

Bainbridge Township, Ohio  
Board of Zoning Appeals  
June 20, 2013

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:02 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Joseph Gutoskey, Mr. Todd Lewis, Mr. Mark Murphy and Mr. Mark Olivier. Ms. Karen Endres, Zoning Inspector was present.

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

Application 2013-15 by Joyce R. and Stephen M. Kainec for property at 8273 Chagrin Road

The applicants are requesting area variance(s) for the purpose of constructing an accessory building (barn). The property is located in a R-3A District.

Mr. and Mrs. Stephen Kainec were present to represent this application.

Mrs. Joyce Kainec testified that they are proposing to replace an existing barn that is in poor repair for a home they just purchased eight months ago with a new smaller but similar style barn at the rear of their property. She said in the same place they would like to use the existing cement pad so that they won't have to get rid of that and pour a new one. She said it is closer to the property line than what zoning requires and she thinks it was built in 1976. She said obviously it is a strange shaped lot which makes it kind of difficult to conform to the sidelines.

Ms. Karen Endres, Zoning Inspector referred to the GIS aerial photo with the 2010 aeriels.

The board reviewed the GIS aerial photo and discussed the adjacent vacant property that will be part of the Canyon Lakes Subdivision.

Mr. Gutoskey said they just put the first road in on the right.

Mr. Lamanna asked if it is platted.

Mr. Gutoskey said no they just cleared it.

Mr. Olivier asked about the side yards.

Ms. Endres said the property is not 100' wide in that area.

The board discussed other potential locations for the shed.

Mr. Murphy asked if there is any kind of platting for the cul-de-sac in Canyon Lakes.

Mr. Lewis said there is going to be a lot against the back edge of this lot.

Mr. Gutoskey said there could be some open space too.

Ms. Endres said it is not platted yet.

The board discussed Canyon Lakes and the proposed lots in that area.

Mr. Murphy asked Mrs. Kainec if she picked a color for the metal roof.

Mrs. Kainec said green because she likes the Canyon Lakes barn.

Mr. Murphy asked if it is all solid woods between the house and the barn.

Mrs. Kainec said it is all wooded back there; there is another 50' to 60' behind them that is all wooded.

Mr. Lamanna said on the side facing the undeveloped property.

Mrs. Kainec said right.

Mr. Olivier said if you go further in you get closer to the house to the east than you will to the Canyon Lakes house.

Mrs. Kainec said if this doesn't work out for them they are just going to leave the one they have and added that open space is important to them behind the house.

Mr. Lamanna said maybe the applicant can add some screening on the west side.

Mr. Murphy asked where the doors are going to be and are they facing the house.

Mrs. Kainec said the double doors will face their house and there will be a side entrance door to the east.

Mr. Olivier asked how far it is off the property line on the west.

Mr. Murphy said 8'.

Mr. Olivier said so there would be room for some Pines.

Mr. Murphy asked if there are any windows in the structure.

Mrs. Kainec replied yes.

Mr. Stephen Kainec testified that he believes the windows are in the back at the top and then a window on the side.

Mrs. Kainec said there will be a stairwell to the loft and one at the top of the stairs and she thinks two on the east side but that is something that could be changed.

Mr. Lewis asked if there is electricity there or if they will be running electricity to it.

Mr. Kainec said there is a line going to the existing barn now so he was planning to try to tap into that.

Mr. Lewis said he noticed that the structure doesn't have any outdoor light fixtures on it. He asked if they are planning to hang outdoor lights on this.

Mr. Kainec said not at the present.

Mrs. Kainec said no they don't have to, she hadn't thought of that.

Mr. Lamanna said given the proximity to the potential lots, where it is located there should not be any security light that is on all night long.

Mrs. Kainec said they will not have any light like that.

Mr. Lamanna said no continuous security type of lighting.

Mr. Lewis said so the board is talking about putting some screening on the left side.

Mrs. Kainec said they definitely want to screen their yard anyway from any development back there.

Mr. Lamanna said he is concerned about the way the street is proposed there and the possible short yards. He asked if there is anyone else present that is interested in this application.

Mr. Gutoskey asked if there is a question on the lot coverage.

Mr. Lamanna said it is 14.4%.

Ms. Endres said it was hard to get an accurate number on the lot coverage.

Mr. Lamanna asked about the accessory building size limitation and if it only applies if they are making use of the variance by rule.

Ms. Endres said the provision is in Chapter 165 and that is “On lawful pre-existing nonconforming lots of record, the maximum size for the accessory building shall be 300 square feet.”

The board discussed square footage and height for accessory buildings.

Mr. Lamanna asked if there is a reason the size of this building is what it is, was this size just chosen.

