

Bainbridge Township, Ohio  
Board of Zoning Appeals  
June 18, 2009

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

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals. He then explained the hearing process and swore in all persons who intended to testify.

The following matters were then heard:

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

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

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

Ms. Jennifer Meyer, applicant and Mr. Alan Tatro, representative of the Pilgrim Homeowners Association were present to represent this application.

Ms. Meyer testified that her husband was here last month asking for the variance to build a shed in the back and left with an understanding that there wasn't a clear definition of a hardship or why they were wanting to put the shed at the back of the property line so they went back and really looked through what their property was and they were wanting to put the shed about 50' from the back of the property line which really backs up to the wooded area. She said they went across the lot and looked at the other side of the land as was requested and saw that there was a slight grade on the property and it is wetter on that side of the property than it is on the side they are requesting. She said also because they had already gotten the approval from the Pilgrim Village board of where they wanted it and had already gotten permission from their neighbors so they had to go back to the board to ask them for the approval of moving it up into the yard which would be 90 feet back from the back property line. She said she brought Mr. Al Tatro with her and he is representing the board from Pilgrim Village and the message that they received from Pilgrim Village and he (Mr. Tatro) can speak for that as well was that their request would be rejected to move it up to the middle of the yard and he can certainly speak to that.

Mr. Al Tatro testified that he is on the architecture committee for Pilgrim Village and at Mrs. Meyer's request they took a look at what she wanted and as far as Pilgrim Village is concerned, they would accept the original application before the board, but she then said the Board of Appeals wants them to move it another 20' into the yard and she showed him where that would go and they contacted the president of the board and was told the Pilgrim Village board would not approve that because she has a very open lot and everybody along the back side can see right through the lot and hers would be right in the middle of that view so Pilgrim Village would not let her do that.

Ms. Sass asked if she (Ms. Meyer) were to comply with the Bainbridge Township zoning requirement the homeowner's association or the architectural board of review in the subdivision would not allow her to build.

Mr. Tatro replied yes and whether we can physically stop her, he thinks they can yes, but that is the closest they would approve that and it really is a difficult thing and there are a lot of sheds in the neighborhood that are not in the middle of the yard.

Ms. Meyer said they tried to move it over more towards the center of the yard so from an eyesore perspective if you drove on the road in front of their house it wasn't just a glaring building from the road and they did not know if that was the matter or not so when they first plotted on their land that is partially why they brought it over and they have no problem moving it even further but the grade starts to go and there is water build-up from a little past the half-way mark to the right side of the lot so they are in a little bit of a tough spot and all they are trying to do is get a shed so they can get stuff out of their garage and park back into her garage. She said they are open to suggestions on how to do that but they feel that they are stuck here and if they are able to move it back towards the back property line and also it just seems to blend more and there are a couple of other things from the standpoint that her husband had mentioned the last time that there really wasn't anything that they put on paper and added that she grew up in Arizona around pools and part of the reason they bought this house is it is one of the few houses in Pilgrim Village that has such an open lot and they had talked that when their kids get older they really would like to look at the possibility of building a pool but once you start putting other structures up it also starts to interfere and added they are talking years away from that but they are trying to create something they can build upon and not have to build around.

Ms. Sass said the board appreciates the layout of the community and the fact that other properties have similarly situated accessory structures but the board has a set of rules and requirements that the members are bound to abide by and that is called a practical difficulty test and as we walk down through the criteria by law the board has to have established, there wasn't anything there and quite honestly looking in the future to put a pool or something in, it is not one of the things that fits squarely into the criteria that the board has to consider.

Ms. Sass continued by saying that is why the board said if you can step back and reevaluate and give the board some concrete evidence that you have a practical difficulty if in fact you have to comply with the terms and regulations of the zoning resolution and that is what the board is allowed to consider and the fact that the architectural board of review would not allow it, it is not a factor for the board to hang its decision on, it is something that may be considered under some of those criteria.

Ms. Meyer said she is here because she wants to follow the law of Bainbridge and she is trying to be a good citizen and she is trying to follow those laws but what she is struggling with is there are so many sheds and logically every shed you look at is either in a wooded area or along the back side of a wooded area so it logically fits within the space of that property line and here we have a rare circumstance where our property line is almost all field and so they are wanting to fit within those guidelines and there are many people within Bainbridge and other surrounding cities that she has talked to that wouldn't even think twice about thinking of going to the board or getting approval to put up a shed so she is trying to be a good citizen of the township and to follow the laws that are put in place and she certainly understands the laws but she is having trouble with the laws to her property because it is not a property that is typical of Bainbridge, Bainbridge is a very wooded area and Pilgrim Village is a very wooded community and we are part of the back side where all of the lots on the back side are all relatively flat and all grass areas so when we wanted to put the shed back there it was more of a logical thing and when her husband came last month they didn't understand the hardship laws and they just didn't think it would be a problem but he was kind of taken back so we appreciate that it was continued because we did sit down and it opened our eyes about what we had to know about our own land in order to get the shed put in so we did start to look at the grade of the lot. She said when you come off of their house it sits way down.

Ms. Sass asked Ms. Meyer to explain how far down it sits.

Ms. Meyer said it is about 20' off of their back deck, it dips down and it comes back up and then goes flat so where the board would be asking us to put it at 90' it would be about 10' off of that deck.

Mr. Michael Joyce, Zoning Inspector displayed the contour lines on the GIS map of the property and testified it does slope down but not terrible.

The board reviewed the GIS map of the property.

Ms. Meyer said their property only goes a certain amount into the wooded area and they had trouble mapping out the back property line. She referred to the neighbors who have a shed against their back line.

Ms. Sass asked if it could be moved to the southern property boundary.

Ms. Meyer said she is not sure the lines are right on the map.

Mr. Lamanna said there are 42' from the house to the edge of the side property line.

Ms. Meyer showed the board per the aerial map the area of the property that seems more wet after a rain.

Mr. Lamanna asked if the object is to keep the shed along the tree line.

Ms. Meyer said she would like to and that really is the object and seems to be a much more logical place.

The board discussed the property lines, tree line and proposed location of the shed.

Mr. Tatro said he does not know if they can legally stop them from putting it in the middle but we could certainly discourage it.

Mr. Lamanna said there are two separate independent requirements that the homeowner has to satisfy and it is certainly possible that one group says it is okay and the other group says it is not because we are looking at different issues.

Mr. Tatro said her neighbors have signed off on it.

Ms. Meyer referred to her neighbor in the back and said she does not want her path blocked because she comes into their yard as a cut-through.

Mr. Tatro said each case stands on its own and he was here four years ago with one of the other residents that did get a variance and he thinks it was 27' from the lot line and the reason was, he was on a corner lot on Apple Hill and the board allowed it because his house was 27' from the line.

Mr. Lamanna said corner lots are a different situation because there are different setback requirements because of the separate setback requirement on both streets.

Ms. Meyer said their goal is to try get it as close to that wooded line as possible and she is okay with moving it over trying not to go too far into the wet area and it may be just an irrigation thing. She said where it is positioned does not bother her as much as that she would like to try and keep it as close to the back property line as possible.

Ms. Sass referred to Ms. Meyer's comment about the yard being a little more wet after a rainstorm and asked how long after a rainstorm.

Ms. Meyer said two hours.

Mr. Joyce referred to the GIS map of this property and noted that there is an intermittent stream which would become a stream after a rain event.

