

Bainbridge Township, Ohio
Board of Zoning Appeals
June 15, 2006

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:38 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Mr. Donald Takacs. The following matters were then heard:

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 2006-13 by Bainbridge North Land Development LLC for property at 7044 Aurora Road - Continuance

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

The zoning inspector's letter dated May 12, 2006 was read and photos of the site were submitted.

Mr. Matt McGill was present to represent this application.

Mr. Lamanna stated that this application is a continuance from the May 18, 2006 meeting.

Mr. McGill testified by saying there are no area variances on this additional wall sign but the code permits only one and also the sign is above 15' on the building which is the limit the Bainbridge code permits and we are requesting two signs above 15', they will be at 21'-4-1/2" a difference of 6'-4-1/2" and they are also requesting two wall signs which is a variance of one additional wall sign.

Mr. Lewis asked what the reason was that it was tabled last month.

Mr. Lamanna said they had no authorized representative present.

Mr. Takacs asked if there was someone representing Chick-Fil-A.

Mr. McGill said he had a letter stating that he was authorized.

Mr. Lamanna said the board decided that the applicant no longer needed area variances, it was just looking at the extra wall sign.

The board reviewed the variance request.

Mr. Olivier asked if the board requested any changes.

Mr. Lamanna said the longer dimension of the building was being used for the calculations.

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

Motion BZA 2006-13 – 7044 Aurora (Chick-Fil-A)

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

1. A variance for a second wall sign.
2. A variance for a wall sign at a maximum height of 15' to 21'-4-1/2" for a variance of 6'-4-1/2".

Based on the following findings of fact:

1. Due to the location of the building with access coming from two directions, the second wall sign would be appropriate.
2. Given the height and structure of the building and the other buildings in the shopping center, the height above grade is consistent with the building architecture and will be located in a reasonable location on the building.
3. The board also notes that no total square footage requirement was required because the longer dimension of the building was used to calculate the permitted square footage.

Mr. Takacs seconded the motion.

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

Application 2006-14 by Charles Pinnell for property at 18890 Maplewood Lane

The applicant is 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 June 5, 2006 was read and photos of the site were submitted.

Mr. Charles Pinnell was present to represent this application.

Mr. Pinnell testified that the reason why he is asking for the variance is because the distance it is to the property lines from his two neighbors.

Mr. Lamanna said the requirement is a 90' setback from a rear lot line and added that the applicant has a corner lot and the front yard is on Maplewood so the front yard is on the longer dimension of the property and the house is only 66' from the back.

Mr. Pinnell replied yes and said the issue is the distance from the back and the side yard setback is fine.

The board viewed photos of the site.

Mr. Olivier said it looks like the shed is tucked into some existing trees.

Mr. Pinnell said to the one side there is a large tree and there used to be a child's playhouse where the shed is but when we purchased this property it was not there.

Mr. Murphy said there is a structure in this area according to the aerial view.

Mr. Pinnell said that was removed.

Mr. Olivier asked if the shed is up.

Mr. Pinnell said yes, it was not purchased brand new and we tried to get the timing as best as we could but the sellers of the shed had to have it moved by a certain date because they had some other construction going on so we contacted Weaver Barn, the manufacturers of this shed and had them professionally move it and it is also in compliance with Geauga County, the four by fours are sunk in cement, etc. and it was all done prior to the shed being moved. He added that the shed is not anchored down yet, they are basically storing it.

Mr. Lamanna asked if it came built already.

Mr. Pinnell said it is a pre-fabricated shed made by Weaver and it rolls out the back of a trailer and added that it does meet all of the requirements of Geauga County.

Mr. Lewis said it looks like there is a stand of trees for screening already.

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

Motion BZA 2006-14 – 18890 Maplewood Lane

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of installing a 12' x 16' garden shed in the location shown on the drawing submitted with the application:

1. A variance from the minimum required rear yard setback of 90' to 58' for a variance of 32'.

Based on the following findings of fact:

1. A practical difficulty exists because it is a corner lot.
2. This house is situated such that the depth of the lot is the narrow part of the lot and the current residence is located only 66' from the rear lot line so this positioning is consistent with where the residence is located.
3. Due to its location and stand of trees, it will not have any adverse effect on the neighboring properties.

Mr. Takacs seconded the motion.

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

Application 2006-15 by Luann Capone for property at 17150 Woodmere Drive

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

The zoning inspector's letter dated June 5, 2006 was read and photos of the site were submitted.

Ms. Luann Capone was present to represent this application.

Mr. Lewis asked Ms. Capone if she had been before the Lake Lucerne Architectural Review Board.

Ms. Capone testified by saying yes, they approved it.

Mr. Lewis noted that the board does have a document showing approval.

Mr. Lamanna reviewed the variances requested and said they are for the rear yard, side yard and lot coverage.

Ms. Capone said basically her property is 70' x 200' so the shed will be lined up with the house and will be about 10' from the side and 20' from the back, probably a little bit more on both of those.

The board viewed the photos of the site.

Mr. Takacs asked where the shed will be located on the property.

Ms. Capone showed the board on the site plan where the proposed shed will be located and explained the location of the gully and said her property line is right in the middle of it. She said it is about 22' from usable property and she actually has more property.

Mr. Takacs referred to the site plan and asked about an item on it.

Ms. Capone said that is her deck and patio and showed Mr. Takacs where the shed would be located.

The board reviewed the variance request.

Mr. Lamanna asked Ms. Capone why she chose this location on the property as opposed to either closer to the house and farther from the side lot line.

Ms. Capone said it is going to be lined up with the house and it will not be seen from the front yard.

Mr. Lamanna asked if there is any reason why it can't be moved over more towards the middle of the yard, a little farther from the side.

Ms. Capone said there is a big Maple tree right there.

Mr. Takacs asked if it is moved forward from the back if it would take up more of the backyard.

Ms. Capone said yes it would take up more of her backyard and she does not have much of a backyard as it is.

Mr. Murphy asked if the neighbors were notified and if there was anyone at the meeting that is directly behind her house.

Ms. Capone said she spoke with her neighbor and he does not have a problem with it and his trees are so thick right now, she cannot see his house.

Mr. Lamanna asked if that house is farther back.

The board discussed the setbacks.

Mr. Lamanna said the house behind is also close to the rear lot line. He asked Ms. Capone if the property behind hers is still Lake Lucerne.

Ms. Capone replied yes.

Mr. Murphy asked if it was Sunset Drive.

Ms. Capone replied yes.

Mr. Murphy said that house would be the closest one.

Ms. Capone replied yes and said you cannot really walk there because of the drainage, you could not walk over to his house.

Mr. Takacs asked if it drops off.

Ms. Capone said yes.

The board reviewed the variance request.

Mr. Lamanna said the house is pretty well shielded.

Mr. Takacs said there is a ravine there too.