Mrs. Kainec said they just chose that size.

Mr. Kainec said it is based upon what they have now and since the house is on a slab and they don't have a basement they decided on that size.

Mr. Lamanna asked if it would be possible to reduce the building down to 300 sq. ft. and 15' high.

Mrs. Kainec said it is a little over that.

Mr. Lamanna said how about a footprint of 300 sq. ft. and 16' high.

Mrs. Kainec said they could do that.

Mr. Kainec said when they picked it out it was comparable to what they have got.

Mr. Lamanna said the restriction is in the zoning code already and the board is going to be granting a pretty significant variance for this location so we would like to keep the number of the variances to a minimum.

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

Motion BZA 2013-15 - 8273 Chagrin Road

Mr. Lamanna made a motion to grant the applicant the following variances for the purposes of constructing an accessory building in the shape and construction as the applicant has presented provided that the square footage of the building will be 300 sq. ft. and the height will be a maximum of 16' high.

1. A variance of 1' from the maximum height of 15' to 16'.
2. A variance from the minimum side yard setback of 50' to 8' on the west side for a variance of 42'.
3. A variance from the minimum side yard setback of 50' to 15' on the east side for a variance of 35'.
4. A variance from the maximum lot coverage of 10% to 14.4% for a variance of 4.4%.

With the following conditions and without these conditions there would not be sufficient evidence to satisfy the criteria for granting these variances:

1. The applicant will not have any security lighting on the building that is left on for that purpose for a significant period of nighttime hours.
2. On the west side of the building the applicant will provide landscaping to screen the building from potential development on the adjacent lot in order to avoid adversely impacting that lot.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant only has a 1.5 acre lot that is shaped like a triangle.
2. The sidelines narrow very rapidly behind the house.
3. The other possible location of this would be such that it would adversely impact the adjacent dwelling unit which is a farther distance from the street.
4. This existing location would have the least impact on the neighborhood and also it is replacing a much larger structure and even the existing foundation of that structure so it would actually minimize the impact on the neighborhood.

Mr. Lewis seconded the motion.

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

Application 2013-16 by Thomas E. Quinn for property at 17155 Penny Lane

The applicant is requesting area variance(s) for the purpose of extending a deck and incorporating an exercise pool and hot tub. The property is located in a R-5A District.

Mr. Thomas Quinn, applicant and Mr. Rob Kronk, builder were present to represent this application.

Mr. Quinn testified that they have a deck that comes off the back of the house and would like to have an exercise pool and you would probably recognize the continuous pool with the current etc. and it is a 14' x 8' pool and then they would have a few feet from that a standard hot tub. He said the exercise pool would be sunk into the deck and on a 6" concrete slab. He said the pool is called a Swim Spa.

Mr. Lamanna asked about the size of the pool.

Mr. Quinn said it is 94" x 14' and 47" tall from the base up to the deck level and with the hot tub there would be a roof over that.

Mr. Lamanna asked if it would be like a gazebo type.

Mr. Rob Kronk testified that it will be a pavilion roof and added that the current home had a variance for it and the existing deck and screen porch were added on without a permit and are existing. He said the homeowner just moved in about eight months ago and sought a variance for their storage shed and when they looked at where they can place this swim spa, it is actually about 12' from the corner of the existing house so it will be about 45' to the side lot and it is well screened with Hemlocks right now.

Ms. Endres, Zoning Inspector testified that after she drafted the letter she got more information and it would be about a 5' variance.

Mr. Kronk said it is closer to the 50' requirement and added that the house hasn't been built yet on the adjacent lot.

Mr. Quinn said the folks who own that live on the street further down and they actually came by yesterday to take a look at it.

Ms. Roseanne Oriella testified that she is present.

Mr. Lamanna asked if a deck was added onto the house.

Ms. Endres said the original deck was built with no permit and it wasn't part of the original site plan.

Mr. Lamanna said the issue would have been the side yard setback on that one side. He said it sticks out slightly more by a couple of feet than the house does.

Mr. Kronk asked if that is the existing deck.

Mr. Lamanna replied yes.

Mr. Kronk said it is flush with the side of the garage and it goes to the rear a little bit.

Mr. Lamanna said the side of the house is not parallel to the property line but this will be farther away than the house is away.

Mr. Kronk said yes and the existing storage shed.

Ms. Endres showed the GIS aerial photograph of the property.

Mr. Lamanna asked how tall the pavilion will be.

Mr. Kronk said the pavilion will be about 11' to the top of the ridge from the existing deck.

Mr. Lamanna asked how tall the existing shed is.

Mr. Quinn said it is just over 11' or 12' from the ground.

