

Bainbridge Township, Ohio  
Board of Zoning Appeals  
June 15, 2017

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:00 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Mark Murphy was absent. Ms. Karen Endres, Zoning Inspector and Ms. Jennifer Syx of inSITE were present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all persons who intended to testify. He noted for the record that everyone present had been duly sworn in and stated that the agenda will be taken out of order to address the residential applications first and the commercial applications last.

Application 2017-13 by DeChella Woodruff for property at 8502 Pilgrim Avenue

The applicant is requesting area variance(s) to permit hardscaping as constructed including sidewalks, decks and patio areas. The property is located in a R-3A District.

Mr. Monte Warren and Ms. DeChella Woodruff were present to represent this application.

Mr. Warren testified that they have some issues with overages on their property and are requesting a variance. He said the additions of the decks and sidewalks is because they have a lot of water flow which they didn't know of when they built the house and during building the house there was a lot of water coming through and basically through the house, there was nothing to stop it and once they got the drain system in and put a drain in and gutters on, they routed it around the house and with the sidewalks and decks it actually prevents it from coming against the house. He said they had one little area where the need to still grade a little bit better and he thinks that would solve the water and they did meet with the conservation water people and they gave them some plans, it was about 13 – 15 pages and he hasn't had time to really review it but they have major water problems. He said all of the water from the development is basically coming to their point and he guesses the manhole fills in the street and there is a water retention somewhere about a mile down here so most of the water is routed to their property or the area of their property and so we need to keep the water off of the house because the value of the house is nothing if we have water going in the basement. He said when they talked to the building department they have plans for the decks and we would have called if we needed permits so when they were pouring the driveway they poured that because they said we didn't need permits for it so but he understands the process now, before you do anything on the property you need to come here and get approval which was an oversight and he knows he has to come to the board for any future projects.

Mr. Lewis said the board gave an 8% variance for lot coverage beyond what your permitted was when the house came in originally and he thinks a site plan was submitted at that time which did have the driveway on it and he doesn't understand what went wrong if there was a site plan and that was what was agreed upon how do you go from 18% to 20.34% which is almost an additional 10% increase over the 18%.

Mr. Warren said part of it was the sidewalks to get the water away from the house so we weren't aware with the water issue and we didn't know we were over 8% at the time, we didn't research what we had to research but it was really because of the water issues it wasn't because we wanted to put something in because we wanted it there. He showed the board photos of where the water was and how it comes and where it sits and said the drain in front, when it rains hard it is flooding into the landscaping close to the garage.

Mr. Lewis said he was looking at the notes from the zoning inspector and asked Ms. Endres if they filled in with concrete some of the areas. He said it is an irregularly shaped house footprint and those might not have been concrete originally but they filled those in and asked if that was in an effort to control water.

Ms. Karen Endres, Zoning Inspector testified that there are decks and patios all around the house, these features that were added are within the footprint of the house and they don't have setback issues but there are lot coverage issues.

Mr. Lewis said he was just trying to figure out from the original.

Mr. Warren said all of this was water and even this is on a slab there was water, snow and everything. He referred to a photo and said this area here is still wet so we have to grade this and put in a small swale to get that water out of there.

Mr. Gutoskey asked Mr. Warren if he has talked to ODOT about cleaning the ditch out front.

Mr. Warren said that is another letter they have to send out, they have to do ODOT for Rt. 306 and the township takes care of Pilgrim.

Mr. Gutoskey said part of the problem you are going to have here is that in this one plan you have an 18" culvert going to Rt. 306 and explained the flow of the water so you have to look at where the road elevation is there versus your yard, it may be you need to do some filling in of that corner to help push that water to the road.

Mr. Lewis said if the ditch floods over and you have got an embankment to keep it from coming into the yard.

Mr. Gutoskey referred to the photo and said you can do some filling in here which will push the water towards the road and narrow down how much it is flooding there.

Mr. Warren said the culvert is a little bit down there.

Mr. Gutoskey said it is only an 18" pipe so it is picking up a pretty good area. He said the water could be pushed around so that it follows the edge of the woods towards the culvert, that may help. He said it may be to the point now that that culvert is undersized based on the development around it.

Mr. DeWater asked Mr. Warren if he did not get a chance to read the Watershed Partners report yet.

Mr. Warren said no.

Mr. DeWater said in the report they actually have a recommendation of removal of some of the sidewalk, deck or patio areas so the water can soak into the ground.

Mr. Gutoskey asked if the decks are wood decks.

Mr. Warren said yes.

Mr. Gutoskey asked what is underneath them, gravel or dirt.

Mr. Warren said dirt and gravel and one has a roof over it and the smaller one on the side of the house keeps a lot of water from going into the house because that room is on a slab, not a basement there.

Mr. Gutoskey said it is a wood deck that has dirt under it.

Mr. Lamanna said most of the water is going through it anyway.

Mr. Gutoskey said it may be lot coverage but it is not like concrete, you are getting some infiltration there. He said this is a larger house versus what is in Pilgrim Village and it is nice to have sidewalks around the way the house is set up so there is definitely going to be a little more lot coverage and he doesn't know how much difference taking the decks out would be because they are wood and added that he doesn't have a problem with it.

Mr. Lewis said he is more concerned about the water issue.

Mr. Lamanna said if they are going to do this we need to make sure that we take all the steps we can to ameliorate it.

Mr. Gutoskey said they may come back with the fact that the culvert under Rt. 306 is too small.

Mr. Lamanna said in this case all of the adverse effects are collecting on their property it is not really going to somebody else's property.

Mr. Gutoskey said they are the low point.

Mr. Lamanna said and anything else they add to it is actually collecting on the property to the extent that you reduce infiltration on your property most of the effects are on your property. He said you have to keep the water out of the foundation.

Mr. Lewis said he doesn't know if he has a water problem because of his lot coverage or if it is just where the lot is located. He said in the Watershed report there was talk of rain barrels and trying to collect the water.

Mr. Gutoskey asked how much are you going to collect in a rain barrel.

Mr. Lewis said it seems apparent that most of the water isn't coming off of their roof that is accumulating.

Mr. Warren said when they were building the house there was 6' of water in there.

Mr. Lewis asked if that is ODOT.

Mr. Gutoskey said yes and unless they have a collapsed pipe they are not going to do anything. He said it is an old clay pipe, that is how long it has been there.

Mr. Lewis said in looking at the water flow if the water is flowing his way would it make sense with soils trying to mound.

Mr. Gutoskey said, with not looking at elevations, he doesn't know if he can split it to go both ways to the ditch.

Mr. Warren said it comes up the driveway and showed the board a photo.

The board discussed installing a swale.

Mr. Lewis said he doesn't have any issues with the lot coverage.

Mr. Gutoskey said he will have to work on the drainage with whatever you can get ODOT to do with cleaning the ditch and then whatever he can do with swaling. He told Mr. Warren to talk to the service department about cleaning the ditch on Pilgrim.

Mr. Lamanna asked if there was anyone else here interested in this application. He asked Mr. Warren to look at some of the recommendations that were made and think about doing some of those things that make sense because Chagrin Watershed Partners are pretty good about coming up with ideas and usually at least some of the ideas will be a long term benefit for keeping the property dry. He said there may be periods when it is going to be wet but at least you can shorten those things down so instead of having water standing out there for weeks and months it might be out there for days instead so they usually have some very good ideas and usually they are a pretty reasonable cost instead of thousands of dollars of expense, they give ideas that are pretty economical.

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

Motion BZA 2017-13 – 8502 Pilgrim Avenue

Mr. Lamanna moved to grant the applicant the following variance:

1. An increase in lot coverage from 18% to 20.34%.

Based on the following findings of fact:

1. The applicant is requesting this variance because of additional hardscaping on the property primarily consisting of additional decks and additional sidewalks that were placed around the house in order to try to reduce the amount of water coming up next to the foundation due to the water flow through the property.
2. This is only a 1.2 acre lot in a three acre zoning district.
3. It is also a corner lot that creates issues with the structure and again because of the extra water it requires some extraordinary application of additional sidewalk around the house.
4. Furthermore because of where this is located the small increase in the lot coverage, the effects of it will generally be confined to the property and not affect the neighboring properties adversely and overall it is not inconsistent with the neighborhood as well.
5. The board does ask the applicant to look at the recommendations that were made by the Chagrin Watershed Partners to try to see if there are things that will additionally help ameliorate the water coming onto the property to try to improve the long term performance of drainage and absorption on the property.