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

Motion BZA 2006-15 – 17150 Woodmere Drive

Mr. Lamanna made a motion to grant he applicant the following variances for the purposes of constructing a 10' x 12' shed with the location as shown on the application:

1. A variance from the minimum required side yard setback of 50' to 10' for a variance of 40'.
2. A variance from the minimum required rear yard setback of 90' to 20' for a variance of 70'.
3. A variance from the maximum total lot coverage of 10% to 20.5% for a variance of 10.5%.

Based on the following findings of fact:

1. A practical difficulty exists because it is a very small lot located in the Lake Lucerne Subdivision.
2. The lot is about 1/3 of an acre.
3. There is not sufficient room on the lot to maintain the required setbacks.
4. The existing house has a 10' side yard setback so this would be within that.
5. The adjacent property owner is significantly farther away from the property line.
6. At the rear of the property, there is a ravine with heavy vegetative cover between this property and the adjacent property so it should not adversely affect the adjacent property.

Motion BZA 2006-15 – 17150 Woodmere Drive - Continued

7. These setbacks are consistent with other setbacks in the neighborhood so it will not adversely affect the character of the neighborhood.
8. The additional lot coverage of this shed represents less than a 1% increase in total lot coverage so it is a minimal amount.

Mr. Takacs seconded the motion.

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

Mr. Lamanna swore in the late arrivals that intended to testify.

Application 2006-16 by Judith E. Barthel for property at 17800 Chillicothe Road (Sports Page Tavern)

The applicant is requesting a conditional use permit for the purpose of installing a deck. The property is located in a CB District.

The zoning inspector's letter dated June 5, 2006 was read and photos of the site were submitted.

Ms. Judith Barthel, owner of the tavern and Mr. Don Pemberton, electrician, were present to represent this application.

Mr. Lamanna stated that the applicant is proposing to build a 12' x 30' outdoor deck.

Ms. Barthel testified that she wants to build a deck on the west side of the building and to plant arborvitae that grow 12' – 16' or large trees for a barrier for sound and that is it.

Mr. Frank McIntyre testified that it will face the police station.

Mr. Takacs said it is in the southwest corner of the commons.

Mr. Olivier asked how the patrons will access the deck.

Ms. Barthel said they will access it from the inside of the tavern and they will put the doors in by the bar first and then put in the deck.

Mr. Olivier asked if two doors will be installed.

Ms. Barthel said right now they have permission to install one door.

Mr. Murphy asked about the gate that is indicated on the site plan.

Mr. Pemberton testified that the gate is for egress so people can get out but it will only be accessible from the inside.

Mr. Takacs asked if that is on the end or the side.

Mr. Pemberton said it will be on the end of the deck and closest to the entrance now and the deck will be level with the concrete and sidewalk that is out there.

Mr. Murphy asked if it will be a fire exit out.

Mr. Pemberton said yes, basically.

Mr. Lamanna asked if this area is now parking.

Ms. Barthel said no, it is a grassy area.

Mr. Takacs said the parking is on the other side.

Mr. Murphy asked if they have to take down the pine tree.

Ms. Barthel said they may do that and they have permission to do that but they may not have to do that.

Mr. Pemberton said there is a dumpster there.

Mr. Murphy said the photograph looks like there is a pine tree right in the middle of the proposed deck.

Ms. Barthel said it probably will be adjacent to the deck but they may trim the tree back at this point.

Mr. Murphy asked if there is about 12' between that tree and the proposed deck.

Ms. Barthel said no there is not.

Mr. Pemberton said there is probably about 3' or 4'.

Mr. Murphy said so that pine tree is going to come down.

Mr. Takacs said if it does or not, they could still egress if they had to.

Mr. Pemberton said the egress will be on the opposite side of the pine tree.

Mr. Takacs asked if the door is going where the window is now.

Ms. Barthel said yes, on the west end.

Mr. Takacs asked if the bushes in front of the walk are in the way.

Ms. Barthel said they are definitely not in the way.

Mr. Olivier asked if they are planning on having entertainment on the deck.

Ms. Barthel said absolutely not, just seating because they have a grille that they put in about a year ago inside.

Mr. Olivier asked if just the food will be served out there.

Ms. Barthel replied yes.

Mr. Lewis asked if the proposed height is 6' minimum.

Mr. Pemberton said it will be 6' from the top of the deck up and the total pipe from the ground level is 24".

Mr. Lewis said he could not tell whether it was 6' or 8'.

Mr. Pemberton said the deck is shown as 12' x 40' but it will be 12' x 30'.

Mr. Lewis said so it is 6' high as proposed.

Mr. Pemberton said yes.

Mr. Lewis asked about the proposed lighting.

Ms. Barthel said there will not be a lot of lighting, perhaps there will be something in each corner. She referred to the site plan and pointed out the proposed locations of the lighting.

Mr. Lewis asked about the fixtures so there will be no bleed off of lighting.

Mr. Pemberton explained where the wall packs will be located on the deck and they will not be shining out, they will be 60 watt wall packs and there will be no over coverage for the people sitting out.

Mr. Lewis said the township has some lighting codes as far as fixtures and how light can project laterally, it can be forced downward but not outwards.

Mr. Takacs asked if the lighting will not be going on the fence.

Mr. Pemberton said he does not recommend lighting going on the fence.

Ms. Barthel said they have to look down the road regarding an awning.

Mr. Lamanna asked who owns the property.

Ms. Barthel said Tony Campana.

Mr. Lamanna asked if there was a letter from Mr. Campana authorizing Ms. Barthel to make application.

Mr. McIntyre replied yes.

Mr. Lamanna said the May 3, 2006 letter is not sufficient. He said this application affects this entire center and needs a conditional use permit.

Ms. Barthel asked if she needs more than a letter from him.

Mr. McIntyre asked the board if they want the property owner present.

Mr. Lamanna said it probably would be better if he was present because the problem is this change to the center now makes the center get a conditional use permit because there was a change in the law since this center was built so the board now has to grant a conditional use permit for the entire center because of this change. He said it is not a big issue unless the owner has some other compliance issues on the center, and he referred to the first applicant that was here last month and had to come back this month because there was no authorization from the property owner to make the application. He said for example, this will remove two parking spaces and it is the property owner's obligation to do that and if he is not here to say that he agrees to remove those two spaces, the board does not have anything that binds the property owner, only the applicant and this will force it to be tabled until next month.

Mr. John Kline of 8239 Bainbridge Road testified that he is here in opposition to building this deck.

Mr. Lamanna said the board needs Mr. Campana to come in and because of the nature of this, it affects the property.

Ms. Barthel said she was told to get a letter from him.

Mr. Lamanna explained that there is a specific kind of letter that states the applicant is authorized to speak on the owner's behalf with respect to the property and anything that the applicant agrees to do with respect to the property binds the property owner to do that, so he will probably want to come in and appear on his own. He said he does not see that this is going to be a big problem but this property will have to be granted a conditional use permit so Mr. Campana needs to be part of this application since he is the property owner.