Mr. Lamanna said it will be about the same height as the shed, give or take.

Mr. Quinn said it will be a little bit higher.

Mr. Kronk said the height at the point where the hot tub will sit under the roof is about 6.5'.

Mr. Lamanna said that will be about 5' higher.

Mr. Quinn said it is all because of the slope.

Mr. Kronk said they looked at trying to shift it even further away from the side line but there is an 18' ravine there, it is impossible to build.

Mr. Lamanna asked about the peak of the house.

Mr. Quinn said his recollection is that when he stood on the driveway and measured up to the top of the garage, it is 17'.

Mr. Lamanna said the house is sitting way above this.

Mr. Kronk said from the road you will not see anything.

Mr. Lamanna said the house is going to be up here and this will be down below.

Mr. Kronk said they just wanted to be able to look through their breakfast nook and have that same height.

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

Ms. Oriella said she owns the vacant lot on the right and she is fine with it.

Mr. Kronk said they want to take advantage of that view.

Mr. Lamanna said the only issue is the side yard. He said a variance is required for maintaining the existing deck and for constructing an addition to it.

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

#### Motion BZA 2013-16 – 17155 Penny Lane

Mr. Lamanna made a motion to grant the applicant a variance to the side yard for the purpose of maintaining an existing deck and constructing an extension to that deck. The amount of variance would be 14' for the portion of the existing deck and 10' for the extension part as shown on the application.

Based on the following findings of fact:

1. There is a practical difficulty due to the lot width and the topography of the lot going behind the house.
2. This deck is actually located entirely behind the marginal limits of the house therefore it will not independently stick out from the house or be higher than the house or viewable from the street beyond the house.
3. Because of the location of it next to the house there will be a small amount of additional distance that is closer to the lot so it will not adversely affect the neighboring property or be inconsistent with the un-development in the neighborhood.

Mr. Lewis seconded the motion.

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



Application 2013-17 by A & E Real Estate for property at 17800 Chillicothe Road

The applicant is requesting a modification to a conditional use permit with variance(s) for the purpose of allowing an outdoor dog play area for Camp Bow Wow. The property is located in a CB District.

Ms. Amy Ryan of Camp Bow Wow and Mr. Larry Shibley, property owner were present to represent this application.

Ms. Amy Ryan testified that she is the owner of Camp Bow Wow in Highland Heights and will be the owner of Camp Bow Wow in Bainbridge. She said they are back here because the outdoor play yard was not on the original drawings because it was their impression that gravel didn't count towards lot coverage and subsequently has stamped plans from Bainbridge Township that includes the outdoor play yard.

Mr. Lamanna said the other thing is on conditional uses when you present a plan for a conditional use it has to include the complete description of what is going to happen on the property so it is not a question of lot coverage, it is a question of having a complete description of the use presented to the board. He said that would have been flagged whether it was an issue with lot coverage or not because it is a modification of the way the property is going to be used. He said for a conditional use, what is on the application is what is approved and if you want to change that, you have to come back, that is the whole reason of existence of conditional uses.

Ms. Ryan said it was extremely upsetting to her and added that Camp Bow Wow is a franchise and they have 150 across the country and every single one has an indoor and outdoor play yard. She said she would never be able to open on this property if she were not allowed to have an outdoor play yard and it was her understanding all along, due to the original process that it was understood that there are indoor and outdoor play yards. She said obviously it wasn't understood and she does apologize for that, she doesn't know what happened.

Ms. Karen Endres, Zoning Inspector showed slides of the Highland Heights facility.

Ms. Ryan referred to the slides and said what she wants the board to understand is the type of outdoor play yard she is talking about, the slides will show the Highland Heights facility and the type of outdoor play yard she has. She said the next slide shows what the outdoor play yard looks like and the side that you can't see through goes to the street so there is absolutely no visibility whatsoever for people to see the dogs or for the dogs to see outside the play yard and they use pea gravel. She said people did have a concern about noise and barking and all of that but most of the time the dogs are inside and they follow the camp counselors, where ever we are is where they want to be. She said most of the time on hot days, they are all in the indoor play area and at night time they actually go to sleep and they all want to be where the people are.

Ms. Ryan continued by saying the hours are 6:30 AM to 7:00 PM Monday through Friday and there are no dogs outside after 7:00 PM and they are there from 7:00 AM to 7:00 PM on a Saturday and the only time a dog would ever be outside in the outside play yard is during the hours they are open and on Sundays they are on a split shift so on Sundays between 11:00 AM to 4:00 PM they will all be inside. She said she never would have even agreed to build on the property if she had known she couldn't have an outdoor play area.

Ms. Endres showed the board the site plan.