Mr. Murphy asked Ms. Meyer to approximate where the actual side lot should be and if there is a dimension off the house.

Mr. Lamanna said it is 42'.

Mr. Murphy asked where the real property line is on the south side.

Ms. Meyer said it is about where the shaded line is and that is where their mowing line is and it is where she thinks her property line is.

Mr. Joyce said according to the drawing they submitted, 42' is where the actual line is.

The board discussed the location of the property lines.

Mr. Joyce said from the drawing they submitted they show from the back of their house to the lot line 194' and if he moves directly to the red line on the GIS map, he is showing around 187' so the back line should exceed another 7'.

Mr. Murphy asked Mr. Joyce if he could find 50' from the true south side and 90' from the true back and where it sits on the real wood or tree line.

Mr. Joyce showed the board, on the GIS map, the distance or measurements and proposed location of the shed.

Ms. Sass asked Mr. Joyce to come straight back to the wood line from the side yard lot line and how far off that would be.

Mr. Joyce said 56'.

Ms. Sass asked how far off that would be from the rear yard lot line.

Mr. Joyce said 46'.

Mr. Lamanna said it looks like the spot that is 50' from the back and 50' from the side it is going to be sitting right in the middle of the open grass area.

Ms. Meyer said the woods don't necessarily go back as far and the back side of the shed was about 10' from the wooded line, they were trying to move it up as much as possible off that back line.

Mr. Joyce said from feature to feature you can generally get within 6" to 1' but the red line, he is not so sure.

Ms. Sass reviewed the criteria as follows: “would the property really get a reasonable rate of return without the variance” - yes it will; “is the variance substantial” and yes it is questionable but she is inclined to think it is substantial; “would the essential character of the neighborhood be substantially altered”, and as a result of the variance, no; “would the variance adversely affect the delivery of governmental services”, we have had no evidence to that but can’t imagine that is a concern; “did the property owner purchase with the knowledge of the zoning restrictions and that is imputed to you. The property owner’s predicament can be feasibly obviated with some other method other than a variance.

Mr. Murphy said yes, put the shed in the middle of the yard and play football around it or move it over to the woods edge and it seems like it could not be on the north side but put it on the south side, tuck it back in the woods and then it would be almost the same variance but not exactly. He said on the north corner, there is no woods so to ask to put it in the north corner with a 50’ side yard it is still in the middle of the lawn.

Ms. Meyer said it does not seem that way when you are on the lawn.

Mr. Murphy said the property lines on the GIS are wrong typically so it could be surveyed.

Ms. Meyer said they don’t have a problem with moving it down, they just did not know how far they could go down without getting it wet. She said they don’t have a problem and they are back here because they want to work with the board and get a solution for all of them and if moving it south, she needs to understand where the board wants it. She said she just does not want it in the middle of her yard and she understands the board’s point but aesthetically nobody is going to have a shed right dead in the center of their yard and she understands the laws and she is not disputing the laws that were made but to her it is not logical and if she goes to sell her house and when people would walk in and see the shed in the middle of the yard you will have to spend thousands of dollars getting it landscaped so it will look like it should fit there or it is reducing her property value. She said she is not looking to move but nobody knows so she is just asking for some help in getting it to the back of the property line. She told the board to tell her where they want it at the back of the property and she will put it there and added she is really not that picky, she just wants it up against the woods.

Ms. Sass said she prefers south.

Ms. Meyer said alright.

Mr. Lamanna said to him the logic is to put it on the south side because then it can be moved back to the tree line and it meshes in and it reduces the impact on the neighboring properties so now it will be shielded by the tree line but on the other side it would be sitting out in the middle of the yard.

Ms. Meyer said they first started thinking about it right there, from a mindset they were just coming off of their driveway and they would not be crossing their whole lot to get to the shed, but it really doesn't matter either way.

Mr. Tatro said except for the wetness thing.

Ms. Meyer said right and it is not a lake by any means.

Mr. Tatro asked where the suggested spot is and asked if it will be seen from the street.

Mr. Lamanna said it will be set behind the shoulder of the house.

Mr. Michael Joyce, Zoning Inspector testified that it is 42' from the lot line to the side of the house.

Mr. Lamanna asked Mr. Joyce to measure back from the tree line to the house on the GIS map.

The board discussed the setbacks of the house and the proposed shed.

Mr. Lamanna said if it is 60' off it would be on or about the tree line and now it would be placed in conjunction with the natural feature there so it keeps it screened away from the neighbors a little better. He said it will be 60' from the rear line and 50' from the south line. He told Ms. Meyer to use the corner of her house when measuring.

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

#### Motion BZA 2009-9 – 18093 Millstone Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of constructing a 10' x 14' shed as described in the application.

1. A variance from the minimum required rear yard setback of 90' to 60' for a variance of 30'.
2. The shed will also be located 50' from the south line of the property.

Motion BZA 2009-9 – 18093 Millstone Drive - Continued

Based on the following findings of fact:

1. A practical difficulty exists due to the smaller than standard size lot.
2. There is an existing tree line cutting across the property and this will keep the shed adjacent to the tree line so it is less visible from the adjoining property and therefore will minimize any impact on the adjoining property.
3. It will be consistent with the other sheds in the area.

Ms. Sass seconded the motion.

Vote: Ms. Hannum, aye; Mr. Lamanna, aye; Mr. Murphy, aye; Ms. Sass, aye.

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

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

The zoning inspector's letter dated June 18, 2009 was read.

Ms. DeAnna Tenny of the Chagrin Falls Park Community Center was present to represent this application.

Ms. Tenny testified that she is here tonight because they have that small lot issue down in the Chagrin Falls Park. She said the shed is for one of their programs called Strategy for Life and it is a supportive service program because people bring donations of furniture and clothes and food and just anything they don't want to throw in a landfill and bring it to them and they partner it up with someone that needs it so it stays out of that landfill. She said the problem is there is no more room for stuff like big furniture and when big furniture comes in they can't always get it to a person on the same day so it is more of a hold-over place so they needed someplace that they can drive up to and they would have liked it in the back by the garden but there is no where to drive up to it. She explained per the GIS photo where the garden is and said they wanted to put it here (she showed the location per the GIS) but the road stops there so that didn't work and they thought about putting it in another place but it was a slope there so where they ended up thinking it was best right here (she showed the location per the GIS) but they tried to get it so it was off of a parking lot and not in the front of the building as much as possible. She showed where the front entrance of the building is along with the location of their garbage cans. She said it is hidden from the front view and she would have rather had it in the back but neither one of those roads go into their building and when the original architect drew the building the whole back part was supposed to be access for deliveries etc. so those are the kinds of things they talked about when trying to figure out where to put it.



Ms. Tenny continued by saying they painted it the same color as the main building and made it look real pretty and they have some shrubs to put around it too so that was their problem.

Mr. Lamanna asked if somebody else owns those corner lots.

Ms. Tenny said there are trees all along there and explained that it is their secondary parking lot with trees all along there.

Mr. Lamanna asked if that is all of their property.

Ms. Tenny said yes and added that they have a security camera in that area so the shed is in view. She explained per the GIS map where the entrances are located.

Mr. Murphy asked about the road right-of-way behind it.

Mr. Joyce said the right-of-way in the Chagrin Falls Park is 50' as opposed to 60' in most areas.

Mr. Murphy asked if that property could still become paved roads.

Ms. Tenny said it could be.