Mr. Gutoskey seconded the motion.

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

Application 2017-15 by Terry Cowoski for property at 8815 East Pilgrim Drive

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

Mr. Terry Cowoski was present to represent this application.

Mr. Cowoski testified that they are looking to add a front porch that wraps around both sides of the house and it is going to affect their setback, the front requirement is 75' and they would be at 70' setback.

Mr. Gutoskey asked what the dimensions are on this.

Mr. Cowoski said it will stick out 8'.

Mr. Gutoskey said an additional 8' from the front and asked about the side, is it 10' from the left side.

Mr. Cowoski said to the neighbors, 20'.

Mr. Gutoskey said so it is 20' wide in the front. He said all he has is elevations, he doesn't have a plan view.

Mr. Cowoski asked if he was talking about the neighbor's setback.

Mr. Gutoskey said he was just trying to get an idea on dimensions.

Mr. Cowoski said he has the dimensions between the posts.

Mr. Gutoskey said scaling this he has about 56 post to post not including the overhang and it is about 16' wide on the side.

Mr. Cowoski said yes, 8' out in the front and 8' back.

Mr. Gutoskey asked if it is an all wood deck.

Mr. Cowoski said yes, it will probably be a composite wood.

Mr. Lewis asked if Pilgrim Village's setback is 75'.

Mr. Gutoskey said he thinks the rear setbacks were 50', fronts were usually 75' and side setbacks were 20' and it looks like it is an even 20' to the original Birch Hill.

Mr. Lamanna asked Ms. Endres if he does not have the two front yards issue.

Mr. Karen Endres, Zoning Inspector testified that she was applying the former standards because this is an addition.

Mr. Lamanna asked if the former standards did not have the two front yards issue.

Mr. Gutoskey said he is saying 75' on both sides because it is a corner lot.

Ms. Endres said she just counted from the closest corner.

Mr. Lamanna said that is a totally separate provision that says corner lots are treated as having two fronts.

Mr. Gutoskey said he thinks it is okay because it is even and just to the garage it is about 78' so it looks like it would still meet with what the old code was, we would have to see what was on the old subdivision plat.

Mr. Lamanna asked about the shed, it says new frame shed or is it already there.

Mr. Cowoski said that was removed from the plan, the architect did it when she did the plans instead of separating them, but they are not doing the shed.

Mr. Gutoskey said it looks like you have a shed there.

Mr. Cowoski said there is a shed there now, we were looking to build a more substantial shed.

Mr. Gutoskey said make sure you come here before you do, we have had some issues in the neighborhood.

Mr. Lewis said and Pilgrim Village Architectural Review Board.

Mr. Lamanna said this also is where you get to the question of what is the setback line here because he doesn't know where the next door house is, their setback.

Mr. Gutoskey said most of the houses in the newer section in the back are set up in the middle of the setback line but this is all wooded here too.

Mr. Cowoski said Access Geauga is not 100% but he pulled dimensions off of that from all of the neighbors around.

Mr. Lamanna said it would help that down the street if everybody is 75'.

Mr. Cowoski said he doesn't believe that is the case though, they go anywhere from 67' to 83' as the setback.

Mr. Lamanna said it is still roughly 75'.

Mr. Gutoskey said the shed has been there forever, since he can remember.

Mr. Lamanna said that doesn't mean it had a permit and that was one of his questions, was that properly permitted before you start building a new one.

Ms. Endres said that ReaLink is down, it is not working tonight but she can bring up Bing maps and try to compare although we won't know where the lot lines are but we can try to see where the other houses are in the neighborhood.

Mr. Cowoski said he submitted a copy from Access Geauga, the setbacks of the other neighbors.

Mr. Lamanna said that is helpful.

The board discussed the setbacks.

Mr. Gutoskey said ReaLink is a good tool. He asked Mr. Cowoski if he brought any pictures of the front of the house.

Mr. Cowoski said he did not.

Mr. Gutoskey said he knows what the house looks like because he drives by everyday. He said he thinks it would break up the front of the house.

Ms. Endres displayed the house on Google maps.

Mr. Lewis asked if the depth is 16'.

Mr. Gutoskey said it is 8' and wraps around the side of the house.

Mr. Lewis said so it is really 8'.

Mr. Gutoskey said yes from the front of the house.

Mr. Lewis said he didn't think it would have an impact from the street as far as somebody else feeling it was too close because this is all open.



Mr. Lamanna asked if there are any trees between this property and the neighbor, it is hard to tell how far forward they come.

Mr. Cowoski said he is next to the corner, Birch Hill so there is not a neighbor there to the west, there is just the one tree.

Mr. Gutoskey said that is garage and driveway to the house next to it.

Mr. Lewis said it is basically like the original standards in Pilgrim Village and the ARB looked at it.

Mr. Gutoskey said some cities don't count an open patio or an open porch like this for setback purposes, it is open and will break up the front of his house.

Mr. Cowoski said it will give the house some dimension and if you look their back is all wooded so the kids play out front so they like to be out there with them.

Mr. Lewis said it is a minor variance.

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

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

#### Motion BZA 2017-15 – 8815 East Pilgrim Drive

Mr. Lamanna moved to grant the applicant the following variances for the purpose of constructing a 544 sq. ft. porch around the front of his house in accordance with the plans that were submitted with the application.

1. A variance with respect to the lot coverage from 10% to 11.46% for a variance of 1.46% (*amended – see dialog below*). A variance with respect to the lot coverage from 10% to 12.5% for a variance of 2.5%.
2. A variance from the minimum front yard setback to 70' on the East Pilgrim side and to 90' on the Birch Hill side and to the minimum side yard depth from 50' to 21'.

Based on the following findings of fact:

1. A practical difficulty exists because it is a pre-existing non-conforming lot of record in that subdivision.
2. This is only a 1.2 acre lot so a higher lot coverage is warranted here.
3. The setbacks are consistent with the former standards for this area, it is a small variation of 5' on the front yard but given the setbacks of the other houses along the street this will not be incongruous with the existing setback.

Motion BZA 2017-15 – 8815 East Pilgrim Drive - Continued

4. On the side yard setback this side yard abuts the adjacent house's driveway and side entry garage so it will not have any adverse effect on that neighbor.
5. Overall this variance would not change the character of the neighborhood nor otherwise adversely affect the neighboring property owners.

Mr. DeWater seconded the motion.

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

Additional dialogue

*Mr. Gutoskey asked if the board should add a little more lot coverage in case he wants to put a sidewalk in the front because it is not included in the lot coverage.*

*Mr. Cowoski said the sidewalk is on the drawing.*

*Mr. Gutoskey asked if it is figured in the lot coverage.*

*Mr. Cowoski said he was under the impression that they actually had 20% from the former standards.*

*Mr. Gutoskey said if you want to put a sidewalk in later, the board could approve that now so you (Mr. Cowoski) won't have to come back, a sidewalk from the front of the porch to the driveway.*

*Mr. Lewis said even though the former lot coverage was 20% our current is 10% so we still need to make the accommodation for it.*

*Mr. Cowoski said he appreciates the board bringing this up.*

*Mr. Lamanna said the board will amend the previous motion to make the lot coverage 12.5% in order to accommodate a walkway from the porch around to the driveway.*

Application 2017-18 by David J. Ollie for property at 7855 Country Lane

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

Mr. David Ollie was present to represent this application.

Mr. Lamanna stated that this is a 10' x 18' accessory structure and the issue here is the side yard setback.

Mr. Ollie testified by saying yes.

Mr. Lamanna said it is a non-conforming lot of 4.72 acres in a five acre area. He told Mr. Ollie to tell the board why this needs to be where it is.

Mr. Ollie said he is looking at the practicality of having it close to the garage to keep tractors and snow plows and items like that and in order to keep within the 50' normal variance he would need to extend it back at least another 130' to 150' and then add a lot of drainage and he would have to put in some sort of a walkway and it changes the cost of a \$3,000 to \$4,000 shed to almost \$10,000 with the gravel and take care of the drainage issues and the shed would be in the woods if it was behind the house and he believes it is a second generation forest back there so he is trying not to disrupt that and he is worried about a fire hazard if it was in the middle of the woods also.

