

Bainbridge Township, Ohio
Board of Zoning Appeals
June 21, 2018

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:07 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and swore in all those who intended to testify. He let the record reflect that everyone had been duly sworn in.

Application 2018-8 by Kyle Witczak for property at 18070 Harvest Drive - Continuance

The applicant is requesting area variance(s) for the purpose of installing a driveway extension, parking pad and deck. The property is located in a R-5A District.

Mr. Kyle Witczak was present to represent this application.

Mr. Witczak testified that he appreciates the board continuing it, he had work obligations last month. He said to update the board, the first variance, he never completed, the berm with the trees and then drainage to the street. He said the berm has since been shaped, the planting will start next week, the trees have been purchased so you won't have to worry about that anymore. He said the drainage, he needs to know what he is doing with this before putting the drainage in. He said as it said on the plan where the back extension is where the trailers are which he has since put some of that stuff in the barn and then in front he would like to make that a little place to turn around the trailers as well and then his wife wants the deck. He said he took photos with a drone, he referred to the photos displayed. He said with the back pad he is willing to work with the board, if you could do 20' x 37' he thinks it would be sufficient and he understands the stress of using more of the lot but he really needs that turn-around in the front and it is a 15.7 sq. ft. radius not 157. He showed pictures of the berm that just got shaped two weeks ago and you pretty much can't see anything from the street, those are the only two trailers back there for the most part other than moving stuff around and stuff like that and that is going to go off the back there. He said you just wanted updated pictures since that last time we spoke. He said there is still plenty of room for a leach field in the future but his underlying issue is this long driveway due to the replacement of the leach field in the backyard, he would not have had to come here if he could have put it 50' behind the house as opposed to 400' from the street.

Mr. Lewis said he wanted to talk about the previous variance first because you are asking for more things.

Mr. Witczak said correct.

Mr. Lewis said he is looking and it has been a little over a year, maybe 13 months since we approved the previous variance so let's talk about the three primary physical elements that needed to be done.

Mr. Wiczak said correct.

Mr. Lewis said screening and you mentioned that you bought or ordered trees.

Mr. Wiczak said yes he can show the board.

Mr. Lewis asked Mr. Wiczak what he bought.

Mr. Wiczak said 25 five foot Norway Spruces.

Mr. Lewis asked when they are going to be delivered.

Mr. Wiczak said next week, he talked to his landscaper today.

Mr. Lewis said the third one was adding gutters and downspouts to the existing structure.

Mr. Wiczak said correct.

Mr. Lewis asked if that is done.

Mr. Wiczak said no he is not going to gutter the building until he can have the drainage drain to the street.

Mr. Lewis asked when that is going to be done because that was a condition of putting that building up.

Mr. Wiczak said right so to put the drainage in he has to dig up the front so to have the guy come back twice, he will lay in drainage and either put gravel there if the board approves this or back to dirt. He said he is trying to save some money and not have the guy come out twice and dig it up and if you approve this then he has to bring a guy back out.

Mr. Lewis said his heartburn is that your current application is 2, 3 or 4 months old and the additional things were not part of the application from a year ago so regardless of what you want to do now you still had 8, 9 or 10 months to complete the work you were supposed to do on the first variance the board gave you and then a few months ago you show up and you want to do some more things to the property but you are just substantially behind and he is struggling for more relief.

Mr. Wiczak said he apologizes for the gutters but he wants to drain them to the street.

Mr. Lewis asked what the drain path is going to be, where are you going to run them.

Mr. Witzak said from the driveway all the way down.

Mr. Gutoskey referred to the picture of the side view of the garage and asked what this is and is it a piece of pipe in the corner.

Mr. Witzak said yes it drains inside the barn and it runs right here. He referred to the photo and said there is a drain here but nothing is connected so we are going to have to dig all of this up to access the pipe. He said he might put a basin in there but some of the drainage is in place, he just hasn't guttered it yet because if he gutters it, where is it going to go as opposed to just going where nature takes it right now.

Mr. Lewis asked wouldn't your drain pipe route go below any paved surface or gravel anyway so that is part of the infrastructure you have to do whether you add a pad or not it is the first step.

Mr. Witzak said right.

Mr. Lewis said he doesn't understand why it hasn't been done.

Mr. Gutoskey said he would agree with Mr. Lewis, regardless of whether or not he put the drive on the side he is going to have to run the pipe below grade anyway to the street.

Mr. Lewis said it is the first step.

Mr. Witzak said right but why not have the guy come out once.

Mr. Lewis asked why he would be out twice.

Mr. Witzak said because for him to do the drainage he has to come back out if the board approves the front turn-around there.

Mr. Lewis said it would be below that, it is at this level, your pad and your stuff is here, one has got nothing to do with the other.

Mr. Witzak said the same guy does both the work so we could bring in gravel at the same time while they are running utilities and the drainage pipe and everything like that, he is just trying to save a little cost here.

Mr. Lewis said you are way behind.

Mr. Lamanna said if we go forward we are going to have a commitment that when the guy comes in to do the pad that he does that work, the two will be done together.

Mr. Witzak said absolutely.

Mr. Lamanna said then we have an assurance that it is going to be done.

Mr. Witzak said he will call the gutter guy tomorrow to come and put the gutters up but it is still not going to run to the street yet until he gets this approved because he is going to lay in all of the pipe and then do the rest of the work at the same time.

Mr. Lewis said let's make an assumption, it gets approved, what is your completion date.

Mr. Witzak asked for drainage to the street.

Mr. Lewis said yes, he doesn't care when the pads are put in, the gutters, the drainage, the stuff that pertains to the first piece, you are going to do all of this at one time.

Mr. Witzak yes.

Mr. Lewis asked if he has funding already in place to do this.

Mr. Witzak replied yes.

Mr. Lewis said because we are going to put a pretty hard clock on this.

Mr. Witzak said okay.

Mr. Lewis said he doesn't want to revisit this in three months and find out no improvements were made and the first variance wasn't completed.

Mr. Gutoskey said the other problem the board has is you haven't finished the first one and you are asking for more.

Mr. Witzak said he would have never come here but because the back pad was not permitted, he just took the asphalt grindings and he threw them so that is why he is here, he didn't want anyone coming after him, he used the asphalt grindings for the guys making the barn, he dug them up and threw them in the area and she came out and said this doesn't belong, you need to make another variance application.

Mr. Murphy said before we sign the minutes next month you will have trees on the berm and pipe in the ground and gutters on that building.

Mr. Witzak said he would hope.

Mr. Murphy said you have 30 days because if the board doesn't sign it a month from now, all of this, last year's and this year's, it doesn't go and he thinks the board might approve this but a month from now, if we don't sign it, last year's doesn't go, you get last year's variance and you don't get this year's variance either because you haven't done what you were supposed to do a year ago and we are going to hope that you are going to do what you are telling us you are going to do. He asked if there are any neighbors here about this property.

Mr. Jim Ptak of 9080 Old Meadow Drive testified that he lives in the development, but he is not his neighbor.

Mr. Murphy asked Mr. Ptak if he had any reason for him to not get this variance.

Mr. Ptak replied no, it is positive.

Mr. Witczak said he appreciates it.

Mr. Lewis asked if he is over on lot coverage more.

Mr. Lamanna said currently the turn-around in the back is 37' and you say you can reduce that to 20'.

Mr. Witczak said yes let's reduce that to 20', as long as those tires are on grindings he is fine with that just so they don't rot. He said it is 15.7 sq. ft. for just the radius there, he looked on line and put some numbers in and that is what he came up with.

Mr. Lamanna said it is $\frac{1}{4}$ difference between the circle and the square.

The board discussed the square footage and lot coverage.

Mr. Murphy said he doesn't mind the additional lot coverage because part of that is the septic field behind the house drives the barn to the back which adds to his lot coverage.

Mr. Gutoskey said we were figuring out the actual if he is going to lop 10' off the back.

Mr. Lamanna said it will be down to 12.65% total lot coverage or 1.85% more.

Mr. Murphy asked if there is some sort of deck built on the house in addition right now or is it no bigger than the patio.

Mr. Witczak said 20' x 20', just a small deck right next to the patio there. He said it is not going to overlap a huge part of that patio. He referred to the aerial and said where the indent is, it will be right in there so it will be covering the walkway a little bit. He said he wished he had trees up for this meeting, it is going to look nice, you guys won't be disappointed.

