

Bainbridge Township, Ohio
Board of Zoning Appeals
July 16, 2020

Pursuant to notice by publication and ordinary mail, the public hearing was called to order at 7:10 P.M. by Mr. Michael Lamanna, Chairman. Members present via Zoom were Mr. Brent Barr, Alternate; Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Michael Corcoran was absent. Ms. Karen Endres, Zoning Inspector was present. Mr. Jeffrey Markley, Bainbridge Township Trustee was present to monitor and host the Zoom meeting.

Due to the COVID-19 Social Distancing guidelines this meeting was held virtually via Zoom.

Others present via Zoom were: Mrs. Lisa Meyer, Mr. Nate Clemensen, Mrs. Virginia McClure, Mr. Tom Turner, Mr. and Mrs. Mark Kautzman, Ms. Bridey Matheny, Ms. Linda Nolan, Mr. Glenn Knific and Mr. Dave Nolan.

Mr. Lamanna welcomed everyone to the regular meeting of the Bainbridge Township Board of Zoning Appeals, explained the public hearing process and stated that individuals will be sworn in when the application is started.

Mr. Lamanna swore in Ms. Karen Endres, Zoning Inspector and he let the record reflect that Ms. Endres was duly sworn.

Application 2020-10 by Marla M. Lucarelli for property at 17310 Tall Tree Trail - Continuance

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

Application 2020-11 by Marla M. Lucarelli for property at 17310 Tall Tree Trail - Continuance

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

Ms. Marla Lucarelli was present in person to represent these applications.

Mr. Lamanna swore in Ms. Marla Lucarelli and he let the record reflect that Ms. Lucarelli was duly sworn.

Mr. Lamanna asked Ms. Lucarelli where we are and how we got there.

Ms. Lucarelli testified that as she stated back in June it was her mistake, she was unaware of the HOA policy and put what they like to call her daughter's play shed in the backyard and now here she is and she just wanted some guidance on how she can keep those in her backyard to maintain the look and feel of her sanctuary.

Mr. Lamanna asked when these were actually built.

Ms. Lucarelli said in 2017.

Ms. Karen Endres testified that she thinks the pad went in sometime in 2018, this is the 2018 aerial and you can see the building in 2019.

Ms. Lucarelli said they moved in in 2017.

Ms. Endres said right.

Ms. Lucarelli said the pad is a gravel area with railroad ties, there are no cinder blocks or anything like that.

Mr. Lamanna asked what is behind this.

Ms. Lucarelli said it is the Canyon Lakes HOA.

Mr. Lamanna asked what is immediately behind the building, is there something parked there.

Ms. Lucarelli said those are ATVs that they take and go ATVing, she has a pickup truck and all that jazz.

Mr. Lamanna asked if they are stored back there.

Ms. Lucarelli said during the spring and summer and then during the winter we pull them into the garage or take them down to Auburn.

Mr. Lamanna asked about the size of the structure.

Ms. Lucarelli said she had her surveyor come out and give her accurate measurements, she measured it but she would rather have an expert, 10.2' x 24.2'.

Mr. Gutoskey said he has a question, the board got an email from Ms. Endres that has a picture of the survey. He asked what the surveyor found as the setback to the building, he sees it on the drawings but it is too small to read.

Ms. Lucarelli said the surveyor found the one corner, it is in violation, it is 22.5' and then the other corner is 19.6' so it doesn't have the required HOA setback which she is aware of.

Mr. Gutoskey asked what is the closest setback on the rear and what is the closest setback on the side.

Ms. Lucarelli said the closest setback on the rear is 19.6' and the closest on the side of her neighbor is 29.7'.

Mr. Lewis asked if he could comment on this please. He said this is a continuation of an application that began last month and the applicant was given some instructions which he will get to in just a moment. He said one of the things that came out early on in the testimony is that the applicant said she was not aware of HOA requirements, deed restrictions, ARB and had no previous involvement with the HOA on this. He said in checking the records on this and he is going to get this document entered into the record and our secretary has a copy of it, he is looking at the October 17, 2017 letter, an email that came from the applicant and it was correspondence also through Laura Cramer who was Acting President of the Canyon Lakes Colony Homeowner's Association granting approval for a fence and maybe some other items. He said the part that concerns him about this is that the applicant testified that she had no previous involvement with the HOA, did not know the rules or the process but yet in 2017 they did in fact have involvement with the HOA so what we have here is now we have another structure that has been built and it does not conform with our setbacks as a township and in his conversation with the President of the HOA, Ms. Cramer, he had asked has she received an application for this from the applicant which he believes was also a recommendation and it is in the minutes the board made last month that the applicant was to go to the HOA, go through the process and present to us either a denial or an approval. He said he doesn't see that has happened and as of 48 hours ago the Canyon Lakes HOA had not received application or processed anything so it doesn't look like there was a lack of previous experience in dealing with the HOA and we've got some structures that were built without HOA approval so he just wanted to get that into the record.

Ms. Lucarelli said she agrees with you, when she dealt with the HOA it was strictly for the fence but she did communicate with Laura Cramer and she was denied.

Mr. Lewis said the question that he has, at the last meeting you were given direction by the BZA to go take care of your business with the HOA and bring to us signed off approvals from them or a revised site plan that they did approve it and it does not appear that that has happened and it does not appear that they have been contacted by you.

Ms. Lucarelli said she sent an email and she didn't go any further because she asked her to send a site plan of the shed but because the shed is already there and she knows that it was impeding on the 50' setback, she wasn't aware that she had to go any further because she is here for a variance from the township and she just wanted to clarify that she sent that shed picture to the HOA they would send her back here so she is a little confused in regards to that point.

Mr. Lewis said he is confused why the HOA was bypassed when you had a previous experience and understood the process but he is not there to debate that. He said at this particular point our board does not have any HOA approvals at all because you have not yet been to them and presented so typically our board doesn't like to move forward without HOA approvals so at this particular point without their approvals it appears we are burdened with just following code which are the required setbacks.

Ms. Lucarelli said okay. She said if she were to send a copy of the site plan to the HOA and have them see the existing, she would need to ask them if it is okay to keep it.

Mr. Lewis said he will let our chair comment on that.

Mr. Lamanna said you would have to say you have these things, you want it approved by the homeowner's association.

Ms. Lucarelli said okay, this is what she needs to drop off to her and see if she gets approval. She asks if the HOA denies her does she come back to this board.

Mr. Lamanna said you can but the issue is you still have to comply with the HOA.

Ms. Lucarelli said right.

Mr. Lamanna said no matter what we do you are in violation of the deed restrictions of Canyon Lakes.

Ms. Lucarelli said okay, she totally understands.

Mr. Lamanna said anybody can take you to task over that and you are going to have a problem when you go to sell your property because somebody is going to look at it and say this thing doesn't meet zoning, it doesn't meet the HOA, it is in violation of the HOA and then that may become an issue with a prospective buyer.

Ms. Lucarelli said okay.

Mr. Lamanna said with the searches they are doing these days, especially the title companies, these things have a way of coming out, twenty years ago probably not, now we see all kinds of issues with people coming in here and saying help, help, help they need a variance, they went to refinance their house and they say you've got this problem with your property and you've got to fix this before we go ahead.

Ms. Lucarelli said okay, sure.

Mr. Lamanna said the problem is if the HOA says no, one of the two big things we look at are consistency with the neighborhood and the impact on the neighbors. He said when the HOA says we don't want to approve this it puts you in a real difficult spot with respect to consistency of the neighborhood, what you have done being consistent with the neighborhood but they are pretty much saying we are not approving this because it doesn't meet our standards and therefore it is not consistent with what is required in the neighborhood so although technically we are two different bodies and would not deny your thing based on the fact that the HOA didn't approve it, we would deny it on the basis of if the HOA disapproval indicates that there is very strong evidence that this is not consistent with the character of the neighborhood, therefore you would be denied on that basis.

Ms. Lucarelli said alright, she thinks she understands that now. She said she will show the HOA the survey that she just got and ask in regards to ten and eleven because the fire pit is also too close to the setback.

Mr. Lamanna said right and asked if the firepit is completely surrounded by a paved area or what is that.

Ms. Lucarelli said it is pea gravel and the trees are cleared on top and surrounding and then the pea gravel is all around it so it has like a huge girth.

Mr. Lamanna asked if there is a lot coverage issue here too.

Ms. Endres said lot coverage doesn't count in Canyon Lakes but she would consider it as a patio, there are different types of patio materials, you can have brick, concrete, gravel patios but basically she would consider it lot coverage.

Ms. Lucarelli asked what lot coverage means.

Mr. Lamanna said it means the percentage of your lot that is covered by structures or impervious materials, driveways, houses, even though the gravel area like this area is generally considered part of lot coverage.

Ms. Lucarelli said okay, and asked if it would be considered.

Mr. Lamanna yes.

Ms. Lucarelli asked if she put mulch down if it wouldn't be considered lot coverage, just asking.

Mr. Lamanna said technically just a mulch area it wouldn't be.

Ms. Endres said she never considered mulch to be lot coverage but she does consider gravel to be lot coverage, it is very usual that people turn gravel into concrete or bricks, they change that from one thing to another.

Ms. Lucarelli said okay and she will go back to the HOA, she apologizes for wasting time and she will figure out how to work through this but she did get a quote on moving the structure if she needs to, she did get a communication if she needed to move trees and fence lines too to do all of that.

Ms. Endres said if you choose to move it and the place you move it to complies with zoning she doesn't think there would be any need to come back here and at that point she would want a revised site plan and if your revised site plan complies with zoning and approval from the HOA she could approve it.

Ms. Lucarelli said okay, she could drop it off.

Mr. Lamanna said he is not sure that the fire pit poses a real big issue because it is not much of a structure, it is low and it looks like it is separated so it is not going to get out and start the woods on fire.

Ms. Lucarelli said it is the darn science lab that her daughter plays in.

Mr. Lamanna said he is not sure that is causing a problem plus it is right in the middle of the property anyway so it is a good way away from the neighbors. He said another thing he was going to mention is that storing the ATVs sitting in there behind that shed is probably something we will also have to deal with, if they were to stay there you probably will have to not be storing those things behind there.

Ms. Lucarelli said she can move them down to Auburn.

Mr. Lamanna said it is one thing to have a shed there and it is another thing to have a parking area for vehicles there.

Ms. Lucarelli said those can be put in the garage down in Auburn that they own.

Mr. Lamanna said when you talk to the HOA you may want to indicate that that is an issue.

Ms. Lucarelli said no worries.

Mr. Lamanna said so you understand.

Ms. Lucarelli said she will go to the HOA and she will give her survey from Kerry to them and we will work from there. She thanked the board.

Mr. Lamanna said we need to get that piece of it resolved and then address it from there.

Ms. Lucarelli said will do, perfect and everyone stay well.

Ms. Endres asked if the board wants to rule on the firepit incase there is no need to come back for the shed or should she just come back regardless next month.

Mr. Lamanna said she should come back regardless.

Ms. Lucarelli said it is a good valuable learning tool and a good lesson as a homeowner.

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

Motion BZA 2020-10 and 2020-11 – 17310 Tall Tree Trail

Mr. Lamanna moved to continue these applications to next regularly scheduled meeting to be held August 20, 2020.

Mr. Lewis seconded the motion.

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

Application 2020-14 by Jeff Varney for property at 19036 Brewster Road - Continuance

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

Mr. Lamanna moved to continue this application to next regularly scheduled meeting to be held August 20, 2020 at the request of the applicant.

Mr. Lewis seconded the motion.

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

Application 2020-15 by Lisa Meyer for property at 17122 Sunset Drive - Continuance

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

Mrs. Lisa Meyer was present to represent this application via Zoom.

Mr. Lamanna swore in Mrs. Meyer and he let the record reflect that Mrs. Meyer was duly sworn.

Mrs. Meyer testified that she took it all back to the architectural board and she got it all approved, she did have to move the shed behind her house before it was approved, all the information just like you asked 1, 2, 3, 4 is all listed in the paperwork you have.

Mr. Gutoskey asked if the side setback on the shed will be 45'.

Mrs. Meyer said it is 50' from the nearest neighbor.

Mr. Gutoskey said because it shows your house is 45' so that is why he wondered, it will be 50' on the side and 15' in the rear.

Mrs. Meyer said correct.

Mr. Gutoskey said he has a question for the zoning inspector. He asked Ms. Endres if she has any idea what the lot coverage is because even looking at the drawing that we have versus the aerial like the sidewalk across the front the house, on the drawing, it just shows the sidewalk coming off the porch and going straight to the drive.

Mrs. Meyer said on the one sheet she listed all of the lot coverage.

Ms. Karen Endres, Zoning Inspector testified that she thinks she came up with 28.9%.

Mrs. Meyer said correct.

Mr. Gutoskey said the only reason he is asking is because looking at the aerial it shows a section of sidewalk that goes across the front of the house over to the driveway by the garage.

Mrs. Meyer said right.

Mr. Gutoskey said on the drawing we have that part wasn't in there so he doesn't know if that was included in the calculation.

Mrs. Meyer said it was included, in her calculations it was included.

Ms. Endres said it is included and she used the area tool on Pictometry, she doesn't know if you can see the view that she has going on here.

Mr. Gutoskey said he just wanted to make sure Ms. Endres had an accurate aerial to work off of so that is fine.

Ms. Endres said that is the aerial she used to work from and she has the worksheet on the back of your staff letter.

Mr. Gutoskey said he was just checking to make sure and as long as you used that he is fine, he was just curious.