Ms. Barthel said okay.

Mr. Lewis asked if Mr. Campana has to apply or if he can be added to the existing application.

Mr. Lamanna said he can be added to the existing application. He said technically it should have been done because it is not just affecting the applicant's space but the entire center and apologized that this will have to be tabled until next month.

Ms. Barthel asked how many people have to agree.

Mr. Lamanna said it is not a big deal but Mr. Campana has to be here because he is the one who owns the property and because it is subject to a conditional use and if there are other zoning issues on the existing property, they have to be corrected before another conditional use can be granted. He also explained that the total lot coverage has to be held to 40% and maybe the only way that it can be done is by doing something somewhere else and the applicant cannot agree to that if they don't own the property.

Mr. Takacs said it even affects the planting of the trees and that should be the owner's decision.

Ms. Barthel said that Mr. Campana explained to her what parking spaces need to be removed.

Mr. Lamanna said that Mr. Campana has to come here to understand what is happening and to be agreeable.

Mr. Pemberton asked about the lighting regulations.

Mr. Lewis told Mr. Pemberton that he can work with Mr. McIntyre and Mr. Orlowski on the lighting.

Mr. Murphy said regarding codes for lighting fixtures, there must be some kind of Geauga County lighting requirements for public open spaces at night.

Mr. Takacs said he did not think so.

Mr. Murphy said there has to be building codes regarding the lights.

The board discussed lighting for restaurants.

Mr. John Kline of 8239 Bainbridge Road testified that he is here to oppose granting the extension of a deck on the back of the building. He said he does not know how familiar the board members are of the history of this property and how it came into being. He said there was a general store IGA took over across from Bainbridge Road and Tony Campana the owner of the property wanted to re-zone 13 acres of business district to put that store on his property, so he put a petition in the store and people who came in the store signed the petition and naturally the residents of Kenston Lake opposed it but when they granted the permission to move the store from that side of the street because of the new highway coming in, onto this side, Mr. Campana said he needed at least a minimum of 13 acres and he tried to explain at the meeting that he needed so many businesses to make it possible and right now there are 12 businesses in the commons and he can go right through and name them and everyone here is familiar with them. He said the store was never put on that property, it was just a way of getting his property zoned commercial and if you go back and pull out the records of what was on that transcript when the zoning and trustees granted him permission to use that property, there was never allowed to be any frontage on Bainbridge Road which they still don't have and there was never allowed to be an ingress/egress on Bainbridge Road which they now have and that came into being little by little because Mr. Campana over the years put a little dirt road there to pull his tractors in there and then a pipe went in and all of sudden it is paved and nobody protested that and we are living with what is there.

Mr. Kline continued by saying that when he is in his bedroom upstairs in the summer and has a window open and they leave two doors open on the west side of that property, the band music just roars out of there and those people are busting bottles at 2:00 and 3:00 in the morning and he is sure if there is a deck on that side, you are going to have some rowdy 21 and 23 year olds that have a little too much to drink, there are going to be fights and it is not compatible with what was originally proposed for property. Originally proposed was just a store and some other businesses to make it functional for that property, but the store never went there, it is at the historical site in Burton, so he is here to oppose it. He added that he would like the board to go back and look at it.

Mr. Lamanna said it is what it is now and it is a convenience business district and these kinds of uses are permitted in a CB District. He said certainly what is said about noise coming from there is a legitimate concern and the board will take that into consideration.

Mr. Kline said he will bring a group of people next time to fill all of these seats up, so next month he will bring in the opposition. He said he did not know anything about it until a couple of days ago, he read it in the paper by accident.

Ms. Barthel said she has not had a band there for eight years.

Mr. Kline said he does not know if Ms. Barthel ever had a band in there since she has owned it.

Ms. Barthel said she has owned it for 15 years and the first 7-1/2 years she had a band every Friday and Saturday nights.

Mr. Kline asked what if somebody else takes over the business.

Mr. Lamanna said the board can deal with some of those things such as potential noise, with conditions.

Mr. Kline said the board can grant a permit for a deck and if it becomes a public nuisance then the board can say what.

Mr. Lamanna said the board can take away the conditional use permit if the requirements were not met and that would be the ultimate remedy if they did not follow the rules.

Mr. Kline said that rules were set up for this property before and they were never followed.

Mr. Lamanna said he cannot speak for what happened in the past.

Mr. Kline said the zoning appeals board should be responsible to go back and look at the minutes and the transaction of what that property originally was.

Mr. Lamanna said it does not matter what it was, it is zoned a certain way now and the fact that it was zoned a different way 25 years ago does not change the way it is today.

Mr. Kline said the granting of the property was to put an IGA store there and it never happened.

Mr. Lamanna said that may have been the intent but it was rezoned to CB and whatever is permitted in CB can go there. The board cannot go back and say that 25 years ago they were supposed to do something else.

Mr. Kline said this is how things work, they get a little crack in the door and they add this and this and now they want to add a deck.

Mr. Lamanna said it is within what is permitted in the CB District and if there are other issues, the board will consider the other issues.

Mr. Kline asked why they need a deck.

Ms. Barthel said they put a grille in and will have fresh perch dinners and told Mr. Kline he should come and try it sometime and he may like it and he should give it a chance.

Mr. Lamanna said the board understands what Mr. Kline's concerns are and will certainly deal with his concerns. He said the board cannot go back and deal with what happened 25 years ago and it is water over the dam or under the bridge.

Mr. Kline said you can see how things work, little by little over time and here we are talking about putting a deck on a piece of property that should not have been rezoned in the first place.

Mr. Lamanna said it was rezoned so they can do what is permitted within the zoning and that is the law.

Mr. Kline asked if this is being tabled until next month.

Mr. Lamanna said yes, it will be tabled until next month.

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

Motion BZA 2006-16 – 17800 Chillicothe Road (Sports Page Tavern)

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held July 20, 2006 so that the owner of the property can be part of this application.

Mr. Takacs seconded the motion.

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

Application 2006-17 by Michael & Carol Carter for property at 8408 Rockspring Drive

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

The zoning inspector's letter dated June 5, 2006 was read and photos of the site were submitted.

Mr. Lamanna stated that variances are requested for side yard, rear yard and lot coverage.

Mr. Michael Carter was present to represent this application.

Mr. Takacs asked Mr. Carter if he had approval from the Lake Lucerne ARB.

Mr. Carter testified that he did but he did not have it the time of application.

The board reviewed the variances requested.

Mr. Lamanna asked how far it is from the back of the house to the lot line.

Mr. Carter said it is approximately 70' to the rear lot line.

Mr. Murphy said he loved the photo of the proposed shed that was superimposed behind the tree.

Mr. Takacs said the photo shows the neighbor's sheds also.