Mr. Lamanna said somebody actually owns those strips there.

The board discussed the location of the garden and if it was on someone else's property.

Mr. Lamanna said there are pieces and parts of those phantom streets that were once owned by some development company.

Ms. Tenny said she would love to have that road go around because then they could actually utilize their storage in the back and the deliveries and their garbage cans could be back there. She added that their programs have grown so much in the last two or three years and some of the programs go from 9:00 – 3:00 P.M. for the kids and so does the Department of Aging.

Mr. Joyce said where the vacated road was, is owned by Chagrin Falls Park Community Center and a typical lot is 20' x 100'.

Ms. Tenny said they had work done by Geauga County not too long ago to close up the storm sewers.

Mr. Joyce said physically there is no place that they could put a shed and not violate the zoning.

Mr. Lamanna explained that the board has always considered multiple lots as a single parcel in the park and have always treated them that way because everybody has houses built on three, four, five and six lots and the board has never, because of that, insisted that they merge the lots together so when the board looks at this, if we treat this as one single parcel, asked how far away is it from the street because the setback from the street is the problem.

Mr. Joyce said this is a corner lot.

Ms. Tenny showed a photo of where it sits.

The board discussed the setbacks for these parcels.

Mr. Lamanna said there really is no issue from the one street and from the other street they are 90' and they should be 100'.

Mr. Joyce said it is closer to 75' for the 100' setback. He explained the setbacks and the right-of-way.

Mr. Lamanna said the real number is 65' from the south property line.

The board discussed the lots in Chagrin Falls Park and the process of merging them for zoning purposes.

Mr. Lamanna said he sees no issue here, it is totally consistent with everything else, it is placed in a spot that is not very visible from the street, it is no closer than the main structure is and it is farther away than almost every other house in the park.

Mr. Murphy said it seems like the right thing to do with the recycling of furniture in an environmentally friendly way.

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

Motion BZA 2009-11 - 7060 Woodland Avenue (Chagrin Falls Park Community Center)

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of maintaining a shed in the location at the end of their parking lot and considering this application for a variance the board is considering all of the contiguous parcels owned by the applicant to be treated as a single lot for the purposes of applying the yard setback requirements because this is consistent with how the board has treated all properties in the Chagrin Falls Park area which is made of a substantial number of very small lots.

1. A variance from the minimum required front yard setback of 100' to 65' for a variance of 35'.

Based on the following findings of fact:

1. Given the nature of this lot and the fact that the main building on the lot is only set back less than 65' there is a practical difficulty.
2. It is also consistent with all of the other properties in the park which are set back even less from the street so this structure will not be inconsistent with the neighborhood nor will it adversely affect any of the neighboring properties.

Ms. Sass seconded the motion.

Vote: Ms. Hannum, aye; Mr. Lamanna, aye; Mr. Murphy, aye; Ms. Sass, aye.

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

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

The zoning inspector's letter dated June 18, 2009 was read.

Mr. Greg Battaglia, applicant and Mr. Todd Petersen, Attorney for the applicant were present to represent this application.

Mr. Petersen testified that he came down on fairly short notice from Mr. Battaglia because there may be some discussion outside just the variance request regarding the pond.

Mr. Michael Joyce, Zoning Inspector testified by saying yes, afterward, a clarification from the board.

Mr. Petersen said there is a pond that is being cleared out.

Mr. Joyce said that is not the issue.

Mr. Petersen said the board has a map with the application and as you read it with the house on the top, the backyard is on the bottom and there is currently an existing deck, roughly 15'-10" wide on the back of the house in a rectangle. He said the reason for the angled part that goes back is there will be a window taken out and a double door put in for access.

Mr. Battaglia testified by explaining the existing deck per the drawing.

Mr. Petersen said the angled part will come back and the existing window will be a double door for access to the deck.

Ms. Sass asked if it will be enclosed.

Mr. Petersen said it is all open and it will be a raised deck about 2' off the ground.

Mr. Battaglia said about 2-1/2' off the ground.

Mr. Petersen said the other portion, the part in the backyard that shows first a 10' wide and 5-1/2' heading north, that will be about one step off the ground. He referred to the aerial map and explained that this portion will have the same height and the portion in the back will be about 8" or a step off the ground coming back here. He referred to the trees and their size and described the line of trees and said the deck doesn't extend on the north side outside the line of trees. He said when you look through the factors for the area variance, will the property yield a reasonable return, we are talking about a deck so he can't say it won't yield a reasonable return even without a deck. Is it substantial, he believes it is a 2' encroachment on the north side. He said whether the essential character of the neighborhood will be substantially altered or whether adjoining properties would suffer substantial detriment, we actually have Mr. Battaglia's neighbor here and he can speak to that and his (Mr. Petersen's) understanding is he has no problem whatsoever with the deck going in an additional two feet. He said whether it would adversely affect the delivery of governmental services, he can't fathom what governmental service would be provided to it. He said whether the property owner purchased it with knowledge as you said earlier that is imputed to you. He said whether the property owner's predicament can reasonably be obviated through some other method other than a variance, we are back to the point you have a deck.

Ms. Sass said or not.

Mr. Petersen said whether the spirit or intent behind the zoning requirement would be observed and substantial justice done. He said he thinks the spirit and intent behind that particular zoning requirement has space in between properties, it is a 2' encroachment and he is estimating there is probably 50' between the houses or more, 60' maybe, it is an open lawn with those trees he spoke of earlier and he does think this would hinder the spirit or intent behind keeping the distance and such other criteria. He said the neighbor on the north side is here to speak favorably to it and where you see the trees incorporated, that is kind of a tough area, it is very shady all the way around the house because the trees have grown in and the choices of what to do there and to keep that ground dry and graded or taken care of or manicured, really are somewhat limited, you are not going to grow grass there not without a whole host of effort.

Mr. Battaglia said he buys probably 15 – 18 yards of mulch a year and he is tired of spending the money on it and he figured he is going to take down a couple of trees that are starting to rot in the center just so he can get some sunlight on the south side of the house but it is just dirt and if you look at the pictures you can see where the grass stops and the area which you see is dirt will be covered by the deck. He said they do keep their trees trimmed and they are 7' to 8' high off the ground so he can push mow around that area.

Mr. Lamanna asked what the actual setback is.

Mr. Joyce said the actual setback from the side yard is 50' and this shows 52' to the side yard with the deck sticking out 15'.

Mr. Petersen said to address the Block's house, the neighbors to the south, it will be even with the house line and with the current setback.

Ms. Kim Block asked about the trees that are coming down.

Mr. Battaglia said on the south side there is a tree to about the peak of the house and the center of it is rotting out real bad and it is going to fall so he just wants to take it out and then he might take out the Pine tree on the corner of the front porch also just to get some light in that area. He explained the location of the trees per the GIS photo and said it will open up that whole area.

Mr. Robert Block testified that he wants to see where the deck is going.

Mr. Battaglia explained the proposed deck per the site plan to Mr. and Mrs. Block.

Mr. Joyce showed the board the site plan of the deck and the distance of the deck to the side yard at 40'.

Mr. Lamanna asked if the deck will be going around a tree.

Mr. Petersen said yes, incase he did not make that clear, those trees will be saved, the whole idea is to build the deck around it.

Ms. Sass asked how high it will be.

Mr. Lamanna asked if it will be a step-up deck with no railings around it.

