyer said it is 10' x 14'.

Mr. Lewis asked if the Pilgrim Village Homeowners have any standards or architectural review.

Mr. Meyer said they don't have a board, he just had to fill out an application and as long as it is painted the same color as the house it is okay.

Mr. Lamanna asked how tall the shed will be.

Mr. Meyer said he thinks the walls are 6'.

The board discussed the variance request and the 90' rear yard setback.

Mr. Meyer said he had heard that the 90' setback was based on three acre lots.

Mr. Lamanna told Mr. Meyer he has plenty of room.

Ms. Sass explained that there has to be some kind of practical difficulty and the board has a standard that has to be applied and the law says the applicant has got to comply with the terms of the zoning resolution unless the applicant has certain difficulties that entitle the applicant to be able to deviate or vary from those regulations and that is why the board is asking what the practical difficulties are with this and right now there is not a whole lot and basically nothing so the board is looking to see if it can be moved or if there is some kind of practical difficulty that might exist in a different area.

Mr. Meyer said he has a sewer.

Mr. Lamanna said the only thing is if it would be moved down towards the lower right and put on the edge of the tree line and the distance to that tree line would be the basis for putting it there and added there is no justification to put it on the other side, even if it would be a small thing, when the next person comes in they would be justifiably upset if they didn't get the same consideration.

Mr. Meyer said his biggest hope is the fact that two properties in the same area have them.

Mr. Lamanna said he does not know how they got there, it could have been pre-zoning or maybe they are non-conforming.

Mr. Murphy said the shed to the north is right on the line.

Mr. Olivier said the board would never have allowed that.

Mr. Lamanna told Mr. Meyer he could withdraw or it can be continued to next month.

The board discussed the placement of the proposed shed.

Mr. Meyer explained the areas in his yard that are not real level.

Mr. Lamanna asked Mr. Meyer if he would like to go back and re-work his application.

Mr. Meyer said he could come up with something.

Mr. Lamanna said there has to be a reason on the property and it might be able to be moved to the edge of the tree line based on the existence of the tree line and being a small shed etc.

The board and Mr. Meyer were in agreement to continue this application until next month.

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

Motion BZA 2009-9 – 18093 Millstone Drive

Mr. Lamanna made a motion to continue this application to the next regularly scheduled meeting to be held June 18, 2009 for the property owner to reevaluate the situation.

Ms. Sass seconded the motion.

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

Application 2009-10 by Timothy & Rhonda Savage – Savage Homes, Inc. for property at 17197 East View Drive

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.

Secretary's note: This application was withdrawn by the applicant.

Since there was no further testimony, the public hearing was closed at 7:34 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: June 18, 2009

AUDIO RECORDING ON FILE

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Bainbridge Township, Ohio
Board of Zoning Appeals
May 21, 2009

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:34 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the April 16, 2009 meeting as written.

Ms. Sass seconded the motion.

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

Applications for June 18, 2009

Application 2009-9 by Brian W. or Jennifer L. Meyer for property at 18093 Millstone Drive - Continuance

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

Application 2009-11 by Chagrin Falls Park Community Center for property at 7060 Woodland Avenue

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

Application 2009-12 by Greg Battaglia for property at 16805 Snyder Road

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

Application 2009-13 by Brilliant Electric Sign for Keybank National Association for property at 8481 East Washington Street

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

Application 2009-14 by David Jansen, RSA Architects, LLC for Beth and Jerry Rowell for property at 205 S. Franklin Street

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

Application 2009-15 by Waterway Gas & Wash c/o Michael P. Goldman for property at 7010 N. Aurora Road

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

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for June 18, 2009 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 9:25 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: June 18, 2009