Mr. Lewis asked Mr. Ollie why he doesn't just move it up to the driveway, there is nothing in the way, there are no woods, there is no fire hazard, there is no additional expense.

Mr. Ollie said if he puts it right up against the driveway it still doesn't give him the 50'.

Mr. Lewis said but it is a whole lot less of a variance than 25'.

Mr. Ollie said part of the problem being so close to the driveway would be backing out of the garage and snowplowing issues so he is trying to put about a 15' buffer from the driveway to the shed.

Mr. Lewis asked if in that area there is a wellhead or leach fields.

Mr. Ollie said no he has nothing there and the best part about that area is it is a little higher ground and presents less corrosion to the shed.

Mr. Gutoskey asked on the mortgage survey what is this 18' x 8'.

Mr. Ollie said it is not actually 18' x 8' it is probably 18' square, it is a deck, a second deck.

Mr. Gutoskey asked if that is what is showing up right here.

Mr. Ollie replied yes. He said there are actually two decks and he thought about putting it there but he doesn't know if that deck is structurally sound to park some extra heavy equipment on there, a couple of tractors or so. He said it looks strictly as a decorative picnic table type deck.

Mr. Lamanna asked if it is a freestanding deck.

Mr. Ollie said yes.

Mr. Lamanna said but not attached to the structure.

Mr. Ollie said he had considered putting it back here but there is about 130' to 150' that he would have to put in but by putting it here he could be closer, he doesn't have to run electricity if he ever needed electricity for the shed he could run an extension cord, in the backyard he would probably wind up having to put electrical in because it is just too far away, it couldn't even charge a battery or something like that. He said as you can see on the neighbor's side there is a big large barn so the neighbor's house wouldn't even see it.

Mr. Lamanna asked if that is an accessory structure we are seeing here.

Mr. Ollie replied yes. He said actually the shed would probably be an improvement to the view from our house.

Mr. Gutoskey asked Mr. Ollie if their fence comes onto his property.

Mr. Ollie said he doesn't believe so but he doesn't know exactly where the line is.

Mr. Gutoskey said he is looking here and it looks like another part that comes out that hugs your driveway.

Mr. Ollie said when he bought the house two years ago they moved the fence back, this fence line goes straight.

Mr. Gutoskey said so they moved it back on their property.

Mr. Ollie said apparently the fence was moved so that the neighbors could put a horse on a pole or rope and let it circle around to get exercise and the neighbor let them do that and when we bought the house the neighbor had moved the fence back to where it was because they don't have animals anymore.

Mr. Gutoskey said the board struggles with sheds because we try to get them behind the houses so you can't see them from the street and they are at the correct setback.

Mr. Ollie said but you can't really see his house from the street.

Mr. Gutoskey said he doesn't know what it looks like from the street. He asked Ms. Endres to pull up the aerial of the property. He said it looks really wooded.

Mr. Ollie said the area where he is proposing to put the shed is kind of under its own set of trees.

Mr. Lamanna said as far back as it is and the other property has a massive outbuilding between it and their house and there is a huge stand of trees and everything is spread out anyway.

Mr. Ollie referred to the site plan and said there is the house, the driveway and the deck and showed where the shed would go. He said his intent is to match the colors on the house and pitch it so that it looks like part of the group.

Mr. Lamanna said the only other thing would be to move it to the back end of the driveway.

Mr. Ollie said if he moves it to the back end of the driveway then he loses his access into the backyard and that was that problem.

Mr. Lamanna said he doesn't think it would make that much difference either, it is still going to need a variance, it is going to be more visible from the front.

Mr. Ollie said and he can't go around the other side of the house because that is where all of his septic lines are.

Mr. Lamanna said this area is so far and so obscure from everything else. He asked if there is anyone here on this application.

Mr. Gutoskey said it is only 180 sq. ft. not like the guy over here with 3,000 sq. ft.

Mr. Ollie said he thought about that but to put a barn up in the back he was looking at well over \$60,000.

Mr. Lamanna said you are talking significant dollars for some of these.

Mr. Ollie said just to move the shed into the backyard was twice what the shed would cost.

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

Motion BZA 2017-18 – 7855 Country Lane

Mr. Lamanna moved to grant the applicant the following variance:

1. A variance to the side yard setback on the west side from 50' to 25' for the purposes of putting in a 10' x 18' shed. This will be at the location approximately shown on the drawing submitted with the application.

Based on the following findings of fact:

1. This is a very small shed.
2. It will actually be 243' from the front property line so it will not be visible from that area.
3. With respect to the adjacent property owner the house there is many hundreds of feet away from where the shed will be and is separated by a large substantial outbuilding on that property so it will have no adverse effect on the neighboring property nor will it be inconsistent with the character or adversely affect the character of the neighborhood.

Mr. Gutoskey seconded the motion.

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

Application 2017-14 by Brilliant Electric Sign Co. for property at 18845 North Market Place Drive

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

Mr. Major Harrison of Brilliant Electric Sign Company and Ms. Lisa Renee Wissing of Lisa Renee's Studios were present to represent this application.

Ms. Lisa Wissing testified that they are looking for a variance for signage.

Mr. Major Harrison testified that they are seeking a pretty substantial variance according to the code which allows for window vinyl to only occupy 25% of the window area. He said what is different in this case is that this window vinyl is perforated, it allows for visibility out and not in. He said there are multiple reasons as to why we are seeking to cover the entire window area as well as the doors and the main thing is for safety, this is a huge shopping complex and a lot of pedestrian traffic as well as vehicular traffic and we feel that for the safety of the younger students as well (3 – 16 and above) we wouldn't want anybody just stopping and peering into the dance studio, we think that is a big no no, a big distraction and a big deterrent to Ms. Renee's business. He said we don't want to be distracted and we don't want anybody doing anything that is crazy, especially in these times now.

Mr. Harrison continued by saying another reason as to why they are seeking to cover the windows is for the heat factor, obviously, this is a dance studio, a lot of moving, a lot of shaking, the young ladies and participants will be doing a lot of sweating and this reduces the heat from the sun significantly peering into the windows. He said with that being said in regards to the rationale as to why they are seeking this variance we do not feel that it detracts from the character of the neighborhood, they do not think that this is obtrusive to the neighboring properties as to devalue their properties, we think that for the reasons stated it definitely fits within the zoning resolution because the zoning resolution when it is all said and done is to restrict any type of hazards and to provide safety to business owners as well as commercial and residential so he welcomes any questions that the board may have. He thanked the board.

Mr. Lewis asked if both are with the sign company.

Ms. Wissing said she is not.

Mr. Lewis asked Ms. Wissing to go over her site plan with him. He said the doors in the front section is retail.

Ms. Wissing said correct.

Mr. Lewis asked if there are separate compartments and if these walls separate your three dance halls.

Ms. Wissing said yes.

Mr. Lewis said what it would mean is unless you actually came around and went into dance number one, nobody would have any visibility of what is going on in that room.

Ms. Wissing said not necessarily true. She said right here we have double-sided mirrors and those in the retail section will be able to see in so if you have mothers that are there looking in towards the retail section they will be able to keep an eye on their student at that same point. She said the other thing is this is a dressing room area and this is where the parents want to be frequently and there will be dancers who are already dressed and they go back and forth and so on as kids go, they could pretty much be everywhere whether they are in street clothes or dance clothes that is not usually in their mind.

Mr. Lewis said got it and what he was trying to understand was from the sidewalk and parking, through this area into this area, part of your argument was privacy and it is a really long way, it is through two sets of barriers or windows to see in here on walk-bys, that is what he was trying to understand, not so much your retail area. He said he thinks we should start with the building sign and establish a square foot on that if that is okay and then work our way to the window thing because there is proportionate shares of signage for each one of these units. He asked if we already have the sign for the building established.

Mr. Harrison replied yes.

Mr. Gutoskey asked Ms. Endres if she came up with a sq. ft. calculation for this sign.

Ms. Karen Endres, Zoning Inspector testified that she did the best she could, the application square footage is incorrect, the measurement standards were not used from Chapter 173 and she did the best she could and came up with 43 or 41 sq. ft. but she would like the applicant to supply the proper numbers.

Mr. Gutoskey said he thinks it was greater than 32.8 less than 48.18 and this is a math problem.

Ms. Endres said she supplied the diagram showing what areas and it is in the packet. She said she did issue the permit for that.

