

Bainbridge Township, Ohio
Board of Zoning Appeals
June 16, 2011

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:03 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

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 2011-15 by Rick Loconti for property at 16495 S. Franklin Street

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

The zoning inspector's letter dated June 16, 2011 was read.

Mr. Paul Kowalczyk, Architect and Mr. Rick Loconti were present to represent this application.

Mr. Kowalczyk testified that this property is currently located in a R-3A zoning district and this house was actually constructed in 1940 and sits on a one-half acre lot. He said currently the zoning district regulations in R-3A requires a three acre minimum lot so this is a non-conforming lot that was deeded back when the structure was built. He said his client, Mr. Loconti, is actually looking to add an addition onto the existing house and looking at taking the existing garage down and making a larger two-car garage so basically the footprint of the existing house is proposed to extend approximately ten feet to the north and an additional eight feet to the west. He said the problem is because this is a one-half acre lot and if you go into the R-3A requirements for the setbacks you have a 100' front yard setback, you have a 90' rear yard setback and you have a 50' setback on each side and when you lay in this one-half acre lot they basically cross one another and you are left with no possible way to expand, there is no way to conform to the setback zoning regulations. He said there is a clause in the zoning district under 165.12 which is an exception for occupied dwellings in a residential zoning district and it basically says that any dwelling located within this district that was completed and occupied prior to September 8, 1978 and is situated on a non-conforming lot of record may be rebuilt, repaired, altered, structurally altered, extended or enlarged in the same manner to the extent as would have been permitted under the use regulations applicable to such dwellings immediately prior to September 8, 1978. He said also in looking at this when he went back and looked at the actual lot and yard requirements you have maximum lot coverage not to exceed 10% in the lot area and even with this expansion it does not exceed the 10% lot coverage on a one-half acre lot so what they are asking for tonight is to seek relief from the setbacks to allow this expansion to occur on the property and what they are also proposing is a 10' x 12' accessory shed just to the south of the existing structure.

Mr. Horn said the board received something from the zoning inspector that says the lot coverage will be 15.08%.

Mr. Wrench, Zoning Inspector asked Mr. Kowalczyk if his calculations on the lot coverage include the driveway.

Mr. Kowalczyk said no just the proposed structure.

Mr. Wrench said with the drive and the shed it comes out to approximately 15% lot coverage.

Mr. Kowalczyk said okay.

Mr. Rick Loconti testified that the existing driveway will be removed.

Mr. Lamanna said what about the new one.

Mr. Loconti said it will be a smaller driveway.

Mr. Lamanna asked where it is going to come in from.

Mr. Loconti said it will come in from the north.

Mr. Horn said and it will be six feet off the lot line and asked Mr. Loconti if he owns the property at this time.

Mr. Loconti said no.

Mr. Horn asked Mr. Loconti if he has something from the owner giving him authority to make application.

Mr. Loconti said they have a binding contract from the owner to purchase the property but we are waiting for his financing to get done so they wouldn't move forward until they have clear title to the property. He said they would like to get this out of the way so they can start construction this year before winter with the concrete etc. He said they are a little cart before the horse but they want to get it going and get this part of it done so when the title does transfer they can hit the ground running.

Mr. Horn said he is glad to hear that because he has a part-time position as a mediator up in Geauga County and Mr. Moore has been in front of him regarding his house at this point so he is glad to see he is proceeding along.

Mr. Loconti said that is interesting.

The board discussed the location of the driveway.

Mr. Loconti said the driveway will be two at the house and then it will be narrowed down and not doubled all the way down.

Mr. Lewis said it won't be double wide all the way down.

Mr. Loconti said it won't be.

Mr. Lewis said there should be something reasonably finite on that because of the lot coverage issue so the board can redo the calculations and asked Mr. Kowalczyk if he can put finite dimensions on that this evening.

Mr. Horn said the proposed is 26' wide now.

Mr. Kowalczyk said the existing garage is just a one-car garage and this now will have a two-car garage.

Mr. Lewis asked if it will be double to the bend.

Mr. Kowalczyk said yes.

Mr. Lewis asked if this dimension is correct then.

Mr. Kowalczyk said yes.

Mr. Loconti said he thought it was just going to be doubled for 18'. He said there will be a single drive in and it will widen out at the doors.

Mr. Lewis said it does change the lot coverage dimensions a little bit so we probably need to get that accurately defined this evening.

Mr. Kowalczyk said they can do that.

Mr. Lamanna asked if there is going to be a turnaround in the driveway at all.

Mr. Loconti said there is not one there currently.

Mr. Lamanna said it is a pretty good length down there.

Mr. Loconti said right now where the driveway sits it is sort of at a crest of a hill and when you come out, you back out right now, it is a little dicey with cars coming up over that hill so that is one of the reasons they are relocating the drive at the bottom of the hill, it will be a little bit easier backing out. He said a turn-around would be nice but it is subject to lot coverage then.