Mr. Gutoskey said don't disappoint us.

Mr. Witzak said he is trying.

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

Motion BZA 2018-8 - 18070 Harvest Drive

Mr. Lamanna moved to grant the applicant the following variances with respect to lot coverage.

1. A variance for a 20' x 37' drive extension at the end of the existing driveway going back to the accessory structure.
2. A variance for an additional 20' x 65' parking area on the west side of the garage with a turning radius on the one end of approximately 16 sq. ft.
3. A variance for a proposed 20' x 20' maximum size rear deck.
4. This additional lot coverage brings the total lot coverage to 12.65% over the previously granted variance at 10.8% so the variance is increasing by 1.85%.

Based on the following findings of fact:

1. The accessory structure had to be located very deep on the property from the leach fields and created a need for a large driveway which created additional lot coverage.
2. The board also notes that the addition of 2.65% on this lot is a fairly modest variance and given the other development in this area it is consistent with the neighborhood and would not adversely affect the adjacent property owners.
3. The board does note that the applicant has not yet complied with some of the conditions with respect to the prior variance request and therefore this application will not become final until the applicant completes the planting of the trees on the berm and also does the excavation for placing gutters on the building and placing the piping to bring the run-off from the accessory structure's gutters to the front of the property as required in those conditions.
4. The applicant has at the maximum to the board's August meeting and if this goes to August it will not be approved, it will be withdrawn and the applicant will be in violation. The applicant is to work with the Zoning Inspector and the Zoning Inspector will report to the Board of Zoning Appeals when it is in compliance.

Mr. Gutoskey seconded the motion.

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

Application 2018-9 by Jim and Kathy Ptak for property at 9080 Old Meadow Drive -
Continuance

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

Mr. and Mrs. Ptak were present to represent this application.

Mr. Jim Ptak testified that he and his wife Kathy reside at 9080 Old Meadow Drive, Chagrin Falls, Ohio and they are here for the third time to ask for consideration in the granting of variances associated with a 612 sq. ft. structure measuring 18' wide and 34' long and having a side setback of 34' and a rear setback of 78' and in addition to the associated access driveway extension. He said his rationale for such request includes but is not limited to the following. He said the chosen site has been identified as the ideal property location as a homeowner, surrounding neighbors, our barn builder, our concrete contractor and many others. He said the chosen site insures ample room for placement of a replacement septic field if needed at some point in the future. He said the chosen site has been already cleared, trees and the site naturally fits the terrain and otherwise serves to protect visible greenspace that is mutually enjoyed by all. He said the chosen site complies with the zoning restrictions originally set forth prior to the updated zoning restrictions that are currently in effect. He said changing the site location to something other than that which is planned would require changing and removing additional trees resulting in a hardship in trying to protect project funding and the surrounding site lines and for these reasons among others the homeowners respectfully request that the variances requested be granted in full as written and without stipulation or conditions. He said in closing the homeowners would like to thank the board for their consideration regarding this matter, the end. He said the issue at the last meeting was identifying the structure and dimensions regarding the rear setback and side setback, those dimensions have been provided and also there was a request for photos of the site, included maybe 20 some photos and it is kind of hard to tell but there is a red tape which identifies the rectangular portion and it shows the planned location in relationship to the wooded site. He said you can't really see but the site chosen is the higher portion of the land, other areas are somewhat lower so we tried to choose the highest portion to keep it high and dry and the structure itself and foundation and we can see that it is back in the woods some distance, it is not going to be easily visible to anyone including from the street. He said it protects the greenspace that is in the bottom of the photos so the structure is not impeding anyone's site lines or the site in the back in the woods out of the way and as you can tell the trees have been pretty much knocked down prior to this time. He said the photo on the top right is our home and it can be seen from the actual location of the barn and that is approximately the same distance to our adjoining neighbor so it is pretty far away and not easily seen by them.

Mr. Lewis said it is at 78' and 34' which is substantially different from where we began and added that he doesn't have any questions.

Mr. Gutoskey said he doesn't have any questions on this and added there are no lot coverage issues, it is 8% to 9%.

Mr. Lamanna said and he has shown a replacement field location.

Mr. Gutoskey said and as far as it is the same neighborhood, the building size and height is consistent.

Mr. Ptak said he apologizes for not having those dimensions initially but he more or less was teetering on exactly where they wanted to try and place this thing and there was some discussion about where exactly it would be so rather than choose exact dimensions at that point we requested a resolution plus or minus but obviously we couldn't do that so that forced us to go back and revisit it and then apply exactly where we want it.

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

Motion BZA 2018-9 - 9080 Old Meadow Drive

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing an accessory structure as shown in the plans submitted.

1. A variance from the minimum required rear yard setback of 90' to 78' for a variance 12'.
2. A variance from the minimum required side yard setback (west side) of 50' to 34' for a variance of 16'.
3. A variance from the maximum accessory building height of 15' to 26' for a variance of 11'.
4. A variance from the maximum accessory building size from 300 sq. ft. to 612 sq. ft. for a variance of 312 sq. ft.

Based on the following findings of fact:

1. The basis for granting these variances is a practical difficulty.
2. It is a 1.5 acre lot therefore with the original regulations, the proposed setbacks would have been conforming and given the size of this lot these are reasonable and they are also consistent with the character of the neighborhood.
3. With respect to accessory structures the restrictions come into effect because of the fact that this is a nonconforming lot, a 1.5 acre lot in a five acre area but the size of the accessory building, given the fact that this is actually a 1.5 acre lot so it is a fairly substantial lot, it is not unreasonable given the size of the lot nor is it unreasonable given the size of the other accessory structures in this neighborhood and will not adversely affect the neighboring properties.

Motion BZA 2018-9 - 9080 Old Meadow Drive - Continued

4. These are accessory structures and they can only be used for accessory purposes which means a business cannot be conducted out of them unless it is done under a home occupancy permit that allows the use of that area for a business and nor can any space be created for occupiable space for permanent living in the building or used for those sorts of purposes.
5. The board also notes that the location has now been shown for a septic system replacement field and by granting this variance and for some reason it turns out that there is not sufficient room for a replacement field it is the applicant's responsibility and the board is not in any way passing judgment on that or taking any liability if it does not turn out to be correct.

Mr. Gutoskey seconded the motion.

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

Application 2018-18 by Riser Foods Company for GetGo Partners South for property at 17675 Chillicothe Road - Continuance

The applicant is requesting a review and renewal of an existing conditional use permit for the purpose of an existing GetGo fuel station and convenience store. The property is located in a CB District.

Ms. Pam McMillan, District Leader for Giant Eagle/GetGo and Mr. Paul Goebel, District Manager with Giant Eagle in their Real Estate Department were present to represent this application.

Mr. Lamanna asked Ms. Endres if there are any open items here.

Ms. Karen Endres, Zoning Inspector testified that they have taken everything out, the photos were taken as of June 12th and the front of the store originally had some merchandise in the front displayed for sale but it has been removed, this is the south side of the building and it is nice and clean. She said the back side of the building had some propane tanks and when GetGo was originally approved the condition was that the storage of the ice machine and the propane were supposed to be on the north side of the building so GetGo has complied with that requirement, the display is on the north side of the building. She said the only questionable thing would be is the firewood and she is not sure what is in the little white thing there.

Ms. McMillan testified that it is a newspaper bin for them to drop the newspapers off in the morning.

Ms. Endres said those are in the front and she doesn't know if the board is okay with that or not.

Mr. Lamanna said that is where they drop them for you to sell.

Ms. McMillan said the Plain Dealers because we are not open yet.

Mr. Lamanna said it is a drop bin.

Ms. Endres said there used to be more signs placed all around the canopy areas and those have been removed, there are still gas cans and windshield wiper fluid displayed outside for sale although it is under the canopy and there is a little bit of signage on the pumps though that seems to be relevant to the actual business.

Mr. Lewis asked them how long they have been in the territory with the store being in your patch.

Ms. McMillan said since March.

Mr. Paul Goebel testified that he is out of Pittsburgh and he is not familiar with this particular one, he does due diligence initially so he had an idea of where it is.