Mr. Murphy said there are two sheds back there.

Mr. Lewis said there is a congregation of sheds.

The board viewed the photos of the site.

Mr. Olivier asked if there is just one house to the rear with the two sheds.

Mr. Carter said no, there are two houses, one sits just out of the picture and explained which shed belongs to which house.

Mr. Olivier asked if there is a buildable lot between those.

Mr. Carter replied no.

The board discussed the application.

Mr. Lewis asked if the shed will fit in any other corner of the lot and if there is a reason that it is located here and realizes that the Elm tree presents some things.

Mr. Carter said it would fit in the other corner, but it would be much more visible to the houses to the rear. He said they staked out several locations and reviewed them with all the neighbors and that was the preferred location of the neighbors and his. He said actually it sits behind the Elm tree which helps provide cover for his neighbor to the west and it is also the densest part of the tree row behind so it does provide the most cover for it and the existing sheds block the view from the neighbor's properties to our shed and vice versa, we don't see theirs and they don't see ours.

Mr. Takacs asked about the railroad ties.

Mr. Carter said that is his back patio and explained the location of the proposed shed and the trees are along the east property line on the right side. He explained the photos and proposed location of the shed per the photos submitted.

Mr. Takacs asked if the tree was the 24" tree.

Mr. Carter said yes and explained the dense tree row in the back.

The board discussed the location of the proposed shed.

Mr. Takacs said it will be tucked back in there and he does not have much front yard.

Mr. Lewis said it seems to be a practical place to locate it with a minimal amount of impact.

Mr. Lamanna said if it was not for those two sheds, it should be moved.

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

Motion BZA 2006-17 – 8408 Rockspring Drive

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing an 8' x 12' x 8' shed:

1. A variance from the minimum required side yard setback of 50' to 10' for a variance of 40'.
2. A variance from the minimum required rear yard setback of 90' to 10' for a variance of 80'.
3. A variance from the maximum lot coverage of 10% to 26.2% for a variance of 16.2%.

Motion BZA 2006-17 – 8408 Rockspring Drive

Based on the following findings of fact:

1. A practical difficulty exists because it is a pre-existing lot of .34 acres.
2. The existing house is only 10' from the side lot line so it is consistent with the existing side yard setback.
3. Regarding the rear yard setback, because of the depth of the house it is not a substantial rear yard.
4. In addition there are already, on the rear properties abutting this property, two sheds that are approximately the same distance from the rear lot line therefore it will not adversely affect the neighbors to the rear.
5. It is consistent with the existing development in the area.
6. With respect to the overall lot coverage, the shed will only represent a .64% increase which is a very small increase and would not adversely affect the adjacent properties or the character of the neighborhood.

Mr. Takacs seconded the motion.

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

Application 2006-18 by Billie Erikson, Lifespan Learning Communities/Frank Lanza
Omni Lanza Bainbridge, LLC for property at 16716 Chillicothe Road

The applicants are requesting a conditional use permit for the purpose of establishing a school/day program. The property is located in a PO District.

The zoning inspector's letter dated June 5, 2006 was read and photos of the site were submitted.

Ms. Billie Erikson of Lifespan Learning Communities, Mr. Tom Finley of Omni Realty and Mr. Frank Lanza were present to represent this application.

Mr. Lamanna stated that there is a question on whether or not this is a permitted use in the PO District.

Mr. Tom Finley of Omni Realty testified that he is here with Mr. Frank Lanza, owner and partner of the Cambridge Commons. He said they are proposing to put in a learning center consistent with the use that is already in the building, Goddard School, and this space is immediately adjacent to Goddard School, separated by a one-hour fire wall and will be a learning center very consistent with what is already there. He said it will consist of 2,301 sq. ft. and will be for the purposes of teaching kids and young adults.

Ms. Erikson testified that it will be for young adults and older children.

Mr. Lamanna asked how this is going to work regarding the business model.

Ms. Erikson said they are an agency that serves children and adults with autism and related disabilities and they provide educational and therapeutic services throughout the lifespan of the individual so that means they start treating kids as young as two and will work with adults all the way through their fifties and sixties. She said they provide a variety of services, one of which is a school services provider model and that is what the Ohio Department of Education calls it, in other words, school districts would send children with autism to our center for us to provide their education because the school district may not have the expertise to do that and they have never had more than six children in a classroom and would never have more than two classrooms so they would have a maximum of 12 kids. She said in addition to that they will provide outpatient therapy services for occupational therapy for speech and language, psychological services and these are all of the components that support individuals with autism. She said they will be offering daycare and respite services to families that have children with autism or adults with autism and the numbers are always small, they never have more than six children in a room, by state law, and they have to be separate by ages as well so in that space they could never take more than 12 in a school program and probably never more than 18 in the building at one time.

Mr. Murphy said he does not see a floor plan.

Ms. Erikson said there will be two treatment rooms which will be small rooms where a therapist would work, one on one with the kids, two classrooms and office and a kitchen area and two bathrooms.

Mr. Takacs asked if this is a profit or non-profit organization.

Ms. Erikson said it was going to be a non-profit and it is now a for-profit.

Mr. Lamanna asked if they will require any special licensing by the state.

Ms. Erikson said yes, for certain things, they run a summer camp program and that is licensed by the state by Job and Family Services, and the Ohio Department of Education does not license them because they are a school services provider but should they decide to become a charter school, then they would be licensed by the Ohio Department of Education. She said because they are a service provider, they are still obligated to provide education according to all of the state and federal regulations put forth by the Ohio Department of Education.

Mr. Lamanna asked if they will be providing educational services that normally would be provided for K-12 in lieu of state mandated programs.

Ms. Erikson said all schools including our school services provider program are obligated by law to meet certain academic content and everything that a public school would do, we are obligated to do. She said they are simply being contracted by the public school districts so that the child's parent home school district is still responsible for that child's education and we under contract are responsible to provide it according to the law.

Mr. Lamanna said you are doing it as a contract, not as the independent educational institution and would not be licensed as an independent.

Ms. Erikson said that is right.

Mr. Lamanna said you would be providing contract services and the school district would still maintain the ultimate responsibility for what happens.

Ms. Erikson said exactly and added that they will do recreational programs so after school adults and children with disabilities, primarily autism and other disabilities too, would come to our center for social and recreational purposes and a lot of the programs they are going to do relating to sports, they would be transporting them over to Solon and eventually they would like to do it within the Bainbridge community and they will participate in what is called the Blue Ribbon Program where the City of Solon provides a special needs cooperation program and then there is a summer camp they are holding at Centerville Mills.

Mr. Murphy asked if there will be any activities outside this building.

Ms. Erikson said no because there is no place to do that.

Mr. Olivier asked if school buses will be bringing the children.

Ms. Erikson said it could be a school bus but it is usually a school van but some districts will send a full-size bus with one kid on it but usually it is a van.