Mr. Lamanna referred to the site plan and said you could have a little turn-around and then you only need to come up as a single lane only 20' to the garage door and then widen out, have a little turn-around to back into and then you will be going forward all of the time and not have to worry about backing out onto S. Franklin Street.

Mr. Loconti said it is a great idea.

Mr. Lamanna said cars zip along there sometimes even though the speed limit is not that high along through there.

Mr. Horn said there are different jurisdictions there so the speed limits are different.

Mr. Lamanna asked what the total square footage of the building will be.

Mr. Kowalczyk said currently the existing house with the garage is 1,180 sq. ft. and the proposed will be 2,116 sq. ft.

Mr. Olivier asked if that is just the building and not the driveway.

Mr. Kowalczyk said just the building.

Mr. Lamanna referred to the proposed out building and asked if there is any particular reason why that location was selected.

Mr. Loconti said that is where we have the most property to get it far enough away from the house. He said on the other side of the house where the garage is going, there is not much room before you get to a ravine. He said he has a lot of property to the south but that property drops off appreciably 10' from the house and it goes straight down into a ravine and there is no real property in back of the house that is usable so we are either going north or south and added that there is no basement in this house currently so the shed is for gardening equipment and patio equipment and the like.

Mr. Lamanna asked how far off is the corner of the house to the property line in the back.

Mr. Loconti asked which corner.

Mr. Lamanna said the southeast corner.

Mr. Wrench said 15'.

Mr. Lamanna asked if the shed can be moved back to that same distance off the property line to that corner.

Mr. Loconti asked if he meant move it forward.

Mr. Lamanna said yes.

Mr. Kowolczyk said keep it 15' from the back line.

Mr. Lamanna replied yes.

Mr. Murphy asked about the deck.

Mr. Kowalczyk said that is actually a deck and a sunroom that comes out.

The board discussed the setback from the house to the rear property line.

Mr. Lamanna said if the lot coverage is to be at 14% then 220 sq. ft. has to be taken out of the driveway which that is only 10' x 25' so that should give enough room for a turn-around.

The board discussed the side yard setbacks.

Mr. Murphy asked if the garage addition is a one-story addition or is a second story going to be added.

Mr. Kowalczyk said nothing will go above the height of the existing ridgeline.

Mr. Lewis said we have a side yard setback, rear yard setback and lot coverage.

Mr. Loconti said part of the project is they will be getting rid of the septic tank that is there right now.

Mr. Murphy asked if they had a sanitary sewer on the street.

Mr. Loconti replied yes and they already contacted Geauga County and they said that is doable so they will be getting rid of the septic and tying into the sewer.

Mr. Murphy asked if they had city water as well.

Mr. Loconti replied yes and said they are going to tie into the sanitary and get rid of the septic and there is city water there.

Mr. Murphy said that is probably where the new driveway is going.

Mr. Loconti said yes that is where the leach field is.

Mr. Olivier asked if there is a house or structure on the property to the north.

Mr. Wrench replied no.

Mr. Murphy asked if that is the property that is for sale by the factory.

Mr. Loconti said that is right in back of him on Oak Street, he owns all of the property but he doesn't know whether or not it is for sale. He said the six acres to the south of him are for sale.

Mr. Murphy asked if there was a possibility of attaching to the Nalco property there.

Mr. Loconti said it is all ravine and a creek behind his property.

Mr. Murphy asked if there were any neighbors present.

Mr. Harry Edwards testified that he and his wife live at 16449 S. Franklin Street, to the north of the Loconti's, and they support their variance.

Mr. Olivier asked about the creek.

Mr. Edwards said yes there is a stream and his understanding is it is not buildable, it is all wetlands.

Mr. Loconti said it is a river.

Mr. Murphy asked if it is not the creek that goes by the roller rink.

Mr. Edwards said it is north of that.

Mr. Lewis said he is landlocked on one side with Franklin Street, he has a ravine in his backyard, he has a neighbor that has no objections, the board figured out the driveway and he agreed to move the shed a little bit so it is no further than the corner setback of the house itself.

Mr. Loconti said he checked with all of the neighbors across the street and they don't care either since it is a cemetery.

The board discussed the proposed front yard setback.

Mr. Lamanna said he doesn't want somebody coming back later and saying that there is no variance for the front yard setback because it was never acted on and added that he doesn't want the applicant to have a future problem.

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

Motion BZA 2011-15 – 16495 S. Franklin Street

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of reconstructing or adding to an existing dwelling.

1. A variance from the maximum lot coverage of 10% to 14% for a variance of 4%.
2. A variance from the minimum lot width of 250' to the actual lot width of the existing lot.
3. A variance on the north side yard from the minimum required side yard setback of 50' to 15' for a variance of 35'.
4. With respect to a proposed accessory structure a variance from the minimum required side yard setback of 50' to 40' on the south side lot for a variance of 10'.
5. A variance from the minimum required rear yard setback of 90' to 10' for a variance of 80'.
6. Additionally with respect to the outbuilding that is proposed on the drawing, a variance from the minimum required rear yard setback of 90' to 15' for a variance of 75'.
7. A variance from the minimum required front yard setback of 100' to 45' for a variance of 55'.