Mr. Lewis said you are kind of in the transition zone or time period because the conditional use was pretty clear about there would be no outside sales of any types of products and your signage would be limited to what we had approved with the original sign variances. He said last month's meeting was delayed because of violations, it sounds like a harsh word, but nonconformities to what the permit entitled with specific restrictions so he guesses from a good point of view you have cleaned it up, you have a little bit more to do and that needs to be done promptly because that is complying in this particular case because it doesn't appear there have been any significant changes to the property or its use, what we have is stuff has leaked outside of the building so we need to get it back into the building.

Ms. McMillan said okay.

Mr. Lewis said and keep your storage area for what is permitted tidy and on the right side of the building. He asked if they have a copy in their file of what the conditional use is. He said if you work with Ms. Endres and it is their role to oversee it and to make sure that your store stays nice because your employees don't always know, stuff comes in and they are just trying to be hard working as such but they need to understand what the rules are.

Mr. Gutoskey asked Ms. Endres where they are on the signage versus the variance and what was originally approved.

Ms. Endres said she just knows that when she sees tobacco signs and posters put up, those were not part of the original permit. She said all gas stations have labels as to what the pumps are but maybe they should be removing the little signs advertising pop etc., they are not big signs, you can't see them from the street so it is one of those issues she is not quite sure what to do with. She said those signs are temporary signs which would not be permitted.

Mr. Gutoskey said the reason he is asking is so they know what they need to do.

Mr. Lewis said we want to try to guide you at the same time.

Mr. Lamanna said every gas station has got those things, everywhere, not just here.

Ms. Endres showed the board photos and said this is the condition of the property back in May but they cleaned all of this up, the front display is gone and the outside sales is gone, the storage on the left side of the building is cleaned up. She said these are the signs they removed and those she did object to, they were pretty big and visible but the smaller signs that are on the gas pumps there is really not a provision in zoning for them but she doesn't think they are problematic.

Mr. Lamanna said the usual thing is gas is a little weird because that is the point of sale, you get the gas delivered there, you pay your money there, you don't go inside and see somebody.

Ms. Endres said as she was doing the evaluation she did object to these big signs.

Mr. Lamanna said those are extra signs and he thinks what is going on at the point of transaction there within the confines of the pump mechanism itself, yes it is probably not covered but he doesn't see given the size of them and their location that they are undermining the intent of the signs.

Mr. Gutoskey said as far as the storage of the items for sale under the canopy, those will be removed.

Mr. Lewis said we don't do outside sale of merchandise and the fact that they are undercover he doesn't find them particularly relevant, they need to go back in the store. He said as long as we are giving you a little bit of flexibility with mini signs that is your opportunity to lure people indoors, they are not really a directional sign but if they are nonintrusive and not peppered on all of your support columns and the good part about those is you can change them and rotate your offerings.

Mr. Lamanna said some have videos there.

Mr. Murphy said he thinks they are moving in the right direction.

Ms. McMillan said so those two blue merchandisers we need to remove those.

Mr. Lewis said yes.

Ms. McMillan asked if everything else signage wise is fine.

Mr. Lewis said the little signs are fine on top of the pumps, the big signs that were on the columns, they are gone.

Ms. McMillan said they are gone and they took the frames off.

Mr. Lewis said you have cleaned it up and you have got your employees kind of oriented on that piece.

Ms. McMillan said it was truly just lack of knowledge, no one knew, the store manager didn't know, the former district leader didn't know.

Mr. Lewis said nobody is upset, we are just trying to guide it along and you are a welcome part of the community and we all enjoy the convenience and your offerings.

Mr. Lamanna said unfortunately the outside storage of stuff for sale can get out of hand very quickly, we have had instances where it is everywhere and then that really conflicts with the zoning.

Mr. Goebel said they want to be good neighbors.

Mr. Lewis said we are consistent with all of the gas stations throughout the township, they all abide by the same set of standards. He said he doesn't have any more questions at all.

Mr. Murphy asked if there are any neighbors here.

Mr. Lamanna asked if they gave up the idea of ever connecting directly to the parking lot.

Ms. McMillan asked of the canopy.

Mr. Lamanna said no, the driveway.

Mr. Lewis said the driveway off to the left.

Mr. Lamanna said there were previous discussions about that.

Ms. McMillan asked you mean going to that parking lot.

Mr. Lamanna said yes on that side directly into the parking lot.

Mr. DeWater said the trash gondola is actually still sitting on the south side of your building.

Ms. Endres said she thought it was gone.

Mr. DeWater said it is still there.

Ms. McMillan said it is what they use to take the trash out to the dumpster and trash goes out the back door, it is just a trash cart.

Mr. Lamanna said it is transporting from the inside to the dumpster.

Ms. McMillan said correct.

Mr. Lewis said as you are facing the building on the left there is a start of a driveway and there is about a 20' space of grass and at one point there was conversation about connecting that to the parking lot because you have your shoppers at Giant Eagle getting their GetGo accumulation and the idea was to send them without leaving the parking lot but he doesn't remember if that had to do with the landlord.

Mr. Lamanna said they would have to work that out with the landlord. He said he was just curious because they talked about it a bunch of times so he just wondered.

Mr. Goebel said it would be nice for everybody but it is difficult sometimes.

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

Motion BZA 2018-18 – 17675 Chillicothe Road (GetGo Partners South)

Mr. Lamanna moved to renew the conditional use permit for another five years from the date that the board's decision becomes final on this matter.

Based on the following findings of fact:

1. The applicant has agreed to remove the items currently for outside storage.
2. The applicant has already collected the signage and the board has determined that the little signs that are right on top of the gas pumps, approximately a square foot or foot and one half square are de minimis and will not be objected to and can remain.
3. The applicant has moved all of the items to the side of the building as originally requested.

Motion BZA 2018-18 – 17675 Chillicothe Road (GetGo Partners South) - Continued

4. The applicant also has a small amount of firewood for sale in a little firewood rack and as long as they keep it to that size area the board will allow them to continue to sell the firewood since it is a natural item and not a manufactured product and it is taking up a de minimis amount of space but it has got to be confined to the size that it currently is.

Mr. Lewis seconded the motion.

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

Application 2018-24 by Jeremy and Erin Kearns for property at the NW Corner Lot of Parcel #02-160200 (SE Corner of Geauga Lake Road and Pettibone Road)

The applicants are requesting area variance(s) for the purpose of a lot split to create a buildable lot. The property is located in a R-5A District.

Mr. and Mrs. Kearns were present to represent this application.

Mr. Jeremy Kearns introduced his wife Erin Kearns and testified that they are looking to acquire this piece of land from the Henry family and it is a noncontiguous part of a greater whole 35 acres to the right and approximately 4.8 acres so they are looking to get a variance.

Mr. Lamanna asked if we actually have a parcel that is noncontiguous.

Ms. Karen Endres, Zoning Inspector testified that it happens.

Mr. Lamanna asked how the county allowed that to happen.

Mr. Kearns said it was not the intent but this is how it ended up.

Ms. Endres said what would happen is years ago they would allow exceptions to be taken from parcels and not look at the remainder parcel.

Mr. Gutoskey said yes, that is what happened, they keep excepting out parcels as they transfer stuff out.

Mr. Lamanna said and nobody knows what the actual property looks like anymore.

Mr. Gutoskey said the county is starting to clean those up because they only allow you so many exceptions now and then the next transfer they say you have to have a survey, it will work its way out in time.

Ms. Endres said she doesn't think they are allowing the exceptions anymore, she believes the county is requiring surveys.

Mr. Lamanna said yes because very quickly you end up with a problem and it is like this where somebody has a parcel that is noncontiguous.

Mr. Murphy said the bottom line is they are asking for a two-tenths of an acre variance, they have 4.8 acres.

Mr. Lamanna said by allowing this to happen they now have a piece of property that looks like that, they will actually have to create a new parcel number so in the end you do get caught by doing this.

Mr. Lewis said there is the willingness to combine the lots but there are complications with the estate having something to do with the two-tenths of an acre.

Ms. Endres said this little triangle right here, it belongs to the family.

Mrs. Erin Kearns testified that it belongs to the owners of previous generations back who owned the 41 acres and they actually believe they figured that part out and when the eight owners of the land formed a corporation they outlined the geographic region except for certain lots that had been sold so they spoke with the Recorder's Office and they agree with that so she thinks when this lot is split and sold, they will be able to update that triangle.

Mr. Murphy said and not have that little purple triangle on the bottom you will actually get a square or rectangle lot that doesn't look quite like that.

Mr. Kearns said correct.