Mr. Lewis asked if there is a traffic pattern for the building and if all of these adults and children are mobile or are they in wheelchairs.

Ms. Erikson said they never had a child yet that was not mobile because usually kids with autism are mobile, but they could have one and there are people who have mobility limitations as well as autism.

Mr. Finley said the facility is set up as ADA compliant with appropriate ramps and egress points of getting in the doors etc. so from that standpoint it is set up appropriately and after Goddard School moved in the traffic flow was shifted so that there was a one-way system of traffic moving from east to west down so that we would not have a movement of cars in both directions.

Mr. Frank Lanza testified that it is the north side driveway that is the way out and the ingress is over by Heinens and that is the flow of traffic.

Mr. Finley said it has worked very effectively for Goddard and we won't change that.

Mr. Lewis said you could see where the board was going, not having to cross a lane of traffic and getting them out of the right-hand side of the vehicle.

Ms. Erikson said all those things are important to her too.

Mr. Lewis asked about the proposed number of students and if only six students can be enrolled.

Ms. Erikson said they will have two classrooms and the state will allow six but no more than a three year age spread.

Mr. Lewis said those are the people who are enrolled, but asked about the daycare and related family and asked how they fit into the six headcount per room and how the daycare people will be included and how they will fit into one room.

Ms. Erikson said for the first year they are open, they will not take more than six children so that leaves one room available for daycare purposes.

Mr. Lewis said if the age of enrollees allows you to put them into one room, so what is being suggested is the first year, you will take up to six but they will have to be what age to be in one room.

Ms. Erikson said with three year olds, they can only go from three to six and six to nine, etc.

Mr. Lewis said that if you are only going to put them all in one room and only take six the first year, you would have to decide what the three or four year age block you would accept.

Ms. Erikson said right.

Mr. Lewis asked if they will be there all day.

Ms. Erikson said they are there six hours per day from 9:00 A.M. to 3:00 P.M.

Mr. Lewis asked if back to back shifts will be run with adults and added that he is trying to get a sense of what is going to be done in this building.

Ms. Erikson said the staff will arrive everyday around 8:00 A.M. and at 9:00 A.M. students will arrive for school services, other clients will arrive for individual therapy with one hour sessions at a time and that will go on all through the day. She said after school at 3:00 P.M. after school programs begin and outpatient therapies continue so parents are bringing kids in, in the afternoon, for speech and language one on one, we have small groups, social skills, after school and we have a recreation program, so from 3:00 P.M. – 6:00 P.M. after school and recreation programs are going on.

Mr. Lewis asked what happens after 6:00 P.M.

Ms. Erikson said after 6:00 P.M. the kids go home and most of the days we all go home, but probably two or three days a week we will have parents and professional training where we have professionals come in from universities to train our staff, to train other professionals in the greater Cleveland area as well as parents who need support and training to work with their kids at home.

Mr. Lewis asked what time that goes until.

Ms. Erikson said they might be there until 10:00 P.M. and a program might end at 9:00 P.M. but the staff might wrap up around 10:00 P.M.

Mr. Lewis asked if the days of operation are Monday – Friday.

Ms. Erikson said they will be Monday – Friday initially but they plan to be open on weekends as well to offer recreational programs and therapies on Saturdays.

Mr. Olivier asked if the services in the evening are not school related, if they have to comply with the age requirements.

Ms. Erikson said no.

Mr. Finley said the code will permit up to 23 in the entire space and at that point you would be breaking the fire codes.

Ms. Erikson said 23 would be the limit and realistic to stay under 23 but the most important thing she would emphasize is that although incidents of autism goes up pretty dramatically, we will only be serving small groups of kids.

Mr. Olivier asked if there will be any risks of the students getting out and doing harm to themselves or harm to the neighbors and what he has seen is that most of them are pretty quiet.

Ms. Erikson said some of the kids could have those risk factors but they have a really intense professional staff involved and they would never have fewer than four staff members and all of our staff have at least Masters degrees in special education and Masters and PhD degrees in psychology and occupational therapy and speech and language therapy and these are specialists in autism and they are called Autism Intervention Specialists so not only are they licensed and certified in their discipline with high levels of education and experience in their cases, they also specialize in autism specifically.

Mr. Olivier said these are the features you need to be prepared for, those types of events and incorporate them in the program.

Ms. Erikson replied yes.

Mr. Murphy asked if there will be one staff member for how many students.

Ms. Erikson said in a class of six kids there will be three professionals and one paraprofessional.

Mr. Lewis asked if they will be storing or dispensing any pharmaceuticals for these children.

Ms. Erikson said almost all of the kids will be on medications and we will be providing that on a daily basis, yes.

Mr. Lewis asked if they had their state requirements or licensing to dispense the medication.

Ms. Erikson said yes, they have to have a nurse to do that.

Mr. Lamanna asked if they will dispense the individual's own medication.

Ms. Erikson said yes.

Mr. Lamanna asked if they are not prescribing it, just dispensing what they already have.

Ms. Erikson said yes.

Mr. Lamanna said if they have to take it every three hours, you make sure that they get it.

Ms. Erikson said yes and they can only do that with a doctor's order and it is the same as a school district.

Mr. Murphy asked if this will be in competition with Goddard School.

Ms. Erikson said most schools will take children with disabilities but she does not know about the school in this community but the one in Concord has one student with autism and not every student with autism should come to our program because it is more of a restrictive placement so if this child can be supported in their local school district because the school district has the expertise then that is where the law says the child should be served but if they don't have the expertise, then they come here.

Mr. Finley said he spoke with Mr. Jim Nerpouni of the Goddard School last week and advised him of their desire and intents based upon approvals etc. and Mr. Nerpouni has a long waiting list right now of people who want to take advantage of his program so at this point in time, it is not a competition issue and he made Mr. Nerpouni aware of what is going on and Mr. Nerpouni was fine with it.

Mr. Lewis asked if the daycare offerings will be restricted to the kids or will there be adults.

Ms. Erikson said there will be adults as well.

Mr. Lewis asked how you would daycare an adult and if they are autistic, if they would be enrolled in the program.

Ms. Erikson said they would take anybody but they are marketing and expecting to support families who have adult children with autism, so if you have a 50 year old son who has autism he would be served by coming to our center and we will provide him with activities, our staff will assess him and provide him with activities that are meaningful and appropriate to him as an individual.

Mr. Lewis asked if you have a 50 year old who is autistic and you put that person into one of your classrooms under the daycare, how does that work with a seven year sibling of an autistic child in that room under daycare and how that is handled.

Ms. Erikson said they specialize in autism and related disabilities and if typically developing children want to come to our program and families want to send them to our program it is called a reverse inclusion and we absolutely would want to do that because it is really productive for both the person with autism and the person without autism to have experiences together and we do have families who want their siblings to come to programming with their sibling who has autism but there are special issues within families between siblings because the siblings of children with autism have their issues as well.