Based on the following findings of fact:

1. A practical difficulty exists because this is a pre-existing lot of record which is less than one-half acre but that half acre is measured to the center-line of the street so the property is actually smaller than one-half acre.
2. There has also been an existing house on the property pre-dating the zoning, hence the existing rear yard setback.
3. It would be impossible to build anything on this lot within the required setbacks so this expansion is consistent with the existing property.
4. It is not unreasonable for this size of the property.
5. It will not adversely affect the neighboring properties and for the most part the expansion of the dwelling is away from the property line and into the unoccupied area of the property.
6. There would be no further way to reasonably develop this property without these variances.

Motion BZA 2011-15 – 16495 S. Franklin Street - Continued

7. The fact that this application was made by a prospective owner of the property under a signed purchase agreement that that person has, this approval runs only to the benefit of that prospective owner if they ultimately consummate the purchase of the property.

Mr. Lewis seconded the motion.

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

Application 2011-16 by Timothy and Rhonda Savage – Savage Homes, Inc. for property at 17209 Eastview Drive

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

The zoning inspector's letter dated June 16, 2011 was read.

Mr. Timothy Savage was present to represent this application.

Mr. Savage testified that he is here to request permits for new construction on a building in the Lake Lucerne subdivision on Eastview Drive. He said they have submitted to the committee detailed site plans, plans for the actual home itself, the new construction plans and they have also taken considerable time meeting with the board of trustees in Lake Lucerne to carefully review the location of this house so the paperwork they have presented to this committee is a thoroughly reviewed matter and requests this board's support for this. He said he is happy to answer any questions about the site plan or building plans.

Mr. Lamanna asked if this has been reviewed by the Lake Lucerne board.

Mr. Savage said yes and he has some paperwork that shows the minutes of the board of trustees where they understand the lot requirements and they voiced no objection as to the submitted plans. He said they have had several meetings and he walked it through carefully with all members of the board so they are supporting the proposal presented here.

Mr. Murphy asked if the overhead electric will have to be moved.

Mr. Savage said yes they are working with CEI and they are actually proposing going underground between the two poles and Lake Lucerne is suggesting maybe an alternative on how that runs across their property to the south. He said that south piece of land is Lake Lucerne parkland and there is a proposal to possibly dead-end the electric so it is on the lot to the north but in the event that is not something that can be arranged with CEI, they have been working for a couple of years on this and their proposal to them is simply to go underground between the two poles.

Mr. Horn said the application stated that this variance is for the benefit of the Geauga County Sewer Department and the Lake Lucerne Subdivision and asked Mr. Savage to explain that.

Mr. Savage said the board should have copies of the site plan and as they marked the location, it is kind of an unusual arrangement. He said typically sewer lines when they are installed run down property lines so they don't restrict or infringe upon the actual building area but you can see there is a manhole cover towards the back of the lot and you can see the location of the sewer line which comes well into the north side of the lot and so the home has to be adjusted to move away from that sewer line to allow service of the line. He said Lake Lucerne also runs their water line parallel to that so in reviewing this with the board of trustees it really made sense to make an adjustment.

Mr. Horn said to move it south.

Mr. Savage said they are moving it south to accommodate service space for those existing lines.

Mr. Lamanna said and it is abutting common area.

Mr. Savage said correct, there is no home to the south, that is Lake Lucerne parkland and they have very much supported this, they see the benefit to the subdivision to not disrupt the lines and allow the space. He showed the board elevations of the home and said it will be a 2,500 sq. ft. home.

Mr. Horn asked if from the street it will be consistent with the house to the north.

Mr. Savage said it is a 50' setback and is consistent with the property requirements. He said he wanted to point out that they built the home to the north of this and they own the lot to the north. He said even before they purchased this recorded building lot they were very careful to meet with Lake Lucerne and review all of the requirements so they had their approval a couple of years back and are really at the point where they would like to be in this project.

Mr. Horn said you are also a resident there.

Mr. Savage said yes he has been there for some time.

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

Mr. Gregory Vilk of 8285 Lucerne Drive testified that he is a member of the Lake Lucerne Club Company and he is also a three year member of the architectural review board in Lake Lucerne.

Mr. Lewis asked Mr. Vilk if he is currently on that board.

Mr. Vilk said yes he is, he is currently on it and has been on the architectural review board for three years now. He said what he is giving the board are copies of their deed restrictions which includes their architectural review board guidelines which are part of their deed restrictions. He said he outlined it and put it in order, the ARB guidelines and he is well aware of this project but unfortunately Mr. Savage has never brought his project in front of the architectural review board as a submission for a formal proposal which is a requirement in their deed restrictions. He said he did have one of their ARB members make an informal proposal and that was presented to them, the ARB, and added that he wants to make sure that everybody is clear, he is an ARB member, he is obviously not speaking on behalf of the ARB but as an ARB member.

