

Bainbridge Township, Ohio
Board of Zoning Appeals
June 17, 2004

Pursuant to notice by publication and certified mail, a public hearing was called to order at 7:42 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Mark Olivier and Mr. Donald Takacs. Mr. Todd Lewis and Mrs. Ellen Stanton were absent. The following matters were then heard:

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

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

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

Mr. Steven Thomas, Attorney for the applicant and Mr. Todd Raskin, Attorney for Bainbridge Township were present.

A court reporter from Rennillo Reporting Services was present for the applicant.

Mr. Lamanna stated that this application is being revisited for the purpose of modifying the existing conditional use permit.

Mr. Thomas testified that he is representing the Federated Church and Hemlock Landscaping for the purpose of adopting language that will replace the language that was adopted at the July 2003 meeting. He said where the language states "Releaser" it means "The Federated Church and Family Life Center".

Mr. Thomas read the following:

- A. Outside organized athletic activities will be permitted on the rear fields of the property located at 16349 Chillicothe Road, that are now cleared and graded during the regular public school term of the Kenston Local School District, Monday through Thursday from 10:00 a.m. until the earlier of sunset or 8:00 p.m., whichever first occurs. Use of the rear fields for outside organized athletic activities is permitted on Fridays and Saturdays from 10:00 a.m. to 5:00 p.m., and on Sundays from 12:00 p.m. to 5:00 p.m. Outside organized athletic activities will be permitted when the Kenston Local School District is not in session between the hours of 10:00 a.m. and 5:00 p.m., Monday through Saturday, and 12:00 p.m. and 5:00 p.m. on Sunday. Outside athletic activities are defined to mean non-church, competitive sports leagues, but excluding "old time" baseball games.

As a condition precedent to the use of the rear fields that are now cleared and graded for outside organized athletic activities, the Federated Church/Family Life Center must construct an eight hundred foot board-on-board fence at its sole expense, a minimum of eight feet high along the southern border of the property, with the materials and exact location of the fence to be determined by mutual agreement with the Bainbridge Zoning Inspector. The Federated Church/Family Life Center must also cause to be planted twenty, four to five foot tall evergreen trees, approximately fifty feet apart on a vertical line parallel to the fence, twenty-five feet north of the board on board fence.

- B. All athletic activities including but not limited to organized athletic activities are permitted on the front fields of the property seven days per week, from sunrise to sunset.
- C. The Federated Church/Family Life Center will cause to be planted ten additional evergreen trees similar in size to the existing trees, approximately eight to nine feet high, at its sole cost and expense on the north berm of the property.
- D. The Federated Church/Family Life Center at its sole expense will cause all security and pole lighting on the north elevations of the property to be shielded or frosted on or before August 1, 2004.
- E. The walking path will be signed with directional signs to prevent users from trespassing on adjacent property on or before July 1, 2004, at the sole expense of the Federated Church/Family Life Center.

Mr. Takacs asked what “frosted” meant in Item D.

Mr. Thomas said that means to take the glare off and added that the shielding has been done but is not sure about the frosted lenses or bulbs.

Mr. Olivier asked about Item C, trees will be planted on the North berm of the property and asked if trees are going to be planted at the rear of the property.

Mr. Thomas said no and referred to the conditional use permit granted in 1998 or 1996 and when they met with the board last summer, the vegetation was not to the board’s satisfaction so this is proposed to replace what has been adopted.

Mr. Takacs asked if additional trees will be planted.

Mr. Thomas replied yes, on the side of the Family Life Center building. He continued by saying that if groups use the Family Life Center for prayer or any purpose and decide to have a game in the back field it would be permitted.

Mr. Lamanna said the board needs to make clear that this is regulating all uses on that facility.

Mr. Thomas said there has been a question as to what outside groups would have full use of the property and the intent is to not designate certain uses by designating how the use will occur.

Mr. Lamanna said that all uses must comply with the general conditional use permit uses.

The board reviewed the proposed replacement language.

Ms. Konny Schantz of 53 Fairfax Drive, S. Russell, testified that the church was bringing in the Chagrin Valley Soccer League to play in the back and that was not the agreement.

