

Bainbridge Township, Ohio
Board of Zoning Appeals
July 16, 2009

Pursuant to notice by publication and certified mail, the public hearing was called to order at 7:05 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

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

The following matters were then heard:

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

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

Mr. Greg Battaglia was present to represent this application.

Ms. Sass stated that this is a modification to clean up the issues that were raised.

Mr. Lamanna stated that this goes back to 2008 regarding the issue with the retaining wall.

The board reviewed the minutes regarding this application from 2008.

Mr. Lamanna said the issue is the retaining wall so the board is going to delete the retaining wall requirement.

Ms. Sass asked Mr. Battaglia how Geauga Soil & Water told him to do it.

Mr. Battaglia testified that because it is all blue clay, they had mixed all kinds of different types of gravel and rock and they actually dug out the bank and mixed that into the clay and they packed the bank and they cut a 2 to 1 instead of a 3 to 1 that was required and he came out and looked at it and said it was actually a better thing to do and he did not recommend any type of retaining wall because he said that probably in sooner time than later time it would end up pulling the bank and everything back into the water and to leave it the way it was, it was perfect and not to touch it.

Ms. Sass said so the board needs to mesh up what they told you to do with what the board had decided earlier.

Mr. Murphy asked if the board has that in writing.

Mr. Battaglia said supposedly he (Mr. Griesmer) had sent an email to Mr. Joyce which he never saw but it was spoken about at the last meeting.

Mr. Shane Wrench, Assistant Zoning Inspector testified that they just had a letter from Soil & Water and a drawing showing a 2 to 1 and he did indicate that what was done was following what was needed.

Mr. Battaglia said he was told by Mr. Griesmer of Geauga Soil & Water that he had sent a letter but he did not get any letter and he was going by what he was told so if he is giving the board wrong information he apologizes, it is just what he knows.

Mr. Bob Block, next door neighbor, testified that the reason they had wanted the retaining wall was just for two purposes. One, to prevent erosion so they would not have a problem in the future and the second was the muskrats that were in the pond don't start digging in this area but they agreed last month that they will forego the retaining wall and they will have an agreement that if there is erosion or any problems, Mr. Battaglia will take care of it and Mr. Petersen was here and he agreed to that, Mr. Battaglia agreed to it and he and his wife agreed to it. He said Mr. Petersen is out of town right now so as soon as he gets back hopefully they will have an agreement and it will all be fine and they have no problem with it as long as they have an agreement.

Mr. Lamanna asked what is done about the muskrats and if they are trapped.

Mr. Battaglia said as of right now he was told that you can't control any type of wild animals and they are trying to deter them and he was also told that muskrats are vegetarians, they are not meat eaters and they are going to go to where the heaviest vegetation is and with what he is doing with his pond he is hoping to have very, very limited vegetation, he is not saying they are not going to come back, and if they do they will have to be trapped and he will deal with that if and when the time comes. He said he did not spend all of this money to have it eaten away again.

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

Motion BZA 2008-13 – 16805 Snyder Road

Mr. Lamanna made a motion to modify the board's previous decision in Case 2008-13 in the numbered paragraph two of the variance grant by deleting the phrase beginning in the fourth line with "and that a retaining wall of rock or wood be placed along at least that side of the pond that parallels that south side lot line with a condition that this will be completed within one calendar year of this decision becoming final."

With the following condition:

1. The applicant will maintain the pond banks and correct any significant erosion that occurs over time.

Based on the following findings of fact:

- 1 The board reaffirms the previous findings of fact that were made.
2. The board also notes that the reason for deleting this requirement is that after examination by the Geauga Soil & Water Conservation District they determined that this would not be an ideal method of construction and that an alternate method of construction suggested by them with the 2 to 1 slope and packing of mixed clay and rock along the slope would be a better solution and the board believes it is appropriate to follow.
3. The condition is placed because the board feels it is necessary in order to grant this variance and support the findings that this variance would be appropriate and also because it addresses one of the issues that the struck requirement was intended to prevent which was any erosion along the bank of the pond.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

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

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

Mr. Major Harrison was present to represent this application.

Mr. Lamanna swore in Mr. Harrison.

Mr. Harrison testified that he is representing Brilliant Electric Sign Company.

Mr. Lewis asked if there is a letter from the property owner authorizing him or the sign company to represent them.

The board confirmed that a letter was submitted at the last hearing.