Mr. Lamanna asked Mr. Savage if he formally submitted it to them.

Mr. Savage said yes, he submitted it to the board and he has been assigned to Mr. Jay Stoupe who presented this to the board and he has also worked with Mr. Jason Zakrajsek who reviewed this very carefully and you are seeing a copy of this and they have reviewed this with the architectural review board. He said there is a representative of the architectural review board that sits on the board of trustees and this matter has been carefully reviewed many times and he is somewhat confused by the objections here and he did present all of what was required and he has copies of that submission with him today.

Mr. Lewis asked Mr. Vilk if he is here as a representative of the Lake Lucerne Club Company Board of Trustees.

Mr. Vilk said no.

Mr. Lewis asked Mr. Vilk if he is not the president of that board who is Mr. Zakrajsek and he is not Mr. Jay Stoupe who he presumes is a representative of the architectural review board.

Mr. Vilk said he is one of the members of the ARB. He said Mr. Dean Cook is the liaison with the board, he is the liaison with the ARB.

Mr. Lewis asked Mr. Vilk if he is currently in an active term with the ARB.

Mr. Vilk replied yes.

Mr. Lewis asked Mr. Vilk if he is here speaking on behalf of the Lake Lucerne Architectural Review Board or if he is here speaking as a member of the Lake Lucerne community.

Mr. Vilk said he is speaking on behalf of the architectural review board as a member.

Mr. Lamanna asked Mr. Vilk if he is authorized by that board to appear here on their behalf.

Mr. Vilk said he doesn't know if he has authorization to speak.

Mr. Lamanna said unless the homeowners association has authorized you (Mr. Vilk) to come here and speak on the behalf of the review board.

Mr. Vilk said he won't speak on behalf of the ARB, he will speak on behalf of a member and added that he is a current member of the architectural review board. He said he was present at all of the ARB meetings and Mr. Savage has never submitted an application and if he did he would have a stamped and signed copy by the ARB which actually he believes the McVickers have for their presentation later on this evening. He said he also has an email from April 25th from the Lake Lucerne Board and it says the board voted not to oppose the variance should Mr. Savage obtain one but we did not approve a variance, they don't believe they can do that, it is out of the jurisdiction of our board.

Mr. Lamanna said you have to deal with both of them.

Mr. Vilk said the ARB under our deed restrictions has the authority to have jurisdictions with setbacks and approvals with our deed restrictions.

Mr. Lamanna said right.

Mr. Vilk said not the board but the ARB, you have the documents in front of you that clearly define that.

Mr. Lamanna said he is not going to get into interpreting the deed restrictions.

Mr. Savage said he has a copy of what was submitted to the architectural review board that is dated and they reviewed this carefully and they acknowledge and support what they are doing, particularly you see copies of the minutes of the board of trustees meeting. He said what they have asked us to do is proceed with this step and when we have reviewed this with this committee we will proceed with what our friend here is suggesting and that is getting a stamped document.

Mr. Lamanna asked Mr. Savage if he has not actually formally gotten approval.

Mr. Savage said he has presented it and before he even got this far he made sure he reviewed it with all parties.

Mr. Vilk said he only stepped up because Mr. Savage said he had approval.

Mr. Lamanna said technically he doesn't have approval.

Mr. Vilk said no, he doesn't have approval.

Mr. Lamanna said that is what he is trying to establish whether or not he (Mr. Savage) has formal action by the ARB.

Mr. Savage said he would like to clarify it and he doesn't believe he used the term approval, what you see in the minutes is that the board voiced no objections and they see the advantage to the subdivision and to the county because of the location of the water lines. He said the home is consistent with other homes in the Lake Lucerne Subdivision and they believe it will be a nice enhancement to the community and we are very careful about that.

Mr. Lamanna said it still has to be formally acted on.

Mr. Savage replied yes.

Mr. Lamanna said that is okay, what he tells everybody who comes to this board who has a house in a subdivision that the BZA is giving approval from the township standpoint that doesn't do anything regarding applying for deed restrictions because that is a whole separate obligation. He said basically what we do have is that the association who as adjacent property owners certainly has additional interest in this has no objection to the variance.

Mr. Vilk and Mr. Savage thanked the board.

Mr. Lamanna asked if anyone else had any comments.

Mr. Horn asked about the actual approval.

Mr. Savage said they asked that he come back and submit it as they reviewed it with the Lake Lucerne Board of Trustees to see that document, they have voiced no objections.

Mr. Horn said the property cannot be recognized as 17209 Eastview Drive yet.

Mr. Savage said at this point it is still a parcel number and that is on the site plan but the address was given for CEI for their work order assignment, they don't go by parcel numbers.

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

Motion BZA 2011-16 – 17209 Eastview Drive

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing a house in accordance with the plans the applicant submitted with his application.