Mr. Lamanna asked if that is some kind of an error that was made somewhere along the way with the descriptions of the exceptions.

Mr. Kearns said yes, there is just that tiny part that was left behind.

Mr. Lamanna asked about the other triangle.

Mr. Kearns said that is the way it came out.

Mr. Murphy asked if that bottom triangle won't be there in the new lot.

Mrs. Kearns said the bottom triangle will be there.

Mr. Lamanna said but you will get the top triangle and asked what that makes the lot size.

Ms. Endres said it is still just a hair under so they would still need a variance, just not as big of a variance. She said a good share of that triangle is in the right-of-way.

Mr. Lamanna said there is just no question, this thing is so close and obviously nobody did this with any purpose or intention to try to thwart anything.

Ms. Endres said she didn't deny this because she objects to it.

Mr. Lamanna said because technically it needs a variance because otherwise you would have a lot going forward that didn't have a variance.

Mr. Gutoskey said the county won't let you split it without the variance.

Mr. Lamanna said otherwise you would get some fantastically complicated lot swapping going on between the people in the middle. He said it would be a variance with or without the little triangle.

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

Motion BZA 2018-24 – NW Corner Lot of Parcel #02-160200 (SE Corner of Geauga Lake Road and Pettibone Road)

Mr. Lamanna moved to grant the applicant a variance for the purposes of a lot split for an existing noncontiguous lot that through various transfers managed to become separated from its larger parcel.

1. A variance from the five acre requirement of .2 acres to 4.8 acres and that is exclusive of the right-of-way.

Based on the following findings of fact:

1. A practical difficulty exists because this lot was inadvertently created through a series of transactions.
2. It obviously was not done with the intent to try to circumvent the five acre zoning.
3. It is also a miniscule amount short of the required acreage and certainly will not have any adverse effects on the neighborhood and will be consistent with the neighborhood.

Motion BZA 2018-24 – NW Corner Lot of Parcel #02-160200 (SE Corner of Geauga Lake Road and Pettibone Road) - Continued

4. The lot size is sufficient that it will not have any adverse effects on the neighboring properties.

Mr. DeWater seconded the motion.

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

Application 2018-25 by James and Jennifer Heiman for property at 17106 Sunset Drive

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

Mr. James Heiman was present to represent this application.

Mr. Heiman testified that he lives in the Lake Lucerne subdivision so they are looking to put a 10' x 12' shed in the back portion of his property with a setback roughly 10' from the left and 10' from the rear so they are looking at two variances, one for the lot coverage, obviously in Lake Lucerne we have very small lots and then also from the setback perspective from the rear of the lot. He said they have prior approval from their local ARB and were told to get the proper zoning approval.

Mr. Lewis asked if Lake Lucerne ARB has seen these plans.

Mr. Gutoskey said he remembers this lot, we have seen the addition on the house.

Mr. Heiman said yes the board approved it.

Mr. Lewis asked Mr. Heiman if he is doing the shed in yellow.

Mr. Heiman said no it is more of a taupe color, their plan is to paint it the same color as the house.

The board discussed the proposed setbacks.

Mr. Gutoskey said it is mostly behind the house and added that it is consistent with Lake Lucerne, it is not that large.

Mr. Lamanna asked Mr. Heiman if he would mind moving it over 3' more from the property line so it is 13' instead of 10' so it is behind the house, the shoulder of the house.

Mr. Dale Olson of 17114 Sunset Drive, neighbor, asked if it could be moved to 20' from his lot line.

Mr. Gutoskey asked Ms. Endres to show him the view from the other yard on the aerial photo. He asked what is in the right rear corner there.

Mr. Olson testified that it is a playground and treehouse.

Mr. Lamanna asked if it could be moved over farther, it is at the back of the property and nothing is behind there.

The board viewed the aerial photographs.

Ms. Endres said with some of the older pictures you can see better, there is not as much vegetation.

Mr. Heiman said it wouldn't be a problem because the goal is to get it right outside of the tree line, those Pines back there.

Mr. Murphy said according to the site plan, Geauga ReaLink, your house is 15' off, not 20'.

Mr. Lamanna said if you look at the other drawing from the previous approval of the house, on both sides it is 12' so he thinks ReaLink is probably within plus or minus 2' anyway. He asked if anything would be in the way if it was moved over 20'.

Mr. Heiman said no, it may help with the Pines.

Mr. Lamanna said you should be alright with the Pines.

Mr. Olson said we will still see it from our backyard.

Mr. Lamanna said it doesn't look like there is anything in the way and it is already at the back of the property so moving it over, it is not going to be seen so why not if it improves the line of site for your neighbor. He said there is nothing there and you've got it screened off, it is not like it is going to be right in the middle of your backyard where you are looking at it all of the time and it is not like it is 50' half way back so you are still not going to see it.

Mr. Olson asked what the setback will be, 10' or 20'.

Mr. Lamanna said 20'.

Mr. Olson said thank you.

Ms. Endres said the applicant complies with lot coverage and he is within the scope of the side yard.

Mr. Gutoskey said 20' is permitted so really it is just the rear yard that needs the variance.

Mr. Lewis said just 10' off of the rear, it is okay on side and lot coverage.

Ms. Endres said with the nonconforming language the 20' technically meets that accessory building setback so it becomes moot.

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

Motion BZA 2018-25 – 17106 Sunset Drive

Mr. Lamanna moved to grant the applicant the following variances for the purposes of constructing a 10' x 12' x 12' shed as shown in the application.

1. A variance from the minimum required rear yard setback from 90' to 10' for a variance of 80'.

With the following condition:

1. The shed will be located 20' off of the south side line in order to prevent an adverse impact to the neighboring property owner.

Based on the following findings of fact:

1. Where the shed is located it will not be within the line of site because of the Pine trees belonging to the applicant.
2. Since it is a small lot size the side setback is reasonable and is consistent with the neighborhood.
3. Because of the nature of the property behind it, placing it only 10' from the property line won't adversely affect the properties in that direction.

Mr. Murphy seconded the motion.

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

Application 2018-26 by Parkside Church for property at 7100 Pettibone Road

The applicant is requesting a review and renewal of an existing conditional use permit. The property is located in a R-5A District.

Mr. Mike Bowerman and Ms. Christine Riegler of Parkside Church were present to represent this application.

Ms. Karen Endres, Zoning Inspector testified that she went through Parkside's file because it is hefty and she thinks she found all of the old hearing minutes so she thinks the board now has everything and added she included all of the motions.

The board noted that Mr. Lamanna was present for the 1993 hearing for Parkside Church.

Mr. Lamanna said the issue is we have collected one heck of a line of conditions.

Ms. Endres said to the best of her knowledge Parkside Church has combined conditions but there have been complaints about usage of that Root Road entrance, she is not there on Sunday so she is not there to see what is going on but she trusts that Mr. Bowerman can give a description on what is going on with that.

Mr. Lewis said outside of the complaint section he wants to circle around first maybe and talk about the use of the property with the conditional use permit which took everything into account to the sanctuary and classroom activities and some education things and the things that are basically out to rollover for the next five years. He asked Ms. Endres if there were any of those that fell out of compliance or to her knowledge if there have been any changes of the use or the addition of more programs or things the board doesn't know about. He asked if the steeple has been replaced yet.

Ms. Christine Riegler testified by saying not yet.

Mr. Mike Bowerman testified that Ms. Endres replaced it on the photos but no, the steeple has not been replaced, it is on their to do list, budgeting.

Mr. Lewis said he was surprised to see that down.

Mr. Bowerman said they were too.

Mr. Lamanna said you can draw a line of the path of destruction right across the township. He asked if they are impromptu people coming and using the parking lot for driver's education purposes.

Ms. Endres said that is one of the complaints.

Mr. Lamanna asked if people are just out there with their kids practicing on a random basis.

Mr. Bowerman said they are driving schools.

Mr. Murphy asked if they are paying the church for the use of the parking lot.

Mr. Bowerman said no.

Ms. Endres said she is forwarding the complaints because someone has been very vocal.

Mr. Lamanna said but that complaint gets filed in the di minimus non curat lex file which means the law doesn't deal with trifles and that is a trifle.

Mr. Lewis said it looks like one of the things that is directly attached to the church is the Root Road gate because that is on your property and that is relevant to you and he thinks there are some conditions on that.

Mr. Lamanna said this has been an issue from 1990 he thinks.