Mr. Battaglia said he is trying to fill the back of the deck in with top soil and grass it so the goal he is going for is just to step off the deck right onto the grass without falling off the deck. He said there will be no railings on the lower level.

Mr. Lamanna said it is just a platform.

Mr. Battaglia said correct.

Mr. Murphy asked if the reason for the variance is to go around that tree.

Mr. Battaglia said exactly, that is the whole reason and added that the way the yard is set up it would be kind of silly if he would end it at the side of the house and have just a tree sticking out so he decided to incorporate it.

Mr. Murphy asked if the neighbors from the north side are here.

Mr. Battaglia replied yes.

Mr. Rob Atkinson of 16783 Snyder Road testified that he has no objection to the variance.

Mr. Lamanna said the variance will be de minimis, a small variance and will be barely noticed.

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

#### Motion BZA 2009-12 - 16805 Snyder Road

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of installing an approximately 10' wide platform deck around an existing tree. The deck will consist of a platform area without railings for direct step up and step down to the ground.

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

Based on the following findings of fact:

1. This helps tie in the overall structure of the decking in the back with the existing trees and it helps protect the existing trees.
2. Given the nature of this structure and its unobtrusiveness, it is a very minor variance and will not adversely affect the neighboring properties nor alter the character of the neighborhood.

Ms. Sass seconded the motion.

Vote: Ms. Hannum, aye; Mr. Lamanna, aye; Mr. Murphy, aye; Ms. Sass, aye.

Application 2008-13 by Greg Battaglia for property at 16805 Snyder Road - Modification

Clarification

Mr. Joyce said the other issue is the pond location. He submitted letters from Mr. Bob Griesmer, District Technician of the Geauga Soil & Water Conservation District regarding the side of the pond and in the finding the board asked that the south side of the pond be 10' from the south bt line where it is located and they asked for a wall on the south side only to be stone or wood and he is not sure if that is supposed to be tapered or straight down and Mr. Griesmer has been out there at the request of the neighbors and has indicated in those letters if it would be a straight wall such as in a pool, it would be harmful and would create erosion, it should be tapered and the minimum taper is on there. He said Mr. Battaglia has said he has put the rock in place and on paper and has put clay up against it to be the wall. He said Mr. Griesmer said as you can see in the dug out pond that that is correctly tapered but cannot define it as a wall, the stones are buried and he has not seen them, he has seen left over stones that Mr. Battaglia has brought in to put on the property and the Blocks would like the board to determine if that is accurately a good wall or not and the top or the crest is about 10' exactly from the south lot line as requested but the question on the interpretation is does the board consider that tapered wall correct with clay on it over the stones so he can't verify there are stones unless he takes a probe but he has no reason to doubt it either and added that the neighborhood dispute that has been going on is still going on.

Mr. Lamanna asked if there are minutes from that meeting.

Mr. Joyce said it does clearly state that the wall should be stone or wood on the south side only and nothing indicating a taper or a lack of a taper and according to Mr. Griesmer if it were a straight wall it would be harmful and our only concern is that the crest of the pool is 10' from the lot line and it is currently about 10' or maybe even further.

Ms. Sass asked if that can be verified that it is 10'.

Mr. Joyce said actually the water is further away because the top of the taper is 10' and he went out and measured it and it was surveyed and they do have a lot line there.

Mr. Lamanna said so instead of having a wall it is a mound.

Mr. Joyce said not at all it is a taper going down as Mr. Griesmer indicates.

Mrs. Block said from the south it is flat and it goes into the pond at a taper which is fine but he has great reserve about anything that has been put in there because she has been photographing along the way, yes he had a pile of rocks that went into the basin where Mr. Atkinson placed them so her concern is with just this taper of dirt the tapered mound of dirt going into the pond, it will be 3 – 5 years down the road when it is eroding again and an issue because of a muskrat situation and it eroded into their property so he built it 10' into his property.

Mr. Lamanna asked if the board is looking at the side of the pond.

Mrs. Block said yes.

Mr. Joyce said it is the crest of the pond where the water will be.

Ms. Sass asked Mrs. Block if no one has any way of knowing what is under there.

Mrs. Block said correct.

Mr. Petersen said there is no water in it right now.

Mr. Battaglia said you can clearly see rocks coming out of the side and on the top.

Mr. Petersen said you have contemplation of a wave wall or a sea wall type of thing or stones piled up or something.

Mrs. Block said no.

Mr. Petersen said we have not seen that letter but as Mr. Battaglia understood and related to him, it is the proper slope, a two to one slope.

Ms. Sass asked why they have not seen the letter and said it is dated March 16<sup>th</sup> addressed to Mr. Battaglia.

Mr. Battaglia said he never got the letter.

Mr. Battaglia and Mrs. Block stated that they have never seen the letters from Mr. Griesmer.

Mr. Battaglia said he just got a card that he was there and he called Mr. Griesmer but he doesn't remember what the date was.

Ms. Sass asked Mr. Joyce how he got the letters.



Mr. Joyce said he came here and gave them to us.

Mrs. Block said she does have a copy of the letter dated April 21<sup>st</sup>.

Mr. Atkinson testified that the rocks he put in the pond are the rocks from his yard, they were not rocks taken out of her yard.

Mrs. Atkinson testified that they were not rocks, they were bricks.

Mr. Joyce said there is a pile of bricks in the center.

Mrs. Block said they don't want to nit-pick at this they only want to prevent them from being back here in 3 – 5 years with the same issue, they want the tapered dirt mound to be sufficient that they won't have the erosion again.

Mr. Lamanna asked Mrs. Block if her concern is it will erode.

Mr. Block said the first time the pond ended up in their yard and they want to try to avoid it and that is why the board had stated at the meeting to have the wall be rock or wood and to be 10' off because they did not want to get into this issue in the future.

Mr. Murphy said if there is 10' of flat lawn and then if you design a pond where most ponds should be you would start it at 10' with a 2 to 1 or 3 to 1 slope then the slope goes away from your property line then the pond should not be moving towards your property, ponds fill in, that is what ponds do in northeast Ohio, they get more sediment and eventually it won't be a pond it will be just cattails and eventually it will be lawn for the grandchildren so he is not sure why the Blocks are afraid of the pond moving their way other than the muskrats and they are everybody's problem and they are allowed to go anywhere they want to.

Mr. Block said that is the reason the board had stated at that meeting was to have the wood or the rocks as a wall so we can try to avoid that happening.

Mr. Murphy said according to the county that was unnecessary, the county does not require wood or rocks or anything like that, we asked Mr. Battaglia to be a little more proactive in trying to reinforce the bank and he believes that is what the board did ask.

Mr. Petersen said under no circumstance do we want to ignore their concerns, muskrats dug into the pond last time absolutely and that is why it was put there, not only to stop any encroachment but to make sure there is room but the difference of what occurred as he understands it, the new information was the involvement of soil and water and the conversation Mr. Battaglia had with Mr. Griesmer and asked Mr. Battaglia what he told him.

Mr. Battaglia said that Mr. Griesmer said because of the way the pond is dug that that bank being a 2 to 1 pitch was a perfect pitch and the materials that he used was more than sufficient and he also was going to put a sandstone header on there and he said absolutely do not, it will cause problems and that pond had a lot of vegetation in there and he eliminated that and the pond will be aerated, there will be fish but he cannot say the muskrat will not come back and he has a 10' bank and he personally does not want the issue again and if there are muskrats or the bank starts to cave in for whatever reason, he will address it long before it gets 10' out but Mr. Griesmer told him flat out that the 2 to 1 pitch is perfect for what he had done, he has been out there and said it looks great and he said in no uncertain terms to not put anything else on that bank because you would be just asking for headaches and he will go along with what Mr. Murphy said ponds are designed to fill in and the more you do to that side the worse it will get.