1. A variance from the minimum required front yard setback of 100' to 50' for a variance of 50'.
2. A variance from the minimum required side yard setback, on the northern side, of 50' to 28' for a variance of 22'.
3. A variance from the minimum required side yard setback, on the southern side, of 50' to 5' for a variance of 45'.
4. A variance from the minimum required rear yard setback of 90' to 35.3' for a variance of 54.7'.
5. A variance from the maximum lot coverage of 10% to 27.9% for a variance of 17.9%.

Based on the following findings of fact:

1. This is a pre-existing lot of record located in the Lake Lucerne subdivision on .34 acres.
2. Given the dimensions of this lot, it could not be built upon and meet the setback requirements therefore there is a practical difficulty.
3. In addition, the requested setbacks are generally in accordance with the setbacks required in Lake Lucerne.
4. It is consistent with the surrounding neighborhood and will not adversely affect the neighboring properties.
5. The only exception is the 5' setback on the southern side of the property and the reason for this is that on the opposite side of the property, there are existing sanitary sewer and water lines that prevent the house from being moved to a point which would be a more equally distance between the property lines and which would have allowed it to meet the standard setback requirements in this area on both sides.
6. The adjacent property on that side is a deeply downward sloping property located in a common area of the Lake Lucerne subdivision and therefore would not adversely affect any neighboring structures or the use of that property.

Mr. Lewis seconded the motion.

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

Application 2011-17 by Parkside Church for property at 7100 Pettibone Road

The applicant is requesting a modification of a previously granted conditional use permit for the purpose of installing a new access drive. The property is located in a R-5A District.

The zoning inspector's letter dated June 16, 2011 was read.

Mr. Michael Bowerman of Parkside Church, Mr. Dale Markowitz, Attorney for the Applicant and Mr. Jason Kekic, Civil Engineer were present to represent this application.

Mr. Michael Bowerman testified that he is here on behalf of Parkside Church and they would like to add an access drive across to the former VFW property and that involves a modification to their conditional use permit for lot coverage for the 1,900 sq. ft. of additional driveway on their property and then they show the modification to the VFW property which is a net reduction in lot coverage. He said the proposed drive will exit onto Pettibone Road at the Marketplace center traffic light and then we will then re-engineer that three-way light to a four-way.

Mr. Lamanna asked if the light's jurisdiction is the township's or county.

Mr. Bowerman said it is the township's and added that the developer installed it. He said the traffic engineer has not started that design but will design it in accordance with the county engineer.

Mr. Lamanna said a short section of drive will be added on the main property.

Mr. Bowerman replied yes.

Mr. Lamanna said and then that will continue across the railroad's right-of-way and then you will be adding some additional paving on the VFW property so we will end up with a neutral or reduced lot coverage.

Mr. Bowerman said that is correct and Mr. Jason Kekic is here from Hejduk and Cox so if the board has questions on the lot coverage and calculations, we can address those as well. He said they are securing an agreement with the railroad for the rail crossing and their traffic engineer has completed a traffic study which the board received copies of and there is a net benefit not only for Parkside Church exiting from the lot but also for the neighboring street flow.

Mr. Olivier asked if the VFW building will be maintained.

Mr. Bowerman said they have no present plans for it, they are analyzing various uses but they are going to leave it the way it is now, shut all the utilities down but will continue to keep it illuminated at night.

Mr. Olivier said the primary reason you (Mr. Bowerman) are in front of the board is for the exit drive.

Mr. Bowerman said yes for the benefit of the church.

Mr. Murphy asked if this could become over-flow parking.

Mr. Bowerman said it could be but it would be a long walk to the building because it is about 1,000' but it could be over-flow parking.

Mr. Lewis said between the two properties this takes it to five driveways dumping out onto Pettibone. He said currently the church has two, the VFW property has two and this has another one in between it and there is the backdoor road driveway out onto Root Road so there are six driveways out of this property.

Mr. Bowerman said the Root Road drive is closed on Sundays.

Mr. Lewis said but outside of the church service, it will now take it from four active to five active driveways out there.

Mr. Horn asked if the access drive will be connected to the other accesses from the VFW or will it go directly to that intersection.

Mr. Lamanna said it will go directly to the intersection.

Mr. Lewis said it all connects so if you are making a right turn there is nothing to prohibit somebody from slipping out the back door to the VFW and if he is not mistaken his current observation is that when the church services are starting or ending that there is traffic maintenance or hired security people out there already.

Mr. Bowerman said yes they employ Bainbridge policemen.

Mr. Lewis said now we have two points in and out on Pettibone and with this access connection we are going to go from two to five points out on Pettibone all within a couple thousand feet.

Mr. Lamanna referred to the site plan and asked if the drive indicated can be cut off because that would certainly discourage people from trying to cut through and would also reduce the number of curb cuts along there and that way nobody is going to go around the building to avoid making a right-hand turn here at this light.

Mr. Bowerman said they would be amenable to that.

Mr. Lamanna said it will reduce the number of openings.

Mr. Horn said or not even connect the access to the VFW parking lot.

Mr. Bowerman said it does give them the option for overflow parking.