Mr. Harrison said they are the national sign provider for Key Bank and where they left off at the last meeting, they requested a variance to include two additional wall signs and a variance for an overall height requirement which was granted. He said it was the board's decision to table the additional wall sign for the canopy located here (he referred to the site plan) after further review of the variance granted to Fifth Third Bank.

Mr. Harrison continued by saying that he has received authorization to reduce the wall sign to meet the overall code of 92 sq. ft. and to just include the Key Bank logo. He said the need for this additional wall sign is to capture visibility on Chillicothe Road and E. Washington and at the intersection and they also feel that a precedent was set with Fifth Third and it was actually a box sign. He said he took a picture just to show that there is absolutely no visibility of the sign for Fifth Third Bank so he is respectfully requesting to be granted the same allowance as the major competitor of Key Bank, Fifth Third Bank. He said as stated previously at last month's meeting this is a new branch and adequate and informative signage is necessary for the overall success especially for any new and potential customers as well as existing customers.

Mr. Murphy asked Mr. Harrison if his point is Key Bank wants to be just as unobservable or non-seeable as the photo he submitted of Fifth Third.

Mr. Harrison said they feel that it will be observable and you will be able to see the canopy.

Mr. Murphy asked if this is going to be by the Shell Station.

Mr. Harrison replied yes.

Mr. Murphy said you are only going to see this if you are heading west.

Mr. Harrison said yes and it will be highly visible at the intersection also.

Mr. Murphy asked if the picture on the bottom was taken through the gas pump at the Shell Station.

Mr. Harrison said it was taken actually standing on that corner and added they need direct visibility into or through the open areas of the gas station.

Mr. Murphy asked if those middle pictures are standing in Washington Square, the big green awning corner looking across the gas station pumps.

Mr. Harrison replied yes.

Mr. Olivier asked about the monument sign.

Mr. Murphy said the monument sign got approved last time along with two other wall signs and this is for a third wall sign.

Mr. Olivier said the monument sign also has visibility on E. Washington.

Mr. Harrison said correct.

Mr. Lamanna asked how many wall signs Fifth Third has.

Mr. Harrison said they have a monument sign and three wall signs.

Ms. Sass said the board also said they are on a corner and that was one of the differences.

Mr. Lewis said you are asking the board to give permission to put up a sign so someone can see it by looking through the canopy of the gas station.

Mr. Harrison said when it is illuminated in the evening, then it will be highly visible.

Mr. Lewis said so it will be illuminated at night too, adjacent to the other properties. He asked if the monument sign will be illuminated.

Mr. Harrison said it is.

Ms. Sass asked if it is a different kind of illumination or the change of color.

Mr. Harrison said it is standard, routed out with vinyl red and white, but he did not bring the drawings.

Mr. Olivier asked if the block on the sign is backlit.

Mr. Harrison said when they are illuminated they are bright white and with the dura-film in the daytime it looks black. He said Key Bank is not opposed to even eliminating the letters and just having their logo there and small enough to where it fits and meets the code regarding the square footage for the signage.

Mr. Lamanna said you have a limited amount of room where it is going to be placed.

Mr. Harrison said it would be centered.

Mr. Lamanna said it would grow a little bit but it is not going to triple in size.

Mr. Harrison said no, if anything the key from the bottom to the top will probably be 1' 6" and it would be centered.

Mr. Murphy asked Mr. Harrison if he is willing to just accept the logo or Key.

Mr. Harrison said yes.

Mr. Murphy asked if anything else changed from a month ago in terms of the same picture and view.

Mr. Harrison said nothing has changed.

Mr. Murphy asked Mr. Harrison if he is back asking to re-evaluate.

Mr. Harrison replied yes.

The board discussed the location of this sign.

Mr. Lewis asked how high the proposed sign will be.

Mr. Harrison said it does not exceed 15'.

Mr. Lewis said he was wondering how high the Shell canopy is.

Mr. Lamanna said that is 12' – 14' high.

Mr. Lewis said they would not be at the same plane.

Mr. Olivier asked what is on the monument sign.

Mr. Harrison said there will be lettering and the logo.

The board discussed the overall signage for this facility and reviewed the site plan regarding the drive-thru ATMs.

Mr. Murphy said he loves the fact they came back and asked for just the Key logo and he is okay with it.

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

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

Mr. Lamanna made a motion to grant a variance (for the continuance part of the application) for the purpose of installing a Key logo sign on the east front of the drive-thru canopy facing out towards Route 306. This variance is for an additional wall sign from the two that already have been previously allowed.

Based on the following findings of fact:

1. This is to provide some additional visibility with a fairly unobtrusive sign that will still keep the total signage within the maximum permitted square footage.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

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

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

The zoning inspector's letter dated July 16, 2009 was read.