Mrs. Block said that Mr. Griesmer told them the same thing indeed so as long as they are all comfortable that if there is an issue again, it will be taken care of, at this point she is fine.

Mr. Block asked what will be done with the mound that is there.

Mr. Battaglia said it has got to dry, they tried running an excavator over it and the excavator started to come off the side and that is all of the wet clay stuff that was dug out.

Mr. Lamanna said this obviously was not noticed for this meeting, it was not on the agenda.

Mr. Joyce said it just kind of came up and figured that the board would define this type of wall or what kind of wall was defined.

Mrs. Block said they are going by the minutes of what the board advised and then when Mr. Griesmer came out we wanted it clarified.

Ms. Sass said the requirement would be an up and down wall.

Mr. Lamanna said so if the board is going to change that it has to be modified and he does not think it can be modified if it was not noticed.

Mr. Joyce said he was looking for a clarification.

Ms. Sass asked Mr. Joyce if he happened to look at those minutes.

Mr. Joyce said he did and it did not say straight up and it did not say tapered it just said a wood or stone wall.

Mr. Lamanna said he thinks what has happened is the board was looking for something that was going to be maintenance free and now we have something different but we also have additional information and what the board wanted before is maybe not a good idea for other reasons but he thinks if it is changed, the board would want to put on a specific requirement that says that that pond area has to be maintained.

Mr. Battaglia said absolutely.

Ms. Sass asked if the board did not do that.

Mr. Lamanna said the board did not specifically say that.

Ms. Sass said the idea was to stop the encroachment.

Mr. Lamanna said in order to add that requirement the board just needs to notice it and pull the minutes so the board can modify it accordingly, to modify it to allow something like he has done but there will be an additional requirement that he has an on-going obligation not to allow for any erosion into that area.

Mr. Battaglia said that is fine and asked if he can finish it.

Mr. Lamanna said yes and the board will re-introduce it into the record next month.

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

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

The zoning inspector's letter dated June 18, 2009 was read.

Mr. Major Harrison of Brilliant Electric Sign was present to represent this application.

Mr. Harrison testified that Brilliant Electric Sign is the nationwide sign provider for Key Bank and he would like to thank the board for allowing him to present this evening. He said this request is for the Key Bank at 8481 E. Washington Street and he wants to say that Key Bank is excited about expanding their presence in Bainbridge and added that this signage package consistently reinforces the corporate standards and identity of Key Bank. He said they are seeking a variance from Section 173.11 Subsection 8 (1) which allows only one wall and marquee sign for each business as well as a variance from Section 173.11 Subsection C (1) which states that "such signs shall not extend above the height of the building and in any case not more than 15' above grade".

Mr. Harrison continued by saying he was going to submit a brief overview of their submissions and reasons behind their request for the two additional signs on the north end elevations. He said he will be presenting using his drawings and photos and Mr. Joyce has supplied drawings of different things for the signage package here. He continued by saying using this aerial view he is able to show the placement of the proposed building and as it relates to the site itself and the old building is down now as of this point. He said they are respectively requesting to install a 34.16 sq. ft. internally illuminated wall sign on the elevation facing E. Washington Street and it is their opinion that proper adequate business identification is imperative to any business establishment especially in today's struggling economy and there is no less than three banking facilities within ½ mile to the proposed Key Bank branch and proper identification for a brand new branch one which will be increasing the tax base and adding jobs to the community of Bainbridge allows for seamless integration into the community and increases the opportunity for immediate success.

Mr. Murphy asked if there is no comment about closing the Key Bank at the other corner in Bainbridge by the freeway (Rt. 422) so the adding of jobs may or may not be true.

Mr. Harrison said they are not closing that branch, Key Bank is expanding massively and he just handled in the last seven months remodeling so Key Bank is not, in no way shape or form, closing down. He asked the board members if they had any questions. He changed the drawing displayed on the easel and continued by saying they are facing E. Washington as well as the huge shopping plaza and they feel that the visual identification is needed especially toward E. Washington Street as well as customer and pedestrian traffic and vehicular traffic. He changed the drawing (No. 819) and said they are photos of the side view from across the street and showed the board a photo from directly across the street and showed the board where he was standing when he took the photo. He said this is 34.16 sq. ft. and this frontage is 75'-3" so they are well within the code of 1.15 per linear feet of the building. He said they are also requesting to install a 19.06 sq. ft. sign on the canopy here (he showed the board on the drawing) and said they feel this is very necessary because of the traffic heading north on Chillicothe and the reasoning is also for visual identification for vehicular traffic for customers traveling north on Chillicothe and left onto E. Washington or for those traveling west on E. Washington and as the board can see from these photos there are some obstructions.

Mr. Lamanna said it looks like it is totally obstructed.

Mr. Harrison referred to the photo taken directly across the street, he is facing east on E. Washington Street and looking straight across and said you can actually see through the Shell gas station. He referred to the photo taken directly across the street and said you will be able to see the canopy from this point here (he showed the board on the photo) and feel that this is very necessary for those customers traveling east on E. Washington Street. He showed the board another photo, when the building was still existing, so there is visibility in this case. He showed the board drawing (No. 1716) and said the variance request in this regard is the overall height from grade and this is 19' and we feel that that is an aesthetically pleasing way for this rectangular form and function of the building.

Mr. Lamanna asked if this faces directly onto E. Washington Street.

Mr. Harrison said yes and if this variance was not granted they may have to reduce the size a little bit to bring the key and key logo to be even on the same plane but they were hoping that this would be looked at and granted because it is a 4' variance and he did want to introduce that aspect of it. He said in the case of their hardship they feel that proper and adequate business identification assists the public in terms of finding it because E. Washington is a two lane, 35 mph roadway and with the strict interpretation of the zoning code only allowing one wall sign, vehicular traffic has limited time and opportunity to determine their destination but it also helps in recognizing points of egress and ingress. He said the granting of this variance, they believe, is in no way a detriment nor does it inhibit the spirit of the zoning resolution and also the grant of this variance supports the zoning resolution for safety by decreasing the confusion as well as any results and hazards that may occur on a two-lane roadway. He thanked the board for allowing him to present his case and said he welcomes any questions the board may have.

Mr. Lamanna said the issue is there are three signs.

Mr. Harrison said yes, they have one facing E. Washington, one that is the main entrance to the bank that is also facing E. Washington and they have one on the canopy that they feel is needed for Chillicothe as well as west on E. Washington Street.

Mr. Lamanna asked if two of the signs are over 15'.

Mr. Harrison said just one and the sign facing E. Washington or north is 3" over 15' or so.

Ms. Hannum asked why this one is not consistent with the other two signs.

Mr. Harrison said because of the form and function of the building itself and one is centralized over the door in that rectangular section.

Mr. Lamanna asked if there is a square footage issue with the total signage or if it is just multiple wall signs that is the issue and the height.

Mr. Shane Wrench, Assistant Zoning Inspector testified that it is the height and the number of wall signs.

Mr. Lamanna said he can see the second wall sign but not the one in the back.