Mr. Horn said he thought Mr. Bowerman said it is pretty far away.

Mr. Bowerman said it is.

Mr. Lamanna said for those few times a year.

Mr. Lewis said currently he does not think that traffic light is functioning properly, it is just caution and stop and it is in need of repair.

Mr. Lamanna said he thinks they just don't run it because there is not much use there.

Mr. Jason Kekic testified that it is malfunctioning but there is not enough traffic there to justify repairing it immediately. He said it is a caution for east, west and stop out of Marketplace.

Mr. Lewis asked if Parkside is going to bear the cost of getting that operational.

Mr. Bowerman said from the three-way to the four-way, yes.

Mr. Lamanna said that will have to be conditional.

Mr. Olivier asked if it will operate based on people approaching that light off of the church lot.

Mr. Bowerman said it will have to be designed and it will be up to the traffic engineer and the county engineer to work out the details.

Mr. Horn said they can adjust the time for Sundays.

Mr. Kekic said there will be detectors in all four directions.

Mr. Lewis said you (Mr. Bowerman) are proposing to put in an access driveway between two of your parcels over a third party's piece of land.

Mr. Bowerman replied yes.

Mr. Horn asked if that agreement has been signed yet.

Mr. Bowerman said yes.

Mr. Horn asked if that is part of the information provided.

Mr. Bowerman said no.

Mr. Murphy asked if that is an active track.

Mr. Bowerman said no it is not and it has been closed for 15 years.

Mr. Olivier asked if the rails are there.

Mr. Bowerman said the rails are still there, yes.

Mr. Olivier said but they don't cross Pettibone.

Mr. Bowerman said no.

Mr. Lamanna said they paved over them.

Mr. Lewis asked if there is a proposal to pull the rails.

Mr. Bowerman said no and in negotiations with the railway we are to leave the rails and not disturb them but pave up to it and they gave us details to follow which we have agreed to.

Mr. Horn said Rails to Trails was going to take control of that to develop a path along that.

Mr. Wrench submitted the signed agreement to the board and stated that the board didn't get it in the hand-outs.

The board discussed the application.

Mr. Lamanna said he doesn't think there is any restriction on having an access through someone else's property to your property.

Mr. Horn said 169.04 seems to say if you don't have sufficient parking on your own lot you can join with another lot owner to fulfill that minimum requirement and that seems to be the general intent of that particular provision rather than what we are seeing here.

Mr. Lamanna said you are not allowed to have your mandatory parking somewhere else but if you have extra parking somewhere else, he doesn't think there is any restriction on having extra parking off-premises. He said he does not think that that section applies here and all they are really talking about is a slight modification to a conditional use because they are adding another exit and the fact that it happens to be an easement over somebody else's property and then over a non-contiguous parcel that the church owns is not an issue. He is said it is only a question of is it appropriate to have an access at this point and his view is it is a great place to have an access because it would be coming out into a controlled intersection already and it will probably divert a lot of the traffic.

Mr. Horn said it will be at a traffic light and if they agree to remove one of the other accesses you are not adding to them.

Mr. Lamanna said right they are getting rid of one of the other accesses.

Mr. Lewis said that should change the lot coverage on the remaining lot too.

Mr. Lamanna said the VFW is okay because it is neutral so they are going to take away whatever they put in. He said when they take away that little access in the front they are going to give back some of it there and then they are going to take some away on the Grantwood side to make it neutral so it would be adding a small amount of lot coverage on their property to get from their existing parking lot to the property line and they are currently under their lot coverage and it is like a .1% or .01% increase.

Mr. Murphy said you are now combining a parking area on a R-5A rural open residential property with a commercial recreation property and will that have any kind of repercussions if we allow them to combine parking lots on two different zoning districts.

Mr. Lamanna said they are not combining parking lots.

Mr. Murphy said it seems like a combined parking lot to him if you can drive from here to there.

Mr. Horn said the parking lots are already there though and on the application the church referenced the properties they own on Root and Pettibone and asked how they relate to this application.

Mr. Bowerman said they are part of the overall lot coverage because they are contiguous.

Mr. Lamanna said given the size of the building there and the existing parking, that parcel has more than enough parking for any possible use you can put that building to.

Mr. Murphy said but when they take that footprint and put in a two-story outdoor activity center or something and right now it could be the new flea market, under roof, and the board also still has a property that is an entirely different zoning than the church.

Mr. Lamanna said right but this property can't use the church property's parking to meet its parking requirements.

Mr. Murphy said yes but they certainly could be overflowing there because the driveway will have been opened up.

Mr. Lamanna said if the use of that triangle requires overflow parking, he would rather have it overflowing into a parking lot than overflowing onto the street which is where it would overflow if there is no place to go.

Mr. Dale Markowitz testified that you would want the internal circulation within the property rather than coming out onto the street and going back into a parking lot on another lot.

Mr. Bowerman said you could do it anyway.

Mr. Murphy said the properties could be joined and turn the one back into R-5A perhaps.