Mr. Lewis stated that in looking at the history of this lot and the renovations and the improvements on it it appears that in 2019 we actually did approve a site plan for the home and the addition and a driveway which took the lot coverage up to 21.6%. He said again the applicant went through the process with Lake Lucerne ARB and came then to visit the board of zoning appeals for the township, we had an understanding with a very specific approved site plan and now it appears the as-built has a circular driveway added in the front yard, an extension to the pad in front of the garage doors and an extension to the rear porch and we haven't even touched the shed yet because that hasn't been built so he is a little confused here why the applicant bypassed all the processes and it appears they just arbitrarily built more onto this property than what was approved for by the township or at the time the ARB. He said he knows the ARB had not approved it at that time or it would have been reflected in the site plan we approved last year so now what we have is substantial lot coverage and we haven't even gotten to the shed yet. He said we are way over on this and we are lacking permissions and approvals, a lot of this is after the fact so while he is happy that the applicant has agreed with the ARB to move the shed within the shoulders of the house we still have a major unapproved lot coverage problem and much of it is pre-existing and outside of what the township approved so that is his starting point on this.

Mrs. Meyer said she went through the minutes of the last meeting and she tried to do exactly what the zoning board had asked her to do, label it 1, 2, 3, 4 and explain lot coverage for each thing, send pictures, get approval or disapproval from the ARB which she was happy that she did get approved and as she said in the last meeting the circular driveway and the extra parking, in her eyes, she has that note from Jill Savin from the ARB which she didn't realize was not official, she thought that that was an okay and as far as the back porch goes, if it did not exceed the back of the farthest part of her house she didn't realize that it was going to be a problem so none of it was done intentionally trying to hide it or sneak it through, none of it, she is trying from the moment that she started to build this house she tried to work with the ARB board and do everything that they asked her to do so she has a double lot, she understands that this zoning department is less lot coverage for Bainbridge than Lake Lucerne, Lake Lucerne is 40% and she is well under the 40%.

Mr. Lewis said he appreciates you trying to work with the township and the ARB but the rub with him was you went ahead and you changed the site plan, you constructed more for what you were approved for and you've been before the process and we kind of had talked about that and he is talking about the original site plan that was offered.

Mrs. Meyer said she understands that.

Mr. Lewis said that is the tricky part so.

Mrs. Meyer said she thought getting what she thought was approval from the ARB for the circular drive and the extra driveway she thought that was all she needed, apparently she doesn't think the ARB board and the homeowner's association are all on the same page because she heard that Jill Savin is the liaison between the two so when she tells her what the ARB board had decided and she had it in an email, forgive her, but she assumed that that was approval.

Mr. DeWater said when you came to us for approval for your original house plans you didn't actually start construction until you had a zoning certificate from the township and that was done after the ARB approval and the board of zoning appeals approved the plans so he is having a difficult time understanding why you would think just the ARB would be a blanket approval without an official Bainbridge Township zoning certificate.

Mrs. Meyer said her builder took care of the original, he did all of that, zoning, ARB for the original house plan, she didn't think a driveway was the same as a house as far as lot coverage so she thought with the ARB approval which she has been trying so hard to stay within their rules that she was okay and as far as the mix up of who approved her and who didn't she doesn't think that should fall on her.

Mr. DeWater said it is the homeowner's responsibility to make sure everything is being followed, contractors are fly-by-nights all of the time and as the homeowner having those certificates protects you in case something goes awry and the township can help you if you have those certificates but if you don't have them there is no defense for helping you.

Mrs. Meyer said she realizes that, she understands her mistakes, she is jumping through hoops for you guys to do everything that you ask and now it is in your court.

Mr. Barr asked about the size of the shed.

Mrs. Meyer said it is 10' x 12'.

Mr. Barr said thank you very much.

Mr. Lamanna asked the board if there is any other information we need.

Mrs. Meyer said she believes the board has everything that you asked for in the minutes.

Mr. Lamanna asked if the board members have any other questions.

Mr. Gutoskey said he has a comment, he has no problem with the shed especially since it got moved behind the house, the problem he has is he thinks we added, based on his quick count, 33% lot coverage from what was originally approved and he thinks where we are getting at here with 28.9% is pretty high from what they usually see in Lake Lucerne.

Mrs. Meyer said she thinks that you would be surprised if you went through and looked at other lots, she is a double lot, she is not a single lot, she just combined it into one just recently but some of these lots have no yard, look at the picture, she has tons of green, she has lots of yard. She said there is one house on the corner of Valley and she is not sure the name of the road but, down in the corner by the lake, it is a newer construction, it has no yard whatsoever, it is ridiculous.

Mr. Lewis said he believes that it gets back to you built some stuff you weren't approved for with the board of zoning appeals, you actually increased your lot coverage by almost 33% of what we actually approved it for.

Mrs. Meyer asked what he means that she increased the 33%.

Mr. Lewis said you were approved to 21.6% and now it appears to be at 28.9% so it was that unauthorized unapproved increase of more lot coverage which is where lies the problem.

Mrs. Meyer said Lake Lucerne's by-laws say 40%.

Mr. Lewis said we are familiar with what Lake Lucerne's threshold limits are at 40% but in this particular case we still fall back to legally what this township with what the board of zoning appeals approved you for which was 21.6% so with or without Lake Lucerne approval or their statutes of limitations, anything beyond that would still bring you back to the township first.

Mrs. Meyer said that is why she has been here twice.

Mr. Lewis said yes but in this case we are dealing with something after the fact and that is painful so the shed will be behind and asked if the rear setback changed on that.

Mrs. Meyer said it is 15' from the rear and 50' from the nearest neighbor.

Mr. Lewis asked Ms. Endres if these new calculations of lot coverage include the shed.

Ms. Endres replied yes.

Mr. Lewis said he sees that 120 sq. ft. added so it brought your total to 8,723 sq. ft.

Mr. Lamanna asked how much of that represents the additional driveway piece.

Mrs. Meyer said she doesn't have the math for that.

Mr. Gutoskey said if you look at the originally approved site plan, they had a hard surface of 64.78 so he is assuming they probably added a couple thousand of square feet with the drive. He said Ms. Endres has it about 8,600.

Mr. Lamanna said we are looking at that piece they added by the garage, in the very back end of it by the garage, they added an extra 8' x 20' area.

Mrs. Meyer said that lot coverage number three is 450 sq. ft.

Mr. Lamanna said he can understand the horseshoe driveway, that makes some sense, the porch extension, it is close to the house, it doesn't go any farther back than the house and it is kind of a usual thing, practically everybody in Lake Lucerne has a shed but that little bump out on the driveway that they added, there is no compelling reason for that, it is just additional paved area that he doesn't see any compelling reason for that additional area, it is certainly not necessary, you have a big enough pad there, there is no particular reason why it is necessary and the other part, he doesn't have a problem with it, it knocked the lot coverage down a little bit.

Mr. Lamanna continued by saying we are probably squeezing the lot coverage but there are some fairly significant lot coverages but in a lot of those cases because the lot itself started off being smaller and it is sort of a catch-22 if you have a really small lot to start with you may get to have a higher percentage of lot coverage just because you can't really build any house on it without having a significant piece of lot coverage, you have the advantage of having two lots but you also have a pretty big house and a lot of driveway.

Mrs. Meyer said it just looks like a larger house, it is only 2,400 sq. ft. because it is a ranch.

Mr. Lamanna said yes but it makes the footprint big.

Mr. Lamanna said 4,800 sq. ft. in two stories is a 2,400 sq. ft. footprint.

Mr. Barr said it is also a 2,400 sq. ft. house with a three-car garage that is not part of the house square footage.

Mr. Lamanna said all things told, if Lake Lucerne is willing to live without lot coverage he guesses he is not that opposed to it given the fact that this mailbox does create some basis for having the circular driveway but he has a problem with the extra 8' x 20' of driveway that they put on there in the back because that to him is just not something that is necessary, there is a more than adequate pad and area there, they have added this other extension to their driveway for the circular part of it and he doesn't think that it is something that really meets any criteria for granting a variance.

Mrs. Meyer said there are at least four or five other homes that have a circular driveway and a regular driveway on top of it.

Mr. Lamanna said you have a circular driveway, a regular driveway and then there is an added piece on there that really is not necessary, that is his problem with it, it is really not necessary, you have a more than adequate pad there to back out and go forward down to the street. He said let him push the envelope on lot coverage and what the board is basically saying is get rid of that and that offsets the shed.

Mrs. Meyer said you are going to have her get rid of that, tear it out.

Mr. Lamanna said that would be his thought.

Ms. Endres said just to clarify, you are not talking about the circular driveway, you are talking about the extension.

Mr. Lamanna said that little piece right back there.

Ms. Endres said she is moving the cursor and she is not sure what people can see on the screen but this is what you are talking about right here correct.

Mr. Lamanna said yes.

Mr. Gutoskey said on the drawing that is marked up it shows it as being 15' x 20'.

Mrs. Meyer said her husband has a lot of vices, he likes his cars so that is what she needed the parking area for, she realizes she has a three-car garage which is full right now which is why she would like a shed, she also does woodworking so you guys wouldn't give her a building to do her woodworking she had to make part of the garage into her shop so they are just trying to do the best they can.

Mr. Lamanna asked the board if they have any other comments.

Mr. Gutoskey said just one other and he brought it up at the previous meeting, they show they have a 40' wide pad on the side of the garage which typically is 32' which is what everyone pretty much goes with so there is already an extra 8' of pavement there by 30 so he doesn't have a problem removing that 20' x 15' and he has no problem with the shed, it is behind the house, its great, it is not a problem.

Mr. Barr said he thinks one or the other.

Mr. Lewis said he concurs, one or the other, the pad extension or the shed.

Mrs. Meyer said she personally thinks you guys are just making an example for all of the people who have purposely done stuff like this, she is not that person.

Mr. Lamanna said the board is not trying to make an example of anybody.

Mrs. Meyer said the last meeting it was you people, you people do this, you people and yes it was not in the minutes that you people, but you said it to her several times, she feels like you are making her an example.

Mr. Lamanna said no, this often happens when people come in to get something approved after the fact.

Mrs. Meyer asked what if she doesn't take it out.

Mr. Lamanna said one of the things we look at is if somebody came in with this application before they built it, would we approve it, if people can come in and say they will build whatever they want and then they will come in and see if they can get it approved we are going to look at it and say wait a minute you did something that we wouldn't approve in the first place so why should an applicant get an advantage by building it and then coming in and asking us to approve it after the fact.

Mrs. Meyer said she did not do that, she beautified this community, her house is beautiful.

Mr. Lamanna said nobody is saying otherwise.

Mrs. Meyer said anybody but herself with that extra lot coverage she has limited a little bit more of her grass area so her husband can park his cars, she doesn't see the problem with that.

Mr. Lamanna said you have not presented a strong basis for granting a variance at all on this on that aspect of it, it is not a practical difficulty, this is not a necessary feature for the use of the property.

Mrs. Meyer asked and if she doesn't take it down what happens.

Mr. Lamanna said you will get cited.

Mrs. Meyer said okay.

Mr. Lamanna said you will get cited and it will go to the county prosecutor and you will get summoned to court to answer.

Mrs. Meyer said okay. She said she did everything you guys asked, she did make mistakes, she admitted that, none of it was intentional, it was only to beautify her home and she just feels that you guys are just doing this because you are mad that she didn't ask permission before or because other people have put stuff up without asking permission. She said when she originally did this she asked the ARB board and she thought she had approval.

Mr. Lamanna said we evaluate each application on its own merits, what other people have done or not done is not the basis on which we make a determination, we look at each application on its own merits.

Mrs. Meyer said so you did not say you people at the last meeting to her like three or four times.

Mr. Lamanna said we have a transcript of the last meeting.

Mrs. Meyer said she knows and how convenient it wasn't in there.

Mr. Lamanna asked do you think he remembers everything he says at a meeting a month later.

Mrs. Meyer said of course not but she is just curious why it wasn't in the minutes, in the draft. She said she doesn't want to be the example.

Mr. Barr said he thinks we have given you a solution.

Mr. Lamanna said we are not prosecuting you to make a point to other people.

Mrs. Meyer said that is what it feels like.

Mr. Lamanna told Mrs. Meyer he is sorry if she feels that way.

Mrs. Meyer said she is punished because she bought a double lot, that is ridiculous.

Mr. Lamanna said you are not being punished.

Mrs. Meyer said yes, you are saying oh they have a small lot so it is okay if they have bigger lot coverage but you bought a bigger lot so you can't.

Mr. Lamanna said sometimes there is a higher percentage of lot coverage on a smaller lot.

Mrs. Meyer said she is still under the ARB regulations, she has a large beautiful yard, she is not, she just doesn't get it.

Mr. Lamanna said like he said, do you want the parking area or do you want the shed.

Mrs. Meyer said she wants them both.

Mr. Lamanna said he is sorry, you are not going to get both, that is not the sentiment of the board.

Mrs. Meyer said okay, approve her shed and whatever you got to do for the other area.

Mr. Gutoskey asked can we make the shed installation contingent on the driveway being removed.

Mrs. Meyer said of course.

Mr. Lamanna said yes he thinks we can because otherwise they would be increasing the lot coverage.

Mr. Gutoskey said he did a quick calculation with taking that section of driveway off and adding the shed, the lot coverage would be 27.9%.

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

Motion BZA 2020-15 – 17122 Sunset Drive

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

These variances are related to four items that are different from the original approval of this property, three items that are a variance from the original approval and a fourth item, a 10' x 12' accessory building.