Mr. Gutoskey said you can't stop the cars from driving on a public highway.

Mr. Lewis said they are all public roads so outside of your property every public road in the township belongs to the taxpayer and everybody has the right to use them whether it is a main thoroughfare or a side road and all he is concerned about is that if there is a stipulation that there is a gate to an entrance that when you are having your high volume services that the gate is left closed because it is creating a substantial amount of traffic problems even though he thinks the people that want to use Root Road, they just go down Pettibone 300' and turn left, we can't regulate the use of the roads, everybody is entitled to use them with the car, their bicycle, taking a walk or whatever they want to do.

Mr. Bowerman said 95% of the time they keep the gate closed on Sundays, on occasion a maintenance staff member will forget to close the gate on a Saturday night but the rules are and the rules that we are comfortable with is to close the gates on Sundays.

Mr. Lewis asked what the reason was for that access point.

Mr. Bowerman said it was originally a construction road to keep the construction traffic off of Pettibone coming in the front way but then became an emergency access and egress for the fire department as well. He said and they own houses up and down Root Road as well so it becomes access for our personnel during the week and people that we have staying in the homes to go back and forth so during the week the traffic is very low but on Sundays it is a problem and people coming in from the north can turn off of Geauga Lake Road even knowing that they can't get into the parking lot because the gate is closed but they will go out Root to Pettibone and then try to get back in.

Mr. Lamanna said the line of cars will be shorter.

Mr. Bowerman said thinking so.

Mr. Lamanna asked how do you discourage people from using it.

Mr. Gutoskey said all you do is block the gate.

Mr. Lamanna said you could put a policeman out there with a radar gun when there is a lot of traffic and maybe if they are out there every week. He said people are not going to be speeding but the only thing you might do is discourage people and they may think they might not want to go this way because every week there is a cop out there waiting to pull somebody over if they go five miles over the speed limit.

Mr. Bowerman said we do have patrolmen every Sunday on Pettibone trying to keep traffic moving.

Mr. Lamanna asked if all of these complaints are from the same person.

Mr. and Mrs. Dick Roddie of 7340 Jackson Road testified by saying no.

Mr. Roddie said that is why we are sitting here. He said when the church first requested the first of many variances and he would like to speak for more than just him and Mrs. Roddie (Marilyn). He said he saw that they have patriots on Jackson Road, maybe one person on Jackson Road but everyone else on Jackson Road doesn't go to the church.

Mr. Bowerman said we own homes on Root Road.

Mr. Roddie said it is immaterial but all of the neighbors are always complaining about all of the traffic that is coming down because of Parkside and when we had the first meeting you probably saw his name in those notes, we were very concerned with the amount of traffic that was coming down Jackson Road and Root Road and he has lived there his whole life, he loves the community, he likes the semirural atmosphere and that is why property owners put their property into a conservancy to protect the semirural environment, it was the best kept secret in Bainbridge, that area and we would like to keep it that way. He said people are always walking down there with their dogs and we have always been concerned with the amount of traffic and then it keeps expanding and expanding and expanding, he doesn't know how many variances you had, it is no longer just the church, there are all sorts of other operations going on simultaneously. He said one thing he can suggest is he knows that they want to try to alleviate the problem as much as we do, we would suggest that they announce that at the sermons, besides just the sermons now you have got bible classes, gymnasium uses or whatever else, these people should know not to use that route, that was one of the stipulations and it may happen once in a while that that gate might not be shut, we can deal with that, every time it has been requested that it be shut they have made sure it was shut but it is now a direct route in not just on Sunday, all during the week going to whatever else is going on, bible church or Sundays, whatever is going on, it is continuous and now everybody knows that that is the quickest way through and we don't know what is next on the expansion of this project but it is at a point that everyone of us that live on Jackson Road have been there a long time prior to the church moving there, they moved there because they wanted the semirural atmosphere, they want the back roads and it is now no longer that way so obviously announcements, whatever else you send out to the people attending it, the programs, that should be written into and that way we know you want to be good neighbors.

Mr. Bowerman said absolutely.

Mr. Lamanna asked Mr. Roddie how much traffic he is getting during the week.

Mr. Roddie said it is hard for him to tell, are they going there or are they going to Home Depot but he has to tell the board that when this first came up as a project one of the trustees asked him if he would rather have a church there as compared to eight homes and he said absolutely not, he would rather have eight homes because of the traffic. He said if you go and look at the size of that parking lot he doesn't know how they get them all in there and it is not just one sermon, there are three or four sermons.

Mr. Bowerman said there are three Sunday morning and one Sunday night.

Mr. Roddie said it is continuous on Sunday and he couldn't give you an answer.

Mrs. Marilyn Roddie testified that on Sunday they do know because everybody going there has a shirt and a tie on.

Mr. Lewis said he is affected by Holy Angels, they have a very, very busy Sunday activity, a lot of stuff is going on and it affects Rt. 306 and it affects Taylor May and behind that it affects Snyder and Haskins and all of the adjacent country roads back and forth to it and just like Parkside there is more than one entrance into it. He said he doesn't think we can expect those folks to close that gate permanently.

Mr. Murphy asked why not.

Mrs. Roddie asked why not.

Mr. Lewis said he is just thinking from the public safety part but he can't picture an emergency fire truck coming down Jackson and Root to get in, they are going to come right up Rt. 306 to Pettibone.

Mr. Lamanna said they have the new entrance right opposite the shopping center so there is really another entrance there.

Mr. Murphy said this comes up every time that we see them and he hasn't been here since 1991 but it seems like you say well we don't really use that but the neighbors say you do use it and it is always open.

Mr. Bowerman said during the week they do but on Sundays they have closed it but people still come that way even knowing that the gate is closed.

Mr. Lamanna asked if the church could make an announcement from time to time.

Mr. Bowerman said he is not in charge of announcements but he thinks the church and the communications folks would be willing to do that to communicate it somehow, we have done it in the past and we think we can arrange to do it again.

Mr. Lewis said maybe it is a quarterly reminder.

Mr. Lamanna said you could put a little sign on that access on Root Road that says Parkside Church asks its members to not use Root and Jackson Roads, so people may say if the church is asking us please not to do that in deference to our neighbors.

Mr. Bowerman said we have a sign that says no left turn on Sundays.

Mr. Lewis asked if there is a police officer at that point.

Mr. Bowerman said no because the gate is closed. He said the police officers are on Pettibone.

Mr. Lewis said while we are on the subject let's talk about the service trucks that seem to be all parked on one property and he thinks they are your landscapers.

Mr. Bowerman said during the winter, Ms. Endres raised this to his attention, during the winter they parked two snowplows at the first house right across on Root Road and we were unaware that that was causing anybody any consternation.

Mr. Lewis said he thinks there is a limit of one per parcel.

Mr. Bowerman said they own four homes so they can park on another home, we are not trying to be difficult.

Mr. Lewis said he thinks you just didn't know, nothing more than that.

Mr. Lamanna asked if the homes are occupied as homes, what are they used for.

Mr. Bowerman said no they use them for visiting pastors and missionaries that come and stay.

Mr. Lamanna said but they are being used as residences.

Mr. Bowerman said yes.

Mr. Lamanna said technically those properties are not part of the conditional use.

Mr. Bowerman said no, they are used as residences.

Mr. Lamanna said really you shouldn't be parking your snowplows there because now you are technically extending your conditional use off to another property.

Mr. Bowerman said okay.

Mr. Lewis said you are right, they should be stored on the property.

Mr. Lamanna said they should be stored on the property that has the conditional use not on the other residential properties.

Mr. Bowerman said so anyone that has a snowplow couldn't park it in their own driveway, if a residence of a house owns a snowplow can he park it there.

Mr. Lamanna said yes but he is the resident of the house.

Mr. Lewis said a house and a resident are one and the same owner.

Mr. Lamanna said in this case you have another property owner over here that is parking a snowplow on a residential property.

Mr. Bowerman said but we own both properties.

Mr. Lamanna said right but you are extending your conditional use because the other parcels are not part of the conditional use, by moving part of your activity onto that property which is what you are doing by putting your snowplow there, you are extending your conditional use to a place that is not part of the conditional use.

Mr. Lewis asked if the trucks belong to the church or a contractor.

Mr. Bowerman said the contractor.

Mr. Lewis said a contractor can't arbitrarily park his commercial truck there.