Mr. Bowerman said or go the other way and turn it into commercial recreation.

Mr. Lewis said they are not contiguous because of the railroad.

Mr. Lamanna said it is just an access easement, it doesn't give anybody any leverage to do anything with it and there is plenty of existing parking there for any use you could put that building to and you could take the highest use and give the ratio of parking spaces to the size of that building you would meet the minimum for any occupancy or more than the minimum so it is not like you need the other property and he thinks it is a great place to dump that parking lot out.

Mr. Lewis said it gives that whole section of parking lot a back door.

Mr. Lamanna said there is a traffic light there too and it will disperse the exiting vehicles.

Mr. Markowitz referred to the traffic report and said this will increase the grade of the level of service on the other driveway exits too so this is not just going to help because of the controlled exit it also will improve the level of service overall. He said that is why they looked into this and what benefit they will get by doing this because they recognize there is going to be a cost with the traffic light so it is more than just that one driveway, they will have a better level of service.

Mr. Lamanna said yes it will improve the traffic flow all along there.

Mr. Horn asked if the VFW property is part of the conditional use.

Mr. Bowerman said no it is not.

Mr. Horn said then we are just talking about the main parcel and to amend the conditional use to allow an access.

Mr. Lamanna replied right, all we are doing is creating another exit.

Mr. Markowitz said it wasn't that we needed to come back before you for approval but we looked at it and said because it is a conditional use permit, any change needs to come before the board.

Mr. Lamanna said it is a pretty big change when you add another ingress and egress point to something like this. He said it is a very narrow issue and he thinks the issue is does it make sense to have another ingress and egress at this point and the fact that it comes across two other properties he thinks is not really of any impact on what the board is deciding here and other than the fact that the number of curb cuts into the VFW will be kept the same by getting rid of that one and that really answers the one sort of big objection and it looks like this is going to improve the traffic flow in the area and it is certainly not going to make it any worse, it will be a better point of control.

Mr. Horn said maybe they can get rid of two curb cuts.

The board discussed the proposed lot coverage.

Mr. Bowerman said they are down on the lot coverage.

Mr. Markowitz said they are reducing it.

Mr. Bowerman said it was 36.79% and now it will be 36.60%.

Mr. Kekic said the pond got a little smaller.

Mr. Bowerman said with the advancement of the design as they continued on they have been able to fine-tune the design.

Mr. Lamanna said the lot coverage is within what was previously granted and the VFW will be no net change.

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

Motion BZA 2011-17 – 7100 Pettibone Road (Parkside Church)

Mr. Lamanna made a motion to grant a modification to the conditional use permit for this property to install a new access drive from the property out to the intersection of North Marketplace Drive and Pettibone Road.

Based on the following findings of fact:

1. This additional access drive will be within the previously granted lot coverage for the main property at the church.
2. This conditional use also implicates the adjacent VFW property which is under common ownership.

With the following conditions:

1. The VFW property will maintain no change in its total effective lot coverage with the addition of the drive extensions proposed by the applicant.
2. The ingress and egress to the VFW property on the eastern ingress/egress will be removed and closed off so that ingress and egress from that side will be through a connecting road to the outlet to the intersection.
3. The applicant is also responsible for all arrangements with respect to the traffic signaling at that intersection and will work with the county engineer and township officials as appropriate to determine what the requirements will be.

Mr. Lewis seconded the motion.

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

Application 2011-18 by Mark E. McVicker for property at 8441 Summit Drive

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

The zoning inspector's letter dated June 16, 2011 was read.

Mr. Mark McVicker was present to represent this application.

Mr. McVicker testified that he is also in Lake Lucerne and his house was built in the late thirties so he is clearly on a non-conforming lot and he would like to put a 10' x 12' garden shed to the rear of his property. He said he has been through the Lake Lucerne Architectural Review Board and has received approval so he satisfies all of their setback requirements and he is here today at the township to seek a variance since he is on a non-conforming lot.

Mr. Horn said it stated on the application that it will be non-heated, non-insulated and no electricity to it.

Mr. McVicker said yes and added that he didn't bring his architect so this is all of his hand drawings and he hopes he got everything on there that the board needs. He said the setback from the rear of the property line would be 25' and the setback from side yard to the left would be 50' and then 126' from the right side lot line.

Mr. Horn asked why that location rather than more to the east.

Mr. McVicker said Lake Lucerne has a requirement that anything built like a storage shed has to be built behind the rear of the property line and if at all possible not visible from the road so that is an open lot, he owns the lot to the east and you can see from the road down in there so he tried to keep it over behind his garage so he can satisfy the requirements.

Mr. Lamanna asked what is behind his property.

Ms. Victoria Welling of 8432 Rockspring Drive testified that she lives behind him and has no objections as long as it doesn't look like a barn.

Mr. McVicker thanked Ms. Welling.

Mr. Lamanna asked if there is a reason to have 43' behind the garage as opposed to 30' behind the garage.