Mr. Lamanna said they submitted a plan with some possible fields but no one focused on where those fields would be, only on the building etc. and there was no discussion of these issues but it since then came to the forefront based on some concerns of the neighbors on Lake in the Woods Trail.

Ms. Schantz said she has no berm behind her house and there is nothing to block their view and originally there was to be only a baseball backdrop with no mention of soccer fields back there.

Mr. Lamanna said there was only mention of some outdoor activities.

Ms. Schantz said she was under the impression that only the church's activities would be permitted back there, not the Chagrin Falls Soccer League.

Mr. Lamanna said the church believes those kind of uses are a part of their ministry uses and this proposal is to craft something so the uses don't become a burden on the adjacent property owners and that is part of the reason for the limited hours.

Ms. Schantz said they will be using the fields 12 hours a day, Monday – Thursday and that is just in the back.

Ms. Molly Feliciano of 46 Wolfpen Drive. S. Russell, asked where the fence will be located.

Mr. Lamanna said the fence will be on the south side of the property (Lake in the Woods) side.

Ms. Feliciano asked how this is a balance of what was presented last year and this year and testified by saying she sees a lot of hours here, it is a seven day a week schedule.

Mr. Lamanna said the likelihood that all of these hours will be filled up is slim.

Ms. Feliciano said the number of kids and teams in the area is growing and she wants to know what the balance is here. She said the fence is very nice along with the shaded glass but that is irrelevant to the recreational activities. She said there is no balance and no limit to the number of teams and there is no difference from what they asked for last year.

Mr. Lamanna said there are more restrictions on the time and there will be a barrier to limit the impact on the most directly affected neighbors.

Ms. Feliciano said they can have any number of teams and there could be team after team from 10:00 A.M. to 8:00 P.M. and asked if they will collect rent from this.

Mr. Lamanna said he did not know because the township cannot go in and audit their books but this is not a license for them to make this a community activity place.

Mr. Paul Crider of 8716 Lake in the Woods Trail testified that since it has not been a corn field, they have been getting water run-off from that field and there is a river running down there.

Mr. Lamanna asked where on Lake in the Woods Trail.

Mr. Crider said it is right at the eastern end and they ran pipes onto the adjacent property and he thinks they need a catch basin on their property.

Mr. McIntyre advised Mr. Crider to come in and look at the maps and he will go up there and take a look. He referred to Items D. and E. of the language and asked if the lights and no trespassing signs will be installed prior to the dates indicated on the schedule.

Mr. Thomas said that is the plan.

The board reviewed the replacement language and the zoning resolution.

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

Mr. Raskin urged the board to consider adopting the proposal verbatim.

Mr. Lamanna suggested entering into executive session.

Executive Session

Mr. Lamanna moved that the Bainbridge Township Board of Zoning Appeals go into executive session to consider pending litigation.

Mr. Takacs seconded the motion.

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

The board recessed its regular meeting at 8:32 P.M. in order to go into executive session to consider pending litigation.

The board returned from executive session after considering pending litigation and reconvened its meeting at 9:02 P.M.

Motion BZA 2003-21 - The Federated Church Family Life Center - 16349 Chillicothe Road

Mr. Lamanna made a motion to rescind the previous modifications made by the board with respect to this application and substitute for those modifications the document that was read by counsel for The Federated Church. (The secretary will enter the document into the record.)

Based on the following findings of fact:

1. With respect to this motion, the board notes that at the time the prior modifications were made to the conditional use permit, the application by the owner did not contain any request to modify the conditional use with respect to the use of the fields. The applicant has since amended the application to include the requested changes with respect to the use of these fields so the board is now in a position to act upon that application for the modification of the conditional use with respect to those fields and with respect to other items relating thereto.
2. With respect to the granting of this modification to the conditional use, the board finds that the uses specified are consistent with the zoning district and consistent with the purposes of the zoning resolution. With the addition of the additional screening and fence and evergreen trees and the hours of operation, it will be generally harmonious with the vicinity and does not create any hazardous situations, creates no issue with the provision of public services or increase the requirements for those services. It should not produce excessive traffic, noise, smoke, fumes, glare and odors and will not result in a loss of any natural scenic or historic feature of major importance.
3. In making this decision, the board will note, however, that first all of the conditions set forth in Chapter 117.13 (b) which generally apply to all conditional uses are not in anyway modified or their application limited by this decision, nor is there any intent by the board in taking this action to modify the conditional use, that anything the board is doing here deems to permit the owner to conduct any commercial activities on the premises.