Mr. Murphy said it seems the drawings 1716 and 1717, and 819 are slightly mislaid. He asked what the front of the building is.

Mr. Harrison pointed out the main entrance.

The board discussed the placement of the signs per the elevations of the building.

Mr. Lamanna asked if the ATM sign is being counted.

Mr. Wrench said the signage does not include the ATM sign.

Mr. Lamanna said most of the ATMs all have a similar situation.

Mr. Joyce said they are instructional.

Mr. Murphy said there is supposed to be only one wall sign per business and we are going for three here.

Mr. Harrison said that is correct.

Mr. Murphy said the monument on the street (ground sign) meets the size requirement and his problem is the sign on the canopy abuts right into the side of the gas station.

Mr. Lamanna said the ground sign is going to be far more visible for people coming up and down E. Washington Street.

Mr. Murphy said they are asking to put a sign on the canopy that is looking at the back end of the gas station.

Mr. Harrison said no because when you look here (he referred to the site plan) you have direct visibility through the gas station and you will be able to see that canopy and here (he referred to the site plan) you have a large ground sign for the Shell gas station so ideally if you are at the intersection while the ground sign is there for visibility you still will have a hard time seeing it whereas if you are coming up and with an illuminated sign you have perfect visibility through the gas station. He said from across the street you will see the ground sign but you can also see the canopy sign also so it is not blocked by the gas station.

Mr. Lamanna said yes but a second wall sign is already a variance and a third wall sign is a step beyond what the board would give anybody else and in this case there is no real compelling reason to do that, it is a minimal utility because of its location and certainly there is other adequate signage that is visible.

Mr. Harrison said Fifth Third Bank has three wall signs right down the street and their third wall sign is facing west and their east elevation is blocked by huge trees so you cannot see it but they were given three wall signs as well as a ground sign. He said if you are heading west you have to pass these huge trees to see the Fifth Third box sign and they have one on the front that is facing E. Washington and one on the side.

Mr. Murphy asked if Fifth Third is across the street or the same side.

Mr. Harrison said the same side and showed the board the Fifth Third Bank on the GIS aerial and said you can't see it traveling east because of the tree line.

Mr. Joyce said it is a corner lot.

Mr. Murphy said you are in the sign business and I have always been in the tree business encouraging more. He said that is a corner lot but Key Bank is not actually a corner lot so you are basically asking to put a sign towards your neighbor's property so you are kind of trying to attract through your neighbor's property.

Mr. Harrison said it is because of the placement of the building itself.

Mr. Lamanna said we don't want to encourage people that are pulling into Dunkin' Donuts to try to get to the bank.

Mr. Harrison told the board to keep in mind that they really have no visibility to the ground sign from this point here (he referred to the site plan) and they are definitely relying on that visual.

Mr. Lamanna said people will not notice it through the gas station, they will have to know the bank is there.

Mr. Murphy said if you are headed north on Rt. 306 you only have two choices, the through lane or the left turn lane.

The board discussed the fact that going to a bank is not an impulse decision and people will already know where they are going.

Mr. Murphy asked about the variances on the other two signs and one sign is allowed and this is almost a corner lot and the front door is kind of pointing to the west of E. Washington so the new entrance is kind of expecting to take advantage of the wide open spaces in front of Sears who is allowed to plant big trees there next week if they want. He asked if when the bank is not open if the lights can be turned off.

Mr. Harrison said they have 24 hour banking with the ATM.

Mr. Murphy asked if the lights can be dimmed.

Mr. Harrison said they are LED lights.

Mr. Murphy asked if LEDs are non-dimmable and asked if the new signs will all be LED.

Mr. Harrison said it is green technology.

Mr. Murphy said green technology is they can be turned off when the bank closes, dark sky. He explained that his backyard is lit up by this whole corner so he has issues about that too so it would be nice for a neighbor bank to dim their lights at 7:00 and shut down to almost minimal or barely show up.

Ms. Hannum asked if there is security lighting under the canopy for the ATM.

Mr. Harrison said he is sure there is some type of lighting.

Ms. Hannum said if the lights are going to be brighter on the outside then the lights underneath then the lights underneath are not for security anymore because there would be almost a shadow there so if there was an incident where somebody was being mugged or robbed at the ATM and you can not see it if the light was too bright on the outside of the building.

Mr. Harrison said this is not a bright light it is covered, it is not a neon sign, it is an LED sign which means it will light a soft white in the evening and will be black in the daytime.

Mr. Murphy said so the black Key Bank letters are lit behind on the brick.

Mr. Harrison said no this is all internal, there is a dura-film applied to the letters and in the daytime when it is not lit those will appear black and in the evening when they are illuminated they are white, a very soft white, it is not a bright sign at all.

Mr. Murphy asked about the square footage of the front elevation, the big red key.

Mr. Harrison said it is 52.36 sq. ft.

Mr. Murphy asked about the left side on E. Washington.

Mr. Harrison said that is 34.16 sq. ft. and then the other sign on the canopy will be 19.06 sq. ft. and the square footage requirements are 1.15 linear foot.

Mr. Joyce said it is 1.15 times 75' for the frontage on E. Washington Street.

Mr. Murphy asked if the 75' frontage is for the front of the building facing E. Washington.

Mr. Joyce said the 75' does not include the canopy area for the drive-thru.

The board discussed the frontage and total square footage of the signage.



Mr. Joyce said including the lobby area but not including the canopy area it would be 95.1 sq. ft. times 1.15 and all three total 105.8 sq. ft.

Mr. Harrison said he can reduce the sign if it meets the board's approval with the likeness of what Fifth Third did and just use the logo and take away the "Key Bank" on the canopy and Key Bank has given him authorization to do that and they could reduce it to fit and stay within 95.01 sq. ft.

Mr. Lamanna said the only issue would be the third wall sign.

Mr. Harrison asked the board if they would be opposed to just allow them to have the key on the canopy and that would solve their request to have the additional wall sign along Chillicothe and it would reduce the size as to where they are relative to code.

Mr. Murphy said he would see the Key Bank and could spot the ATM.

Mr. Harrison said it is very limited visibility and you are talking about a letter height that is approximately less than one foot. He said the visibility on Chillicothe and E. Washington at that intersection is highly important to Key Bank.

Ms. Sass said she does not buy that one because if she needs to go to the bank, she is going to know where the bank is.

Mr. Harrison said that is not everyone.

Ms. Sass asked if it is to attract impulse drivers.

Mr. Harrison said that is to attract impulse shoppers, this is a major intersection and a lot of shopping is going on all around there.

Ms. Sass said not really.

Mr. Harrison said you have a huge shopping plaza and strip and a shopping center with a CVS right across the street.

Ms. Sass said given the method of banking and shopping today, when people go shopping over there chances are they are going to pull out their credit or debit card and not say they need to go to the ATM and get cash to do their shopping at Heinen's etc.

Mr. Lamanna said when they are at Heinen's they may decide to take care of their banking business while they are over there but it is not an impulse driving down the highway.

Mr. Harrison said they are allowed a ground sign but they have no visibility with this ground sign at this intersection.

Mr. Murphy said they have to make their decision before they get to that corner and that is the problem of buying the second lot. He added that he loves the fact that the bank is being moved back etc. but finds it hard to give a reason for a third sign.

Mr. Lamanna said there is already a variance to double it.

Mr. Murphy said he was not here when Fifth Third came in.

Ms. Sass said the board really needs to look at it to see the rationale behind it.