Mr. Lamanna said that raises another issue, now technically somebody is operating a business out of that property, you can't technically operate a business out of there.

Mr. Bowerman said he doesn't think anybody is operating a business out of there, he parks a snowplow there.

Mr. Lamanna said that is what he is saying, if he parks his snowplow there.

Mr. Bowerman said he parks his snowplow there for convenience so when he comes in at 5:00 in the morning or 3:00 in the morning the plow is there.

Mr. Lamanna asked if there is a place to park it on the church property.

Mr. Bowerman said there is but then it is in the way of plowing but if we are in violation we want to fix it.

Mr. Lamanna said he thinks technically that is not proper because you are using a property that is not part of the conditional use for the conditional use.

Mr. Bowerman said okay.

Mr. Lamanna said you can't extend it, you are permitted to do things within this square, but you are extending it.

Mr. Bowerman said actually it is, it has been incorporated, the two corner lots have been incorporated because we own the property because the base property line extends on the other side of Root Road.

Mr. Murphy said so those first two lots are actually part of it.

Mr. Bowerman said they actually are and for lot coverage we have a 55 acre site because Root Road is actually on our property.

Mr. Lamanna said if the lots are the conditional use part of the property then fine, there is not a problem with using it. He said the only question is where the boundaries are of the conditional use that has been established and that will require going back into the history to look at the original application to see if those were included.

Mr. Bowerman said the original application was not, it was subsequent that we discovered the discrepancy to our advantage that our property line actually crosses Root Road and he is not sure at what iteration of how that was incorporated.

Mr. Murphy said Root Road is on their property.

Mr. Lamanna said except that that is a dedicated street, that property line may have been originally there but the property belongs to the township now.

Ms. Endres said it is a public road so the township actually owns Root Road it is just a matter of how the legal descriptions are done.

Mr. Lamanna said he assumes at some point in time nobody ever went back and redid all of the legal descriptions to reflect back that all of these government entities took over all of these properties.

Mr. DeWater said when you click on the different properties they are all different parcel numbers so they would be considered different properties, whether you own them or not they are different lots.

Mr. Gutoskey said the problem is how the original conditional use was if it is 55 acres.

Mr. Lamanna said the conditional use could be multiple parcels.

Mr. Gutoskey said but the question is did the lot coverage include the lot coverage on the other 15 acres.

Mr. Lamanna asked where the 15 acres are.

Mr. Gutoskey said across the street, one lot is 10 acres and the other one is 5 acres.

Mr. Lamanna said so we don't know if the 15 acres are in there or not.

Mr. Murphy said it is across the street, it is all part of the 55 acre church.

Ms. Endres said in the board packets she included a list of all of the Parkside properties.

Mr. Gutoskey asked what parcels were part of the original CUP.

Mr. Lamanna said you have to go back to the application and look and see.

Mr. Bowerman said the original was only just the 39 acre lot and subsequently as they added more parking their lot coverage was based upon the other two lots with the 15 acres because they were deemed contiguous.

Mr. Murphy said in 2010 we did that, in 2010 or 2011 we did modifications to the CUP.

Mr. Gutoskey said it is interesting though because the parcels are under different ownerships, the two across the street are Parkside and the other is the Chapel.

Mr. Bowerman said he doesn't think they ever changed their name, that was our name when we bought the first parcel and he doesn't think the deed was ever revised, we did change our name to Parkside subsequent to moving out here, we were called the Chapel at that point in time.

Mr. Lamanna said you just changed the name of the entity.

Mr. Bowerman said yes.

Mr. Lamanna said people don't go back and change the deeds, they subsequently changed their name and made all of the new ones in the new name.

Mr. Murphy said as part of the school you are now playing soccer on the fields back there.

Mr. Bowerman said not as a part of the school, they let some people use the fields for soccer practice but the school is only second grade and down, they are pretty small kids and this is only its first year in existence.

Mr. Murphy asked if it is a club team or neighbors or just members of the church.

Mr. Bowerman said no it is a club team that has approached us and asked if they could use it but they are young players, like fourth grade and down.

Mr. Murphy said they use the big back greenspace.

Mr. Bowerman said yes where the pond used to be.

Mr. Murphy said we have run into that with other churches and sound issues about sports activities.

Mr. Bowerman said they are separated from other residences quite a bit and that sound from those kind of outdoor activities hasn't seemed to have been a problem.

Mr. Murphy said he thinks it is a good thing for the neighborhood that you are there.

Mr. Bowerman said they are trying to be an asset to the community and unfortunately for some reason we have gotten large and you are right there are more cars coming there than there used to be. He said it is interesting because their attendance has plateaued, they have learned that to grow their church they are planting satellite churches in other communities and so we have smaller churches in three separate communities and that is where the growth is coming but not at our campus, we are pretty flat, the aggregate is about steady for the last 12 years but we are still active in the community, we open the auditorium for high school graduations, we happen to have a large assembly space and so a number of high schools use our facility and we have the drunk driving communication program for prom week that we open up the facility for so we are trying to contribute to the community and be an asset recognizing that there is a cost and how do we balance that together. He said you ask about communication, we send out a weekly email, nobody sends out bulletins anymore but he thinks they can incorporate a suggestion for our people to be considerate of the neighborhood and avoid using Jackson and Root Roads, he thinks that would be an appropriate place for that to be communicated regularly on a weekly basis, that is a good suggestion.

Mr. Lewis said he thinks that would be wonderful and added that the board is going down the checklist here.

Mr. Lamanna said another thing you could do is a sign you could put out periodically at the exit that says that same thing.

Mr. Roddie said he could park a combine at the corner.

Mr. Lewis said there was another complaint that he doesn't find is really about Parkside, one of our residents apparently had an incident with a driver and that really needs to be directed either civilly or criminally and that is not really a church matter, it didn't happen on church property from his understanding so that would be the direction that matter would have to go.

Mr. Lamanna said it is outside our jurisdiction.

Mr. Lewis said hopefully a police report was done or whatever measures were put in place by the parties that were involved. He said it really looks like the biggest thing is just fortunately the congregation has grown but it has stabilized at this point and it is a pretty healthy sized congregation just like Holy Angels is and at certain times, particularly on a day of the week we are going to have some pretty aggressive traffic and fortunately it doesn't sustain continuously all day, he knows what days he can spin down Pettibone or what time when he is headed to Home Depot he knows when the church services are so he picks his time slots and he doesn't see people speeding on Pettibone, most of the time it is pretty well behaved, he doesn't see people pulled over, it is kind of quiet.

Mr. Bowerman said we don't need to wait for these kinds of hearings, he offered his card and phone number to the board so if there is anything, anytime you want to talk about or you come up with some other ideas we are open to talk, we don't want to be adversary.

Mr. Lamanna said we need to investigate to see if the township can put up some signs that says "no thoroughfare" or "no thru traffic" or something like that. He said if you say no thru traffic then people might think they are really not supposed to use it as a cut-through, whether or not it can be enforced, it probably can't be enforced because it is a public road but it might discourage people, there is nothing that says you can't put up a sign to discourage people. He said he thinks a periodic reminder by the church is a very good idea and he thinks generally with a church people are going to tend to listen if a request is made. He asked if people speed down the road.

Mr. Roddie said people are people, the speed limit on a rural road is ridiculously high but when you are walking a dog that doesn't listen that weighs 120 pounds and you are trying to pull her off the road and they are zooming by.

Mr. Lewis said he doesn't have anything more on this application as far as the renewal, they are in compliance and they are doing everything they can but does the board want to talk about mandating that gate being closed permanently.

Mr. Gutoskey said if it is closed is there a way for the fire department to get in, what kind of lock is on it.

Mr. Lewis said they would come down Pettibone don't they.

Mr. Gutoskey said if they have to get in there could they use a Knox box but that is a fire department question.

Mr. Lamanna said what if they put up a sign there that says Parkside church access only.

Mr. Murphy said what if they eliminate that driveway.

Mr. Lamanna said it was a construction drive.

Mr. Gutoskey said we need to ask the fire department because they wanted it but now there are three ways in and out of Pettibone so do they need that off of Root anymore.

Mr. Lewis said that is a good suggestion, let's see if the fire department will weigh in on that, we can always revisit that.

Mr. Bowerman said their trash dump truck goes in that gate too, the garbage truck comes in there and that is where they keep the dumpsters in that little white pad there.

Mr. Lewis asked if they come in really early.