1. The addition of a circular driveway in the front of the property.
2. The extension of a porch.
3. A bump out on the back of the pad to the garage approximately 20' x 15' which is 300 sq. ft. This resulted in a total lot coverage of 28.9% which was a substantial increase over the 21.6% so the board will grant a variance with respect to the circular driveway and the extension of the porch area and these will be with respect of the total lot coverage.
4. The applicant has also requested a shed now with a revised plan that will be 50' from the side line that is approved by the Lake Lucerne ARB but it will only be 15' from the rear lot line so the variance would provide for that shed of 75' to 15'. The shed would represent a further increase in the lot coverage so prior to that shed being constructed the applicant must remove the 15' x 20' extension from the back of the driveway pad in front of the garage so that will result in a lot coverage of 27.9% with the removal of that area and the addition of the 10' x 12' shed a variance will be granted to a maximum lot coverage of 27.9%.

Motion BZA 2020-15 – 17122 Sunset Drive - Continued

Based on the following findings of fact:

1. The reason for granting this variance is this is a variance request to maintain existing built property.
2. In looking at this, after approval of the ARB board with respect to the front driveway, the board finds an increase in lot coverage to the 27.9% which is really pushing beyond what is typical, is not enough beyond it to adversely change the character of the neighborhood, it is limited to the amount that we have granted as a variance.
3. The board has also looked at the particular factors in that the horseshoe driveway was added to help accommodate an issue of community mailboxes that were in front of this house.
4. The small porch addition is a typical feature on houses like this and it also does not extend beyond the rear footprint that is already existing for the house.
5. With respect to the shed, sheds of this size are fairly typical and consistent with the neighborhood in this area.
6. With respect to the bump out on the driveway pad the board feels there is no practical difficulty demonstrated. There is more than adequate driveway pad existing, in fact probably larger than typically provided across the front of the three-car garage so it is already a very substantial pad and there is no significant reason for having this so it would be out of character with the neighborhood and provides additional paved area very close to the neighboring property which may adversely affect that property and therefore that area will need to be removed to reach the lot coverage for which the variance is granted.

Mr. Barr seconded the motion.

Vote: Mr. Barr, aye; Mr. DeWater, aye; Mr. Gutoskey, nay; Mr. Lamanna, aye; Mr. Lewis, aye.

Mr. Gutoskey noted for the record that if the proposed new lot coverage calculations were used, that lot would have been allowed only 19%.

Application 2020-16 by Nathanael R. Clemensen for property at 16309 Franklin Street (aka 205 S. Franklin Street)

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

Mr. William Childs, Architect was present in person to represent this application.

Mr. Nathanael Clemensen and Mrs. Michelle Clemensen, property owners were present via Zoom to represent this application.

Mr. Lamanna swore in Mr. William Childs and let the record reflect that Mr. Childs was duly sworn.

Mr. Lamanna swore in Mr. and Mrs. Clemensen and let the record reflect that Mr. and Mrs. Clemensen were duly sworn.

Mr. William Childs testified that he is from Bill Childs and Associates Architects representing Nate and Michelle Clemensen at 16309 Franklin Street. He said he would like to first introduce the board to the project by the site plan and some existing pictures of the project and also give you their design concept and ideas and how they came about with the design. He said this is the site plan here, basically north straight up, this is Franklin Street and this is South Street, we have a corner lot. He said this is the outline of the existing building, you can see it is an L-shape, the pochade areas are the proposed additions. He said this is the east elevation on Franklin Street, this photo here is on the west side of the property, South Street is here, this is a couple of photos of the west elevation showing the backyard and existing two-story structure. He said Nate and Michelle moved into this home in 2015 and at the time they had two children and now they have five, ages ranging from 18 months which are twins up to 10 years old so as the family grew the house definitely needed to grow also with it. He said they really want to stay here in this particular home and they really don't want to leave, they enjoy the neighborhood and all of the neighbors so he wanted to kind of walk you through what we were proposing. He said let's look at the floor plan first. He said this is Franklin Street and basically there is a front porch here that we've designed and for a couple of reasons not only from the programming standpoint, we did a lot of these proposals but also for the aesthetics of the structure, it currently has 8" wide aluminum siding, aluminum details, it is fairly weathered and worn, the siding details are really in keeping the architecture in the area and so along with adding those spaces we wanted to bring the character of the house substantially up so when looking at this photo right here of the existing house you have a fairly flat façade so we are proposing to break up the façade with a porch which would be a copper roof, we use the square columns which are a traditional column that you see through Chagrin Valley and Western Reserve architecture, we did a classical pendant which again you see a lot through the valley. He said getting rid of the 8" aluminum siding now putting a 4" siding which would be a hardy plank with trim and they are going to concentrate on the returns, trims etc. and really get the overall composition up to a higher standard of architecture so they are going to do that in 360° composition. He said getting back to programming the floor plan you basically have a formal living room space here, a very, very small den and as you transition back to this area currently back here, which the house ends right here, is a dining room and a very small kitchen.

Mr. Childs continued by saying just to give you a relationship or an idea where that would be, that would occur, here is the dining room and back in this corner would be the kitchen, there is an existing three-season room that is very dilapidated so they are proposing and you can see the outline of this, to basically pull back and put in an addition here that would give the family more or less a family room, more space, a larger kitchen with an island that can seat the five children, a breakfast room and then we also concentrated on this den. He said you can see this den down here, there is a dash wall next to a fireplace and the room is so small that you can't really even get a furniture pod to correctly work around it so with their proposal they are talking about moving this wall to get symmetry and balance into this room and then from an elevation standpoint what we get is two windows on either side of the fireplace that balances the composition and then gives you the ability to put a decent pod around. He said they have on the side entry, on the existing plane you can kind of see here and on this elevation here you've got more or less the sixties or fifties what they call fret work with the aluminum iron and a shed roof and so again trying to think about the Western Reserve architecture we put a small shed roof with again using the Western Reserve columns and then moving the entry over with nine-lite door with the sidelights and then also we worked on the garage and the garage was a very big issue for the family. He said currently there are a couple of photos here and you can see a truck literally parked parallel here and when you pull up on this driveway which he has done a few times and even with your car all the way basically to the front of the garage your back end of the car sticks into South Street. He said one of the things about this particular area is that a lot of people end up bypassing the light to downtown Chagrin Falls and they go up Carriage Hill Lane which you can see in the distance here on this photo and what they do is they tend to stop at this stop sign and then quickly go through South Street which can be very dangerous for Nate and Michelle with five children with just two of them and kids getting out of the car and running around the back. He said even himself he has had to hesitate because he couldn't go in front of the car he had to go behind and basically into South Street so the objective here was more a life safety issue of proposing a new garage around back which you see here in the plan, this enables Michelle and Nate to get the children off the road and you can see in this proposed site plan what we are doing is having the driveway come off South and then the garage is rear loaded so when they back out they don't have to worry about backing out into South Street they can back out in their own driveway and they come out head first being able to see traffic and being able to get out of the driveway a lot safer. He said a few things about this garage that they inherited was the actual depth of this garage is 18'6" and a standard automobile whether it is a Suburban or an SUV is 6' x 16' deep so literally they have to have this car in there perfectly to have a foot in the front and a foot in the back in the existing garage so it is another reason why this garage really doesn't function correctly so what we proposed is a rear loading garage and what we have done and because it is only 18'8 it is still a little tight so they have bumped the front out towards South Street so that you can maneuver the car a little bit to the right so they can get out of their car and it also gives them the ability to have room for bikes and toys and additional items for the children and for what that does from a composition standpoint, from an architectural standpoint, it uses the ability to begin to pull a form out here and break up this elevation.

Mr. Childs continued by saying again trying to keep in the character and the architecture of the area and that is the same as what they did in the front porch with the porch shed, it breaks up the elevation and as you can see on this elevation it is a fairly flat composition and this enables to pull this out and get a flat roof with a railing, part of the Western Reserve architecture, and we also bumped out the back of the garage about 3' which again architecturally it compliments the shed roof on the side, you get some brackets and a carriage style door. He said this enables them to get a mud room which is desperately needed so you transition out of your car and go into a mud room and this area here you have a walk-in closet, we have built-in lockers, bench and a lot of places where the children can de-clothe before they transition into the home. He said as far as the neighbors, we have talked to all three neighbors and just so you understand, this neighbor is the Kings which is directly to the south and then the north on the opposite side of the garage here the Shumachers and the Joyces who are directly, you can see their fence here, and the Clemensens have sat down with them and went through the plans with them and all three of them have signed a letter in favor the addition/renovation. He said lastly he would like to say about the front porch, he thinks he has talked about the light safety on the garage but lastly on the porch one of the reasons they have a couple of photos here of the next door neighbor's is this is the neighbor directly to the south where their porch is sticking out, this porch here sticks out from the Clemensen's house 7'6" and the proposed porch that he did is 7' too so this porch is actually 6" closer to Clemensen's house, it doesn't stick out as far as the neighboring porch. He asked if there are any questions or concerns that he can address.

Mr. Nate Clemensen testified that while the board is thinking about questions he would like to make a couple of points about the neighbors. He said to the north the Shumachers and him share a similar driveway challenge with a three-car garage on a tight street as Mr. Childs mentioned is a pass-through. He said his kids are older, he has got a little bit more depth in his driveway and for the life of him he couldn't for a while figure out the best way to get in and out of the house, the driveway suggestion, while he doesn't love the idea of sacrificing some of his yard which is a play area for his kids, he thinks that the compromise that Mr. Childs and he are proposing creates additional play space that he can fence in and an area that not only opens up safety issues to get into the house but lessens the congestion on South Street both with his driveway and the three-car garage and Matt and Lisa who live across the street. He said in addition the Joyces who live directly to his east, Pat and Aubrey have two small children and deal with similar issues, you will probably see them soon because they are trying to do the same optimization in their driveway, in and out of the house, with issues of South Street and John and Karla King to his south are a little bit newer to the area but they have become fast friends, they through a drastic transformation of their home and in a lot of ways it was the Joyces, the Shumachers, the Kings and he are trying to bring that whole area to a level of optimization for both our families and what we have.

Mr. Clemensen continued by saying really John and Karla set a standard of doing something softly and thoroughly, they eventually gutted their house down to a single layer of brick and we got to know them through that process and just so we have a sense of connectivity to this little pocket of the area that we live in so Mr. Childs mentioned that letter, it is not something that we had to do but it is the partnership we have because we understand what we are asking for is significant in scale but our plan is to come to you once, set our master plan and as for our time frame, it is unclear but we want to get this ready so we can plan for the future. He said he will stop there and thanked the board for their time.

Mr. Lamanna asked about the back porch area and if this is a fireplace.

Mr. Childs said correct.

Mr. Lamanna asked if it is a standard type fireplace.

Mr. Childs said it is an outdoor fireplace with a covered area.

Mr. Lamanna asked if that is a deck.

Mr. Childs said it is an ornamental railing and this area here is also flat so you have a flat area, flat area and a flat area here.

Mr. Lamanna asked if that chimney is any closer to the side line than the other chimney is, it is not 100% clear from the drawing.

Mr. Childs said it will be a little bit but it is within the setback.

Mr. Clemensen said they would be willing to concede that chimney as far as the committee deems acceptable, it is a nice add-on, it is not something that makes or breaks the idea of what that is which ultimately is a sound barrier between the Kings or future residents there and our family but if it needs to move or step-in that is a willing concession they would be happy to make.

Mr. Lamanna asked for the aerial on that lot.

Mr. Gutoskey said he has a question for the architect and that is if he knows what the lot coverage is right now, it looks like they have a pretty good patio there.

Mr. Childs asked if it is what they are proposing.

Mr. Gutoskey asked what is there now.

Mr. Childs said he doesn't have that number off the top of his head.

Mr. Gutoskey said the only reason he asks that is because it looks like a lot of what you are proposing on the house kind of goes, you already have a patio.

Mr. Childs said right, there is a large area of patio here and there is already an existing pre-seasons room here. He referred to the site plan and said this area here is 40 sq. ft., this was like 50 sq. ft. and this garage is fairly small too and to make the garage function correctly the patio pretty much goes out to here so it is really this area.

Mr. Clemensen said just to put a finer point on the proposed area, if he can just point to that, if you see the edge of that external fireplace zone, the chimney on the left-hand side of the garage at the screen we are looking at, draw the line completely to the left is the edge of the proposed complete structure, squared off. He said the patio squares off from the edge of the garage to the swing set so the grass removal is a small moon shape, less than what you just drew but essentially that tucked into the beginning, that is the complete new coverage for permanent and patio space.

Mr. Gutoskey said because what he was looking at, it is a lot of lot coverage you are asking for but he thinks if you did a calculation on the main area you are probably adding for lot coverage is moving the driveway because you are going to be losing part of the existing driveway that is there and just eyeballing it if you took that section of driveway that you are going to move and put it on the other side, that basically takes up pretty much of your house footprint and garage so really the only addition of lot coverage is the new driveway so that is why he was curious what the coverage is now because he doesn't think your increase is as big as it looks.

Mr. Lamanna said you can go back and look at the prior variances granted, he thinks it was 33% so obviously it is less than 33%.

Mr. Gutoskey said it looks like it was 28% but if you take the area of the existing driveway and toss that to the other side you probably are only adding the new driveway relocation as lot coverage and he is just curious as to what the existing lot coverage is.

Mr. Barr said he had the same question, he is thinking the same way.

Mr. Clemensen said just a question for the committee, is the coverage for a driveway variance based on concrete or gravel.

Mr. Lamanna said no.

Mr. Clemensen said thank you.

Mr. Lamanna said one of the big things that is happening here that is a lot of increase in the bulk of the house, it is getting a lot bigger, it is two stories and with a little one-story bump out there, we are going to have two stories going all the way back practically to where the garage is now.

Mr. Childs said the two stories really looking at this composition, this is the two-story, this is a one-story and this is only two stories.