Mr. Lamanna asked Ms. Endres if she looked at this based on both the plaza store and the Target store and then the two of them together as a single.

Ms. Endres said yes but she couldn't find the size of the Target signs so she doesn't know how big the Target signs are.

Mr. Lamanna said his impression is the Target signs are not that big given the size of that building because it is a six letter word and then they use that circle symbol.

Mr. Lamanna asked if there was ever a hearing on that originally.

Ms. Endres said that was here before her and she couldn't find it.

Mr. Lamanna said he thought the Target people came in.

Mr. Gutoskey said 41.29 square feet.

Mr. Lewis said Ms. Endres came up with 41.3.

Mr. Lamanna said let's just start with the simple one and assume we have 250 lineal feet and a 351 sq. ft. requirement so this would be about 12%. He asked how that compares to their share of the square footage.

Ms. Endres said that Mr. Vince Fond III is here, the owner of the complex so he can factor into this conversation also.

Mr. Lamanna asked what the total rental space of the building was, excluding Target.



Mr. Fond testified that he believes it is 31.

Ms. Endres said she got the 250 lineal feet off of the building sketch from the Auditor's office so that if that is wrong her numbers are wrong.

Mr. Fond said it is 25,000 or 250 by 100.

Mr. Gutoskey said 25,000 total.

Mr. Lamanna said yes 25,000 so this is 28% or 29% so that means they should get something over 100 sq. ft. or it could be based on the lineal frontage of the store but that really won't change if it is a rectangular building.

Mr. Gutoskey said it is 101 sq. ft.

Mr. Lamanna said that doesn't seem to be an issue.

Ms. Endres said she already approved the wall sign.

Mr. Lamanna said when we get to the other signs, the window signs will be huge, even well beyond that. He said the problem is these signs fit squarely within the definition of what a sign is because they clearly call attention to what the business is and he doesn't see any wiggle room. He said if somebody was having scenes of the Grand Canyon or something like that it might be one thing where you could argue that this is decoration and it is not really calling attention to the business it might be possible but there is no doubt that this falls squarely within the definition and he doesn't see that there is any wiggle room on this one. He said there are other alternatives if the issue is you don't want people looking in you could get opaque roller shades.

Ms. Wissing said certainly and if they could even put cardboard up during construction but part of their goal is to help dress up the plaza and try to make it looking professional as well as something else to attract people and something just a little bit more professional than cardboard and even mannequins if you were going to put mannequins up that would lead to something very different.

Mr. Harrison asked if the wording were removed if they are just images.

Mr. Lamanna said the problem is the images are precisely images of what the business is, that is the issue and the fact that the images are integrally related to the business that is being conducted there so because of that it clearly falls within the definition, images that were just artistic or decorative and unrelated to the business that might be one thing but in this case it clearly falls within the definition of the what a sign is, we would have to measure all of these and we would be so far beyond the amount permitted.

Mr. Gutoskey said if Target would take down their sign.

Ms. Wissing said truly if they are permitted to have any part of these window signs up and they talked to Mr. Fond when another tenant would show up they would be more than happy to take them down, more so even if just for construction to be able to put them up for that time.

Mr. Harrison asked about temporary signs.

Ms. Endres said the township does not allow temporary signs.

Mr. Lewis said you can't hang banners. He said the back wall of the retail area has visibility through the windows.

Mr. Gutoskey said the question becomes do you put a fake wall behind the windows and put them on it, is that considered a sign.

Mr. Lewis said you may as well hang free floating banners 2' away from the wall inside.

Mr. Lamanna said we have considered those as signs when people have put them on the inside. He said you can put product in the window.

Ms. Wissing said and to that point with these graphics the reason that they felt very strongly about them is again they could have some kind of banner behind it but it is not going to look as professional and to the point as these will and from an outside perspective they are really looking for that professional edge to again dress up the plaza and to make it for other tenants to come.

Mr. Ray Wissing testified that he is the father and to produce this studio she has hired a professional architect, a professional construction company, a professional design firm and we've had multiple conversations with our landlord and we are here asking for a variance and we understand it is a variance and we are asking really for three types of variances, one we would like to certainly leave them there and he reads the word sign and he hears the word sign but to us they are graphics, they are pictures.

Mr. Lamanna said yes but the definition of signage is clearly crafted to include this type of situation and that was the choice that the legislative body of this township made and we don't have the right to substitute our opinion of what the law should be. He said we have the right to grant a variance subject to certain standards and certain demonstrations by the applicant. He said frankly speaking on signs we could take the position that we won't grant any variances on signs or only in the most unusual of circumstances because this is what the legislature has decided and we can't decide that you ought to have a bigger sign and short of somebody saying they are so far from the road that if they could only have a sign this big no one will be able to see it then the board can say they never really considered where maybe somebody is 200' from the road when all of the other commercial businesses are 50' and that is the kind of thing where we could give you a bigger sign but in this case they very clearly tried to define signs to cover anything and everything that looks like a sign, smells like a sign, works like a sign, attracts people to the business and that is really the crux of it. He said if it is something designed to attract people to that business and promote that business and he understands that artistically it has certain advantages but in this case we have to have a basis to say yes we can allow this kind of sign and he is just not seeing it. He said no matter what all of the advantages are perceived to be the legislative body has decided that this is a sign and this is how much sign you can have and what it looks like and that it would make the shopping center nicer and all of these other factors are just not really things we can consider. He said really what we need to be looking at is there something about this particular location that would say that the application of the sign standards would result in something that is extremely unfair as compared to other similarly situated commercial tenants or there are peculiar situations because of the arrangement distance from the street or other things like that that says to get the same effective representation somebody should be allowed to have their sign higher or bigger or something like that or it is oriented in a funny way or there are trees that are blocking it off, things like that, physical impediments that exist and in this case he is having a hard time finding a basis that the board could say we ought to allow this much additional signage because there are probably another 20 or 30 people out there in Bainbridge who could come in with an equally good argument to say if you going to allow that kind of sign we would like to have the same thing and referred to a donut shop putting up images of donuts and coffee. He said that is the kind of position we are in, we have to have a basis to do it and he is just not seeing a basis right now.

Mr. Gutoskey said to add to what Mr. Lamanna said because we have had some problems per say with some of the other commercial buildings here where we have kind of gotten down to the last space and there is no signage left so that weighs into what the board is looking at too for square footage.

Mr. Wissing said they understand that and they have discussed it with The Vince Fond Group and we understand we are asking for a variance and we are one of the first ones in the plaza so we are asking for a variance and if we can have this signage but if you were to deny us can we have the sign because we have designed it, it is well done and professionally done, could we have the sign until the second tenant or could we have the sign for at least while she is under construction so there is privacy while there is construction.

Ms. Wissing continued by saying as you know people put soap on their windows and cardboard to block out so can we have the sign and the investment has been made in the design so could we at least have it for 90 days for the construction and then we will look at doing a redesign so that it is within the code.

Mr. Gutoskey said personally he would be against allowing any extra because then it just creates more of a policing problem for our zoning inspector down the road. He said based on the frontage of the building it looks like you would be allowed another 100 sq. ft. of signage which would be three of the 6' 10" by 4' 10" banners that is basically 99 sq. ft. so he is sorry the design was done and he doesn't know if it is something that could be put up inside the building.

Mr. Lewis said as display boards but it can't be attached to the glass.

Mr. Wissing asked if they were placed 1' behind the glass, would that be acceptable.

Ms. Endres referred to the definition and said any sign painted, attached or fixed on the interior or exterior surface of the window or door of the building where it is designed to be seen through the window.

Mr. Lamanna said he knows in the past we have dealt with people putting Ohio lottery signs and things like that so that is why the language is in there for the people hanging signs behind the window.

Mr. Vince Fond III testified that as you know we have always been very good with communicating with Ms. Endres even when we did the Mattress Firm and Aldi, we came before you and before anything happened we asked for permission, didn't ask for forgiveness or anything along those lines and if his calculations are correct they are allowed 351 sq. ft. of signage on this property and being that it is currently vacant and we have a good relationship with Lisa Renee's Studios and we have a good relationship with the township so given that we will grant Lisa Renee all 351 sq. ft. to be used exclusively.

Mr. Lamanna said with the understanding that you will take it back when you need it when you rent the other places.

Mr. Fond III said we can allow them to use that square footage until that time comes.