Mr. Bowerman said he thinks so.

Mr. Lewis said they could use the most easterly entrance and there wouldn't be any cars in the parking lot because you are not having a service.

Mr. Bowerman said no, just wear and tear on the asphalt.

Mr. Gutoskey said the question is since they have three means of access onto Pettibone so is the Jackson Road entrance necessary for the fire department access. He said they could keep it there but keep it permanently closed and give the guy with the garbage truck a key to open it and then if there is any future construction they have a construction drive but the question comes down to because of that extra entrance do you really need that because that will help alleviate anybody cutting through.

Mr. Lewis said and yes if they are coming down Jackson or Root and that entrance is closed, a peak time for services, they are going to have to sit there and wait to make their right onto Pettibone so they would be more encouraged to use Pettibone.

Mr. Bowerman said that is the way it is now, people still go that way recognizing they may have to sit in traffic at the Pettibone and Root intersection so he doesn't think that will change anything, we will do what you think is best, it is a convenience for us during the week to maintain the houses that is all.

Mr. Lewis said so you go around the corner a little bit, at least your other homes are nearby.

Mr. Bowerman said he doesn't think it is going to significantly change.

Mr. Gutoskey asked if the board wants to wait until the next meeting to get some input from the fire department.

Mr. Bowerman said they will continue to be good neighbors.

Mr. DeWater asked if the pick-up trucks are parked in the driveway that has the pole barn.

Mr. Bowerman said yes, across the street with the horseshoe drive.

Mr. DeWater asked if the barn is still there.

Mr. Bowerman said yes, that is a maintenance shop where the guy has a saw and maintenance tools.

Mr. DeWater asked if the board would be better to just formalize that as their maintenance building to store those trucks there and then it takes it all out of the equation for future.

Mr. Lamanna said right now those two parcels were considered part of the CUP.

Mr. Murphy said they were combined in 2010 or 2011.

Mr. Lamanna asked if we ever addressed the use of that maintenance area over there, he is not sure that ever got specifically addressed.

Mr. Bowerman said when they bought it it was a repair shop, the guy that owned it fixed cars in it and it was vacant for a long time and kind of nasty and we cleaned it up and moved a saw over there and the carpenter does repair work.

Mr. Lamanna asked if it is used for storage.

Mr. Bowerman said he hasn't been in it for a while but there probably is a little bit of storage.

Mr. Lamanna said we probably ought to clean that up and he is not sure it has even been addressed because he doesn't ever remember that coming up and he thinks people thought it was residential property with a house on it with an accessory structure.

Mr. Gutoskey said if we are going to do that we should have another hearing on that because the neighbors weren't notified.

Mr. Lamanna said that is a good question and added it is really an expansion of the conditional use.

Mr. Bowerman said they haven't taken any of these out of the tax rolls, we still pay taxes on the residential structures, we are not trying to vacate the tax capacities which we could do, we could apply for religious exemption because the only people that stay there are pastors or missionaries, we don't rent them out or anything so we have left them as residential because people come and go as they are transferred in and out.

Mr. Lamanna asked about the other residences and said those other residences aren't part of this conditional use.

Mr. Bowerman said no just those two lots.

Mr. Lamanna asked what is on the 10 acre lot.

Mr. Bowerman said a house and a pole barn, we store doors and everyone accumulates stuff.

Mr. DeWater said Holy Angels just put up that new storage building.

Mr. Murphy said he thinks if their snowplow guy wants to leave a truck on a night and come back at 3:00 in the morning he doesn't think we have a problem with that, those properties are part of the CUP.

Mr. Lamanna said we could still regulate where and how they do things but he doesn't see why if they are part of the CUP and this thing is being used as a little maintenance facility anyway. He said nobody is next to this, who is being affected by it.

Mr. Lewis asked what is the difference between that and the main parking lot at that point, it is all part of the same package.

Mr. Lamanna said we need to clean it up because he doesn't think along the way anybody ever thought about the fact that these parcels came in but nobody addressed the fact that they are not just vacant land and they were kind of looked at as being vacant land not as having something on them that was then going to be used so we really need to include in that in the authorized uses somewhere because we have never done that, it is just an oversight that nobody ever thought about it at the time that we should address that but he would just like to make sure that we have everything covered so we won't have people coming in and asking why they are doing something and the board can say it looked at it and authorized the church to do this or not this, everybody understands what they can and cannot do.

Mr. Murphy said we can leave some things for 2023. He said he thinks they are good neighbors and in 2023 when they come back we can ask them to prepare something for the barn, that would be good.

Mr. Lamanna said he doesn't have a problem adding them but he would like to know what they are being used for exactly.

Mr. Lewis asked if Mr. Lamanna is suggesting that we give them a partial renewal and reconvene in two months and talk in detail about the use of these things and do our housekeeping.

Mr. Lamanna said we can give them a renewal but they need to come in and clean this up just to add that on administratively. He said he doesn't think they should be charged a fee for modifying a conditional use permit at this point in time but he would like them to come so that we have a record that says what is there and what it is being used for and now it is authorized in the CUP. He added that we don't have to do this tonight but we can take care of the conditional use permit but what he would like to do in the next few months is have them come in and clean that up but he thinks we need to put it out for public notice but it should have been covered way back in 2010 or whenever these two properties were added on.

Mr. Murphy said there were modifications in 2010 and 2011, these were three things that we did in three different meetings, those properties were added to it, they modified it then. He said we did talk about it, it was a house and a barn, they were residential properties and we agreed to it in 2009 that that is what they are, houses that the church would use and it becomes part of it.

Mr. Lamanna said he thinks they are being used as more than residential purposes that is the problem, if they have somebody there doing repairs then it is technically not a residential purpose anymore so he thinks we need to look at it to make sure that the paperwork follows through but he thinks that is a side issue.

Mr. Lewis said we just want to identify and bake it into the CUP.

Mr. Lamanna replied yes. He asked what if the Root Road gate was closed off, is it going to be that big of a burden to close it off.

Mr. Bowerman said no, we could live with it, it is a convenience, that is all, we want to be respectful to the community.

Mr. Lewis said he thinks it would go a long way with the community if you just close it up.

Mr. Lamanna said why don't we close it up, nothing is forever and we will do this with the understanding that you would anyway that if it doesn't seem to be making a difference and it is a nuisance for you in terms of getting to your other properties you are free to come back and re-hear the issue but we can try it and see if it improves the situation, we will give it a go.

Mr. Gutoskey said send out emails to your parishioners that Root Road is now closed for business for the entrance and exit.

Mr. Bowerman introduced Ms. Christine Riegler as the Business Administrator and said she handles the business.

Mr. Lamanna said we will close the Root Road entrance for all week with the understanding that if you want it revisited and it doesn't seem to be making any improvement and it is causing you a problem we can always revisit the issue to see if there is a better solution so if you do that and make some announcements to ask people not to use Root and Jackson Roads then we are all copasetic and we will renew it for five years and we will figure out what we are going to do with these other properties, not that there is any problem there but he would like the records to be clean, for your sake as well as our sake that we have got everything covered and if somebody says what are they doing here somebody can look and say that was authorized here and it is for your protection as well so we know what is going on and somebody can't say we didn't know what they were doing on their properties.

Mr. Bowerman said they can work with Ms. Endres and try to clean that up.

Ms. Endres asked if she should still contact the Fire Department for their opinion.

Mr. Lamanna said we will follow up with that so if they say they really want that available then we can look to see if they can have some kind of Knox box.

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

BZA 2018-26 - 7100 Pettibone Road (Parkside Church)

Mr. Lamanna moved to extend the conditional use permit for five years from the date the board's decision becomes final.

1. All of the existing conditions from the multiple previous modifications and expansions will continue in effect.
2. The board notes that all aspects of this conditional use will now have a single expiration date that will be five years from when this decision becomes final and unless there is a specific provision made in any future expansion or modification that says otherwise, with any future modifications or expansions the expiration dates for those will run contiguously with this one so essentially there will be one conditional use permit and it has one expiration date.

BZA 2018-26 - 7100 Pettibone Road (Parkside Church) - Continued

3. There is a possibility that there could be a situation if there is a modification where the board would say the applicant can have the modification but the board wants the applicant to come back in a year to review some aspect of it but generally even then the overall renewal date will keep on a single date so there is one date for all aspects of it even though there have been some things added and modified, there are not going to be multiple conditional use permits running.