Mr. Lamanna said except you have a chimney here that is effectively two stories, it will be above the nearest roofline so basically we are now extending two stories pretty much almost out to where the garage is now. He said that is why he wanted to see the aerials, what is that doing to the neighbor on that side when suddenly you've got a house six or seven feet away and now it used to be two stories to here and now it is two stories for another 20 feet or more.

Mr. Childs said what they have done with the composition wise.

Mr. Lamanna said it is 30' almost, right.

Mr. Childs said we are always cognizant of that as architects so this steps back here and he knows it is a small amount but you still need this volume, we stepped the composition back and one of the reasons for this composition is it breaks the elements up and a lot of houses you see are just two-story big huge boxes.

Mr. Lamanna said probably the thing that is bothering him the most is the chimney, to be totally truthful about it, if that chimney wasn't there it wouldn't quite be as bad.

Mr. Childs said sure.

Mr. Lamanna said for some reason the way that chimney sits there, extending out and if you look where the neighbor's house kind of ends about here, he referred to the site plan, it looks like so now at this point you are going beyond so the neighbors will have this nice big chimney to look at and that is why he wanted to look at the aerials.

Mr. Clemensen said that is very helpful, thank you.

Mr. Lamanna said it might be to try to come to maybe a different way of doing it, he doesn't know if you took the chimney around to the back side and then you would be far enough away.

Mr. Childs said plus the width of the chimney wouldn't be as wide.

Mr. Lamanna said plus they wouldn't be looking right at the back of this really big chimney. He said it troubled him a little bit aesthetically, this guy's house is here so now the backyard starts and he is looking over seeing this big chimney and in the meantime you've got a chimney that leaves the roofline and then has to continue up another 8' because of code, it starts to look a little funny.

Mrs. Clemensen testified that when they spoke to John and Karla next door about the design which they have done over the course of pulling things together, she thinks the thing Karla really liked about it was that there was a courtyard aspect to it so their backyard has a firepit which abuts right quite near to the child's playset so there is kind of a dance here with where you would like to spend your evening and where we would like to spend our evening and what is best for sound and she thinks it was honestly her suggestion to kind of tuck our evenings with a fireside element close to what happens to be their master bedroom which they then don't have to look at and they can have their fireside time elsewhere in the back of their garden and we are separated to a certain degree and she also likes that it gives them some privacy from us, they don't have to look at the whole thing and vice versa. She said if that is any help to the board, she understands and they are not wed to the chimney by any means but that was the thinking kind of behind sort of tucking it off to the side so that it was technically not in their way.

Mr. Lamanna asked in their way, from what standpoint.

Mrs. Clemensen said most visibly and with sound she thinks.

Mr. Clemensen said with that chimney in that space, just to explain the reason for its location was to create essentially an outer brick wall to create somewhat of a sound barrier and if it doesn't work and it is too tall. He said that section is covered, open to the east, the south end would have the chimney wall.

Mr. Lamanna said so it is open to the back and open to the patio.

Mr. Clemensen said right, that is correct.

Mr. Lamanna said and then solid on the side.

Mr. Clemensen said it is still somewhat open.

Mr. Childs said what those are, you are seeing columns that you have on the front elevation, side elevation with 360° architecture.

Mr. Lewis said he believes the south elevation in our packet depicts it really well, it would be the view from the neighbor's yard at that side of the house.

Mr. Lamanna asked what is on the neighbor's property immediately adjacent to where that chimney is.

Mr. Clemensen said immediately adjacent to the proposed porch is a bump-out master bathroom and laundry.

Mr. Lamanna asked what is immediately adjacent there.

Mr. Clemensen said the chimney and the two existing windows, this current space that he is outlining here (he referred to the site plan) is our three-season porch, the room directly to the south of that and the Kings residence is their master bedroom and sort of the office kind to right to this point. He said beginning here, from this third window out to the end of the proposed porch is a bump-out master bathroom off the back of their home with laundry, closet etc. it is their first floor master.

Mr. Lamanna asked if they have any windows facing you.

Mr. Clemensen said in that bathroom, that is correct, no windows.

Mr. Lamanna said so their house does go all the way back to pretty much the back of where your porch is going to be.

Mr. Clemensen said that is correct and the reason for the taller chimney and with Mr. Childs understanding general code and us saying can we create a sound barrier with a brick wall there to do a chimney and his advisement was the chimney would need to go up above the second story so thus the height but again if there needs to be a change to where that is located he is open to suggestions and revisions as the committee deems necessary. He said just to put a finer point on this, priority one in the next 6 to 12 months is the garage, if possible the porch and some of the exterior façade of the house. He said this kitchen and following project is further down the road but we wanted to present the master plan in one session rather than come back for multiple times, this is the master plan of the home in its entirety as best we can see into the future.

Mr. Lamanna said on your chimney, is it a wood burner or gas fired.

Mr. Clemensen said he is thinking right now, if the chimney height can be lessened with gas he would be very open to gas if that made the optics better.

Mr. Lamanna said his thought would be it would be less imposing if it was on the back side, you could still obviously, if you want, close in part of that side if that is a noise issue but you've got a much smaller chimney it wouldn't be nearly as wide and certainly not as tall, it would be somewhat of a less imposing structure.

Mr. Clemensen said that is helpful feedback.

Mr. Lamanna said there was one thing that struck him, all of these things look fine in drawings a lot of times and when they get built somebody goes ooh, they didn't realize how it was going to look. He said this kind of thing looks okay in the drawing but what might it feel like if he is standing six or seven feet away from it in his backyard looking at this.

Mr. Clemensen said thank you.

Mr. Lamanna said he is just sort of concerned about it, he has seen a bunch of chimneys that are built like that and he just never thought the thing looked quite right, plus you always have this look of danger, this big unsupported structure sitting there.

Mr. Clemensen said to your point on chimneys, the chimney on the south side the garage currently is structurally unsound and we have been advised by multiple builders that it needs to come down in its entirety so point taken.

Mr. Lamanna said as a practical matter around here maintenance of that kind of chimney is going to be a major pain, the attack on the mortar joints and everything else with it sitting out there being attacked from all sides by the weather with very little protection. He said he thinks it is something we can consider but that is the one thing he worries about, it is tight quarters, to not create something where neighbors might think it is bigger and more imposing than they thought it was. He said you are extending the whole house out so you've moved the bulk of the house out farther than it was already and even though you are only moving it another 10' and you have a one story for the most part of the structure then is there something we can do so that we are not carrying the two-story out just because it is a chimney.

Mr. Childs said he understands.

Mr. Lamanna said to him it doesn't work optically and he is just afraid that because of it being so close to the neighbors and where it is relative to where their house is and the fact that that is only a one story, it just may not play well and if there looks like there may be a reasonable alternative where you can accomplish the same purpose he thinks that might be something to look at.

Mr. Clemensen said thank you.

Mr. Gutoskey said from what Ms. Endres did it looks like the lot coverage right now is at 38% so he thinks a lot of what the 10% they are adding is driveway so they can get in and out of the garage.

Ms. Karen Endres, Zoning Inspector testified that it was approved at 28% but she is not sure back when that was done what was calculated.

Mr. Lamanna said the other variance was 33% so in theory it must have been more than what existed at the time, right.

Ms. Endres said possibly and it also varies depending on what number they used for the size of the lot, when she calculates the lot size she factors out the road right-of-way, she doesn't count the hard space in the road right-or-way and she doesn't count the green space in the road right-of-way.

Mr. Lamanna said he thinks by 2002 they were pretty much out of the road right-of-way stuff.

Ms. Endres said it is rare that she can go back and figure out how they came up with it at the time.

Mr. Lamanna said from an overall lot coverage standpoint we are pushing the envelope here a little bit but the fact that there is this street problem and garage access off the street it is better not to have cars hanging into the street while waiting to get into the garage or you back two feet out of your garage and you are immediately in the street before you can really even see beyond the edge of your garage, he thinks it is certainly a good reason to relocate that and that is sort of one reason why we are looking at this chimney and how that played because obviously if you get to the backyard where the neighbor has their backyard that is where you start having the greatest concern about the impact of this thing and the nice thing is the driveway is on the opposite side obviously.

Mr. Gutoskey said he just did a quick calculation, the driveway adds about 9% so a 10% increase in coverage is really the driveway and you get the driveway in to get it safe, in and out of the garage.

Mr. Lamanna said just out of curiosity, looking the other way, what is at the back end of the property to the east that is going to abut the new driveway.

Mr. Clemensen said it is the driveway for the Joyce residence. He said there is a fence running down the eastern side of the lot within a few inches of a concrete driveway from the edge of the fence down through the edge of our lot where they have a double deep lot and their garage is at the base of our fence or roughly a few feet from the base of our fence back through deeper into their lot.

Mr. Lamanna said so you have a fence across there now, it is your fence.

Mr. Clemensen said correct.

Mr. Lamanna said so there is already a driveway there.

Mr. Clemensen said correct.

Mr. Gutoskey asked how they are going to handle the drainage, do they have a storm sewer because they are going to add a lot of impervious.

Mr. Clemensen said currently drainage wise, to be perfectly frank, as you surely know this area has significant water issues.

Mr. Gutoskey said yes we know.

Mr. Clemensen said in full disclosure he is the beneficiary of his neighbor's plight because he doesn't have water issues in his home because of the significant issues of the Joyces to the east and the three commercial size full drains on the Kings property, one right in the backyard, one on the other side of the garage and one in the southwest corner of their lot. He said having said that if the committee thinks that he needs an additional drain of some type in the southeast corner to drain out to South Street he is certainly happy to do that. He said as it stands right now Cedar is a bit of a problem that he understands is being addressed but the bulk of that water comes through the Joyces house and into the Kings lot and out Cedar Street onto S. Franklin. He said South Street as it stands currently has good drainage, there are storm sewers on the north side of the street and the south side of the street, just adjacent to the driveway in the Joyces yard. He said if the driveway created additional water issues that he needs to address without either gravel or an additional set of drains, he is perfectly open to whatever a civil engineer wanted to add but he probably would educate them more on the water issues than they would be able to observe even with their professional opinion at his home because he has five years of multiple flood plain incidents just with observations seeing what he has seen.

Mr. Clemensen continued by saying that drywells won't work if they are too small, the drains won't work because the streets themselves between Bainbridge and Chagrin Falls Village and Cuyahoga has the issues that you all probably know of so again, he is at the corner of what is a somewhat impervious wall of multiple neighbors to his east and to the south. He said there is a lot of history there and he just wanted to be disclosive of what he knows and what he thinks to be true.

Ms. Endres asked if it is okay if she mentions at this time, she understands that Mr. Jim Stanek our Service Director is going to be holding a meeting in the near future relevant to flooding issues in that area and it might not be a bad idea to communicate with Mr. Stanek and maybe get his input to see if there is something that Mr. Stanek would want to see incorporated into this.

Mr. Lamanna asked where the gutters go now, do they just discharge.

Mr. Clemensen said all of the gutters from the back of the home come out to the front into a French drain in the southwest corner of the lot and essentially out into South Street, the northwest side of the home go out into the yard, about half-way out into the grass. He said he installed new gutter systems that essentially pushes as far away from the home as possible so they are all submerged gutters out about 12' from each corner of the house from the northwest side of the roof and then railroad ties along South Street protecting from the various breaches of the river further to the east on South Street that have created a foot of water pouring down South Street from the roller rink and issues of the creek further to the southeast.

Mr. Gutoskey said his only concern is that basically whatever drainage issue is created from the driveway and the house doesn't impact the neighbors, that's all.

Mr. Clemensen said sadly his neighbors are the street at the corner because everything runs west from his home so if you think of the block of Chagrin Road to S. Franklin Street, South Street and Cedar everything flows from the roller rink up and he is the last point so the worst that he had was water in his grass and nothing more so again his neighbors get the brunt of it through down Cedar and through the top part of South Street because part of the creek goes up and around his neighbor's lot so he has been fortunate to have been spared from some of these vicious rainstorms. He said but again help by the Kings who put in three industrial, significantly sized drains feet away from his property.

Mr. Lamanna asked where they go.

Mr. Clemensen said there is one in the back portion of the lot, if we take this drawing to scale there is a large drain here by their firepit in a dry garden that runs south to Cedar, there is an additional drain on the southeast side of the garage that also runs to the Cedar piping and then there is an additional drain in the southwest that all flows to South Street so it essentially connects with the Cuyahoga County drain system to the river.

Ms. Endres said if she could also add, she knows there has been a number of problems with flooding, the lots in that Church, Walker Subdivision area and a good resource is the Chagrin River Watershed Partners, she has met with property owners on site and they have been able to give some good guidance to the property owners, she is not sure if they even have anything to add to this project however they would agree to meet on site and do a water evaluation to see if there is anything that could be done to further mitigate, she doesn't know if it is necessary but Bainbridge is a member of Chagrin River Watershed Partners and we do have that resource.

Mr. Clemensen said thank you.

Mr. Lamanna said maybe one thing we would like you to do is to have somebody actually look at that, meet with the Watershed Partners and have somebody professionally look at the issue and make a recommendation and then ultimately give it to the zoning inspector to look and say okay, this makes sense or doesn't make sense. He said it does sound like you are on the edge of the serious area but we would be a little more comfortable if somebody looked at it and said we are going to be okay here with this plan for pushing water off because we are adding more lot coverage so you may have more water running off than there was before.

Mr. Lamanna asked if there are any other issues or questions the board members have.

Mr. Gutoskey said he is okay with it, he thinks it is a very nice plan and he thinks they have come up with a real nice solution.

Mr. DeWater said he is okay with it.