Mr. Lamanna said the one difference there is that they are on a corner lot so they have another street so their sign faces street, street, street.

Mr. Murphy said he thinks the big tree in the photographs belongs to Key Bank and will still be on the property.

Mr. Harrison said yes.

Mr. Murphy said the ground sign is going to be on the Rt. 306 side of that tree and asked how far it is off of E. Washington.

Mr. Harrison said it is probably 10' from the right-of-way if not 5' maybe.

Mr. Murphy asked the board if they should take a look at Fifth Third Bank.

Mr. Harrison said he would like the board to go back and look at what took place with Fifth Third and that that sole piece be tabled until that review but if the other variances could be granted he would go for that if that could happen.

The board members were in agreement that they would not have a problem with that.

Mr. Lamanna said there are no guarantees that the board will grant the third sign though.

Ms. Sass said the board needs to look at the reasons and the rationale.

Mr. Harrison said it will allow him to go back and look at the Fifth Third signs also.

The board discussed the variances requested.

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

Motion BZA 2009-13 - 8481 East Washington Street – (Key Bank)

Mr. Lamanna made a motion to grant the applicant the following variances for the purpose of installing signage:

1. A variance for a second wall sign so there will be a wall sign on the northwest elevation and the northeast elevation.
2. A variance for the northwest elevation from the maximum height permitted of 15' to 19' for a variance of 4'.
3. A variance for the northeast elevation from the maximum height permitted of 15' to 16' for a variance of 1'.
4. With respect to the third wall sign on the canopy area, the board will continue that part of the application until the next regularly scheduled meeting to be held July 16, 2009.

Based on the following findings of fact:

1. The reason for granting the height variances is that the signs are both located on the building structure and are placed in a manner that is consistent with the bulk and size of the building and are not being placed so as to unduly promote the height of the sign.
2. The board is allowing the second wall sign because the angle of the street and the fact that the main entrance of the building faces to the northwest which is also the primary line of site for traffic moving on E. Washington Street from that direction.

Mr. Murphy seconded the motion.

Vote: Ms. Hannum, aye; Mr. Lamanna, aye; Mr. Murphy, aye; Ms. Sass, aye.

Mr. Lamanna asked to let the record show that the drawings submitted by the applicant for BZA 2009-13 on June 18, 2009 were submitted into the record.

Mr. Lamanna swore in Mr. David Jansen and Mr. Jerry Rowell.

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

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

Mr. David Jansen of RSA Architects and Mr. Jerry Rowell, owner and applicant were present to represent this application.

Mr. Jansen testified that Mr. Rowell has a house on the corner of South Franklin and South Street and as the board can probably tell this is an R-3A District which is usually a three acre minimum and they are far from that and added that the minimum lot is 130,000 sq. ft. and they are at 8,000 sq. ft. so for example the rear yard setback is in front of the house so the Rowells would like to adjust the house by removing the existing screened-in porch and in its place put in a new two-story structure with a sunroom below and a master bath above. He said currently they did have the property surveyed so they wanted to squeeze out another foot to give them a fireplace in that room and they are really counting it down to the one-hundredths of an inch and the other part of the addition is they have a garage that has three garage doors on it but it is misleading. He said the first garage has a door into the house so you can't get a car in and the other two the garage is not quite deep enough for a car and if you go up to the garage, both sides are dinged up from past owners who hit it with their cars because it is very narrow so they want to rip out the three and put in two and add a third bay.

Ms. Sass asked what he means it is not deep enough for a car.

Mr. Jansen said when you pull your car into the garage the trunk is up against the garage door so they want to add a third bay for them which gets them into the second variance.

Mr. Lamanna asked how that will help them.

Mr. Jansen said they will take out the three so it gets them into the other setback issue and of course there is a lot coverage issue.

Mr. Lamanna said with the two-story addition there is only a slight increase over the existing lot coverage because it will sit mainly on the same footprint.

Mr. Jansen said yes to the side we adding a little bump-out. He said 10% lot coverage is allowed and so for obvious reasons there are some practical hardships because of where they are located.

Mr. Joyce said the setback for this subdivision is 25' and with the addition it will be 23' away so they are only asking for an 8% variance from the rear lot line for this specific subdivision. He said it did not list the lot coverage so we had to go with the 10% and added that he did not catch the chimney.

Mr. Jansen said South Street delineates where Cuyahoga County is.

The board discussed the original setbacks for this area and the Church Walker development and the original zoning requirements for that area.

Mr. Murphy referred to the depth of the garage and asked if there is a use in the back side of this building that is not garage that faces that way.

Mr. Jansen said no it is all part of the garage and right now they have a furnace in there they are going to relocate that heats the space above the garage but that has nothing to do with the car because it is only one small furnace and the duct is above.

Mr. Murphy asked if they are going to change the whole look to the front.

Mr. Jansen said it will be two doors with a roof over-hang which will be very nice.

Mr. Murphy asked if the neighbors are here to say they are too close and you are taking down the little Florida room and that is going to be two stories and you are losing a window and a dormer.

Mr. Jansen said the dormer can stay.

Mr. Murphy said and this becomes the master suite upstairs.

Mr. Jansen said it is going to be a bathroom with a sunroom below so it will be enclosed and added that there is a privacy fence along the back and explained the location of the neighbor's driveway and garage.

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

#### Motion BZA 2009-14 - 205 S. Franklin Street

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of modifying an existing structure as shown on the submitted plans and an addition of a new one-car garage of 352 sq. ft. and a new two-story addition replacing an existing sunroom.

1. A variance to the side yard setback on the south side to 7.08' as compared to the existing 8.92' setback.
2. A variance of 23.67' to the rear yard setback from the required 90' or what was formerly required of 25' in the district.
3. A variance from the maximum permitted lot coverage from 10% to 28% for a variance of 18%.

Based on the following findings of fact:

1. A practical difficulty exists because this is a pre-existing lot of record.
2. The setbacks are consistent with those in the neighborhood and represent minimal variances from those formerly permitted in this district.
3. The lot coverage is reasonable considering the style and size of the house with the existing houses in the area and will not unduly impact the neighboring properties or be inconsistent with the development in this area.

Ms. Sass seconded the motion.

Vote: Ms. Hannum, aye; Mr. Lamanna, aye; Mr. Murphy, aye; Ms. Sass, aye.

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

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

The zoning inspector's letter dated June 18, 2009 was read.

Mr. Michael P. Goldman, Vice President of Waterway Gas & Wash was present to represent this application.

Mr. Goldman testified that hopefully some of you have been by and tried our services and had a good experience. He said they have the one ground-mounted monument identification sign and they knew from the beginning that it was in the wrong spot, but unfortunately there wasn't a right spot, the right spot is where the center identification sign is on the corner but obviously they can't be there so for a couple reasons they thought it made sense to come in and ask about a second ID sign on the Aurora Road frontage. He said they are showing it as a little under 50 sq. ft. sign and it is 50' off of Aurora Road and it is the exact sign that they have at the other side of Giles Road. He said they have a few reasons and first is people heading south, they don't see them until they are past the carwash and he feels it is a real safety concern that people see the carwash and they pull a quick left into Giles Road and it is not a real safe turn and the second reason is economically, they think they are doing great but they certainly want everyone to see where they are and he thinks the second sign will help. He said the sign is the exact replica of what they have done before and it is 50' off of Aurora and it makes sense with the spot they put it and there are other users who do have monument signs who are developers who do have their signs up on Aurora so they wouldn't be setting any precedent or anything.