Motion BZA 2003-21 - The Federated Church Family Life Center - 16349 Chillicothe Road - Continued

5. The board also notes that while the proposed modifications deal with outside organized activities on the rear field, it does not address other activities on the rear field which apparently have not been heretofore addressed in the conditional use associated with this property, nevertheless the board is adopting these changes as requested by the applicant.

Mr. Takacs seconded the motion.

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

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

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

Secretary's note:

The testimony, findings of fact and decision of the board for subject application held on June 17, 2004 have been deleted from these minutes by motion of the board of zoning appeals on July 15, 2004. See below:

At the regular meeting of the Bainbridge Township Board of Appeals held on July 15, 2004, Mr. Lamanna made a motion to continue this application to the next business meeting to be held August 19, 2004 where the proposed findings of fact and conclusions of law and decision of the board will be further evaluated to determine whether any additional modifications are necessary based on the fact that the minutes, dated June 17, 2004, will be modified to delete, all of the testimony and findings of fact with respect to this application due to the absence of board member Mr. Donald Takacs on July 15, 2004 who was present for that action on June 17, 2004.

Mr. Lewis seconded the motion.

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

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

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

The applicant was not present.

Motion BZA 2004-11 – 16755 Medina Street

Mr. Lamanna made a motion to dismiss this application for want of prosecution.

Based on the following findings of fact:

1. The board has already granted one continuance and the applicant has not appeared again.

Mr. Takacs seconded the motion.

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

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

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

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

Mr. Lamanna stated that this is a continuance from the last meeting.

Mr. Jim McNally of Ruby Tuesday Restaurant and Mr. Jay Clark of Boyer Signs were present to represent this application.

Mr. McNally testified by referring to the rendering of the sign and said that elevation is not the one.

Mr. McIntyre asked if there is a sign there now.

Mr. McNally replied no and showed photos to the board.

Mr. Clark explained the west side elevation.

Mr. McNally said they would like to take the existing signage down and put their logo sign up and if they would have rotated the building, they would not have to be here requesting a variance.

Mr. McIntyre explained the regulations for wall signs and said they still would have had to come in for a variance.

Mr. McNally said he would like the logo to stay above the entrance doors.

The board reviewed the requested variances.

Mr. Lamanna asked if there was any reason for the 9' 3" x 7' 7" size.

Mr. McNally said the logo fits in that box and is the smaller of the two.

Mr. Lamanna asked if these signs are custom made.

Mr. McNally replied yes.

Mr. Lamanna said that one ground sign is not an issue.

Mr. McNally explained the location of the proposed signs and entrances and elevations.

Mr. McIntyre said the way the resolution is written, the directional signs have been installed with the logo on them so they have to be calculated into the signage.

The board discussed the relocation of the signs on the building.

Mr. Clark explained the logo and how it is squared off and explained the dead space within the sign that is not being used which is 10 - 11 sq. ft.

Mr. Takacs asked what the size of the letters are to the capital T and added that these letters are large enough to be seen from the parking lot.

Mr. Lamanna said if reduced by 10% in each direction, and they moved one sign to the other side, it would reduce the square footage by 19%.

The board reviewed the square footage calculations.

Mr. McNally said they have made the sign smaller in square footage that mounts above the door and if the board gives him a number he will make it work.

Mr. McIntyre asked how far the sign will be off the building.

Mr. McNally said 6" – 8" and they are requesting a 137 sq. ft. variance.