Mr. Lamanna said he thinks the board would be okay with that understanding that it is your obligation to have an agreement with them that says we are letting you use this and allow them to use it all with the understanding that when the next person comes in and applies, there is going to be a notation in the file so the zoning inspector knows.

Ms. Endres said the wall sign is 41 sq. ft. so subtract the wall sign out of there.

Mr. Lamanna said it will be 310 sq. ft. remaining.

Mr. Harrison said at 350 sq. ft. allowable and one window, nothing at the bottom, no doors, and one window will be wide open and you would be just shy of 351 sq. ft. He said all windows except for the bottom areas and the doors come to 332 sq. ft.

Mr. Lewis said you are talking 351 but you burned 41 with the wall sign so you have 310.

Mr. Harrison said that would be two windows that would be open.

Mr. Lamanna said those have printing on them. He said it is one thing if you want to get more signage space is dump the printing off the bottom windows and make them black and then they are not going to count.

Ms. Wissing said certainly if they do the 310 sq. ft. that is what they would have to do.

Mr. Lamanna asked what is on the doors.

Ms. Wissing said it just says "Coming Fall 2017".

Ms. Endres said it is a sign but for the purposes of information.

Mr. Lamanna said it is not drawing attention to the business, it is purely informational, not suggestive of the business itself.

Mr. Gutoskey said they have 310 sq. ft. to use as they may, working with the zoning inspector.

Mr. Lamanna said just so it doesn't come out that you need 313 sq. ft. to do all of it. He said he doesn't want them to end up 10 sq. ft. short. He said if they remove the wording on the bottom panels then they don't count at all.

Mr. Wissing said in support of their daughter the true way to measure the surface would be to take the L and box it out and find the surface of the L where he believes the township is measuring a cube so when you say it is 41 sq. ft. that is in a cubed frame.

Mr. Lamanna said if they black those other areas out where there is writing and have just plain black with nothing there, the board won't count that as part of a sign. He said if they take all of the writing off of the signs, the sign will be what is between the black areas.

Ms. Endres said right, across the bottom and top, if all of that is black rather than writing.

Mr. Lamanna said if there is just the graphic now we are getting pretty close.

Mr. Wissing said if the graphic was squeezed down 20% and we had a black trim around it and you would imagine a black frame.

Mr. Gutoskey said in other words scale down the graphics.

Mr. Lewis asked how tall the text copy is, let's look at the top left panel starting on the left where you see the dancer with their dance shoes on, there is some text above it in the black panel, how tall is that copy.

Mr. Harrison said he would guess, though it is not to scale, two inches.

Mr. Lewis said we don't know if the copy is 4" tall or 9" tall so we need to segregate the text and draw a box around that, that becomes the sign area, not the entire black square that the text resides in. He said Mr. Harrison doesn't know how tall the copy is so we can't create the box.

Mr. Lamanna said if you can just take the total square footage of the graphics.

Mr. Lewis said if they delete all of the copy in the black spaces and they just become blacked out areas with the color graphics.

Mr. Lamanna said if they take all of these out they are probably going to have enough room for the graphics and the name on the door and they might have some left over so they may be able to put some of the lettering back.

The board explained to Ms. Wissing that if she blacks out the letters it will get them to 300 – 310 sq. ft.

Mr. Harrison said it would be a lot less.

Mr. Fond III said the adjacent building will eventually be contiguous in the master development plan at the center but it is not built between the former Lighthouse Pools and the former Flower Factory, now the Textile and Timber building, there is plenty of square footage allowance left on the Textile and Timber building instead of redesigning this whole thing over a few feet that is something that is temporary, could they grant spill over sign area from that property.

Mr. Lamanna said no the board can't do that, we can't bring it from another building or a future building.

Mr. Lewis said as you fill out an adjacent tenant some of this stuff is going to begin to go away.

Mr. Fond III said he understands.

Mr. Lamanna said it is a lot easier for us to go with the graphics and not with the writing, it is not as big a leap. He said the board can allow the graphics but when you start putting on the writing because people will start jumping in trying to wedge their way in.

Mr. Wissing said as we redesign he just wants to make sure that we clearly understand that it is the verbiage that you don't like.

Mr. Lamanna said yes, there is an issue with the verbiage being in the hierarchy of things, if we let this go on a temporary basis we would rather have graphics than verbiage. He said if you just make those plain panels, since they won't count for the coverage and the board is going to allow you to obviously exceed the 25% of the square area, so you are getting a concession there, but if you take all of that off that is going to get you down below the total of 353 that we are going to let you use and just looking at this it will be okay. He said if you get the words out it will be okay, the graphics can stay and he thinks there will still be enough for the sign that is over the top of the door.

Ms. Wissing asked if they wanted to add those words at the top of door we would measure it according to the block around the text.

Mr. Lewis said yes that becomes square footage.

Mr. Lamanna said and as far as part of the sign there it just says "Opening in 2017, the board won't count that.

Ms. Wissing said thank you.

Mr. Wissing said when they open we will take it off.

Mr. Lamanna said the board will treat it as being informational and not advertising.

Mr. Wissing said let's call it wallpaper, the black look, the words are out but the wallpaper look can be on the window.

Mr. Lamanna said yes.

Mr. Lewis said when you are measuring your square footage it is now just the perimeter of the graphic so that is how we are reducing it down to get the 350 or so aggregate total for this building so you burned 41 of it on your building. He said if they can provide the square footage of just the graphic pictures only you are going to be able to figure out exactly what will be burned up.

Mr. Lamanna said it will be alright with just adding up the numbers we have here and if you subtract out the equivalent of six of those lower panels you are very close and the upper panels look like they are a little taller than the ones below so it looks like there will be enough left over to cover the other signs.

Ms. Endres asked if all of the bottom signs are going to be black.

Mr. Lamanna said they will be completely black and therefore they won't count. He said he thinks there will be enough to have the sign above the door so that is okay and we are not going to count the opening soon as a sign, we will treat that as an equivalent directional sign, it is providing information, it is not providing advertisement.

Mr. Wissing said they will update the drawings and come back.

Ms. Endres said sign diagrams need to be submitted.

Mr. Lewis said the good news is you don't have to change any of your graphics.

Mr. Wissing asked if they have to come back to the board.

Mr. Lamanna said no the board is going to deal with this right now but you won't get a zoning certificate until you resubmit.

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

Motion BZA 2017-14 – 18845 North Market Place Drive (Lisa Renee's Studios)

Mr. Lamanna moved to grant the applicant certain variances for the purposes of installing window signs.

1. The applicant has requested a conventional wall sign of 41.3 sq. ft. above the building and the total amount of allowed signage for the entire plaza in which this is located is 351 sq. ft.
2. The owner of the plaza has agreed to allow the applicant to use, on a temporary basis, the entire 351 sq. ft. of signage for the plaza with the understanding that as additional businesses come into the plaza and require signage the amount available to the applicant would be reduced to accommodate the signage of the other tenants in that area and the window signage available would then reduce as those signs are allowed.
3. The board is going to allow a variance for the window signs as long as the total sign area is permitted to obscure more than 25% of the glazed surfaces of the window.
4. Also to the extent that the window is covered with a black or similar neutral color solid area it will not be counted in determining the total square footage.



5. Again the total square footage allowed for the sign on the glazed surfaces of the windows would be 351 sq. ft. less the 41.3 sq. ft. allowed for their major attached wall sign on the upper part of the building.
6. In addition if the applicant has sufficient remaining square footage there can be an identifying sign that goes above the doors which would be calculated using the normally applicable sign calculations from the zoning ordinance.
7. The other window signs will have no writing on them, besides one over the door identifying the business, except with the respect to the door signs which may have an identification that the business will be opening in the Fall 2017 and that writing will not be counted as part of the signage because it will be viewed as a temporary, directional type sign that provides general information and not related to advertising purposes
8. The applicant will submit a revised drawing to the zoning inspector.
9. The business owner and the owner of the property will enter into an agreement documenting the use of the window signs in setting up a procedure for notification as additional tenants come in including copy of such notification to the zoning inspector as that occurs.
10. The graphics will be in accordance as they were submitted with the application or if there are minor modifications as shown in the final submittal to the zoning inspector.