Mr. Finley said it is all done under the strictest guidelines that have been established to make sure it is done appropriately and handled correctly.

Mr. Lamanna said one of the problems we have with the professional office district is that it is a specialized district that was created for a very specific purpose and the way it is structured is permitted uses are there by specific inclusions and it lists what is permitted and if it is not listed it is not permitted, it is really not this board's province to decide that the zoning commission should have included something. He said the board can look at it in an interpreted standpoint and say the zoning commission said X is permitted and somebody has something that looks a lot like X then the board of appeals might decide whether or not that is the same as what they permitted but in this case, we have a very specific permitted item of child daycare center but that is a fairly specifically defined entity (daycare) and it is limited to children.

Ms. Erikson asked if her application states that.

Mr. Lamanna said the zoning permits a child daycare center and child daycare center is very specifically limited to children, it does not include adults and it is also designed for school-age children other than outside of school so that tells him that it is not meant to permit school and there are other specific provisions that talk about where you can have schools. He said he does not know why schools are permitted in a residential district but they don't specifically talk about it being allowed in professional office district. He asked why the zoning commission is not being approached to ask them to amend the permitted uses in a professional office district to include something like this.

Mr. Lanza said he thought that was a school and Goddard School is in there and we actually wrote the legislation for that and it went to the zoning commission.

Mr. Lamanna said that is a daycare center.

Mr. Lanza said it is not a daycare center it is the Goddard School and that is what it was for and he does not know if the definition reads daycare or not but that is what it was for, it was for the Goddard School.

Mr. Takacs said and that is a daycare center.

Mr. Finley said it is a school that provides daycare services but it actually goes beyond just daycare, daycare is when they start kindergarten and kids that go beyond kindergarten or through kindergarten.

Mr. Takacs read from the code and said it is pre-school children, school children outside of school hours, infants, toddlers, pre-school and school children for any part of a 24 hour day and this includes adults in this proposal and that is beyond that.

Mr. Lamanna said that daycare can include school but the idea is it is schooling outside what is normally offered by the public/private schools and outside what is mandated by the State of Ohio and the mandated schooling only comes in at kindergarten and it is only half-day mandated, half-day kindergarten through grade 12, so if someone has a school that offers full-time kindergarten or picks up what a public school does not offer, then it all fits into the daycare.

Mr. Lanza said they went to the zoning commission for Goddard School.

Mr. McIntyre said it was a conditional use permit.

Mr. Lamanna said a nursery school for example would fit into the definition of what a daycare center is because it is providing services to children/toddlers and you can provide educational services up to a point where the kids reach the public school mandated services and at that point in time, the way this definition is written, you cannot go beyond that for example as the Goddard School cannot be running a first grade.

Mr. Lanza said he thought they did.

Ms. Erikson said they (Goddard) are actually a chartered school.

Mr. Lanza said it is a chartered school and kids get dropped off there after school.

Mr. Lamanna said after school is a different thing.

Mr. Lanza said there are little kids there.

The board discussed daycare center regulations.

Mr. Lanza said the laws are regulated by the state that they have to follow with that school.

Mr. Lamanna said he does not doubt that there are a lot of state regulations that they have to follow, preschools have all kinds of regulations.

Mr. Lanza said it is more than preschool.

Mr. McIntyre said he will go back and look at the conditional use granted to Goddard School and based on the testimony here tonight, he will go up there tomorrow and if they are beyond what was granted to them, he will have them back in front of the BZA.

Mr. Lamanna said there was a question whether this would be operating in competition with what is normally offered by a mandated education and he does not understand why we have something that talks about daycare centers and then we have something else that talks about schools.

Mr. Lanza said he does not know if it is a daycare, it is a school.

Mr. Lamanna said there is school and mandated school and the state mandates certain schools, the state does not mandate after school programs that can be run as a school and it does not mandate nursery schools, it regulates them and they probably could have kindergarten programs because full-time kindergarten programs are not mandated by the state either.

Ms. Erikson said actually the law for special education mandates that the individuals needs must be met whether that would be in a school day or out of a school day, school districts are required by law to make sure that an assessment is done on each individual and school districts are accountable from the age of 3 to the age of 22 for people with disabilities and the child's individual education team assesses the child and determines what is necessary for them so in the case of children with disabilities who have social impairments which is the primary difficulty with the child.

Mr. Lamanna said what you are saying makes it worse because it then says that these kids from age 3 to 22 are part of the school, part of the mandated school and it is being said that for these kids the mandated obligation of the school district is bigger than for a normal kid.

Ms. Erikson said that is right.

Mr. Takacs said in the CB District it just says daycare and everything else is very specific.

Mr. Lamanna said the board is not trying to judge the merits of what the applicant is doing, it is a very fine service that is being provided so the applicant should not take anything the board is saying as any kind of judgment on what the applicant is doing, it is just looking at this from a standpoint of the board members and we are not legislators, the board sits in a judicial mode and we have to interpret the law, we cannot decide that it is a nice thing and fits into the purposes of professional office and allow it, that is not our purview here so we need to understand what the applicant is doing and trying to look at exactly what is permitted when somebody says child daycare. He said the board can hypothesize why the zoning commission did not go further but we did not sit there nor do we have the minutes of all of their meetings when they considered this and from the board's standpoint, if there is a better remedy to petition for a change in the zoning, the board will often ask people to petition for a change in the zoning before we proceed with an application because that is a more appropriate remedy for what they requested. He said the code does not cover adults and he does not know why that is because the township zoning has other provisions for adult homes and specialized facilities to take care of adults who are incapable of caring for themselves.

Ms. Erikson said these people will all require support.

Mr. Lamanna said he can imagine these same kinds of people living in one of the adult group homes but you are talking about people with some kind of family situation.

Ms. Erikson said sometimes people come to us from group homes and agencies.

Mr. Lamanna said no one has really looked at these specialized services and how they fit.

Mr. Takacs said we don't have a special education center versus daycare, just daycare in the zoning and this will be for adults, which is outside of that definition.

Mr. Lamanna said he is not sure why the zoning permits things in residential districts that we don't permit in professional office districts other than it is designed for a very specific transitional purpose but if a school is allowed in a residential district, he is not sure why we don't allow a school in a professional office district although part of that since schools are allowed in residential districts, is to not use up our professional office which is quasi-commercial with a school which is a non-commercial use.

Ms. Erikson said another type of business that does this same type of work is Sylvan Learning Centers that is a business and agency that specializes in education and therapeutic treatment of a particular type of learner and we are really doing the same thing.

Mr. Lamanna said he did not think we could put in a Sylvan Learning Center.

Ms. Erikson said she has not seen them in Bainbridge but she has seen them in similar applications in other communities.

Mr. Finley asked if the difficulty here is the adult aspect, anybody over 18 years of age.