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

Motion BZA 2004-13 – 7135 Aurora Road (Ruby Tuesday Restaurant)

Mr. Lamanna made a motion to grant the following variances with respect to signage:

1. A variance for wall signs from the maximum of one to three for a variance of two.
2. A variance on the total signage to 137 sq. ft.
3. A variance, for the purpose of the large wall sign over the door, from the maximum 50 sq. ft. to 57 sq. ft. for a variance of 7 sq. ft.
4. A variance on the height from the maximum 15 ft. to 20' 6" above the finished grade for each of the two main wall signs for a variance of 5' 6".

Based on the following findings of fact:

1. The building is located essentially on the corner of two streets so it has two directions that it faces, therefore it is appropriate to have two identifying signs.
2. The third sign requested is primarily a directionally oriented sign to direct customers to an appropriate door.
3. In calculating the overall amount of signage, the board has also considered the fact that although technically the frontage is on Route 43 that actually the main entrance of the building is on the longer side of the building which would permit approximately 128 sq. ft. of signage so the variance being granted is minimal and does not derogate from the intent of the zoning.
4. Likewise, the maximum size of a single wall sign, the variance being granted is minimal only being 7 sq. ft. and is also consistent with the size of the building.
5. The height of the sign variance again is consistent with other signage in the area.
6. It is also located in an appropriate place on the building and is consistent with the design of the building and is also located above the door which increases the distance in which the sign must be located.

Mr. Takacs seconded the motion.

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

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

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

The zoning inspector's letter dated June 8, 2004 was read and photos of the site were submitted.

Mr. John (Harry) Cunningham was present to represent this application.

Mr. Cunningham testified that he has presented his case in the form of a letter.

The board read the letter he submitted.

Mr. Cunningham said that his father is living in the house and he needs a storage area for his tools.

Mr. Lamanna asked if the shed is located behind the garage.

Mr. Cunningham replied yes.

Mr. Lamanna asked what is behind the property.

Mr. Cunningham said there are no houses, only Knowles Industrial Park.

Mr. Olivier asked if the structure is already up.

Mr. Cunningham said yes it is already up.

Mr. Lamanna said it is within the footprint of the garage.

Mr. Cunningham said he had the opportunity to buy the property next door 30 years ago but did not and regrets it.

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

Motion BZA 2004-14 – 16823 Savage Road

Mr. Lamanna made a motion to grant the following variances for the purpose of maintaining a storage shed:

1. A variance from the required side yard setback of 50' to 30' for a variance of 20'.
2. A variance from the required rear yard setback of 90' to 76' for a variance of 14'.
3. A variance from the maximum lot coverage of 10% to 16.3% for a variance of 6.3% which represents .76% additional lot coverage for this additional building.

Based on the following findings of fact:

1. A practical difficulty exists because it is a pre-existing lot of record.
2. It is only .718 acres.
3. The width of the rear portion of the lot is only 75' so it would be impossible to have two 50' setbacks.
4. The variance with respect to the rear yard setback is not substantial and also will not affect any of the neighboring properties because the actual neighboring properties to the rear is an extension of the adjacent lot so there would be no houses built back there so there would be no interference with any use.
5. The increase in lot coverage is diminimous.

Mr. Takacs seconded the motion.

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

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

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

The zoning inspector's letter dated June 8, 2004 was read and photos of the site were submitted.

Mr. Jeremy Moor was present to represent this application.

Mr. Moor testified that his lot is quite narrow so it limits what he wants to do and added that he wants to take down the existing garage and build a more usable garage and the existing one is 13' to the property line, but he wants the new one closer to the adjacent property line.

The board discussed the location of the proposed garage.

Mr. Moor explained the location of his house.

The board viewed photos of the property.

Mr. Lamanna asked Mr. Moor if it was possible to square the garage up a little bit.

Mr. Moor replied yes.

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

Motion BZA 2004-15 – 9550 Washington Street

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

1. A variance from the required side yard setback of 50' to 10' for a variance of 40'.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant has a very narrow property.
2. There is an existing small garage which he would like to replace with a more contemporary size garage.
3. There is sufficient room to place it on the side of the house without encroaching into the setback area.
4. It is not practical to put it on the other side as it would also require a setback variance and would be close to an existing structure on that side.
5. The side on which it is proposed is abutted by a much larger piece of property where there are other structures located substantially farther back than this garage will be and therefore will not be an adverse impact on the adjacent property.