Based on the following findings of fact:

1. The total signage allowed is being used and the owner of the building has agreed to this and agreed to monitor it so that as additional signage is required these signs will be reduced until the remaining part of the sign allowance is reallocated, therefore, the anticipation is that these will be temporary in nature and not permanent and that ultimately the 25% requirement will no longer be exceeded if any part or any of these signs remain.
2. Additionally all of the text on these signs have been removed and have been reduced purely to graphical representations that are only suggestive of the business being conducted here.
3. Over time the board believes this will come back into actual conformance with the zoning requirement and it will only be a temporary situation.

Mr. DeWater seconded the motion.

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

Application 2017-16 by Todd Mosher (R.A. Smith National, Inc.) for Discount Tire for property at 18915 and 18919 Summit Street and 7025 Aurora Road

The applicant is requesting area variance(s) to permit the consolidation of four lots and the new consolidated lot would exceed the permitted lot size. The property is located in the MUP District.

Mr. Lamanna explained that applications 2017-16 and 2017-17 are related, one is for area variances and one is for a conditional use permit.

Mr. Todd Mosher of R.A. Smith National and Mr. Tom Flynn, property owner of 18915 Summit Street were present to represent this application.

Mr. Mosher testified that he will give an overview of the project. He said he represents Discount Tire, a business that is proposing to develop a store here. He said Discount Tire is a tire dealer and they have been around since the 1950s, it is a privately held company based in Scottsdale, Arizona. He said the closest store to this location would probably be Macedonia, he thinks there are three or four stores in the region currently and they have roughly 1,000 stores nationally. He said Discount Tire sells and installs tires and wheels unlike some other companies that also do tires and wheels, Discount Tire does not do anything else like wheel alignments or oil changes or tune-ups or brakes or mufflers and all of those related things, there are probably a million things that other ones do but Discount Tire just does one thing.

Mr. Lamanna said you mount and balance tires.

Mr. Mosher said basically.

Mr. Lamanna said you don't do wheel alignments.

Mr. Mosher said they will sell you a tire, any tire you want and you can take it home and put it on your car yourself or you can have it done there for free, they are not selling service, they are selling a tire, they are not servicing the car.

Mr. Lamanna said they sell rims and tires.

Mr. Mosher said rims and tires. He said the building is about a little less than 8,000 sq. ft. of floor area on the first floor and there is a mezzanine area where they store tires so the total building size is a little north of 10,000 sq. ft. He said their store hours are 8:00 in the morning until 6:00 at night Monday through Friday and 8:00 in the morning until 5:00 at night on Saturdays and they are closed on Sunday. He said it is a low traffic volume type of business especially compared to most retail, a lot is for appointment business and it is more of a destination on use obviously.

Mr. Mosher continued by saying the building they are proposing here is completely masonry built, it is not a frame building with a veneer wall, it is a solid masonry building, block with a finish on there so it takes about six months to build one of these, it is not a quick construction project. He said the overall height of the building is about 26', they are proposing 50 parking stalls, probably have employees at one time on a shift of about 15 on a Saturday. He said the proposal tonight is for a variance for the lot size, their lot is greater than 50,000 sq. ft. and they will be asking for the board's consideration of the variance to allow them to develop the assemblage of these three or four parcels as one and then a conditional use to allow for the tire sales, it is considered a light auto service facility. He said they have met with other agencies, ODOT, the county, they are in the process of determining the feasibility for sewer and water and other related things but this would be the first step but obviously if the use is not allowed they won't be pursuing the rest of their approvals but they certainly appreciate the board's consideration of their proposal and would love to answer any questions the board may have.

Mr. Lamanna said the way it is set up right here the only entrance is off Rt. 43 or Aurora Road, no entrances off the other street.

Mr. Mosher replied yes.

Mr. Lamanna said the building faces Summit Street so that probably would be just windows with no doors or anything like that.

Mr. Mosher referred to the elevation and said this side of the building would be the side facing Summit so there is a little bit of glass on that side of the building but up toward the roof and it is probably where the utilities will come, the mechanical stuff and it is a pretty quiet side of the building, there are no customers back there and no employees.

Mr. Lamanna said the bays are on the other side. He asked how many lifts they usually have.

Mr. Mosher said there are six bays but not every bay has a lift, he thinks there are four lifts, they are surface mounted.

Mr. Lamanna asked if they have many cars left overnight for work.

Mr. Mosher said the policy is if you brought your car there and your intention was to come there right after work and pick it up and you got stuck on a conference call they will sometimes stay a little after hours if they know you are running a little bit late but if you call and ask if you can come and get it tomorrow they will actually put your car inside the building and lock it up inside.

Mr. Lamanna said so generally you would not be leaving any cars outside.

Mr. Mosher said there are no cars outside there is no corporate truck that sits out there with a logo on it, there are no tow trucks or anything like that it is just an empty parking lot.

Mr. Lewis asked where they store the removed tires, the discard pile. He said he sees the trash area but he didn't know if there was an allocated place and he is sure they recycle or get their pick-ups to get them out of there.

Mr. Mosher said within the footprint of the building toward the back side of the building there is a very large masonry enclosed room and we call it the dead tire storage room so all of the used tires are stored in there and they are actually recycled so a licensed recycler will come and pick those up on occasion.

Mr. Lewis said perfect and that is a good place to put them because it keeps your property clean and tidy.

Mr. Mosher referred to the trash area and said one of the bins will be for normal trash and one for recycle and it matches the building with masonry as well.

Mr. Gutoskey said this is a new section of our zoning code for its use and you are the guinea pig on this and we have our zoning consultant here with us too and in looking at the code versus what we are used to dealing with and the one thing that sticks out to him is the code discourages parking in the front and it is one of the first things he came across and asked if they looked at other plans and other site layouts on the site.

Mr. Mosher said normally the building would be rotated 90 degrees and their front door actually faces to the east it is not facing the street but the site is so narrow and it is kind of an unusual shape property that the only way it really works is to turn the building and rotate it so that the front door and the bays actually face to the side which isn't bad because that means you get 100% of the façade facing the street which is glass which is probably the most attractive side of the building with the glass but it also limits them in terms of sign area that is calculated on the amount of façade facing the street etc.

Mr. Gutoskey asked Mr. Mosher if he looked at the building set square at the street at all.

Mr. Mosher said they have looked at a lot of different options.

Mr. Gutoskey said with the parking behind.

Mr. Mosher said where the building is placed right now is as close to the street as it can possibly be without a variance because the front building setback is 100' so if they deleted the parking in front there is no other room for parking anywhere else because they kind of filled up everything already too but the code doesn't say you can't park in the front they are encouraging parking in the back and the side but he doesn't think it says you can't park in the front.

Mr. Gutoskey suggested a different site plan and said it would still put them at 100' and square with the road.

Mr. Mosher said they actually had looked at a plan very similar to that but the problem was with ODOT and all of those cars backing out of the bays with people trying to come in at the same time there was kind of a conflict with safety with people trying to occupy the same space there. He said that was actually very similar to the very first layout they looked at. He said they have gotten to a point now too with ODOT that they are comfortable with the plan that was presented to the board tonight and he thinks it is worth mentioning that ODOT is going to modify the intersection there.

Mr. Gutoskey said you have a control box on a pole.

Mr. Mosher said exactly so they are going to have to change equipment.

Mr. Gutoskey asked about the drive width and is that ODOT approved at 42'.

Mr. Mosher said they have looked at that plan and the problem is across the street from them it is a very wide cross-section and at one point they were asking us to go in and modify that to match ours but they have now come to the conclusion that that is not really practical and so based on the adjustments that were made to the plan that you see before you this evening they are comfortable with that site plan, they haven't approved it. He said the signal phasing would be changed so that when the traffic across the street gets the green light we would still be red and then we would get a green after they get a green because of the alignment.

Mr. Lewis asked if they get a delivery of tires on a semi-truck.

Mr. Mosher said yes.

Mr. Lewis asked Mr. Mosher to teach him how he sees a 53' trailer and a tractor trailer coming in. He said it looks like you load in back here through the man-door or does he pull here and you unload and you basically shoot him into one of the bays and up to the mezzanine for storage.

Mr. Mosher said the truck comes in and will pull up here, he referred to the site plan, and will back up to that door and he tries to get up to the overhead door, square to it, and then they basically roll right into the building, they kind of fall off the truck and then you've got the associates that are going to grab them and stack them and when the truck leaves he is going to have to turn around here. He said the alternative was to go out to Summit and they looked at that too but it is the City of Solon's street and they are trying to avoid that.