Mr. Murphy asked Mr. Goldman to show the board, per the GIS, the existing and the new proposed area.

Mr. Goldman showed the board the existing sign and the proposed location per the site plan and added that it is for people heading south on Aurora Road.

Mr. Murphy said it will be perpendicular to Rt. 43.

Mr. Lamanna asked if they could go with a smaller sign there or move the other one.

Mr. Murphy said if you are coming into this you have Waterway signs on the front of the building and they obviously can see the gas canopies so if you have turned into Giles already, that sign does not do a whole lot, maybe on the way out it will catch your attention. He asked if there are any development possibilities for that section between the parking lot and the neighbors to the upper right.

Mr. Goldman said it is actually Home Depot property and there is another lot behind it which we have been told it may or may not be developed. He said he does not hear too much from the developer at this point. He said they have also found that a lot of people do enter the site through the road by the Flower Factory and that is what that sign is capturing.

Mr. Lamanna asked about a smaller sign there and move that one to the front.

Ms. Sass said she likes that idea.

Mr. Lamanna said they don't really need that big of a sign there because you are only talking about people who are coming through the shopping center.

Mr. Goldman said the issue is they have a contractual obligation with BP to have their sign be a specific percentage of our sign and when we get smaller there is not enough room and this would be really pinched but if they could get it down to 40 sq. ft. but any smaller you would lose the readability of the numbers because the numbers right now are 19" and when you get down to much below that it gets tough.

Mr. Lamanna referred to a sign readability chart and said the readable distance for maximum impact is 180' and you can actually read them at 750'.

Ms. Sass asked what if it is smaller than that at 15" then the distance goes to 150' and 630'.

Mr. Lamanna said that is a long way and this is an internal street with a parking lot so if you cut it down by 9" it is readable at 400' and it has high impact at 90'.

Mr. Goldman said so the suggestion would be to go with the full size sign he is talking about on Aurora Road and take it down by one-third on Giles.

Mr. Lamanna said yes.

The board discussed the fact the same base could be used with a smaller sign.

Mr. Goldman said the cap and crown could be expensive and he can't tell the board they couldn't do it but it will be a big deal.

Ms. Sass asked what the length on the roadway is of the property along Aurora Road.

Mr. Murphy said 173.08' and asked if there is signage on the entry side of the building.

Mr. Goldman said no it is on the other side of the building and there is directional signage.

The board discussed the existing signage on the property.

Mr. Goldman said it is wooded on the Solon side.

Ms. Hannum asked if there is a double lane on Aurora Road completely in front of the carwash.

Mr. Goldman said it is a double lane with a left in.

Ms. Hannum said going west bound it goes into a single lane and asked if that is past this property.

Mr. Goldman said it is, right when you get over the county line.

Ms. Hannum said she was just concerned if they widen the road at that point and you have already put a sign in.

Mr. Goldman said that is why they pulled it 50' off and they figured that it would at least seem likely or a chance that sometime in the future that the road could get widened more, who knows.

Mr. Murphy asked Mr. Goldman if his name is on the sign for the development.

Mr. Goldman replied no, they wouldn't give us that.

Mr. Murphy said so the big sign in the corner has Target, Home Depot etc.

Mr. Goldman replied yes.

Mr. Murphy asked if it will be 50' off the edge of the pavement.

Mr. Goldman said he believes it will be 50' from the property line actually.



The board discussed the setbacks for the sign.

Mr. Murphy said everyone else in the development may have a problem with it because of the two ground signs but the hardship is the main traffic in one direction doesn't see it until it is too late.

Mr. Goldman said yes and it is also our property and Steak n Shake does have one on their property.

Mr. Lamanna said you can't put the ground sign on somebody else's property.

Mr. Goldman said they are going to end up purchasing this in a year or too, they have an option to do that with the owner.

Mr. Lamanna said that is why it is divided up the way it is.

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

Motion BZA 2009-15 - 7010 N. Aurora Road (Waterway Gas & Wash)

Mr. Lamanna made a motion to grant the applicant a variance for installing a second ground sign on Aurora Road as shown on the drawing submitted by the applicant. It will be less than 50 sq. ft. as submitted in the application.

Based on the following findings of fact:

1. The applicant is located on the intersection of two roads and the initial sign is on an internal road and they need the second ground sign to gain visibility on the main traveled thoroughfare.

Ms. Sass seconded the motion.

Vote: Ms. Hannum, aye; Mr. Lamanna, aye; Mr. Murphy, aye; Ms. Sass, aye.

Since there was no further testimony, the public hearing was closed at 9:56 P.M.

Respectfully submitted,

Joyce Hannum  
Michael Lamanna  
Mark Murphy  
Lorrie Sass

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

Date: July 16, 2009

AUDIO RECORDING ON FILE

BZA PH 6/18/2009

-34-

Bainbridge Township, Ohio  
Board of Zoning Appeals  
June 18, 2009

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:56 P.M. by Mr. Michael Lamanna, Chairman. Members present were Ms. Joyce Hannum, Alternate, Mr. Mark Murphy and Ms. Lorrie Sass. Mr. Todd Lewis and Mr. Mark Olivier were absent.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the May 21, 2009 meeting as written.

Ms. Sass seconded the motion.

Vote: Ms. Hannum, aye; Mr. Lamanna, aye; Mr. Murphy, aye; Ms. Sass, aye.

BZA 2008-19 - 16780 Chillicothe Road – Dunkin’ Donuts

Mr. Michael Joyce, Zoning Inspector met with the board regarding Dunkin’ Donuts and explained that ODOT (Ohio Department of Transportation) wants the driveway narrowed and moved down to the lot line which is more consistent with what the board wanted to do but they would have to move a telephone pole and a fire hydrant in order to move that down and ODOT said to move them because they want the driveway further down all the way to the property line and they will not approve the driveway where it is so Dunkin’ Donuts asked if the board could modify the findings. He said he talked with Mr. Lamanna about this and they feel it can be done administratively here since the State is overriding what was said and because it is more in line with what the board wanted. He said they only allow one driveway in and one driveway out whereas the board had requested one in and two out and they moved it further south all the way to the line to get farther away from the intersection because of the traffic study they have done.

The board discussed the request by ODOT.

Mr. Lamanna made a motion with respect to the findings on the proposed Dunkin’ Donuts to modify the findings to require the ingress and egress to be styled and located as required by the Ohio Department of Transportation in their letter of May 28, 2009. This does not represent any change of substance to the findings of the board and in fact the revised design is more consistent with the original desires of the board with respect to the ingress and egress on this property.

Vote: Ms. Hannum, aye; Mr. Lamanna, aye; Mr. Murphy, aye; Ms. Sass, aye.

Applications for July 16, 2009

Application 2008-13 by Greg Battaglia for property at 16805 Snyder Road - Modification

The applicant is requesting area variances for the purpose of maintaining a deck, relocating a pond and constructing a gazebo. The property is located in a R-5A District.

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

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

Application 2009-16 by Patrick J. Moran for property at 18082 Kenston Lake Drive

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

Application 2009-17 by Andrew Blowers for property at 17129 Sunset 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 Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for July 16, 2009 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 10:12 P.M.

Respectfully submitted,

Joyce Hannum  
Michael La manna, Chairman  
Mark Murphy  
Lorrie Sass

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

Date: July 16, 2009