Mr. Lamanna said one of the administrative points, there has been previous variances granted on this property and for the board to go ahead with this the easiest way would be if the applicants agree to abandon those variances in lieu of granting variances with respect to this new project so we don't have to try to conform to what was granted before and just deal with the current situation. He asked Mr. and Mrs. Clemensen if it is acceptable to them.

Mr. Clemensen said understood and acceptable, yes, thank you very much. He said in full disclosure those full plans were left when they purchased the home in the Fall of 2015 and seems very well thought out but for our family and our purposes it didn't meet the needs of what we proposed and essentially abandoned any recommendations or anything that those proposed so he is happy to essentially throw it in the trash and remove them from the record.

Mr. Gutoskey said the existing lot coverage is 38% based on Ms. Endres' calculation.

Mr. Lamanna said it is 47.6% and we have a variance on the minimum front yard of both streets and the rest of it is okay.

Mr. Gutoskey said the AC unit.

Mr. Lamanna said yes.

Mr. Gutoskey asked if there is any way to move that around the corner of the garage or not.

Mr. Clemensen said the reason they did it that way is because they were concerned if it is in the backyard and there is entertainment with the noise, we were trying to put it to the side because there are cars and we thought if we did some sort of landscaping or something that it would really disappear and as the cars pass by you have cars seeing the AC unit versus the public.

Mr. Gutoskey said he was looking at that little nook there, the garage corner, the northeast corner of the garage you have a little nook in there.

Mr. Clemensen asked here.

Mr. Lamanna replied yes.

Mr. Gutoskey asked if that makes any sense, it would kind of screen it.

Ms. Endres said it would still be closer than 25.

Mr. Gutoskey said it would be behind where the house is.

Ms. Endres said it would be in the envelope, right.

Mr. Clemensen said so it is that little cut-out area.

Mr. Gutoskey asked Mr. and Mrs. Clemensen if they are good with that.

Mr. Clemensen said understood and he is okay with that, he said there are two additional units next to the front porch and he doesn't know the mechanicals of putting it next to the other units just so everything is in one place but he is okay with the current proposed location, yes.

Mr. Gutoskey said if you want to move them to where the other ones are if it is behind that wall of the garage he doesn't think anybody has a problem with that.

Mr. Clemensen said thank you, that is fine.

Mr. Lamanna said he doesn't understand as to where you were just talking about.

Mr. Gutoskey said it would be instead of that AC unit being a couple of feet off of the right-of-way they can either put it in that nook by the garage or over by that porch.

Mr. Lamanna said okay, he just wanted to clarify where that was.

Mrs. Clemensen said she doesn't understand the issue because the other AC is currently in front of the house on the side of the house so adding more along what would essentially be a hedge line along South Street with stepping stones to get to a side door, what is really the big deal about putting the AC unit there with probably a generator which as opposed to right beside your entry to the garage, she doesn't think she really wants an AC unit. She said as you are pulling in, we have a 10 year old that will soon be driving and she doesn't think she wants her anywhere near the AC unit as she is pulling in or backing out.

Mr. Gutoskey said he thinks she will take out part of the garage corner if she hits the AC unit.

Mrs. Clemensen said because it is alongside of the house anyway, they thought the furthest away from entertaining and entry and tucked behind the bushes would be the most tasteful.

Mr. Gutoskey asked if that will only be the only AC unit or will you still have the other two.

Mrs. Clemensen said the other one will stay where it is beside Nate's current office and then the one they have now is at the back of the garage so they are essentially moving it to the back of the garage.

Mr. Clemensen said the new back of the garage.

Mrs. Clemensen said that was sort of the idea.

Mr. Gutoskey said you just mentioned putting in a generator, where is that going to go.

Mrs. Clemensen said there is no generator.

Mr. Gutoskey said you just mentioned it you may be getting one.

Mrs. Clemensen said it is always when the power goes out with five kids she wishes she had one of those.

Mr. Gutoskey said we all know.

Mrs. Clemensen said for now it is an AC unit that needs to go beside the house somewhere and ideally not near that garage door if possible.

Mr. Clemensen said just to clarify the location of the exterior air conditioning unit needs approval from a zoning and site perspective based on its size and noise.

Ms. Endres said the definition for encroachments, we do allow for encroachments in the required yards and there is a provision that heating and air conditioning units may encroach in the side yard as long as they are 25' from the road right-of-way.

Mr. Gutoskey said that will have to be added into the motion if they want to keep that there.

Mr. Lamanna asked how close are you going to end up being away, 2'.

Mr. Gutoskey said yes, 2'.

Mr. Lamanna asked how far that is to the actual pavement.

Mr. Gutoskey said not much because it is only a 30' right-of-way and the pavement is probably 24'.

Mr. Lamanna asked if there is some barrier along here.

Mr. Childs said he thinks it is a hedge and the reason they wanted to put it here is because it is a pretty thick barrier.

Mr. Lamanna asked if they have enough room there.

Mr. Childs explained the proposed location. He said you wouldn't see it.

Mr. Lamanna said if the street ends here and we have 2' to that air conditioning unit, he is a little concerned about that obstruction that close to the right-of-way and somebody hitting it, they slip in the winter and hit the air conditioning unit because it is 2' away because we are already shrinking down the 7' on that side.

Mr. Gutoskey said we have a 30' right-of-way and then the pavement is probably 24' so it is probably only 5' off the edge of the pavement. He said if it is a 24' pavement centered in the right-of-way the edge of the pavement is only 3' off the right-of-way.

Mr. Childs said there is a stone path for people to walk along here to get to the that side entry.

Mr. Lamanna said if you plant the hedge off the right-of-way, you are not supposed to plant the hedge in the right-of-way especially when you have virtually no right-of-way here, you are creating an obstruction.

Mr. Childs said their thought was, from an aesthetic point.

Mr. Lamanna said if you put that hedge along there, you just don't have that much room on that side of the house, it is so close to the street.

Mr. Clemensen said he is happy to take that as a follow-up item and just to again, he doesn't understand the flow issue of the mechanicals.

Mr. Lamanna said it is a question of where your electrical comes from and where your lines are going.

Mr. Clemensen said if he can make a safer driveway for his family and the air conditioning unit has to go in his bathroom he would do it just based on what he is dealing with so he will figure that out, it is a solvable problem, if you take your cursor and go right to the left of that small porch on the north side of the property there are two units right there, one serving the upstairs and one serving the downstairs, right to the right of that bush outside, right there, there are two units right there, if he can get a third one there and wire it over to that section he is fine with that because again, he doesn't understand what is required to get it in and through the rest of the house.

Mr. Lamanna said you may have to look at that closely but where your power is coming in and where your unit is going to be inside and how far away you are. He said he thinks our concern with it it is going to be awfully close to the street there.

Mr. Clemensen said understood.

Mr. Lamanna said there is not going to be a lot of room even to landscape it, he just worries about having something like that that close to the street where possibly somebody is going to run into it, that is always the concern and somebody could complain and ask why somebody is building something this close to the street when they run into it and you could have a big bruhaha over the liability for that structure. He said so you will investigate moving it to one of those other areas where that is feasible.

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

Motion BZA 2020-16 – 16309 Franklin Street (aka 205 S. Franklin Street)

Mr. Lamanna moved to grant the applicant the following variances. These variances are being granted based on the applicants' knowing and willing abandonment of any of the variances granted in 2009-14 which might otherwise conflict or have an impact upon the decision with respect to granting these variances.

1. A variance to maximum lot coverage to 47.6%.
2. A variance to the minimum front yard setback on S. Franklin Street from 30' to 23' 6.5".
3. A variance to the minimum front yard on South Street from 30' to 4' 0.5".
4. There is an air conditioning unit that is proposed and the applicant will investigate relocating that air conditioning unit to either where the existing units are or to the corner of the garage to see if that is feasible from a mechanical and electrical standpoint otherwise the board will grant a variance to 2' from the South Street right-of-way but the applicant is going to continue the hedging that exists along South Street to this area along what will now be the side of the garage which is currently the opening of the garage.
5. The applicant will also investigate potential discharge issues and will have this examined by a suitable professional and will also consult with the Chagrin River Watershed Partners to see if they have any recommendations and will submit a report to the Zoning Inspector identifying an appropriate plan to deal with the water coming off the property and any changes to the existing plans necessary to accomplish the recommendations for the Zoning Inspector to review to see that this has been adequately considered and will not create a material impact on the conditions that currently exist in the neighborhood.
6. The applicant will review the chimney as currently on the new porch in the back with a consideration towards relocating that to the east side of the porch to see whether that is a feasible location with the idea of reducing the size and height of that chimney to reduce the potential impact upon the neighbor's property and enjoyment of their property.

Motion BZA 2020-16 – 16309 Franklin Street (aka 205 S. Franklin Street) - Continued

Based on the following findings of fact:

1. A practical difficulty exists because this is approximately an 8,700 sq. ft. lot in a very densely developed part of the township and therefore in order to be able to suitably build upon the property these variances are necessary.
2. The applicant has presented a plan that is very consistent with other development in the area so it will not adversely affect the character of the neighborhood and with the considerations the board has made should not adversely affect the neighboring properties.

Mr. Gutoskey seconded the motion.

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

Mr. Lamanna recessed the meeting at 9:40 P.M. The meeting was reconvened at 9:47 P.M.

Application 2020-17 by Virginia and Chris McClure for property at 7047 South Street (aka 40 South Street)

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

Mr. Chris McClure, Mrs. Virginia Turner McClure and Mr. Tom Turner were present via Zoom to represent this application.

Mrs. McClure stated that her husband is traveling for work right now and he is in the car on his phone in Oregon. She introduced her father, Mr. Tom Turner who may speak on their behalf as well who is an attorney in the next county.

Mr. Lamanna swore in Mrs. Virginia McClure and Mr. Tom Turner and let the record reflect that Mrs. McClure and Mr. Turner were duly sworn.

Mr. Anthony Calabrese, Mrs. Maria Calabrese and Mrs. Beverly Arnold were present in person to represent Mrs. Arnold of 7053 South Street who lives next door to the McClures.

Mr. Lamanna swore in Mr. Anthony Calabrese, Mrs. Maria Calabrese and Mrs. Beverly Arnold and let the record reflect that Mr. and Mrs. Calabrese and Mrs. Arnold were duly sworn.

Mrs. McClure testified that they are requesting a standard two-car garage, they don't have a garage right now, they are actually one of three homes on both Cedar and South that don't have a garage, 57 % of those homes have two-car garages so we would just like a standard two-car garage, we have a family, we have a nine month old baby, we have two cars so a two-car garage would fit our family and we simply need it for the safety, for the storage, for the protection of our vehicles so we would just like to match what everybody else has on our street. She said the area current zoning requirement is a practical difficulty for us to build a standard two-car garage so we would just request to have it as close to the property line as we can, to the side yard and just a standard two-car garage size which in her experience living here is what most of the other homes have so we would really just like to match what everybody else has.

Mr. Lamanna asked Mrs. McClure if she is aware that a variance was granted on this property in 2002.

Mrs. McClure replied yes. She said that variance is for 5' from the property line and for a single car garage.

Mr. Lamanna said it was for a single story, 20' x 20' garage, that is not a single car garage.

Mrs. McClure said okay but she thinks in her notes it said 300 sq. ft. you are applying for a 400 sq. ft. but the reason why we are requesting for it to be closer to the property line is it allows them to be able to get two cars in while preserving as much of their yard as possible and it also allows them to be able to park their cars side-by-side without having one person needing to move their car for the other person to get out which actually has been an extreme safety problem for them in the past when she has had leave in an emergency with her baby so the reason why they are proposing where it is and the size, it allows for one car to be in and the other car to be able to move without the other person moving it and as you can see her husband is in Oregon so he is not always available to move it, there is not really a safe place for her to put a nine month old either in the car or in the house while he moves his car to the street, move her car and move his back so the reason why we are changing the current variance that we have been permitted is it allows them to have the size that we need where we need it in order to move our cars as needed and preserve as much of their yard because that is an extremely important aspect to our property is to have a large yard. She said she also requests that her notes that were sent with the data as far as how many garages are on both streets and as far as how close they are to the property line is permitted into the record. She said the most recent notes that she sent that were title "Updated Garage Notes", she requests that they are entered into the record of this hearing.

Ms. Karen Endres, Zoning Inspector testified that she didn't get them until well after the BZA packets were sent out but she did email it to all of the board members.

Mr. Tom Turner testified that they would just like those to be part of the record please.

Mr. Lamanna said we have to identify them and put them in the record.

Ms. Endres said there were two sets and apparently the first one sent to her was obsolete and then there was a second set.

Mrs. McClure said the second set just includes the data that she collected in terms of how many homes on their two streets which can be considered the neighborhood have a certain size garage and how close those garages are to the property line or the side yard line.

Mr. Gutoskey asked on the data, how do you know how far they are off the property line.

Mrs. McClure said that is from her own estimations without going onto their properties so she can't speak from using a ruler because she would be encroaching on their property but that is her rough estimate and they look to be about, she said she thinks, roughly one to three feet, she cannot physically go onto their property to measure so if you guys would like to you can confirm but those were just from an owner just trying to match what other people have.

Mr. Gutoskey said understood, he just wondered if a surveyor did it or you were just eyeballing it.

Mrs. McClure said no, this is just her trying to validate what we would like to do.

Mr. Gutoskey said he was looking at the building plans and asked how they are going to build this 6" off the property line because your overhang is 6" and then you have a gutter which would then put the building over the property line but how would you physically construct it 6" off the property line and even be able to maintain it when you have to encroach on the adjoining property to build it and/or even maintain it.