Ms. Ryan stated that on Bainbridge Road you can see all of the dirt piling up there, they are going to mound it so there is a good chance you are not going to see much of the outdoor play yard from Bainbridge Road. She said they have to move all of the dirt and put it there so you will not be able to see much of the play yard from Bainbridge Road as you pass. She explained the location of the play yard.

Mr. Larry Shibley testified that it will be mounded from the east side as well.

Ms. Ryan explained that there is a huge drop there (she referred to the site plan) and they will mound the extra dirt from the construction.

Mr. Olivier asked if that is a parking area behind the play yard.

Ms. Ryan explained per the site plan which way the building faces regarding Bainbridge and Chillicothe Road and the police station and where the parking will be located.

The board discussed the location of the Burns-Lindow building and telephone company building.

Mr. Gutoskey said there is the Burns-Lindow and another residence to the east, there is a house just to the south of the Burns-Lindow building. He said the biggest concern he has with dogs is because his old office was on Munn Road where there is a doggy daycare and they had outside play areas and there was a lot of noise from the dogs there. He said his new office is about ¼ mile from there and he can still hear them.

Ms. Ryan asked if that is All About Dogs.

Mr. Gutoskey said yes.

Ms. Ryan said they have absolutely no barriers around their outdoor play yard. She said the mounding will buffer some of the sound.

Mr. Gutoskey said he doesn't know with the residential and there is Pilgrim Village and Kenston Lake nearby what kind of noise they will hear.

Mr. Lamanna said that is on the other side of the building.

Ms. Ryan said she has the one at Alpha Park and that is an industrial complex.

Mr. Gutoskey said so is the one out on Munn Road and that is in an industrial building.

Ms. Ryan said once she goes one drive down, they don't hear it.

Mr. Lamanna asked how it is going to be fenced, will it be solid vinyl.

Ms. Ryan said it is PVC fence that is pretty heavy duty. She said she doesn't want to use it as an example but it is close to what is used over here at the fire department, that little fence on the outside, she doesn't want to use that as an example because you can see under there so it would obviously be more industrial than what you have there. She referred to the Power Point slides and said what you see here is what it is in terms of look on the outside but after all of the mounding is put there, you will not see it, it is only a 7' fence, you will not see much from Bainbridge Road at all, you might just see the top portion of it. She referred to the site plan and said this guy is the only one who will see it and there is nobody in-between there.

Mr. Shibley said that is the parking lot for Windstream and there are two to three people that work there on and off.

The board discussed the site plan, viewed the GIS aerial photo and the parcels surrounding the facility.

Mr. Olivier asked where the nearest occupied house is.

Mr. Murphy said there is a house right on Rt. 306 next to the Burns-Lindow building.

Mr. Lamanna said the Windstream building is between the house and the doggy daycare.

Mr. Murphy said as he remembers the board talked about the possibility of kind of dressing up the facility and doing some landscaping other than just being told there are some mounds there.

Mr. Shibley said he doesn't know if that part of it is finalized but there is a plan, or finalized according to the drawing of what was approved. He said he thinks there is a drawing that shows landscaping.

Mr. Murphy asked if the board has that and is it from the original approval.

Mr. Shibley said he believes so.

Ms. Ryan said she thinks what she wanted was another plan that showed where they were going to put trees and bushes. She said she knows her architect did submit that and she thinks there are color-coded copies showing where they will be.

Mr. Shibley said on their second presentation the board asked to see the landscaping and we presented that.

Mr. Lamanna asked how many dogs will be outside at one time.

Ms. Ryan said honestly not that many, if we go out of course they are all going to follow us and then go back inside, but they might have maybe seven, they go out to pee and they want to be where we are and we are inside all of the time.

Mr. Shibley said and they do relieve themselves inside too.

Ms. Ryan said yes, it is both but most of the day they are inside.

Mr. Lewis asked should we be having a conversation about barking dogs, we talked about the residences further down in Kenston Lake but very, very close you do have a restaurant and bar and they have that open patio there and they are open for lunch etc. and very much during your hours of operation and they have an outdoor patio.

Ms. Ryan said the owner has a dog and she can't wait for us to open.

Mr. Lewis said he just wanted to have a discussion about it.

Mr. Lamanna said that would be the landlord's problem.

Mr. Shibley said his tenants are unanimously waiting for this, they are all excited about it.

Ms. Ryan said the owner of that bar has the same kind of dog she (Ms. Ryan) has and she can't wait for us to open.

Mr. Lamanna said that patio is all the way around the other side of the building.

Mr. Lewis said he just wanted to get it discussed.

Mr. Lamanna said there are no dogs out between 7:00 PM and 7:00 AM.