Mr. Gutoskey said one-half of the street is in Bainbridge.

Mr. Mosher said plus it is only 18' wide.

Mr. Lewis asked if they get deliveries daily.

Mr. Mosher said a couple of times a week.

Mr. Lewis said but if you don't have my size in stock you might go to the local warehouse and pick it up but maybe that guy comes out on a 24' straight truck or something it is not a semi load. He said it is a tricky business.

Mr. Mosher said it is mostly something they design for the semis, he is not saying they can't have a UPS delivery truck in once in a while or something like that or something that size.

Mr. Lewis thanked Mr. Mosher for answering his loading dock questions.

Mr. Mosher said it is a great site for that and in terms of acreage it is about twice what they normally would have but it is because of the configuration.

Mr. Lewis asked if their building is a pre-designed corporate building and they are all the same and you just kind of drop them in.

Mr. Mosher said they have some that are larger, this is a six bay but there is an eight bay that is used occasionally, he hasn't done one, it is out there, but this is the most typical one.

Mr. Gutoskey asked Ms. Jennifer Syx if she had a chance to look at any of these plans.

Ms. Jennifer Syx testified by saying yes.

Mr. Gutoskey said as far as how this fits into our mixed use as far as site layout and building design what kind of comments do you have on that and he doesn't know if you (Ms. Syx) has had a chance to look at the building and landscape.

Ms. Karen Endres, Zoning Inspector testified that they reviewed it briefly and they are not quite there yet on the new provisions for landscaping islands and such with parking lots, there are provisions for not having big blank walls so that is something we are going to have to talk about. She said she only put the actual use of the property and the lot size for the board right now since we are still working on the sewer and water and she doesn't think she has final building plans at this point either.

Ms. Syx said to address the comment about parking, in a true sense in a mixed use we would be asking for parking to be on the side or rear but Chapter 190 spells out that it is mostly the Geauga Lake district so we have already a built out Walmart, the Target area that is already developed and we have the Geauga Lake district and we have these other parcels around Rt. 43 that still fall in the mixed use district but because they are on Rt. 43 we are trying to make sure that it doesn't look too odd or it goes too close to the street so we are still maintaining a lot of the commercial guidelines even though it is in the mixed use district.

Mr. Gutoskey said so these out-lots that are part of the mixed use along Rt. 43 will be looked at more as how that neighborhood is consistent with what is in the neighborhood already.

Ms. Endres said she suspects that once Discount Tire is in, once we get some development on the Geauga Lake property she is suspecting it is going to raise values of some of these odd lots and you might be seeing some better development on those, we have a landscaper on one and there are some that are fairly unsightly.

Mr. Lamanna asked if there will be a true mixed use on some these other properties.

Ms. Endres said it is possible, right.

Mr. Gutoskey said he doesn't have a problem with the lot size only because it is an out parcel and it is an odd shape.

Mr. Lamanna said he is just curious, in limiting a commercial lot parcel to 50,000 sq. ft. was that trying to limit the type of business.

Ms. Endres said yes to eliminate big box stores, big box stores were not something that the commission wanted to see in the mixed use district, now we have them already so that is why they wrote provisions to accommodate the stores that are already developed and Mr. Vince Fond, III is the one who owns the shopping center and driveway right across the street and his property is still subject to development under the previous zoning.

Mr. Lamanna said he doesn't think this would qualify as a big box store.

Ms. Endres said a little box store.

Mr. Lamanna said the store itself is not really even all that big.

Ms. Endres said she agrees it is not huge.

Mr. Lamanna said but per square footage it actually has quite a bit of parking.

Mr. Gutoskey said it has way more parking than what our code requires.

Ms. Syx said that is one of the things we will be addressing with the rear setback and buffer yards, the rear setback and parking as well as the landscape islands.

Mr. Gutoskey asked in the mixed use is it so many spaces when you need an island or do you need a percentage of green space in the parking lot.

Ms. Syx said actually they are pushing in the Geauga Lake district more shared parking and there is a parking ratio.

Mr. Gutoskey asked if that will be applied.

Ms. Endres said that will be applied to this lot yes and she will be working with Mr. Mosher and his engineers in coming up with a plan that fits our zoning and if they can't come up with a plan that fits the zoning then they may be back.

Mr. Lamanna said you have got a real complicated problem here of trying to create a development standard that is designed for a large really undeveloped area and part of it morphs out into the adjacent already developed area where there are a lot of existing lots. He said there a lot of really peculiar lots along through here because the street cuts through at an angle to the county line layout.

Mr. Gutoskey said the property lines are laid out north-south and the road is going southeast or northwest.

Mr. Lamanna said you end up with things that look like this.

Mr. Gutoskey said it is like Washington Street.

Mr. Lamanna referred to the landscaper's property and said that is a crazy shaped lot too.

Ms. Syx said it is a little complicated and we are trying to eliminate as many hardships as we can now that this will be the first one out.

Mr. Lamanna said he thinks we are probably going to have a lot of cases where they are going to have to have variances on these pre-existing non-standard weird shaped lots because they are just physically not going to be able to do everything the way you would like to, we do the best we can to try to accommodate as much of it but when you get a lot that is shaped like this and then you've got the building setback pretty soon your degree of freedoms go rapidly to zero, it is one of those things where you find yourself blocked in very, very quickly as to where you can move things. He said some things are stuck in areas because of all of the setback restraints push everything to a limited space.



Mr. Gutoskey said he thinks the way this is set up they would still have to come back to us for a final approval on the site plan.

Ms. Endres said if everything complies she can just approve it, she can approve the construction so once they get their permit for a commercial use the next permit is typically the construction permit and that is the site plans and building plans and then the last would be the sign permit.

Mr. Lamanna said the issue is going to be procedurally how do we do this.

Ms. Endres said she thinks Discount Tire first wants to know that they can do their business in Bainbridge and on this lot.

Mr. Lamanna said what we are really saying is okay we have no problem, without a final site plan, is yes we do not have a problem with a tire sale business at this location, that that is okay and the next question is do we then leave the application open, retain jurisdiction and leave the hearing open pending the submission of the final plan since it is a conditional use we would have to see the final plans.

Ms. Endres said that is up to the BZA.

Mr. Lamanna said the other problem is then we have the question of almost certainly there is going to be some variance that is going to be required here, there is going to be something that they are not going to be able to do, somewhere, because of the nature of this lot.

Ms. Endres said there might not be.

Mr. Lamanna said maybe we will be lucky and it won't. He said he is trying to figure out how to handle this thing and not create endless numbers of cases.

Mr. Gutoskey said the lot size is separate.

Mr. Lamanna said we can act on the lot size but when we do the conditional use it will be approved subject to submission approval of final plans and if we keep the case open noticing it could be another problem. He said if there are other variances they will have to file another application because we would have a notice problem if we didn't do that.

Ms. Endres said the next application will be the application to construct the building because this application is not for building construction and that is when she will drill down the site plan and building plans. She added that if there are no variances needed it would not come back to the board.

Mr. Lamanna asked can the board approve the conditional use without seeing the final plans.

Ms. Endres said that is the board's choice.

Ms. Syx asked if that is standard practice.

Mr. Lamanna said yes, generally the board wants the final plans.

Mr. Gutoskey said so we know what conditions we may or may not have to act on.

Mr. Lamanna said if we don't see the final plan there may be open issues.

Mr. Mosher said the problem for them a little bit with what he is hearing is that for them to be able to commit the funds to the architect to produce construction plans and the engineer to do all of that stuff.

Mr. Lamanna said the lot size is not really in question and he thinks that is a clear situation where a variance is warranted here because this is outside the Geauga Lake property and dealing with existing properties of a strange configuration that is not contiguous where there is already some development around it already so you can put that one aside. He said the other question is yes we can probably say they will approve the conditional use for the tire business based upon this initial submittal subject to submittal of a final plan and it can be done on a basis that when the final plan is submitted to the zoning inspector, the zoning inspector can look at it and say this is not materially different from what was submitted now however if it is materially different then we will retain jurisdiction and keep the case open for the board to look at it again to see if any issues happen to be raised, the board is not going back to look at the question of a tire business, we are probably looking at the question based upon the changes is there some condition that the board has to put on the operation or ask you to do something else, add some additional buffering etc. so we are not talking uprooting the whole thing we are talking about a fine tuning that might be necessary. He said the board has to do that jurisdictionally to properly do its job and then there would also be the question of variances, if it does turn out that there is something that would require a variance then we will have to deal with that anyway.