Mrs. McClure said she is going to be perfectly honest, their contractor did all of the plans and per their suggestion, they suggested the 6" distance, she has zero experience building a garage and building a roof that has a distance so she, to be perfectly honest, can't speak to how that would be possible, she thinks they were trying to build it as close to the property line as they physically could to preserve as much of their yard so they are willing to be flexible with that knowing that she thinks per their contractor's suggestion who could not attend this, he suggested to be as close as possible in order to preserve their yard, they are willing to be flexible in that situation if the gutter and the hangover goes onto their neighbor's yard.

Mr. Gutoskey said he doesn't think we want to see that but even just to dig the footer it would be really hard just to dig the footers and have the machine stay on your property unless they have really skinny guys that work for them or they are going to dig it with a shovel.

Mrs. McClure said they might, she doesn't know how they were able to build or her question is to maintain consistency with the other two-car garages close to fences and close to other property lines, we would just like to really maintain that consistency and be as close as other homes are and how they were able to do so.

Mr. Gutoskey referred to the site plan and said he thinks that is why on the original plan they were back 23' off the house versus 11' because that gave them a little more room to maneuver in and out of the garage. He said he is looking at the plan that was previously approved in 2002.

Mrs. McClure said she doesn't believe she has any drawings of those plans, she just has the measurements.

Mr. Turner said it seems that it was a 5' side yard setback and he thinks cut that in half maybe would be better and acceptable, expanding the garage by 100 square and then reducing the side yard setback by 50%, that would seem to be a worthy compromise.

Mr. Gutoskey said it looks like the garage they proposed, he doesn't know who did the math but the 2002 shows a 20' x 20' garage, 440 square feet so that math doesn't work for him. He said it looks like you are proposing the same thing as 20' x 20'.

Mrs. McClure said they are.

Mr. Turner said he believes so. He said he thinks a standard two-car garage.

Mrs. McClure said it is.

Mr. Gutoskey said it is.

Mrs. McClure said she thinks what they are basically requesting is to have as much as their yard as they can, like she said they have a nine month old, they plan on living here a really long time, they are going to have other kids so they would really like to have as much of their yard and currently there is a shed pretty close to our fence on our neighbor's yard anyway so they would like to just maintain the same distance as everybody else has been allowed to build in order to preserve our own yard for our kids.

Mr. Turner said you are aware of the fact that adjacent to where this garage would be built on Mrs. Arnold's property is a shed that is about 2' from the lot line, he doesn't know if she has a variance.

Mr. Gutoskey said he doesn't know because on the drawings it doesn't show any of the other adjoining buildings.

Mrs. McClure said she didn't do the drawings personally but they don't want to have to go through having to build a new driveway and redirect where that is and that is consistent with what the ruling was in 2002 is that this is the most convenient place and makes the most sense as to where to put a two-car garage seeing as though there is not one on the property. She said they would just propose that it is closer to the property line, the side yard line, that is really all they are requesting, they are requesting the same size.

Mr. Lamanna said we do have an issue here and that is this variance has already been brought before this board and ruled on.

Mrs. McClure asked if that could be repeated.

Mr. Lamanna said this type of application has already been brought before this board and ruled upon and it technically shows res judicata unless you can show there is some kind of major material difference in the property between then and now.

Mr. Turner said maybe the person who applied only had one car, he doesn't know.

Mr. Lamanna said it is the same size garage.

Mr. Turner said and maybe what you just did with the prior applicant is they would abandon the prior variance in favor of the new variance.

Mrs. McClure said she thinks what they are trying to say is five feet from a property line is a lot further away than most of the homes on their street have and even though yes she was not able to go onto people's properties and measure she knows what five feet looks like versus one foot and there is a shed that is currently about one to two feet and again she can't go onto her property and measure but there is a shed that is much closer than 5' so she thinks they would like to preserve as much of their yard and be able to have two cars pull in next to each other without having to have one car move and where this new garage would be would allow them to do that.

Mr. Lamanna asked how big the shed is.

Mr. Lewis said we seem to be hearing repetitive testimony and the same argument over and over. He said the board ruled on this several years back and there are no attributes of this property that are any different, we have already ruled on it, it is the same size structure that we ruled on several years ago and so other than a request to preserve some backyard he has not heard anything that is a practical difficulty that would change a pre-existing ruling. He said to him this is a 100% mirror duplication of what we have already ruled on.

Mrs. McClure said she thinks the practical difficulty is the fact that she can't with the garage that was already approved she cannot get her car in and out without having another car being moved.

Mr. Lewis said he thinks if you park on the left side of the garage you have a straight shot in and out.

Mrs. McClure asked without the car getting in and out because it is not just her that would back out.

Mr. Lewis said he is not going to debate that, the other option would be if you need a little more room, push it deeper into the lot.

Mrs. McClure said she thinks that is what seems a bit unfair to her is the fact that there are many other garages that are much closer to the property line than five feet and she said she is confused, when we referenced the Kings and the Joyces, both of their two and three car garages are much closer than 5' to the side yard property line so how were those approved when we have to go off of a 2002, nearly 18 years ago so why were those approved but ours can't be closer. She said they are willing to compromise too, we will go less than 5' but the fact that we have to go with 5' simply because it was approved in 2002 just doesn't seem quite fair to her considering that other homes are building two-car garages that are much closer.

Mr. Barr said you are trying to compromise off of a previous ruling not off of what the actual setback is, you are compromising from a compromise.

Mrs. McClure said the actual setback is 50'.

Mr. Barr said so you are already compromising from a compromise.

Mrs. McClure said her question for you is why were other homes granted closer than 5'.

Mr. Lamanna said there are various possibilities here because he doesn't know what the situation is on each of these properties. He said first, every property is a case onto itself, it goes by the situation of that particular property and what was built there already, it is very possible some of these things may have been built before zoning came along, he doesn't know the particulars of the properties you are speaking of.

Mrs. McClure said the Kings just built theirs in the last year or so.

Mr. Lamanna said unless he went back and actually looked at that decision he couldn't tell you what their situation was and he doesn't know what their actual variance is without looking at it and it may have been that given the other location of the existing structure and other things and the neighboring property that it wasn't possible to build it any farther away. He said in this case we really don't want to have a garage 6" away, you can't build it 6" off because it would be encroaching.

Mrs. McClure said if they were asking or be able to ask for less than 5'.

Mr. Lamanna said a shed is one thing, if somebody has an 8' x 8' shed or an 8' x 10' shed.

Mrs. McClure said it is probably like an 8' x 16' so her question is, are they able to request for closer than 5', they don't need the 6", they would like less than 5'.

Ms. Endres said a sediment control plan will be required and they are going to need to put in silt fencing around the project and keeping the silt fencing on your own property so she is not sure how that would be accomplished with a 6" setback, the silt fencing itself takes up more than 6".

Mrs. McClure asked are they able to ask for less than 5', can they discuss the possibility of a 3' distance or a 2' distance considering that there is a 1.5' structure away from our current property line on the other side so she is just asking. She said she realizes that 6" was a stretch and again that was kind of per their contractor's recommendation, she takes full responsibility but she is saying are they able to request less than 5' in this current meeting.

Mr. Lamanna said there is a real question about whether or not this issue has been disposed of already so we have looked at the property and said okay 5' is an appropriate variance to grant and not any greater than that because whatever practical difficulty there is it doesn't say you can build it less than 5'. He said part of it is you build a structure the size of a garage, if you don't have 5' around it there is no way you can get around it to do anything, if you have to put a ladder up to get up on the roof on that side of the building you are not going to be able to do that without being on your neighbor's property. He said we are trying to maintain some kind of a buffer whenever we can and there have been some situations where, due to whatever the circumstances are and most of the time it is because of the existing structure is in a position that there is no way you can put a 20' garage 5' away, he is sure there is probably a circumstance like that where that is the way the structure is, that is the way the property is, there is nothing you can do about where they originally located the house.

Mrs. McClure said she is confused why other people have very clearly from a visible eye, she knows what 5' looks like and knows what 2' looks like, why are other homes and she knows you said everybody is different but our lots and our homes are very similar here in the village.

Mr. Lamanna said other people might be closer from other decisions that were made.

Mrs. McClure said you are using the ladder as a reason, can they get on a ladder and clean the top of their roofs even though they are down the street, she guesses if that is the reason why you can't get up on a ladder, she knows she could, she is a very petite person.

Mr. Lamanna said it could have been built prior to zoning.

Mrs. McClure said she is talking about a garage specifically that was built in the last year.

Mr. Lamanna said he can't sit here and discuss a particular case because he doesn't have that case before him.

Mrs. McClure said if you did would we be able to discuss if she would be able to get their consent and have it in front of you as well.

Mr. Lamanna said we can go and pull up the information for the case and look at it but it technically has very little relevance to your case.

Mrs. McClure said from a perspective of looking at their neighborhood it just doesn't seem fair or right at all that homes would have garages much closer but we have to build ours much further away and it also does have to do with a practical difficulty here, it is not just a matter of saving our yard it has to do with being able to maneuver our cars in.

Mr. Lewis stated that if you read the motion that was granted and the findings of fact on this application when we looked at it in 2002 the spacing for car maneuverability and the distance from the house were all accounted for in the motion in detail so he doesn't find that as new testimony, it has already been addressed and answered.

Mrs. McClure asked what is the difference between a shed and a garage in terms of how far it is from your property line, she is curious, in terms of cleaning off the roof.

Mr. Lamanna said there is no difference from a setback standpoint.

Mrs. McClure said why is there a shed currently that is closer and a shed on the other side that is closer.

Mr. Lamanna said the same rule applies to both, when you go to look at a variance, the size of the structure matters in considering the factors that would go into granting the variance because the smaller shed has less of an impact than a larger garage. He said there is probably a bunch of them that never got permits and there may be a bunch of them that were put up long enough ago.

Mrs. McClure asked if they would be approved for a 16' x 20' garage, a smaller garage that was closer.

Mr. Lamanna said that is not exactly materially smaller.

Mrs. McClure said it is 4', there is a sizeable shed that is really close to their property line as well and we have a current shed that is closer. She said she is confused about what the difference makes in the size of the building in terms of how close it is to the side yard, she understands that you have to be approved for the size of the building but she is trying to understand here what the difference is between a shed that is close to the side yard property with no gutters versus a garage that has all of those things that is closer.

Mr. Barr said the shed is probably not 12.5' tall like your garage is proposed to be so you have a height difference, it would be like, in the previous case we were talking about the size of that fireplace being next door, there are different things you have to take into account so the size does very much matter, the height would come into it and the size would come into it and what it is being used for, a shed is not going to get as much use as a garage is on a daily basis.

Mr. Gutoskey said there is one other thing to consider too is typically the fire code, adjacent buildings especially something that is going to have a car with gasoline etc., you need to be a minimum of 10' so by putting yours at 5' any building next to it has to be 5', if you are less than 10' apart then the one side of the garage has to be fireproofed and it is probably typically the reason when we look for garages or we look what structures that are going to be habitable or have flammable gasoline cars that they are a minimum of 5' off the line just for fire code. He said that we haven't heard from the guests in the town hall yet.

Mrs. McClure said if there was a concern about a fire hazard why are most of the garages close to the side yard.

Mr. Gutoskey said they were possibly built prior to zoning.

Mrs. McClure asked when zoning came about.

Mr. Gutoskey said this development dates back to 1925.

Mr. Lamanna said 1948 was the earliest zoning.

Mr. Turner said he believes Mrs. McClure is speaking to the newer garages that have been built in relation to the fire code.

Mrs. McClure said in the last few years that she knows have been built and that is just what doesn't seem quite fair to her.

Mr. Turner said for the record does he understand that your concern is that for some reason you believe the prior variance is res judicata with respect to this landowner and that prevents a new landowner from bringing an application for a new variance.

Mr. Lamanna said unless she shows some material change from the prior situation.

Mr. Turner said like she needs a two-car garage.

Mrs. McClure said a 16' x 20' let's say.

Mr. Lamanna said it is the same size you are asking for.

Mr. Turner asked isn't the current variance for a 300 sq. ft. garage.

Mr. Gutoskey said 20' x 20'.

Mrs. McClure said it says 300 sq. ft. from her notes from Ms. Endres.

Mr. Tuner asked, isn't it 300 sq. ft.

Ms. Endres said there is a maximum accessory building size on non-conforming lots of 300 sq. ft. She said when this was in front of the board of zoning appeals before, nobody addressed that maximum accessory size provision.

Mr. Lamanna said it might not have been in the zoning, he doesn't think it was at that time.

Ms. Endres said that is possible, yes.

Mrs. McClure asked wouldn't it be different if it wasn't close.

Mr. Gutoskey said no because if you read the approved motion it says "Mr. Lamanna made a motion to grant the following variances to allow the applicant to construct a detached single story 20' x 20' garage as shown on his submitted site plan." He said you are submitting the same size garage.

Mr. Turner said so then the zoning inspector's report which showed 300 sq. ft., that is not accurate, is that correct.

Mr. Gutoskey said no, what she is saying is that 300 sq. ft. is the maximum permitted building now in the code, detached.

Mr. Lamanna said so basically you have to get another variance to have a 400 sq. ft. garage.

Mrs. McClure asked aren't they requesting that currently.

Mr. Lamanna said as far as the same application, at the end of the day we want to make sure that if there is a zoning provision that is applicable and we are going to grant you the permission to do what you want to do you have all of the variances you need to do what you are asking to do.

Mrs. McClure said and currently we don't have that because we would like it closer to the side yard property line.

Mr. Lamanna said you are still asking for the same size building.

Mrs. McClure said correct but we don't want it in the middle of their backyard, 5' from the property line seems very inconsistent with the rest of the neighborhood.

Mr. Lamanna said that 5' decision was made based upon all of the considerations that go into deciding whether or not we grant a variance to the side yard setback and there is nothing that has changed.