Ms. Ryan said that is the prime time for the bar.

Mr. Shibley said the way the building is constructed you are not going to hear anything.

Mr. Lamanna said that is also the worst time if the dogs are out at night, during the daytime there is a lot of ambient noise.

Ms. Ryan said on Sundays the dogs will be inside from 11:00 AM to 4:00 PM.

Mr. Lamanna said all of the dogs will not be out there all of the time, you will have to limit the number of dogs that will be out there at one time so there will not be a howling contest.

Mr. Olivier asked about the total number of dogs.

Ms. Ryan said there will be about 100 dogs, that is really not a lot of dogs and usually more are quieter. She said she has been in Highland Heights for three years and typically there are 50 a day.

Mr. Shibley said these dogs are interviewed, they are not just any dogs.

Ms. Ryan showed a photo of a dog being interviewed. She said a dog will be dismissed for excessive barking.

Ms. Kathy Burns of 17770 Chillicothe Road testified that she has the residence that is in the direct line and we don't have air conditioning and our windows are open all of the time and the thought of having barking dogs back there 365 days a year, 12 hours a day is just a little upsetting because these are not dogs that are moving into the neighborhood that are going to settle down and get used to the noise at Bainbridge Center. She said these are strangers who bring dogs all of the time who are barking when they get together and this is siren central here where the fire department, ambulances and the police daily is sirens. She said she had a dog 19 years and he never got used to these sirens, he would howl and bark and they had him indoors so she cannot imagine stranger's dogs being subjected to these sirens and when they blow those horns it is incredibly loud. She said then we had that tornado warning last week, she couldn't find her cat for an hour because he was terrified of that noise and that was extremely loud and much louder than on Taylor May. She said they are the most directly affected because it is in line with their back bedroom windows because there is no building in-between, the telephone building sits farther up and that play area, she can see from her window. She said this is the first new vendor that they are just dreading coming in, she loves dogs, she has had dogs but she never subjected neighbors to barking dogs 12 hours a day, 365 days a year and it just seems really unfortunate that they couldn't put this over by Walmart or put it in the Kmart building which is sitting empty. She said the shopping center is quiet which is behind us, it is quiet except for the dumpsters or the people shouting or having fist fights but for 365 days a year, her only relief from the noise in Bainbridge is the holiday mornings when people sleep in, Bainbridge is actually quiet. She said they will have no relief from the barking unless they are putting up a high sound-proof wall, no tree is going to be blocking the dogs barking.

Ms. Burns continued by saying to her it is very unfortunate and that has been her family's home for 63 years and probably even longer than that because her uncle owned it before her family did and she has personally lived there for 60 years and this is the first time she has been so upset by the neighbors coming in because she works at home and she works a swing shift so she is home during the day and then on her days off, dogs will be barking and asked if she will have to live with headphones on her ears for the rest of her life. She said she wants to be able to sit in her backyard when she retires and with barking dogs, her life is done. Thank you.

Ms. Ryan said you (Ms. Burns) were at the meeting before.

Ms. Burns said and it was said you would not be having dogs outside.

Ms. Ryan said it was on the recorder, we had a conversation you and I.

Ms. Burns said she has the minutes here that said there would be no outside play area.

Ms. Ryan said that was what was said but she corrected it with you (Ms. Burns) but her correction was essentially inaudible on the recording.

Mr. Robert Duncan of the Bainbridge Community Church testified that they don't think they have an objection per say but they are a little worried about the barking. He said it seems far away and there is an intervening street in the way, and it is already loud but that would be their concern, they got the letter, they are a neighbor, but we don't object to the dogs per say so, we were just a little worried by what the noise would be.

Mr. Lamanna asked if it would be possible to relocate this area to the side of the building facing Bainbridge Road.

Ms. Ryan said that would be a very significant expense.

Mr. Lamanna said it could be looped around and there would be no line of site from that house.

Ms. Ryan said there is room to do it and added that she is upset about this as well but it would be pretty expensive.

Mr. Lamanna asked Ms. Burns what would be her opinion of that if the outdoor area was moved to the side of the building facing Bainbridge Road.

Ms. Burns said she doesn't see it making any difference if the dogs are barking.

Mr. Lamanna said it would be bouncing around coming toward you it would be bouncing off another way.

Ms. Burns said she imagines they will be doing some pretty good howling once they hear the sirens because this is siren central here and she can just remember what her dog did the whole time and those sirens were nothing like they are now.

Mr. Olivier said he would imagine the sirens would drown out the dogs, his dog howls when there is a siren but certainly when the siren stops, he stops.

Ms. Ryan said they have an air-horn and that silences the dogs immediately.

Ms. Burns said so now we will hear an air-horn.