Mr. Takacs seconded the motion.

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

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

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

The applicant was not present.

Motion BZA 2004-16 – 7103 Rocker Street

Mr. Lamanna made a motion to postpone this application until the next regularly scheduled meeting to be held July 15, 2004.

Mr. Takacs seconded the motion.

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

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

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

Motion BZA 2004-17 – 17688 Huron Street

Mr. Lamanna made a motion to postpone this application indefinitely until such time as the encroaching building from the adjacent property reaches some resolution so that the board is able to act upon it.

Mr. Takacs seconded the motion.

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

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

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

The zoning inspector's letter dated June 8, 2004 was read and photos of the site were submitted.

Ms. Karen Bartlett was present to represent this application.

Ms. Bartlett testified that she has a real narrow lot and the existing driveway has always been on the property line. She said the septic system and leach field are on the other side of the house and she tried to center the garage around in the back as best as she could with the trees etc.

Mr. Lamanna said there is an issue with the side yard.

Ms. Bartlett said the garage will be behind the house.

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

Motion BZA 2004-18 – 18591 Geauga Lake Road

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

1. A variance from the required side yard setback of 50' to 25' for a variance of 25'.

Based on the following findings of fact:

1. The applicant has a narrow lot. It is only 130' wide.
2. This garage will be located behind the house and will actually be no closer to the side line than the existing house is so there will be no additional adverse impact on the adjacent property.

Mr. Takacs seconded the motion.

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

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

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

The zoning inspector's letter dated June 8, 2004 was read and the photos of the site were submitted.

Mr. Lamanna stated that the applicant, Mr. Cliff Hershman, had been present but had to leave to go out of town.

The board was in agreement to proceed with the application without Mr. Hershman.

Mr. McIntyre explained that this was an additional ground sign (tenant sign) which will be an identification sign at the entrance and this will clearly define where to go in the east bound lane, but the square footage will be charged against Mr. Hershman's total signage.

The board discussed the variance request.

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

Motion BZA 2004-19 – 8465 E. Washington Street

Mr. Lamanna made a motion to grant the applicant a variance to have an additional ground sign in the form in which he has applied.

Based on the following findings of fact:

1. This ground sign is not primarily an advertising sign, but it is more a directional sign and it is located in an area that, as reason from a traffic standpoint, there is a need for an additional directional type sign.
2. The board does note that this additional signage will count against the applicant's overall permitted signage for the center.

Mr. Takacs seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 10:36 P.M.

Respectfully submitted,

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

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

Date: July 15, 2004

Bainbridge Township, Ohio
Board of Zoning Appeals
June 17, 2004

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 10:36 P.M. by Mr. Michael Lamanna, Chairman. Members present were: Mr. Mark Olivier and Mr. Donald Takacs. Mr. Todd Lewis and Mrs. Ellen Stanton were absent.

Minutes

Mr. Takacs made a motion to adopt the minutes of the May 20, 2004 meeting as written.

Mr. Olivier seconded the motion.

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

Correspondence

1. Letter from Roger J. Weiss, Esq., Weiss & Freedman, LLP, dated June 14, 2004. RE: Application 2004-7.
2. Letter from John and Pauline Cunningham, dated June 17, 2004. RE: 16823 Savage Road.

Applications for next meeting

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

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

Application 2004-20 by Marsha A. Simon for property at 8648 Taylor May Road

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

Application 2004-21 by Jeffrey F. Wright for property at 8030 and 8048 Chagrin Road

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

Application 2004-22 by Carl (Ed) Speck for property at 8440 Lake Shore Drive

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

Application 2004-23 by Daniel and Amy Eibler for property at 17796 Kenston Lake Drive

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

Application 2004-24 by Karen Bartlett for property at 18591 Geauga Lake Road

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

Since there was no further business, the meeting was adjourned at 10:55 P.M.

Respectfully submitted,

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

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

Date: July 15, 2004