Mrs. McClure said they actually removed trees and shrubs and such that it forced them further left than they need to be, the landscaping has changed.

Mr. Lamanna said but not the physical property itself.

Mrs. McClure said it just doesn't seem fair that just because somebody applied for a variance in 2002, 18 years ago that we just have to follow it. She said if they were applying for a new one she thinks they would be treated differently.

Mr. Lamanna said no, that is the whole point, the same considerations would go into this thing and we would come up with probably exactly the same answer.

Mrs. McClure asked why there are new garages that are closer than 5'.

Mr. Lamanna said because they had some situation that created a basis for granting a variance of less than 5'.

Mrs. McClure asked what would be an example, could you provide that for her please.

Mr. Lamanna said the location of the existing structure, what is on the adjacent properties, there are a lot of things that go into it and he is trying to be hypothetical here, it is very hard to do in these circumstances.

Mrs. McClure said she understands.

Mr. Lamanna said you need to have real pieces of property with real dimensions, real existing conditions.

Mrs. McClure said the last owners may have wanted 5', they may have wanted more space, we don't.

Mr. Lamanna said he can tell you he doubts that.

Mrs. McClure said you don't know that and we don't know the last owners so what if they wanted 5' versus 3' and they would have applied for 3' had they wanted to.

Mr. Lamanna said we would have to go back and look at the application.

Mrs. McClure said we would have to but she guesses in just saying she thinks that the last people could have wanted landscaping between it.

Mr. Turner said he doesn't believe it is res judicata, he believes that each application stands on its own merits.

Mr. Lamanna said that is not true, you don't understand.

Mr. Turner said they would like you to consider the applicant of the McClures for something that is very reasonable, that is not harmful, that has merit and we believe that you shouldn't deny this application just because the board in 2002 decided that 5' was appropriate.

Mr. Barr asked if we can hear from the other people in the audience that might disagree that this is not an unreasonable request.

Mrs. Maria Calabrese was present in person to represent Mrs. Beverly Arnold, adjacent property owner.

Mr. Gutoskey asked which side does your client live on.

Mrs. Calabrese testified if you are looking at the house from the street, Mrs. Arnold lives on the left. She said the McClures never discussed the possibility of constructing this type of two-car garage with Mrs. Arnold despite the fact their homes are near a few feet apart. She said the homes are very close together and her client's issues are as follows as discussed, that garage will only be a few inches off of her client's property line. She said the proposed garage will be an eyesore because the location is too far set back, her client will have to look at the garage when she is sitting in her backyard. She said the construction itself will cause water run off in her client's backyard, obviously it will lower her property value and her client did approach the McClures about making the proposed garage a little smaller trying to agree to something but of course they refused. She said her client has been a law abiding Bainbridge citizen for 50 years. She said the safety concerns are there, her client lives alone, the proposal will put that garage entirely too close to her home and ironically my husband and I lived in that home, in the McClures home from 2002 until 2008 and we raised two small children in that home and the variance was theirs and they had that variance renewed when we bought the home from the previous homeowners who got the variance in the first place and so we know all about the variance and the proposed garage that is allowed to be built is more than workable especially and she can appreciate the McClures position as to Mrs. Arnold with her nine month old and wanting to keep as much of the yard as possible but the current variance more than covers that and it has already been approved so she doesn't really know why we are sitting here. She said 18 years ago the house was exactly the same as it is now so she would agree with the board. She said she hopes that the board will consider Mrs. Arnold's argument in their decision. She thanked the board.

Mrs. McClure asked if she is able to respond.

Mr. Lamanna said yes, you can respond.

Mrs. McClure said while they didn't show the exact plans they did speak with Mrs. Arnold about building a garage when we used the same tree removal service to remove a tree when we told her we were planning on building a garage. She said they also told her, the other day she spoke with Mr. Calabrese about how we would be willing to discuss with her the size of the garage so she feels as though some of the points made are actually invalid. She said she understands and she appreciates and respects her view and concerns, we do not want to have any ill feelings with neighbors, we are very kind people with a family, she is an elementary school teacher, she loves kids and she loves talking with people, they are not trying to cause any hardships to neighbors they just want to match what everybody else has and we want to be viewed as a new case and not in terms of their old variance.

Mr. Nate Clemensen of 16309 S. Franklin Street testified that he is just a neighbor down the street and he has already been sworn in but what relevance of someone who used to live in the home over a decade ago and is being paid, in all likelihood as counsel, to the current occupant and owner of the home to a new situation some years later. He said he is struggling to see the connection there other than a conflict, a general conflict in something that doesn't fit with, yes he understands there is an issue with the spacing but he doesn't see the relevance of someone who used to live in the home now representing a neighbor having an issue with the new homeowner over a decade later and he apologizes, he is listening here, this is his street, he lives on the street and he just wanted to offer that to the group, thank you.

Mr. Lamanna said the fact that they once lived there is not really of relevance.

Mrs. Calabrese said Mr. Clemensen, she appreciates that but she believes that the point is her bringing that up is the fact that the landscape of the home has not changed, the home has not changed, the variance from 2002 is appropriate for the home in 2002 just as it is appropriate for the home in 2020 because the topography of the entire street hasn't changed so there was a reason why the variance was granted as such in 2002 and remains the same in 2020.

Mrs. McClure said so it was not built back then because of it being so far away or if we are making that a relevant point, why was it not built.

Mrs. Calabrese said they chose not to build it, we chose to do other home remodeling projects instead.

Mrs. McClure said okay.

Mr. Clemensen said he wants to clarify just for the perspective on his street, you received the variance in 2002, yourself personally.

Mrs. Calabrese said no, the previous owners were the ones who applied to seek the variance.

Mr. Clemensen asked Mrs. Calabrese if they considered the variance upon entry as an option to build based on your proximity to the variance approval.

Mrs. Calabrese said she didn't understand the question.

Mr. Clemensen asked did you, having moved in with some reasonable time-frame from the variance granted did you consider using that variance to build a garage.

Mrs. Calabrese said of course we did but when we went to renew it we didn't try to change the variance.

Mr. Clemensen said he finds it ironic and just somewhat interesting that there is a former owner of the same house arguing against the current owner who has good intentions, yes there might be some variations that need to be had here but he finds it odd of the conflicts embedded in.

Mr. Lamanna said the person speaking may have been a former owner but they are representing the adjacent property owner, they are not speaking on their own behalf and what they did and didn't do with the house is of no interest to us really.

Mrs. McClure said neither should the variance.

Mr. Gutoskey said we have two more applications to hear, should we look at tabling this for them to get more information, he is just throwing it out.

Mr. Turner said he would propose and he thinks his is quite reasonable, if it is just 5' versus 6" let's just cut it in half and move on, it is not a big deal, it is not going to make any bit of difference to anyone in the neighborhood in Bainbridge Township.

Mr. Lamanna said that is not the way this board makes decisions, there are standards that we apply. He said well you want this, we think this, we are going to split the difference, not the way it works.

Mr. Turner said no, he is proposing a compromise that would be acceptable to us, to the applicant, it should be acceptable to Bainbridge Township, it is very reasonable and he hears all sorts of accommodations in these hearings, week after week after week or should he say month, after month, after month, all you have to do is propose it and accept it.

Mrs. McClure said you were asking other owners in the previous, she was on here for 2-1/2 hours and there were lots of would you be willing and the owner said yes.

Mr. Turner said you grant it conditionally upon the acceptance of this variation in the application and move on, 2-1/2'.

Mrs. McClure said 2-1/2' is very reasonable considering what everybody else on our street has.

Mrs. Calabrese said for the record Mrs. Arnold would also be opposed to 2-1/2'.

Mr. Turner said of course she would, because she doesn't want to look at a garage, he heard her or he should say you expressed her objection which is totally irrelevant.

Mr. Barr asked if the board can go ahead and rule, we are getting everybody's thoughts and opinions when we are trying to stick to the facts.

Mrs. McClure said they are just trying to match what everybody else has, they are not trying to have some closer than average, we are just trying to have the same design that everybody else on the two streets have.

Mr. Turner said we are trying to deal with practical difficulties caused by the current zoning and the prior variance is not res judicata.

Mr. Lamanna said fine, would you like to brief that point for me.

Mr. Turner asked do you have a law director in Bainbridge Township.

Mr. Lamanna said no we don't.

Mr. Turner said oh really.

Mr. Lamanna said yeah really.

Mr. Turner said yeah really.

Mr. Gutoskey said we are a township so townships have a different set up than villages and cities.

Mr. Turner said you have the prosecutor.

Mr. Gutoskey said that is correct.

Mr. Turner said he knows how it works but when you ask me would I brief that, what do you mean brief that.

Mr. Lamanna said you made an argument, generally when one makes a legal argument you support it with a brief.

Mr. Turner asked how that was a legal argument, he didn't bring up the word or term res judicata, you did.

Mr. Lamanna said right and you say that doesn't apply so.

Mr. Turner said and that is his view.

Mr. Lamanna said that's right, it is your view.

Mr. Turner said do what you need to do, 2-1/2' for a garage.

Mrs. McClure said we understand that it is late and we've been talking a lot, trust her, she needs to go and feed her baby more than ever but this really matters to us and to our property and to our family, this is not just a matter of not just about a yard, this is about a lot of factors.

Mr. Lamanna said he is looking at the drawing that is in the application to where this garage is proposed, it is fairly close to the existing house, he doesn't know how you are going to easily back out of that garage into the driveway from the right-hand stall as you are facing the garage, you are telling us you need it this close because you've got to be able to move one car out without moving the other car, he doesn't see how you can possibly do that with the 11' that you have there.

Mrs. McClure said that is just from our garage company and their recommendations, she doesn't know how to measure those things herself.

Ms. Endres asked if anybody has found property pins, has the lot line been surveyed to know where the line is.

Mrs. McClure said she believes when they sent over the closing documents Ms. Endres told her that those would suffice for the pins, they don't have physical pins that they know of but they do have those documents that they sent over that they perceived when they closed on their home that you said would suffice.

Ms. Endres said that might have been the mortgage location survey, she is looking through the file and she is not seeing it. She said many times those drawings will suffice for the BZA hearing however the time to actually do the construction there has to be a high level of certainty that we know where the lot line is.

Mrs. McClure said they need to get a surveyor.

Mr. Lamanna said just for your benefit the previous garage position, he believes, was farther back, it was approximately 23' behind the existing house whereas the current proposal is 11' behind the house.

Mrs. McClure said correct and they are flexible in terms of how far back they put it, it is more just about how far over they can put it per their front yard and not just for the yard to be consistent with everybody else's two-car garages. She said in terms of resale and property value, if we have the same size yard that other homes have or if we even have a larger yard we are just trying to be the same as what everybody else has which seems fair to them.

Mr. Lamanna said we are going around in circles here and you have made a broad allegation, technically you should be presenting proof to the board of what you are alleging but we will look at what these other supposed garages are and see what other variances have been granted and see whether they are relevant or not.

Mrs. McClure said she guesses in her terms she was only able to walk around and do her best job as a citizen so how is she able to provide proof, how can she do that.

Mr. Lamanna said if you find the lot you can come and find the zoning variance application that would have been made for it.

Mrs. McClure said she did try to do that and she would have to reach out to the zoning committee to receive those notes, they were not available on line or is there an easier way to do it.

Mr. Turner asked don't your BZA records have an index of variances granted by local, by parcel, that would seem to him to be the best way to do a search.

Mr. Lamanna said somebody has to say that this is a relevant parcel.

Mr. Turner said he knows but if you are saying that what we are saying is relevant who gathers that relevant comparative data.

Mr. Lamanna said the applicant.

Mr. Turner said really.

Mrs. McClure asked how she would find that and is the best way by reaching out to the zoning inspector and gathering the data because she did her best to gather the data herself but she is not able to go onto people's yards and measure.

Mr. Lamanna said that is true.

Ms. Endres said she would suggest that they provide an address to either herself or the zoning secretary and we can look and see what is in the facility file.

Mrs. McClure said okay.

Ms. Endres said and that being said the minutes are on line, we have minutes going back to around 2000 on line.

Mrs. McClure said she did try to locate those, she will look again.

Ms. Endres said we don't have searchable minutes right now.

Mr. Lamanna said if you don't know when the hearing was it is hard to find, you would have to look at every one of them. He said if you have an address the file will tell you if there was a variance application on the property.

Mrs. McClure said she will speak with Ms. Endres to discuss the easier way to do it because she searched and she is usually pretty savvy when it comes to websites but she could not find it.

Mr. Turner said wouldn't it just save a lot of trouble if you just grant the variance with maybe a 2-1/2' side yard setback and let's move on.

Mr. Lamanna said no, you are supposed to demonstrate practical difficulty and frankly he hasn't seen that yet so let's see where we go from here.

Mr. Turner said he doesn't know a change of circumstance has anything to do with a current application for a zoning variance pertinent to a prior issuance of a zoning variance.

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

Motion 2020-17 – 7047 South Street (aka 40 South Street)

Mr. Lamanna moved to table this application to the next regularly scheduled meeting to be held August 20, 2020.

Mr. Gutoskey seconded the motion.

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

Application 2020-18 by Anthony T. Thomson for property at 8390 Treetower Drive

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

Mr. Anthony Thomson was present in person to represent this application.

Mr. Lamanna swore in Mr. Anthony Thomson and he let the record reflect that Mr. Thomson was duly sworn.