Ms. Ryan said the majority of the time they are inside, they are where we are. She said on a nice hot day they will put a tub full of water out there and they will get three or four out there playing in that and on a rainy day they are all inside.

Mr. Shibley said you have to look at the way it will be constructed with the insulation panels and block and the brick, he doesn't think anything will be heard through the building.

Mr. Lamanna said the board isn't worried about the building.

Mr. Olivier asked if there will be sound-proofing of heavy trees and the higher fence.

Ms. Ryan said they could easily do a higher fence.

Mr. Lamanna said he doesn't know if making the fence 10' high would matter.

Ms. Ryan said then you will see the big fence from Bainbridge Road.

Mr. Lamanna said they would be better off if there is any kind of acoustical materials that would work and the problem is you are outside and the dogs would climb up on it and the problem you always have is that a hole that big lets in more sound than a wall that big.

Mr. Shibley referred to the slide and said the penetrations through the fence are only interior, there is none on the exterior.

Mr. Lamanna said when you are trying to use acoustical material some of the sounds go over the top.

Mr. Shibley said on the easterly portion where it is much higher naturally and then to the south where it is going to be mounded has the additional landscaping and he thinks it is going to make a difference.

Mr. Lamanna said right now it is going to go along the whole back side of the building, all 65', a 20' x 65' area. He asked if that can be smaller than that or if they have to have that whole 65' area.

Ms. Ryan said actually she has gotten a waiver from corporate for that size, it should be much larger than what that is and in relation to the size of the building it is a very small play yard by standards.

Mr. Lamanna said he was wondering if it would be better to change the shape of it and move it this way and make it more square and move it away from that corner if that would help.

Ms. Ryan referred to the site plan and said the problem here is this slopes down so they are already cutting into this, it is really 20' back and then if we move it.

Mr. Lamanna asked if they cannot go any farther.

Ms. Ryan said then they run into the problem that they need a 20' setback so there would be a problem there.

Mr. Lamanna said right.

Ms. Ryan said they would be right up against the line which is what corporate gave her on this design.

Mr. Gutoskey said and the building looks like it is 35' and the play area is 20' x 65'.

Mr. Lamanna said it is already 5' into the side yard.

Ms. Ryan said all of the drainage is already put in so the swale and everything would need to go through here and back to here (she referred to the site plan), it is already established.

Mr. Shibley said another thing that is going to make a difference in the sound is this is all two stories up here and the other building is right there.

Mr. Lamanna said it will funnel the sound.

Ms. Ryan said it depends on which way the wind is going.

Ms. Endres asked how she identifies the dogs that are barkers.

Ms. Ryan said Beagles are excessive barkers, she will dismiss them. She said her highest dismissal rate is the Beagle.



Mr. Murphy asked how many dogs she will have in a day.

Ms. Ryan said it varies, the low is thirty, she will probably start out with five, but on a busy day when they are all sold out for overnight, it could be 50 – 70 and when she runs a ½ price day it is when she is at capacity and she does that once a month.

Mr. Murphy said so there are 50 – 60 dogs relieving themselves typically out here in the gravel.

Ms. Ryan said not necessarily no.

Mr. Murphy said and it just runs off into drainage ditches.

Ms. Ryan said no it varies between inside and outside, and they have specified chemicals they have to use and they sanitize the play area twice a day which neutralizes all of the urine and the feces in the outdoor play yard is immediately picked up which is why she has the pea gravel because you can pick that up real quick. She said all of the urine even on the inside will be kept clean and the chemicals neutralize and are specifically made to neutralize dog urine. She said they neutralize the play yard twice a day unless it is raining and then they do it once a day.

Mr. Gutoskey asked if it is used during the winter.

Ms. Ryan said yes, the Huskies, Siberian Huskies are out there, for the most part they stay inside but those are cold weather dogs so they go out and explore. She said in August when it is 100 degrees out they shut it off and don't let them out and in the wintertime when it is below zero we shut it off and don't let them out.

Mr. Lamanna asked if this area has captured drainage or not.

Ms. Ryan said at her other place, she is in an industrial area, it is pea gravel on top of asphalt and it drains right out to the asphalt and we neutralize that with the chemicals.

Mr. Lamanna said so it is actually draining into a storm water collection system.

Ms. Ryan said right and they have already installed a hole in the drainage system which it makes it come this way, but added that she is not an engineer.

Mr. Lamanna said so the whole site doesn't have a detention pond.

Ms. Ryan said there is going to be a wall back here to hold dirt which is about 3' high or 31" high.

Mr. Shibley said it is a retaining wall.

Ms. Ryan said yes.