Mr. Lamanna said that is one aspect and the other aspect of it is they are providing traditional mandated school services to these people as well.

Mr. Finley said which would be the same thing Goddard is doing.

Mr. Lamanna said that is not clear because he is not sure Goddard is providing a mandated school.

Mr. Lanza said they are a chartered private school.

The board discussed the definition of daycare.

Mr. Lamanna said a Montessori school could not go in there, but it could go in a residential district.

Mr. Olivier said it could be a licensed daycare center as well as a school.

Mr. Lamanna said daycare centers include preschool and could probably include kindergarten because it is a little hazy because the state does not mandate full day so if they were to do half day or if people would want to hold private full day kindergarten, he believes that is outside of the mandated school, but if first, second and third grade is held here, he does not know.

Mr. Lanza said he does not know what grades they have at Goddard School.

Ms. Erikson said they have children from six months to six years and she knows that they do kindergarten.

Mr. Lamanna said that kindergarten would be okay.

Ms. Erikson said she is not sure if they do first grade or not.

Mr. Lewis asked if they are not doing elementary.

Ms. Erikson said she actually did not know that, she knows that they go through six years but she does not know if that means they are doing kindergarten and first grade or not.

Mr. Lewis said his view is it takes them out of the education business and puts them into the daycare definition business.

Mr. Lamanna said if they are six months to six years, first grade would be it, they may do through a kindergarten program or a first grade readiness program but it certainly sounds like they are not really in competition with traditional schools.

Ms. Erikson said with kindergarten they are and preschool. She said Kenston actually has a public school preschool program so they are in competition with Kenston with the preschool program.

Mr. Lewis said it is optional education versus state mandated.

Ms. Erikson said the state does mandate preschools and early intervention and kindergarten and the state has definitions for all of these things.

Mr. Lamanna said it is all highly regulated but the idea is that the school districts are mandated to do certain things and the idea of this is it is things outside that are mandated and there are a lot of special things for different groups, but once the kids are in first grade, then now it is a school and there is no specific permission to run a school in here. He said there are a lot of different issues and one of the advantages of seeking an amendment to the zoning code is then it can be assured that the definition of what you want is broad enough to cover the kinds of things you do.

Ms. Erikson said what she would challenge back to the community is that the community really needs to have a way to do this.

Mr. Lamanna said it is not this board's job to consider those types of things.

Ms. Erikson asked if it is another committee.

Mr. Lamanna said yes, it is a legislative body called the zoning commission and they are the ones that would propose amendments to this to say this is a worthwhile activity and it is appropriate in this zoning district. He said they would look at this from the standpoint that this zoning district was created for a specific purpose, new things come along all of the time that no one thought of before and we are constantly modifying, making changes and allowing certain things to come along and this is probably something that nobody really thought about.

Ms. Erikson asked where people go for speech, language and occupational therapy and asked if there are offices here that provide those services in Bainbridge.

Mr. Lamanna said University Hospitals could provide those kinds of services.

Mr. Olivier said that Metzenbaum is in the area.

Mr. Lamanna said this could go into a CB District without an issue at all because it is broad enough to allow most kinds of activities and districts get created for purposes and from the legislative standpoint the zoning commission needs to look at what you are planning and in designing these professional office districts, is this what they had in mind or if this is something they would say no to.

Ms. Erikson asked where doctors can have their offices.

Mr. Lamanna said doctors can have their offices in the professional office district because that is specifically allowed and even there we run into some questions because it technically says medical offices that require a direct supervision of a doctor and if people come in with quasi-medical things such as an aroma therapy business, it may be some kind of quasi-medical treatment, but it is not included on the list of permitted uses and not performed by a doctor.

Ms. Erikson said in their case, everything has to be prescribed by a doctor.

Mr. Lamanna said but it is not under the direct supervision of a doctor which means a doctor is there on site to control what goes on. He said you cannot, for example, come in and say you have a medical business that is providing a medical treatment service that has to be done by somebody other than a doctor, technically you will not be able to do it and he is not sure a psychologist office would fit in there if the service is not provided by a medical doctor. He again said he does not know why and maybe it was an oversight but it is not this board's job to be extending the uses and say they think the zoning commission should have allowed this and if somebody wants something different, they have a remedy to go and get it changed. He said in this case it is the better remedy because there are so many pieces and parts to this thing that even if the board said that this aspect of it looks okay, we will still find 30% of it that the board cannot really find any justification for at all.

Ms. Erikson asked what would be the harm or ramification of them doing all of their services there.

Mr. Lamanna said the board does not judge harm on those types of things and we are not here to decide the legislative merits of the proposal, the board is here to decide whether the zoning code as it is written today permits this.

Ms. Erikson said the board also has the authority to permit exceptions such as when a gentleman wants to have a shed in his yard and by definition it does not fit, the board can still make a judgment.

Mr. Lamanna stated that there are two types of variances that the board deals with, one is called an area variance such as a shed and how close they can be built to the side lines and that has one set of standards and the other variance is called the use variance and that has a totally different set of standards and it is a very hard one to get over and a use variance states that you can't put the property to a profitable use under one of the permitted uses, so the applicant has to demonstrate it cannot possibly find any of these other uses to put in that space and in that case it is more of the property owner's hardship, not the person coming in. He said the property owner has to be saying there is no possible way he can rent this property to anybody else but this type of use because of whatever so it is almost an impossible standard for this type of situation because there are 20 things that it can be used for so for somebody to come in and say they want an entirely different use that is not permitted, what is the justification for it and the remedy really is to go see the zoning commission and ask them to add this particular type of use to the list of permitted uses or the list of conditional uses.

Mr. Lanza asked why the board did not tell them up front and why they had to go through all of this and then tell us we have to go back to the zoning commission. He said he had Mr. Dale Markowitz write the legislation for that particular use in that particular area and he did it with the zoning board and the people in Chardon.

Mr. Lamanna said it was drawn up for a specific thing.

Mr. Lanza said he talked to Mr. Markowitz before he even came here and Mr. Markowitz said there should not be a problem because he wrote the legislation for it for this township and we actually paid to have that done and Mr. Markowitz said it is just a conditional use thing and there should not be a problem and had he known that he would have had Mr. Markowitz here because he wrote the legislation so he could defend it better because we are not attorneys and if Mr. Markowitz would have thought there would have been a problem, he would have been here and now here we are and there is a problem. He said he wishes the board could study it ahead of time and just say this is not something we feel we can approve and added that he understands where the board is coming from but we go through all of this and come to this board because that is where we are supposed to come and then the board tells us we are at the wrong board. He said if he had known that up front, he would have gone to the zoning commission but when we come to you with these things, he wishes the board would just tell them.

Mr. Lamanna said he cannot tell the applicant a thing until the application gets to him and he looks at it.

Mr. Lanza said if he would have known, he would have gone to the zoning commission first.