Mr. Mosher said he agrees with that.

Mr. Lamanna said again he thinks the applicant has gotten over the big hurdle and the board is saying yes, this use is appropriate here and generally it is okay subject to finalizing everything and possibly there might be some minor conditions that might pop up or adjustments and probably most of it is going to be, yes the board is going to look at it and say that is what we were thinking about anyway.

Mr. Mosher said what we were hoping for is to be able to move forward with our next step.

Mr. Lamanna said you should be able to do that so what we are saying is yes we will approve this and it is approved subject to your submittal of a final plan to the zoning inspector that one it is not going to require a variance so if it requires a variance you are going to be back here anyway and two it is not materially or substantially different from what has been submitted, if it is not then fine, she can go ahead and issue the zoning certificate. He said if there is some significant material change then it is going to have to come back to us under the same thing because we will hold the hearing open if there is such a change and then we will just deal with it and go on from there. He said he thinks that is the best the board can do under the circumstances.

Mr. Mosher said the condition is the plan won't be substantially different.

Mr. Lamanna said right and for some reason if you think there is something that has substantially changed and there are some cases where people have conditional uses, we approved something and they come in with the final plans, they have made some changes that she thinks should come back to us, we get it and look at it and every time that has happened it hasn't been a problem, something maybe had to be tweaked or something added like a few more trees or move this a little bit this way or do some other small thing and it is fine, it is just generally some fine tuning in most cases and he thinks everything should flow from the board's administrative standpoint. He asked if there are any other questions or issues.

Mr. Lewis said he doesn't have any questions with the conditional use and he doesn't have any issues with the lot sizes and those were really the two topics on the table today.

Mr. Lamanna said the other question is the parking layout.

Mr. Lewis said you have enough parking spots, you have four to five bays, you have an occasional truck in making a delivery, you are turning service on a car in an hour and you've got four bays so even if you've got four bays and two sets of customers rolling in you have enough parking.

Mr. Mosher said they should be fine, there are 15 employees and it leaves 30 some for customers and you are right with the turn over and he doesn't think they are even close to the open space.

Mr. Gutoskey asked if there is still 40% lot coverage.

Ms. Endres said no they are subject to different requirements in the mixed use district but one of the provisions states not less than 30% of the area should be landscaped surface.

Mr. Mosher said they are at 45%.

Mr. Gutoskey asked Ms. Endres and said you know how the retention ponds have to meet the slope requirement in that calculation, does that apply in the mixed use now too.

Ms. Endres said trying to factor in the old zoning resolution with the new mixed use.

Mr. Lamanna said that is always a challenge.

Ms. Endres said one of the criteria is the six to one slope but she hasn't seen the engineering plans yet.

Mr. Gutoskey asked about the lighting.

Mr. Mosher said because the business closes at 6:00 we don't have a lot of lighting.

Mr. Gutoskey asked about security lighting.

Mr. Mosher said they will have lighting on the building and for over the door as code and then they will have some minimal security lighting and in the outer reaches of the parking lot they may have a pole light or two in the corner.

Mr. Gutoskey said it has to be full cut-off.

Mr. Mosher said they will be shut off at night.

Mr. Lamanna said that is all covered by the lighting standards.

Ms. Endres said the lighting standards require full cut-off fixtures.

Mr. Lamanna said in this case we do have residential on the other side.

Mr. Mosher said they submitted a lighting layout.

Mr. Lamanna said you want to be extra careful making sure that we don't have fixtures that people are looking at. He said sometimes if you are looking at a light even though it might not be shining a lot of light at you people get the perception that there is a lot of light coming out.

Mr. Mosher said it is ES1.0 in the packet.

Mr. Lamanna said you want to just keep it so people aren't visibly looking at the lens and can't visibly see the lens of the light as much as you can because that is when you start getting complaints, even though the light is not really shining on them somebody will look out and say they see that light so when you orient them so when people are looking from the residential area instead of seeing the side of it they see the back of it and you will still get the same lighting and you will and we will get a lot fewer complaints.

Mr. Gutoskey referred to the site plan and said there are six in this area here and then there is a double here and a double here and a single back here and there is lighting on the building.

Mr. Mosher said to your point they are flat lens and downward directed.

Mr. Lamanna said and certainly you will minimize whatever is on that side of the building because it is a solid brick building. He said he doesn't think there is a security issue on the side of the building.

Mr. Lewis said the only condition he has for this is final approval.

Mr. Lamanna said and there will be no outside storage of tires and used waste tires and there will be no customer vehicles outside either. He asked Mr. Mosher if they are looking into getting water and sewer and if that is going to come through.

Mr. Gutoskey said there is an email here that they got something from Mr. Gerry Morgan of the Geauga County Department of Water Resources.

Mr. Mosher said they have some options, they are supposed to get it from Aurora but we shall see.

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

Motion BZA 2017-16 - 18915 and 18919 Summit Street and 7025 Aurora Road (Discount Tire)

Mr. Lamanna moved to approve the following:

1. The consolidation of the four lots designated as PP# 02-379370; PP# 02-158300; PP# 02-102400 and PP# 02-419934 into a single lot and grant a variance for that lot size to exceed 50,000 sq. ft. namely final total size of approximately 91,000 sq. ft.

Based on the following findings of fact:

1. This area of the MUP District is separate and nearer to other developments of larger size buildings and therefore given the location of this lot and the intent generally within the MUP District this would not be inconsistent with the intent and this increase is not so large as it would permit development that is contrary to that which was desired in this district.
2. This is an area of irregular shaped lots and therefore it would be difficult to develop without a somewhat larger lot size in this particular area of the MUP.

Mr. Lewis seconded the motion.

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

Application 2017-17 by Todd Mosher (R.A. Smith National, Inc.) for Discount Tire for property at 18915 and 18919 Summit Street and 7025 Aurora Road

The applicant is requesting a conditional use permit for the purpose of tire sales and installation for cars and light trucks. The property is located in the MUP District.

Secretary's note: See testimony for this application under BZA 2017-16.

Motion BZA 2017-17 - 18915 and 18919 Summit Street and 7025 Aurora Road (Discount Tire)

Mr. Lamanna moved to grant the applicant the following:

1. A conditional use for the purposes of providing tire and rim sales, installation of tires and servicing of tires at the designated location of 7025 Aurora Road on the previously approved consolidated lots.
2. This application is within the definition of types of uses in Chapter 190, Section 2.2.404.

With the following conditions:

1. There shall be no customer vehicles left outside of the building overnight and there is no outside storage of used tires.
2. The conditional use is subject to the submittal of a final site plan, architectural plans and landscaping plans, a full complete development package, and approval of those plans by the zoning inspector as being in full compliance with all of the requirements for this use and in this district.
3. In the event that there is a significant material change in those final development plans from that which has already been submitted then the board is retaining jurisdiction on this application for submittal of that application back to the board for its final approval including any additional conditions that may be necessary as a result of those changes, otherwise if it fully meets the requirements the zoning inspector can issue the zoning certificate upon the actions of this meeting becoming final if that has not already occurred.
4. The board notes that if the final development plans as submitted require any variances, that will require a separate application and consideration by this board.
5. This conditional use will be for a period of five years from the date of approval of the final development plan by the zoning inspector.

Mr. DeWater seconded the motion.

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

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

Respectfully submitted,

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

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

Date: August 17, 2017

AUDIO RECORDING ON FILE

BZA PH 6/15/2017

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Bainbridge Township, Ohio  
Board of Zoning Appeals  
June 15, 2017

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Mark Murphy was absent. Ms. Karen Endres, Zoning Inspector and Ms. Jennifer Syx of inSITE were present.

Minutes

Mr. Gutoskey moved to adopt the minutes of the May 18, 2017 meeting as written.

Mr. DeWater seconded the motion.

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

Federated Church Family Life Center – 16349 Chillicothe Road

Ms. Karen Endres reported on her findings at the Federated Church Family Life Center from her inspection of the property and it is in compliance and meets the intent of the conditional use conditions imposed by the Board of Zoning Appeals when the church was built.

Applications for Next Month

Secretary's note: There were no applications for the July 20, 2017 meeting therefore the meeting was cancelled.



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

Respectfully submitted,

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

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

Date: August 17, 2017