Mr. and Mrs. Patrick Moran were present to represent this application.

Mr. Moran testified that they have been residents there for over 30 years and the way the backyard is set up with the apple trees and two maple trees and his septic system happens to be there he is kind of limited as to where he can put the pool. He said he spoke to his neighbor and there wasn't any concern at all about putting it there and it will end up being 18' from her property line. He said her house happens to sit 50' – 60' closer to the road than his and on the side the pool will be going in is actually the driveway part of her property and she has no objections whatsoever.

Mr. Lamanna asked Mr. Moran how wide his lot is.

Mr. Moran said it is about 170' at the front, he could probably go beyond his deck but he would be right in the middle of his septic system and he does not want to interfere with the trees and the septic system. He said his house is 36' from his neighbor's property line.

Mr. Lamanna said you have 18' so you would be about ½ of that.

Mrs. Moran testified that the neighbor has her whole driveway between the properties lined with trees.

Mr. Lamanna asked if there is an existing deck or if all of this is new.

Mr. Moran said he has an existing deck and looked at putting in a patio between the deck and the pool and it will be at ground level.

Mr. Lamanna said right now this is 10' away from the septic holding tank and asked if that will be covered up with a deck.

Mr. Moran said part of it will, it will not go over the tank, it may go over the line that comes from the house to the tank but it must be assessable if he has to get in there.

Mr. Lamanna asked if that will be between the deck and the pool.

Mr. Moran said yes.

Mr. Lamanna asked how close you can get to the tank.

Mr. Moran said he was told he has to be within 10' of the tank.

Ms. Sass asked when the deck is put in if he will still have access to the tanks to have them pumped on a regular basis.

Mr. Moran said absolutely and added that he had just had it pumped three weeks ago to make sure it wouldn't interfere.

Ms. Sass asked Mr. Moran if he is not asking permission to do the deck right now.

Mr. Moran said yes, he wants to put a deck around part of the pool so he can access the pool.

Ms. Sass said okay.

Mr. Lewis said and the other part of the pool will have no perimeter deck around it.

Mr. Moran said no.

Mr. Lamanna asked if the deck can be kept to the edge of the house.

Mr. Moran said it will be away from the neighbor's property.

Mr. Olivier asked Mr. Moran if he can keep the length of deck closest to the neighbor's property line in line with the rear of the house and not extend it past the house.

Mr. Moran said it is not going to exceed the house, it is not a problem.

Mr. Lamanna asked how tall the pool is.

Mr. Moran said it is 52”.

Mr. Murphy explained that if you are asking for a variance behind the house if you can keep it right behind the house, it is more acceptable.

Mr. Moran said it won't go beyond the edge of the house.

Mr. Murphy said that is what the board is asking.

Mr. Lamanna said landscaping can be done around the pool.

Mr. Moran said he spoke with his neighbor Ms. Ann Sekerak and she has no objection.

Mr. Lamanna said she is not here.

Mr. Moran said he asked her if she is going to come up and she did not feel any need to, she felt comfortable. He added that his house is nicely landscaped and he intends on keeping it that way.

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

Motion BZA 2009-16 – 18082 Kenston Lake Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purposes of installing a 52” high above ground pool.

1. A variance from the minimum side yard setback of 50’ to 18’ for a variance of 32’.
2. The applicant is also planning to install a deck on the pool but it will not exceed the rear corner of the house projected back parallel to the lot line so to the extent that that requires a side yard variance to that point, it is also included.

With the following condition:

1. The applicant will landscape the curb side of the pool that faces the property line with appropriate landscaping to screen the side of the pool.

Motion BZA 2009-16 – 18082 Kenston Lake Drive - Continued

Based on the following findings of fact:

1. A practical difficulty exists because the applicant has an existing septic system leach area that does not allow for the placement of the pool farther over on his property.
2. With the screening, this should not adversely affect the neighbor's property whose house is also substantially farther forward towards the street from this pool so it will not be close to the existing structure on the neighboring property.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Application 2009-17 by Andrew Blowers for property at 17129 Sunset Drive

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

The zoning inspector's letter dated July 16, 2009 was read.

Mr. Andrew Blowers was present to represent this application.

Mr. Blowers testified that he wants to build an 8' by 10' shed and showed the location per the GIS aerial photo.

Mr. Lewis asked Mr. Blowers if he had anything from the Lake Lucerne Architectural Review Board.