Mr. Thomson testified that he is here today for a variance for an above-ground pool and also a deck. He said the above-ground pool, in regards to side lots, he knows it has to be 50', it is going to be between 30' and 35' from the side line and then in regard to the rear lot it is going to be approximately between 60' and 65', he knows that it has to be 90' and then also the lot coverage so the current lot coverage is, he has two different parcels and one of them is very small like .07 acres but for the two lots his current lot coverage is 12.31% and with the pool and the deck, the deck being a 12' x 12' it would raise that lot coverage to 12.9% for just the one lot, the lot in question, not the .07 lot so that is what he is here for today.

Mr. Lamanna asked what the deal is with the .07 lot.

Mr. Thomson said the .07 lot is that little one that says Thomson, he has no idea, he doesn't know why that is there.

Ms. Karen Endres, Zoning Inspector testified that it looks like at one point there was a lot swap done because of an encroachment. She said the neighbor's driveway is right here and she believes this triangle was part of this lot at one point and she believes these are equal size triangles, there was a lot swap done but they never did the consolidation.

Mr. Thomson said the 12.9% lot coverage doesn't take into consideration of that small one.

Mr. Gutoskey said he doesn't have any problem with this if he does an affidavit, you can't put anything on it anyway.

Mr. Lamanna said that is easy enough because that gets the lot coverage down.

Mr. Gutoskey said he is good with this.

Ms. Endres said she wanted to point out that it is behind the house, this was going to be completely behind the footprint of the house. She said the applicant supplied a mortgage location survey that shows the location of the pool.

Mr. DeWater asked if the Twilea Homeowner's Association provided a letter, he doesn't see that in his packet, did we get that.

Mr. Thomson said no, it is a voluntary homeowner's association, it is very loose. He said from his understanding, he moved in in March of 2017, it is very loose, it is X amount of dollars per year, pay if you want type of deal, he pays it, he is friends with his neighbors, he doesn't have anything from the HOA, he does not because it is a voluntary HOA, there are no restrictions or anything like that.

Mr. DeWater said he believes we made Mr. Bock bring us a letter when he was building his shed.

Mr. Thomson said that probably was in late 2017, maybe late 2017.

Mr. DeWater said maybe 2018.

Mr. Thomson said he remembers an email going around asking if anybody cares that he has a shed and if he remembers correctly it was something like that, he did not do that, he can do that, he just provided the lots that touch his lot, he didn't do anything like that yet but he can.

Mr. DeWater asked what the other board members think about that.

Mr. Lamanna asked Ms. Endres if she knows if they have deed restrictions and if they enforce them.

Ms. Endres said she had forgotten about the other one that was mentioned but she is not aware of an active architectural review board in this subdivision.

Mr. Thomson said if he remembers correctly he remembers it being closer than 15' from the lot line and he believes that was what it was he thinks but he will do whatever he has to do, he will talk to whoever and provide whatever they have.

Mr. Gutoskey asked if that was the shed at the corner of Rt. 306.

Mr. DeWater said yes.

Mr. Lamanna said if technically there is not a real homeowner's association with deed restrictions where they can regulate where people put things that is really kind of a moot issue.

Mr. DeWater said okay if you guys are good with that he is alright with that.

Mr. Lamanna said we will leave it with the caveat that if there is a homeowner's association and it has a legal right to enforce an architectural review of this, the location and the like, then you get a statement from them and give it to the zoning inspector and if they don't have the legal right to do it, just because there is a homeowner's association they may not have that right.

Mr. Thomson asked if he should ask them.

Mr. Lamanna said yes, if they don't have an architectural review committee then they probably don't. He said double check and get some kind of a letter back to the zoning inspector from them that says yes or no on that.

Mr. Thomson asked if it matters who it is from, the treasurer or the president.

Mr. Lamanna said one of the officers.

Mr. Thomson okay, he will send an email out to them and get it.

Mr. Lamanna said if nobody has a problem with the lot coverage or the setback, he thinks given the size and shape of the lot and the fact that it is on a culdesac.

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

Motion BZA 2020-18 – 8390 Treetower Drive

Mr. Lamanna moved to grant the applicant the following variances for the purpose of constructing an above-ground pool and a 12' x 12' deck as shown in his application.

1. A variance to the maximum lot coverage from 10% to 12.31%.
2. A variance to the maximum rear yard setback from 90' to 62'.
3. A variance to the south side setback, the pool will be located behind the house, at least 20' from the side line.

Based on the following findings of fact:

1. A practical difficulty exists due to the shape of this lot and the fact that it is located in the culdesac and the fact that the house was placed deep on the lot there is not really sufficient room behind the house but it will still be at least 62'.

Motion BZA 2020-18 – 8390 Treetower Drive - Continued

2. This will be placed behind the footprint of the house so it will not adversely affect the neighboring properties.
3. The applicant will check and make sure that there is not a homeowner's association right to approve this and will get the letter back to the zoning inspector to that effect or if not, approving it.

Mr. Gutoskey seconded the motion.

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

The board took a short recess at 11:04 P.M. and reconvened the meeting at 11:09 P.M.

Application 2020-19 by Mark and Nancy Kautzman for property at 17877 Lost Trail

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

Mr. Mark Kautzman stated that he went onto the Pilgrim Village website and he was told to download and print and it has a number of different signature lines so the architectural review board signed and all of the neighbors around also signed.

Ms. Endres stated that now that the Chairman is back we need to get everyone sworn in and she wanted to point out that she is sworn in and she sent the ARB paperwork along with the deed yesterday, it came in after the board packets went out but we do have information from the homeowner's association.

Mr. Gutoskey said he talked to Mr. Alan Tatro, he is on the architectural review because if you look at the form it doesn't say approved so he asked Mr. Tatro if it was approved, it was signed but the way the form is set up it doesn't say approval but it has been reviewed and approved.

Mr. Mark Kautzman and Mrs. Nancy Kautzman were present via Zoom.

Mr. Lamanna swore in Mr. and Mrs. Kautzman and let the record reflect that Mr. and Mrs. Kautzman were duly sworn.

Mr. Mark Kautzman testified that he enclosed two mortgage documents, one is from 1977 and one is from 2012 when they purchased the house, the older one shows the distance from the home to the southern property line of 33', the newer one, the 2012 adds to that the 10' easement and the additional 10' setback from the easement. He said what they are looking to do is to, their home is on a slab, they don't have a basement, we are looking for that functionality to add that to the home. He said what they are looking to do is to add, on the southern border there, just a 40' x 15' structure as well as an extended deck in the backyard but the variance is, we are looking at probably 2' for the structure and he thinks he said 3' to include the eave that would be the roof, he didn't know if he was supposed to include that or not but he thinks with the eave we are looking at a 3' variance off of that setback line, making it 17' from the actual property line. He said he also enclosed, he is kind of new at the sketch up thing so he tried to kind of do a three dimensional sketch up of what the addition might look like. He said he was told to apply for the variance first and then put money into an architect to draw something that would be architecturally consistent with the rest of the house and so we are in the first step of trying to get all of the ducks in a row and was to come to this board and make sure we are okay with that southern border, if that is okay and then we will go with an architect for the roofline to make that proper and consistent with the rest of the structure. He said they looked at trying to put the addition on the front of the house and that became architecturally challenging, they tried to put it on the north side of the house where we would basically take space from the driveway and that became very challenging and it also encroached even more structurally on our other neighbor to the north and then they looked to do it directly off the back of the house and that kind of closed in their backyard quite a bit and so what they are looking to do is to still enjoy a nice backyard with a covered porch but also enjoy that space from the inside, it would flow into it nicely so it would cover the existing house about 10' and go about 30' into the backyard.

Mr. Lamanna asked if it is approximately 15' wide by about 60'.

Mr. Kautzman said 15' x 40' is the structure.

Ms. Endres said she thinks she has the right thing up there.

Mr. Kautzman said that is the 1977 document showing the 33' from the house to the actual property line, the variance really comes in with the setback line which is the setback plus the easement is 20' from their property line.

Ms. Endres said it says it is an addition, her staff letter should be 3' not 33'.

Mr. Kautzman said the variance request is really just a 3' variance.

Mr. Lamanna asked if that is counting the eaves.

Mr. Kautzman said the eaves should be included in that figure, if the eave is 12" he is not sure if that is a standard eave or not but he accounted for an additional 12" within that 3'.

Mr. Lamanna said it looks like it is 61' long if he is reading the numbers correctly.

Mr. Kautzman said that was their original, he apologizes, they are actually tapering that back, not to be the entire front of the house, they were afraid of the architectural design and how they could actually tie it in, they had a builder come out and say he doesn't think we need to go all the way to the front of the house, he thought he gave you that update so it does not go to the front of the house, it is actually, scaled back 20' and that is where it would begin. He said the builder said they could definitely tie that in, sorry about that, he apologizes.

Mr. Lamanna said alright. He asked if this is one or two stories.

Mr. Kautzman said this will be one story, consistent with that ranch side of their split. He said that is a better picture.

Mr. Lamanna said just for the record, in the packet, we are looking at a document that shows an enclosed addition starting approximately 20' back from the front of the house.

Mr. and Mrs. Kautzman replied yes.

Mr. Lamanna said it is a single story so there is a tiny little corner here that is out of whack.

Mr. Gutoskey asked Ms. Endres to go to the aerial because you will see the house next door is a little bit farther back.

Ms. Endres showed the aerial photo of the property.

Mr. Gutoskey said you can see how far the one next to it is off the line but there is also a letter that we got that he would like to have some screening.

Mr. Kautzman said Dave the neighbor just wanted to make sure that the mortgage document was correct, that it wasn't some kind of greater encroachment than what we are anticipating so he wanted to see a survey that we are totally good with.

Mr. Gutoskey said the lines in Pilgrim Village on ReaLink are really bad, if you go to my house it goes through his garage.

Mr. Lamanna said you can see this thing has got to be shifted to the right.

Mr. Gutoskey said it is, it is way off.

Mr. Lamanna asked if anybody has any issues with this.

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

Motion BZA 2020-19 – 17877 Lost Trail

Mr. Lamanna moved to grant the applicant the following variances for the purpose of constructing a 15' x 40' single story addition to the side of his property by his existing premises.

1. A variance to the side yard setback requirements of 20' to 17' for a variance of 3'.
2. Final architectural plans are required to be submitted to the zoning inspector to determine that the plans conform to what was submitted in the application and this decision in order to get the actual approval or zoning certificate.

Based on the following findings of fact:

1. A practical difficulty exists due to the width of the lot and the fact that this is an addition to an existing house and the only feasible place to place it is along the side.
2. This variance is actually very small and only a portion of the addition will be in the side yard setback area and it will not adversely affect the neighboring properties nor be inconsistent with the character of the neighborhood.

Mr. Barr seconded the motion.

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

Since there was no further testimony, the public hearing was closed at 11:24 P.M.

Respectfully submitted,

Brent Barr, Alternate
Michael Corcoran
Ted DeWater
Joseph Gutoskey
Michael Lamanna
Todd Lewis, Vice Chairman

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

Date: August 20, 2020

AUDIO RECORDING ON FILE

BZA PH 7/16/2020

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Bainbridge Township, Ohio
Board of Zoning Appeals
July 16, 2020

The regular meeting of the Bainbridge Township Board of Zoning Appeals was called to order at 11:24 P.M. by Mr. Michael Lamanna, Chairman. Members present via Zoom were Mr. Brent Barr, Alternate: Mr. Ted DeWater; Mr. Joseph Gutoskey and Mr. Todd Lewis. Mr. Michael Corcoran was absent. Ms. Karen Endres, Zoning Inspector was present. Mr. Jeffrey Markley, Bainbridge Township Trustee was present to monitor and host the Zoom meeting.

MINUTES

Mr. Gutoskey moved to adopt the minutes of the June 18, 2020 meeting as written.

Mr. Lewis seconded the motion.

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

APPLICATIONS FOR NEXT MONTH

Application 2020-10 by Marla M. Lucarelli for property at 17310 Tall Tree Trail -
Continuance

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

Application 2020-11 by Marla M. Lucarelli for property at 17310 Tall Tree Trail -
Continuance

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

Application 2020-14 by Jeff Varney for property at 19036 Brewster Road - Continuance

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 2020-17 by Virginia and Chris McClure for property at 7047 South Street
(aka 40 South Street) - Continuance

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

Application 2020-20 by Scott Stewart for property at 8284 E. Washington Street

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

Application 2020-21 by John Deering for property at 8605 Apple Hill Road

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

Application 2020-22 by Federated Church by Melissa Owen, Senior Director of People and Operations for property at 16349 Chillicothe Road

The applicant is requesting an expansion of an existing conditional use. The property is located in a R-5A District.

Application 2020-23 by Oleh Shapowal for property at 8137 Pettibone Road

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

Application 2020-24 by Adam Feig for property at 8360 Timber Trail

The applicant is requesting area variance(s) for the purpose of constructing an accessory building. 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 August 20, 2020 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.

OLD BUSINESS

The board discussed the minutes approval for Kelly's Working Well Farm; the proposed meeting between two zoning commission and two board of zoning appeals members along with Ms. Endres and Mr. Dietrich to discuss proposed Zoning Amendment Z-2020-3 and the open application for The New Wembley Club, LLC.

Ms. Linda Nolan of 8405 Woodberry Boulevard met with the board via Zoom to discuss her concerns about the Wembley Club.

Ms. Bridey Matheney, of Thrasher, Dinsmore and Dolan and Legal Counsel for the Woods of Wembley Homeowner's Association met with the board via Zoom regarding the Wembley Club.

Since there was no further business, the meeting was adjourned at 11:40 P.M.

Respectfully submitted,

Brent Barr, Alternate
Michael Corcoran
Ted DeWater
Joseph Gutoskey
Michael Lamanna, Chairman
Todd Lewis, Vice Chairman

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

Date: August 20, 2020