Mr. McVicker said no he just went 25' off the back of the line and then he measured the distance from there to the back of the garage. He said he has a lot of room to play with back there but he just went 25' off the back and it seemed to be a reasonable distance and 50' in from the other side. He said Lake Lucerne's setbacks are 10' from the rear and 10' from the side.

Mr. Horn said the minimum rear yard setback in Lake Lucerne was 30' and 10' from either side yard.

Mr. Lamanna asked Mr. McVicker if it can be moved to 30' in.

Mr. McVicker said absolutely because he has plenty of room to play with it.

Mr. Olivier said so it is only 5' more off the rear or 5' closer.

Mr. McVicker said it will be 5' closer in from his garage.

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

Motion BZA 2011-18 – 8441 Summit Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of building a 10' x 12' shed in accordance with the description provided with the application.

1. A variance from the minimum required rear yard setback of 90' to 30' for a variance of 60'.

Based on the following findings of fact:

1. It is a pre-existing lot of record in Lake Lucerne where the previous requirements were a 30' rear yard setback so it satisfies those requirements.
2. It is also consistent with the setbacks of other similar structures in this area and would not adversely affect any of the neighboring properties.

Mr. Lewis seconded the motion.

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

Application 2011-19 by Bronwyn Beard for property at 8095 Darby's Run

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

The zoning inspector's letter dated June 16, 2011 was read.

Mr. David Martin and Ms. Bronwyn Beard were present to represent this application.

Mr. Martin testified that he is speaking on behalf of Ms. Beard and they are looking for a variance from the 90' requirement for the construction of an 18' x 20' deck at the rear of the dwelling. He said currently the house sits very close to 105' so right now the deck would be sitting back about 85' from the rear property line.

Mr. Horn asked if there is a deck now.

Mr. Martin said currently there is not a deck now and basically where it says Beard, he referred to the GIS aerial photo, there will be an 18' x 20' deck built.

Mr. Olivier asked if that is common area behind the house.

Mr. Martin said that is HOA common area at the rear of the property line.

Mr. Olivier asked if it is buildable.

Mr. Wrench said not at this time.

Mr. Horn asked if Darby's Run is down in the lower area, with a drop off and higher road behind.

Mr. Martin said correct.

Mr. Lamanna asked if it is 104' from the rear.

Mr. Wrench said from the rear to the house.

Mr. Murphy said these dimensions are not correct.

Mr. Martin said actually they are not and he didn't realize that the property went back as deep as it did. He said the sides are fairly accurate but the rear dimension is incorrect.

Mr. Lamanna asked about the lot size.

Mr. Martin said it is 212' deep he believes.

Mr. Olivier asked about the other spot of gray in the area.

Mr. Martin said it is a tiered ledge and it goes back from the rear of the house to the back and explained it per the GIS aerial. He said from there to there it is about 25' and there is a wall that goes up about 5' and it plateaus another 4' rise to this grassy area here and it is just basically a landscaping bed there and there is a sandstone hill there.

Mr. Olivier said it rises with a series of steps.

Mr. Martin said correct, it tiers up.

Mr. Horn said Darby's Run is kind of in a valley, a low spot.

Mr. Lewis asked what the rear yard setback is, currently, from the back of the house to the lot line.

Mr. Martin said from the rear of the house it is about 105'.

Mr. Lamanna asked if this is a 5' variance.

Mr. Martin replied yes.

Mr. Lamanna said technically a variance is needed on the other side but it is already within the house.

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

Motion BZA 2011-19 – 8095 Darby’s Run

Mr. Lamanna made a motion to grant the applicant the following variances for the purpose of constructing a 20’ x 18’ deck on the rear of the house.

1. A variance from the minimum required side yard setback of 50’ to 38’ for a variance of 12’.
2. A variance from the minimum required rear yard setback of 90’ to 80’ for a variance of 10’.

Based on the following findings of fact:

1. It is only a one-half acre lot.
2. This new deck will be, with respect to the side yard setbacks, well within the existing shoulders of the house due to the 110’ width of the lot.
3. The variance with respect to the rear setback is relatively small and will not adversely affect any of the adjacent property owners.
4. In the rear of the property, there is no house to be affected to the rear side so there will be no adverse effects from this variance.

Mr. Lewis seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 8:45 P.M.

Respectfully submitted,

Christopher Horn
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

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

Date: August 18, 2011

AUDIO RECORDING ON FILE

BZA PH 6/16/2011

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Bainbridge Township, Ohio
Board of Zoning Appeals
June 16, 2011

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 8:45 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Christopher Horn, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the May 19, 2011 meeting as written.

Mr. Lewis seconded the motion.

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

Meeting Cancellation

Mr. Lamanna made a motion to cancel the regularly scheduled meeting of July 21, 2011.

Mr. Lewis seconded the motion.

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

Since there was no further business, the meeting was adjourned at 9:08 P.M.

Respectfully submitted,

Christopher Horn
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier

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

Date: August 18, 2011