Mr. Lamanna said the application states that the applicant is seeking a use variance.

Mr. Lanza said he could not understand why they needed a use variance when the thing was already set up for a daycare and school so why did they have to come to the zoning board of appeals but there was a conditional use on the whole building and he called Mr. Markowitz and Mr. Markowitz said yes, a conditional use is needed but it is not going to be a problem because he wrote the legislation so he (Mr. Lanza) assumed it would be fine and if he would have known that they were going to have this issue, Mr. Markowitz is the one to defend it for them.

Mr. Lamanna said the board can table this application and will hold this application.

Mr. Lanza said it creates so many delays and that is what happened last time.

Mr. Finley asked if this is not a question of the interpretation of the law so cannot a lawyer or the township's own solicitor make a determination.

Mr. Lanza said that Mr. Markowitz is very qualified and we can sit and talk about this all night but we need to have Mr. Markowitz decide what we have to do.

Mr. Murphy said that Mr. Markowitz may not have been able to say anything different because this is not a daycare and this is a professional office district.

Ms. Erikson said she had a question about timing because it would be a real problem for not just her business but for the families because the school districts were relying on them to be open and providing services and they planned to open their school year on September 5th so they need to be someplace by September 5th. She said they can do their summer camp and have been doing their summer camp at Centerville Mills but she asked if the board could give her some sense of timing.

Mr. Lamanna explained the amendment procedure and time frame.

Ms. Erikson said they need to be in this location and they need to be in that building and added that it is important to them as a business that they are in a location like the Goddard School because it provides inclusive opportunities for their students rather than being in an exclusive place. She said she did discuss with Mr. McIntyre other options for locations already zoned for this use and they seemed very inappropriate and she looked at some of them and they are in strip malls with big giant retail windows and they do not seem appropriate to her at all and she feels Goddard School would not be appropriate in those locations either and the fact that Goddard School is there, it is a huge plus for them and it makes sense for the school district that they serve. She said the school districts are required by law to make sure the children with special needs are in a least restrictive environment so school districts ask her if this is the least restrictive environment for the students with opportunities for them to have typical peers and it is their intention to do collaboration with not only Kenston Schools as well as Goddard School to do programs together where their children with disabilities are participating with children without disabilities so she would like to secure the space and would request everyone's help in trying to get that done.

Mr. Lamanna suggested that the applicant meet with the zoning commission in the near future regarding this application.

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

Motion BZA 2006-18 – 16716 Chillicothe Road

Mr. Lamanna made a motion to table this application to the next regularly scheduled meeting to be held July 20, 2006.

Mr. Takacs seconded the motion.

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

Application 2006-19 by Pat Perrino of P. Perrino Custom Homes for property at 8145 Woodberry Boulevard

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

The zoning inspector's letter dated June 5, 2006 was read and photos of the site were submitted.

Mr. Lamanna stated that this is a riparian variance for the front yard.

Mr. Pat Perrino was present to represent this application.

Mr. Perrino testified that this variance is requested because of the pie-shaped lot and the back yard so we want to move the house forward to 76' rather than the 100' required for the front yard setback. He stated that the setback next door, to the right, was also moved to 74' because of the way the property is shaped.

The board reviewed the site plan submitted.

Mr. Perrino explained the location of the other house that is 74' back and said they had the house set at 100' and these people are moving in from Switzerland and the proposed owner said there is just not enough room in the back if they decide to put in a pool.

The board discussed the variance requested according to the site plan submitted.

Mr. Perrino explained the location of the proposed driveway.

Mr. Lamanna said the side yard setback is according to cluster and it may really be a side yard but it is really a backyard.

Mr. Perrino said it abuts a culdesac.

Mr. Olivier asked how big the lot is.

Mr. Lamanna said it is 1.05 acres.

Mr. Perrino said it is pretty large and it looks like a big backyard.

Mr. Takacs asked how big the proposed house is.

Mr. Perrino said it is about 5,800 sq. ft., almost 6,000 sq. ft.

Mr. Lamanna said the house is long but it is not exceptionally deep.

Mr. Lewis asked if the house is within the 35' height limit and added that there is a walk-out and 15 courses on the basement to the walk-out.

Mr. Perrino replied yes.

Mr. McIntyre said the regulations were changed for maximum height a couple of years ago and all of the measurements are taken from the front due to walk-outs.

Mr. Takacs said there is not much of a backyard with a 100' setback.

Mr. Lamanna said it is not the whole house up there, it is mostly the garage.

Mr. Perrino said the original house was designed without the walk-out but once the owners found the lot was conducive to it, they wanted it.

Mr. Lamanna said given the location here, it is not going to be noticeable.

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

Motion BZA 2006-19 – 8145 Woodberry Boulevard

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

1. A variance from the minimum required front yard setback of 100' to 76' for a variance of 24'.

Based on the following findings of fact:

1. A practical difficulty exists because this is a lot located on a bend into a culdesac and it is a very unusual shaped lot which makes it somewhat narrow therefore it is necessary to grant a variance to the front yard setback to avoid being close to the adjacent properties.
2. Given the nature of the street direction, this should be consistent with the neighborhood and several other homes in this area that have already been granted similar variances due to other lot conditions.

Mr. Takacs seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:51 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Donald Takacs

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

Date: July 20, 2006

AUDIO RECORDING ON FILE

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Bainbridge Township, Ohio
Board of Zoning Appeals
June 15, 2006

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:51 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Mr. Donald Takacs.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the May 18, 2006 meeting as written.

Mr. Olivier seconded the motion.

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

Applications for July 20, 2006

Application 2006-16 by Judith E. Barthel for property at 17800 Chillicothe Road (Sports Page Tavern) - Continuance

The applicant is requesting a conditional use permit for the purpose of installing a deck. The property is located in a CB District.

Application 2006-18 by Billie Erikson, Lifespan Learning Communities/Frank Lanza Omni Lanza Bainbridge, LLC for property at 16716 Chillicothe Road - Continuance

The applicants are requesting a conditional use permit for the purpose of establishing a school/day program. The property is located in a PO District.

Application 2006-20 by Matthew Lynch for property at 17477 Chillicothe Road

The applicant is requesting a use variance for the purpose of establishing a professional office. The property is located in a R-3A District.

Application 2006-21 by Mike Koenig for property at 9243 East Washington Street

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

Application 2006-22 by U Brothers Realty Ohio LTD for property at 16750 Hilltop Park Place

The applicant is requesting area variances for the purpose of installing a parking lot in the front yard. The property is located in a LIR District.

Application 2006-23 by LMZ Holdings, LLC for Steak “n” Shake for property at 7044 Aurora Road

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

The Bainbridge Township Board of Zoning Appeals set the public hearing on the above applications for July 20, 2006 at 7:30 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:00 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Donald Takacs

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

Date: July 20, 2006

AUDIO RECORDING ON FILE

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