Mr. Blowers said he sent in his application and they said they would not present it until he gets a zoning certificate.

Mr. Olivier said it has always gone the other way that he is aware of.

Mr. Lewis said the BZA board members know most of the architectural review board members and asked who he contacted.

Mr. Blowers said the last name starts with an H.

Mr. Lewis said it is not Randall and not Carter who are the current president and past president of the homeowner's association. He said it seems that all of the Lake Lucerne applications that the board has heard over the years, they prerequisite this board and there has been in writing, their approval for this board to look at so that we are not moving potentially also in conflict of their by-laws.

Mr. Murphy said that is the way he understood it.

Mr. Olivier said it could be a condition of our approval, if we approve it.

Mr. Lewis said there has also been some paperwork and asked Mr. Blowers if he filled it out and submitted it to the board.

Mr. Blowers replied yes.

Mr. Lewis asked if their indication was they would not rule on it until you saw this board.

Mr. Blower said yes and they said they would not decide on it unless they had a zoning certificate.

Mr. Lewis said he is okay moving forward on this if there is a condition put on it.

Mr. Lamanna said if the homeowner's association doesn't show up and say they are opposed to it, but he (Mr. Blowers) just has to understand that the board's action here in no way is approval from them or releases him from complying with that or is it a sanction to proceed with this without satisfying any requirements they have.

The board discussed the application and the setbacks required.

Mr. Olivier asked if this is going to abut against an existing structure.

Mr. Blowers said yes, the garage.

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

Motion BZA 2009-17 – 17129 Sunset Drive

Mr. Lamanna made a motion to grant the applicant the following variance for the purpose of constructing a shed as shown on the applicant's submitted application.

1. A variance from the minimum required rear yard setback of 90' to 62' for a variance of 28'.

Based on the following findings of fact:

1. A practical difficulty exists because the applicant's entire lot is of limited depth and doesn't even have 90' behind the house.
2. The location is near the center of the lot and close to the driveway and will not adversely affect any of the neighboring properties.
3. The board does note that the applicant has acknowledged that the approval of this board does not in any way release him from any of his obligations with respect to Lake Lucerne or to obtain approval from the Lake Lucerne board for constructing this structure.

Mr. Lewis seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Since there was no further testimony, the public hearing was closed at 7:53 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: August 20, 2009

AUDIO RECORDING ON FILE

BZA PH 7/16/2009

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Bainbridge Township, Ohio
Board of Zoning Appeals
July 16, 2009

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 7:53 P.M. by Mr. Michael Lamanna, Chairman. Members present were Mr. Todd Lewis, Mr. Mark Murphy, Mr. Mark Olivier and Ms. Lorrie Sass.

Public Comments

Mr. Ken Polanka of the Woods of Wembley met with the board to discuss the lighting situation at the Northwoods Grille to inquire about what has transpired with it. The board members explained the outcome of the BZA hearing in which the Northwoods Grille appeared and noted that it is a building department issue.

Minutes

Mr. Lamanna made a motion to adopt the minutes of the June 18, 2009 meeting as written.

Ms. Sass seconded the motion.

Vote: Mr. Lamanna, aye; Mr. Lewis, aye; Mr. Murphy, aye; Mr. Olivier, aye; Ms. Sass, aye.

Applications for Next Month

Application 2009-19 by Michael J. Cooper for property at 8428 Eaton Drive

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

Application 2009-20 by Bainbridge Township Board of Trustees for property at 17800 Haskins Road

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

Application 2009-21 by Bainbridge Township Board of Trustees for property at P.P. #02-715000 (Restland Cemetery)

The applicants are requesting a use variance for the purpose of maintaining a cemetery. The property is located in a Passive Public Park District.

Application 2009-22 by ECHO Real Estate Services, Inc. for Getgo Partners South for property at 17675 Chillicothe Road

The applicant is requesting area variance(s) for the purpose of constructing an access drive. The property is located in a CB (Convenience Business) District.

The Bainbridge Township Board of Zoning Appeals set a public hearing on the above applications for August 20, 2009 at 7:00 P.M. at the Bainbridge Township Community Hall, 17826 Chillicothe Road, Bainbridge Township, Ohio and unanimously resolved to request the Bainbridge Township Board of Trustees to issue a purchase order for legal advertising.

Since there was no further business, the meeting was adjourned at 8:25 P.M.

Respectfully submitted,

Michael Lamanna, Chairman
Todd Lewis, Vice Chairman
Mark Murphy
Mark Olivier
Lorrie Sass

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

Date: August 20, 2009