Mr. Lamanna said it is going to have to be managed in a way that there is not a run-off problem and he is not sure what that is, that will just be a requirement that that area has to be managed and treated on a regular basis and feces collected and the like.

Ms. Ryan said absolutely.

Mr. Lamanna said if at some point in time somebody finds there is a run-off problem and it is tested and they find elevated levels of animal fecal coliform there then you are going to have to do something about it. He said if that means isolating that area and having it drained with a collection treatment system then that is what it will mean.

Ms. Ryan said okay and explained that this is engineered and it would all be rain water but the chemicals do neutralize it.

Mr. Shibley asked how many inches of pea gravel will there be.

Ms. Ryan said they will have at least 6" and actually she will have more.

Mr. Lamanna said at this point we will let the administrative controls work but if the administrative controls don't work and there is a problem in the future one of the conditions will be that you (applicant) either stop using it or you stop the run-off so it is clear that that is a requirement. He said he doesn't know what more to do to physically reduce the sound and we have a potential issue here that could be aggravating to the neighbor. He said one of the things we could do is apply administrative control and if you get dogs barking out there then you bring the dogs in if that happens, it is your responsibility if dogs start barking. He said obviously a dog is going to bark here and there but if you get a dog that starts into a continuous bark those dogs have to be brought back inside then so that is not a situation where it is likely to become an annoyance to the neighbors.

Ms. Ryan said dogs are going to bark.

Mr. Lamanna said if it starts to happen then it is the obligation of you and the people will have to move the dogs back inside if the dogs start to bark excessively and usually the problem is a chorus gets going and if we start getting complaints then we will have to revisit this.

Mr. Olivier said and reduce the hours and restrict the number of dogs.

Mr. Lamanna said maybe the board will revisit this in a year.

Mr. Lewis said or fully enclose it.

Mr. Lamanna said the board could revisit the conditional use in a year to see if there is an issue or not and additional steps can be taken.

Ms. Endres said her office is about 500' from it.

Mr. Lamanna said that is true and in this case there is a big advantage because the zoning inspector is in very close proximity and can easily see what is going on on a regular basis.

Mr. Shibley said they have multiple tenants on the property so it is going to be our responsibility.

Mr. Lamanna said you as a landlord don't want the other tenants complaining about barking dogs.

Mr. Shibley said he has 10,000 sq. ft. of office space.

Mr. Murphy asked if that is on the McFarland Creek sewer.

Mr. Shibley said yes they are tied into the sewer.

Mr. Murphy said he doesn't know if animal urine is any different from human urine, the idea of just having 6" of gravel with dog urine daily as opposed to a concrete pad with a collection basin and run it into a sewer.

Mr. Lamanna said it is a question on whether they would take that or not.

Mr. Shibley said it is a pretty limited amount of urine.

Mr. Murphy said he had a single Husky and in less than a year she killed every spot of grass.

Mr. Shibley said he thinks it is going to soak into the ground.

Mr. Lewis said it can be sprayed with a neutralizer.

Mr. Shibley said she sprays it twice a day.

Mr. Lewis said spraying all of that area times 6" or 8" deep of pea gravel and the clay, that is an awful lot of chemicals, it would take 300 gallons a day to cover that. He asked if they are spraying that entire area or are they spot spraying.

Ms. Ryan said the entire square footage including the sides of the play yard too because they all pee on the side by the fire hydrant.

Ms. Burns said they have well water and she is a little concerned about contamination of their well water. She said if they keep quiet, go for it but if they start barking.

Mr. Lewis said he is sure you will be calling.

Mr. Lamanna said one of the things they will do is put a year or 18 month review period on this thing so we can see what happens.

Ms. Burns said okay.

Mr. Lamanna said maybe in two years because this business is going to start off small and might take a while to ramp up so if we come back in two years and look and see and if it is a problem then we can address it.

Ms. Burns said we are not going anywhere.

Mr. Lamanna said that gives you an opportunity to come back and we can see what isn't working, let us see what other steps we can take. He said the board has had issues with other kennels in the township and he thinks in this case there is a better building so the board is going to put it on you (applicant) that right now we will allow you to administratively control this situation by limiting the number of dogs out there at any time, no dogs out there between 7:00 PM and 7:00 AM and if the dogs do start or are irritated by an external thing or start to become excessively barky or they all start going in unison, they will be brought back inside if that occurs and in two years you will have a renewal to come back and the board will look at this to see how it is going and hopefully it all works out and the fact that you are going to have a solid vinyl fence around there that we won't have an issue and everybody will end up being happy neighbors.

Mr. Olivier said within two years it doesn't preclude you from calling the zoning inspector and saying you are hearing barking, so don't wait two years and say it happened on all of these dates and we don't have evidence. He said certainly just inform the zoning inspector, call the township.