With the following two new conditions:

1. To try to alleviate some issues with traffic using Root and Jackson Roads the gate from the property onto Root Road will be closed seven days a week with a locked gate.
2. Periodic announcements will be made by the church to its congregation asking them in the interest of neighborliness not to use Root and Jackson Roads as a cut-through to avoid Geauga Lake Road and Pettibone Road to try to reduce the amount of traffic that is going through those areas.

Mr. Lewis seconded the motion.

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

Application 2018-27 by Carol Medhurst for property at 7395 Chagrin Road

The applicant is requesting a substitution of a non-conforming use for the purpose of allowing a personal art studio for painting. The property is located in a R-3A District.

Mrs. Carol Medhurst, applicant and Mr. Joe Gambino, property owner were present to represent this application.

Mr. Joe Gambino testified that Bob and Carol Medhurst are looking to open an art studio in our building that you so graciously, last year, offered up to us, Custom Cut Landscaping and most of you know. He said that is why we are here, he had no idea that anybody who goes in there had to go through the same routine so we are here to ask to have zoning for the art in the building. He said right now they have the ability to have retail in there and also you offered that up but it would entail more cars going back and forth all day long and we have decided that we can reduce that by having this studio where it is painting only and one car there all day long as opposed to the constant traffic back and forth.

Mr. Lewis asked Mrs. Medhurst if she will be selling her paintings and have customers coming there.

Mrs. Medhurst testified that this is not a business, she used to have a studio when she lived in Aurora and they have moved to Chagrin Falls so consequently they are in an apartment and she paints large, small and has probably 100 paintings, she is always working and this is an extended hobby, she is not a business woman and she has no desire to have a gallery but if a friend comes and says they like her 24 x 36 she would say to her it is for sale but she is not going to advertise.

Mr. Lamanna said this is a studio, not a sales gallery.

Mrs. Medhurst said yes, it is a working studio and she is there a lot and people know that she loves to paint and they may come by to buy a painting but they did that in her home too.

Mr. Lamanna said people might stop by because they want to say hello.

Mrs. Medhurst said it is pretty boring.

Mr. Lamanna said you are not going to have advertising that says come to whatever and see my paintings.

Mrs. Medhurst replied no.

Mr. Lamanna said it will be just sort of randomly dropping in that know you probably to see what you are doing or to say hello or take a look at what your current projects are.

Mrs. Medhurst said yes, that is all it is. She added you are welcome to stop by.

Mr. Medhurst testified that she would like a small sign out front.

Mr. Gambino said he was allowed a 2 x 2 for the landscaping company and maybe a 1 x 1 below that if it works for the board.

Mrs. Medhurst said personally she doesn't have to have it because it is her studio.

Mr. Lamanna said but you may be getting a delivery from somebody or art supplies.

Mr. Gambino said he took the mailbox out but put the address on the pole, they try to keep it pretty low key.

Mr. Lamanna said we allow 4 sq. ft. signs for home occupations.

Ms. Karen Endres, Zoning Inspector said we allow 4 sq. ft. for home occupations but the substitution of a non-conforming use kind of fell through the cracks and there is really no provision in signage for that. She said because this is in a residential district the home occupation standard would likely make the most sense.

Mr. Lamanna said it seems that at a minimum you would get the home occupation amount.

Mr. Gambino said he believes it was 4 sq. ft. that we were allowed to have when we here last year.

Mr. Murphy said a real estate sign is 4 sq. ft.

Mr. Gambino said he thinks it is actually in there from last year.

Mr. Murphy said it is 4 sq. ft., he has it here from 2017. He asked if they are going to split that or come up with something.

Mr. Lamanna said if they want to have two 4 sq. ft. signs he doesn't have a problem.

Mr. Murphy said 4 sq. ft. is not very big, he agrees and two would not be a problem. He asked if she is taking the whole square footage of the rest of the building.

Mr. Gambino said it is going to be a portion of it, they have not done anything with any flower sales or what was granted at this point, just trying to get the building set up and looking nice and the business settled in and this helps us as well and she is a lovely painter, you should come down and check them out and buy them.

Mrs. Medhurst said it is nice and quiet, the guys come in the morning and get their landscaping things and then they are gone.

Mr. Gambino said it has actually been wonderful being down there.

Mr. Lewis said the property looks nice.

Mr. Murphy said the building looks neat.

Mr. Gambino said it is going to get better, there is going to be a new roof on it by the end of the year, it is coming around.

Mr. Murphy said he thinks he would be prone to allow 4 sq. ft. for the business as well as the studio itself.

Mr. Lamanna said he thinks it is fine.

Mr. Lewis said he doesn't have any issues at all.

Mr. Lamanna said those are minuscule signs compared to normal commercial enterprises so it is not going to adversely affect anybody, a couple of little signs.

Mr. Murphy said and your neighbors aren't here.

Mr. Gambino said a lot of the neighbors have come by and thanked them personally and say the place is looking real nice and they are very pleased with them being there so we want to do that for the community we want to make it softer and he thinks with Mr. and Mrs. Medhurst there, there is going to be less traffic than what we originally proposed to do and he thinks it is going to be beneficial especially for Deb across the street, she is the one that is looking at it all of the time.

Mr. Lewis said it is a quiet, no impact business, it is fine and if it is your hobby and if you get a little supplemental income out of it from time to time.

Mrs. Medhurst thanked the board.

Ms. Endres said he has done a good job of cleaning up the property back from when he was granted a substitution of a non-conforming use. She said as she recalls there was a lot of debris on the property and the storage or landscaping material bins are maintained and added she has been to the property a couple of times, not because of complaints but just in the course of what she does.

Mr. Gambino said there is still a lot of work to do believe it or not but the property has been such an asset.

Ms. Endres referred to the aerial photo and asked what the circle was.

Mr. Gambino said that was from a big huge pile he had to burn and he got rid of it last February and added that it will be cleaned up. He said it is getting there but it is the roof that is driving him crazy right now, it is a matter of deciding what materials to use but it needs to be done.

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

Motion BZA 2018-27 – 7395 Chagrin Road

Mr. Lamanna moved to grant the following:

1. A substitution of a nonconforming use to allow an art studio as described in the hearing for the purposes of personal creation of works of art in a portion of this property located at 7395 Chagrin Road.
2. The board also, as part of this decision, will allow 4 sq. ft. of signage for this new business.

Based on the following findings of fact:

1. It is in conformance with the board's previous decision with respect to the substitution of a nonconforming use on this property.
2. This new proposed use would be equally and more appropriate than the other discussed uses and will not create any higher intensive use than that which was permitted in the board's previous decision.

Mr. DeWater seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 9:39 P.M.

Respectfully submitted,

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

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

Date: July 19, 2018

AUDIO RECORDING ON FILE

Bainbridge Township, Ohio
Board of Zoning Appeals
June 21, 2018

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 9:39 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Ted DeWater; Mr. Joseph Gutoskey; Mr. Todd Lewis and Mr. Mark Murphy. Ms. Karen Endres, Zoning Inspector was present.

MINUTES

Mr. Lamanna moved to adopt the minutes of the May 17, 2018 meeting as written.

Mr. Murphy seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2018-28 by ABC Bainbridge LLC for property at 7045 Aurora Road

The applicant is requesting a variance from a condition of a previously approved variance for an alternate fire alarm system in place of fire cabinets. The property is located in the MUP district.

Application 2018-29 by ABC Bainbridge LLC for property at 7045 Aurora Road

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

Application 2018-30 by John M. Zaranec, III for property at 17310 Bittersweet Trail

The applicant is requesting area variance(s) for the purpose of permitting an accessory building to remain as located. The property is located in a R-5A District.

Application 2018-31 by James Junkin for property at 7085 Country Lane

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

Application 2018-32 by David and Laryn Koenig for property at 18862 Rivers Edge Drive East

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

Application 2018-33 by Brett Weber for properties at PP# 02-712500 and PP# 02-391500

The applicant is requesting area variance(s) for the purpose of a lot split and consolidation to create a non-conforming buildable lot. The property is located in a R-3A District.

Application 2018-34 by Laura Becker for property at 18107 Chillicothe Road

The applicant is requesting area variance(s) for the purpose of installing an above ground swimming pool and hardscaping. 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 19, 2018 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 10:06 P.M.

Respectfully submitted,

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

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

Date: July 19, 2018