Mr. Lamanna said it is still a requirement the applicant could be sited for not meeting the condition if it got out of hand or if it is very occasionally it could be looked at on review but the obligation is going to be there on the applicant to keep this under control and the board will deal with it that way and hopefully we will successfully do that and we won't have any future issues and we won't have to revisit this again.

Ms. Burns said she would like to be a friendly neighbor because if they have an emergency she can walk over and help with something, but don't make me crazy.

Mr. Lamanna said the board understands that is why we are being very careful with this. He asked if there are any other issues that need to be addressed. He said the conditional use must be amended and the lot coverage is being increased by .46%. He asked if there is a setback issue now.

Ms. Endres said they are going to extend into the required side yard so it is going to be a 5' variance from 20' to 15'. She said some of the building and parking with the addition of the play yard the actual lot coverage is 43.46%.

Mr. Lamanna said he is not sure if we can squeeze that out of this.

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

#### Motion BZA 2013-17 – 17800 Chillicothe Road

Mr. Lamanna made a motion to modify the previously granted conditional use for the doggy daycare at 17800 Chillicothe Road and grant further variances as follows:

1. There will be an addition to the structure of an outdoor dog play area of 20' x 65' on the east side of the building. That area will be enclosed by a solid PVC fencing material around its entire perimeter. The fence height will be as shown on the applicant's plan as 7'.
2. The board will grant a 5' variance to the side yard setback requirements for that enclosure along the east side of the property line setback at that point.
3. In addition the board will grant a variance of .46% to the lot coverage to a maximum of 43.46%.

Based on the following findings of fact:

1. With respect to the setback variance and the lot coverage variances, they will be granted because they are minimal changes to the plan for this entire strip center which was extensively reviewed at the time of the original conditional use of the doggy daycare facility.

With the following conditions:

1. The following conditions were specifically applied to this outdoor play area.
  - a. The operator will regularly treat the area for neutralization of liquid animal waste and will collect solid animal waste and will otherwise generally be responsible to assure through administrative or whatever other methods are required to prevent any harmful discharge from this area onto any public thoroughfare or right-of-way of any private adjacent properties.

Motion BZA 2013-17 – 17800 Chillicothe Road - Continued

- b. The applicant will also not allow any dogs in the play area between the hours of 7:00 PM to 7:00 AM in the morning.
  - c. The applicant will also be required to manage the number of dogs in the play area at any time in such a way as to reduce any barking or noise being generated from that area and will also be required to remove dogs back into the building if the situation develops where there is excessive barking or continuous barking or unified barking by the dogs in the play area.
2. In order to evaluate the effectiveness of the condition, the review period for this conditional use will be two years from the date of the board's decision with respect to when this conditional use becomes final.
  3. All other provisions and conditions set forth in the original decision except what specifically changed herein will continue to be in full force and effect.

Mr. Lewis seconded the motion.

Vote: Mr. Gutoskey, nay; Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye.

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

Respectfully submitted,

Joseph Gutoskey  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy  
Mark Olivier

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

Date: July 25, 2013

AUDIO RECORDING ON FILE

BZA PH 6/20/2013

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Bainbridge Township, Ohio  
Board of Zoning Appeals  
June 20, 2013

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

Minutes

Mr. Lamanna made a motion to adopt the minutes of the May 16, 2013 meeting as written.

Mr. Lewis seconded the motion.

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

Meeting Schedule

The board was in agreement to cancel the regularly scheduled meeting of July 18, 2013 and to hold a special meeting on July 25, 2013 due to the absence of board members on July 18, 2013.

Applications for July 25, 2013

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for July 25, 2013 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.

Application 2013-18 by Tracie Piazza for property at 8460 E. Washington Street

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

Application 2013-19 by Truth for Life for property at 7040 Pettibone Road

The applicant is requesting area variance(s) for the purpose of constructing a building for the Truth for Life administrative and office facility. The property is located in a CR District.



Application 2013-20 by James and Ann McClintock for property at 8844 North Spring Valley Park Drive

The applicants are requesting area variance(s) for the purpose of constructing a storage building. The property is located in a R-3A District.

Application 2013-21 by Dr. Carol Osborne for property at 7181 Chagrin Road

The applicant is requesting a conditional use permit for the purpose of establishing a veterinary office. The property is located in a LIR District.

Since there was no further business, the meeting was adjourned at 9:21 P.M.

Respectfully submitted,

Joseph Gutoskey  
Michael Lamanna, Chairman  
Todd Lewis, Vice Chairman  
Mark Murphy  
Mark Olivier

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

Date: July 25, 2013